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SENATE—*Thursday, July 15, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal spirit, You have set up the sky like a canopy and spread it out like a tent. You placed in order the chorus of the stars to praise Your goodness. Drive us from wrong desires and teach us to live for Your honor. Preserve us with Your mighty power that we may not fall into sin, nor be overcome by adversity. Guide our lawmakers today that in their labors for country they may serve Your providential purposes. Make them willing to stand for right, regardless of the consequences. May they strive foremost to please You. Guide and govern us by Your spirit that in all the cares and occupations of life we may never forget You. Direct us to the fulfilling of Your divine design. We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 15, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today's session will begin with a period for morning business for up to 60 minutes. Following morning business, we will proceed to the FSC/ETI or the JOBS bill as the order from last night provides. That agreement allows for one amendment to be considered under a 3-hour time agreement.

Following the disposition of that DeWine-Kennedy amendment, we will proceed to passage of the bill and then request a conference with the House. I do want to express my appreciation to everyone for last night as we reached this agreement well into the evening. With the tariff's increasing impact on our manufacturers, it is imperative that we get this bill to conference so we can finally produce a bill to send to the President.

Again, I want to thank the Senators on both sides of the aisle, especially the Democratic leadership, working with our leadership in bringing this bill to conference.

Today we will also consider another important bill, the Australia free-trade bill, under the statutory time limit of 20 hours. Several Senators spoke on that issue yesterday, and I hope that on both sides we will be able to yield back a lot of that time and complete this bill at an early hour today. We will stack the vote in relation to the FSC/ETI amendment for later this afternoon, possibly with a vote on passage of the Australia free-trade measure. The timing for those votes will be discussed and we will let our colleagues know a little bit later this morning.

Senators should therefore expect votes later this afternoon, those two votes for sure.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

Who seeks time?

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time and not have that time counted against the Democratic time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from South Dakota is recognized.

ISSUES CONFRONTING RURAL AMERICA

Mr. DASCHLE. Mr. President, farming, ranching, and agriculture and agri-related businesses continue to play a vital role in our economy. Food and fiber jobs account for 16 percent of our total workforce. Agriculture makes up 12 percent of our gross domestic product, and 9 percent of our trade exports. In fact, we have a $10 billion positive balance on agricultural trade, in sharp contrast to our overall $490 billion trade deficit.

In many States, like my home State of South Dakota, agriculture is the number one industry. Communities rely heavily upon the agricultural economy. Many rely almost solely

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

upon it. That is why, as the national spotlight focuses on rural America, it is so important to ask: Are we doing right by rural America? Are we doing all we can to ensure that the deep heritage in our Nation's rural way of life remains not only viable, but strong and vibrant?

Unfortunately, over the past 4 years, our Government has not done right by rural America. It has not provided the fair policies that our family farmers, ranchers, and rural business people deserve. And while I am sure rural residents appreciate the attention their communities have received this campaign season, short snippets on the evening news do not do justice to the serious challenges they are facing.

Per capita income for rural residents is less than 70 percent of that for urban residents, and rural workers are roughly twice as likely as urban workers to earn only the minimum wage. Rural workers also have higher rates of underemployment, and they have less prospects for improving their employment situation in the future.

Ninety-five percent of the poorest counties in the country are located in rural areas—95 percent. The poverty rates in many parts of rural America are worse than in countries we often consider to be "developing."

Of the many intractable pockets of poverty in rural America, several are on Native American reservations. One of those pockets is on the Pine Ridge Indian Reservation in my home State of South Dakota. President Clinton called Pine Ridge, "Ground Zero of poverty." Places like Pine Ridge have a severe lack of basic infrastructure, of roads and bridges; of water and waste systems; of housing and public utilities, all of which lead to a lack of opportunity for businesses and job creation.

I have said it before, and will say it again: This is a quiet national crisis that we must address. Today, I would like to talk about just a few of the specific issues confronting rural America, and how we can do better.

At this time last year, Mother nature was a little kinder than the previous year to farmers and ranchers across much of the Nation, including the Great Plains and much of the Midwest. Producers took time to rebuild cattle herds and grow new crops lost by the historic drought of 2002. That drought, by the way, was the worst drought since the Dust Bowl days of 1936. It was a horrible and devastating drought that cried out for Federal assistance, but rural America received very little help from the Bush administration.

Unfortunately, this year, farmers and ranchers are dealing with new weather-related natural disasters. We have pockets of drought in South Dakota. There has been extreme flooding in many areas—including South Dakota and our northern neighbor, North Dakota.

In April, even before we knew that many areas of my State would be impacted by weather-related disaster this year, I wrote to President Bush and urged him to change his long-standing opposition to supplemental disaster aid for farmers and ranchers. The national policies regarding weather-related natural disasters are—by any legitimate standard—failing to address the concerns of farmers and ranchers. That is why dozens of national farm, ranch, and rural-related organizations supported my disaster amendment in 2002.

I had hoped the President would take a fresh look at what could be done to put in place some more adequate, and permanent, disaster-related assistance policies. I suggested that he establish an inter-agency working group to provide a legislative proposal that the administration would send to Capitol Hill.

Many of us pledged to work, in a bipartisan fashion, to move such a thoughtful package forward. I wanted to see if there was a way to work with the President to ensure that farmers and ranchers are treated more like victims of other natural disasters, such as tornadoes or hurricanes. I was hopeful the President would respond favorably to my request by working in a bipartisan fashion to craft thoughtful disaster assistance that more adequately provides what is needed in rural States.

In mid-July, I received a response to my letter. I can't express how disappointed I was that the letter made no mention whatsoever—none—about my request for a legislative proposal. In essence, the letter was a mere regurgitation of the insufficient steps that the Agriculture Department had taken under existing authorities.

I am sorry to report that as long as the Bush administration is around, it appears that we will be at a stalemate on disaster assistance. I believe if we want to do right by America, we must fulfill our obligations as Federal officials and respond to the legitimate disaster-related needs of all Americans. The Bush administration doesn't agree. They oppose disaster aid, pure and simple. That is unfortunate.

We have also spoken many times on the floor about the need to move energy policy forward. Doing right by America means taking care of our people here at home, and that means investing in renewable fuels such as ethanol, wind, and biomass. There is overwhelming support for the renewable fuels standard which would double the use of ethanol over the next 10 years. The RFS would increase corn prices by as much as 50 cents per bushel, create 214,000 new jobs throughout the economy, and reduce our dependence on Middle Eastern oil supplies, saving the country at least $4 billion annually in imported oil.

Unfortunately, the RFS has been held hostage by a select group of House leaders who are insisting on special interest protection for groundwater polluters. The President has been unwilling to tell these House leaders to back off, and as a result, this important bipartisan ethanol legislation has been stalled in Congress for over 7 months.

It is time for the President to show some leadership and choose rural communities and American consumers over special interests.

In American today, meatpackers control roughly 80 percent of the beef market. They have been establishing what many consider a dangerous monopoly, allowing them to manipulate markets. But the Bush administration has opposed doing anything about what many think are glaring problems with concentration in the meatpacking industry.

For example, instead of helping our farmers and ranchers, the administration opposed the ban on packer ownership that the Senate approved as part of the 2002 farm bill. They insisted that the provision be removed from the bill, essentially holding the farm bill hostage until the provision was removed.

But that is not all. As we are now seeing through the Australia Free Trade Agreement, the administration has decided to promote international trade policies that will penalize our independent beef producers.

Cattle prices have dropped $30 and $40 per hundredweight in the last year, and the Bush administration proposes a trade agreement that will, over time, depress our cattle and beef markets and increase unfair competition.

Coupled with the issues of concentration and discriminatory trade agreements is the ongoing concern about how the Bush administration has addressed Canadian border issues in the wake of the mad cow scare. Last August, the Secretary of Agriculture announced a lifting of the ban on certain Canadian beef products but said that before anything further was done, there would be a public rulemaking.

That did not happen. Only as a result of a lawsuit—yes, there had to be a lawsuit—USDA was forced to reverse their policies, policies that appear to have benefited the Canadians and select meatpackers who had private knowledge about special permits granted under reduced food safety standards. All the while, the American public was kept in the dark.

That may sound unbelievable to some. And I don't claim to know all of the facts, which is why several of us asked for an oversight hearing on the matter and for the Department's Inspector General to conduct a thorough investigation.

I am pleased that the IG has agreed to look into the matter. Trust in government is very important. I am hopeful that the investigation, and an oversight hearing, will shed some light on what happened at USDA, and pave the way for more effective and transparent policymaking under this administration's watch. I don't think anyone would dispute that we are not doing right by rural America when we hide things and provide special treatment for large corporations. One thing we can do here in the Congress to help ranchers is to take up my bill to reinstate the date adopted in the 2002 farm bill for implementation of country-of-origin labeling.

I have asked the majority leader to allow us to consider this legislation, but as I have mentioned, there appears to be another agenda at work in the Senate.

To refresh memories on the labeling law, which we call "COOL," the purpose of the provision was simply to allow for certain fruits, meats, and vegetables to be labeled with their country of origin.

It was a way to add value to our domestic products by offering American consumers and others around the world a choice about the food they feed their families. Polls show that Americans, in particular, want to "Buy American." But when it comes to food, they don't have that choice. Labels tell us where the clothes we put on our bodies come from, but not where the food we put in our bodies comes from.

To fix this discrepancy, Congress passed COOL in 2002, despite the Bush administration's opposition—opposition that reflected the position of the large meatpackers who said they didn't want the labels because it might add a few pennies to the cost of doing business. Never mind that consumers say, by a large majority, that they are willing to pay a few cents more to have this information.

Notwithstanding Congress's clear decision to implement labeling, the administration and the meatpackers wouldn't give up. In the middle of the night in January, in a meeting that was closed to Democrats, Bush administration officials and the majority leadership added a small provision to the Omnibus Appropriations bill to delay the labeling law until 2006—essentially paving the way to killing this important consumer information tool.

People ask me all the time, Why do you object to going to conference? Why can't you go to conference on these bills and allow the process to work?

I have to say that it is exactly situations like this that demonstrate how things don't work in Congress sometimes. That is why, once again, the agreement that we reached last night on the so-called FSC bill was critical in ensuring adequate confidence and participation on the part of Democrats as we go into yet another very important conference.

Are we doing right by America when we allow the Bush administration and a few in leadership to override the clear majority of the House and Senate? After all, both the House and Senate passed COOL with bipartisan votes.

Are we doing right by America when we allow these sorts of back-room deals? We are not—clearly.

Another topic I want to discuss for just a minute is conservation.

I believe that we have the best farmers in the world. I also believe that farmers are the true American conservationists. They work the land they love and they take care of the land. They are the best stewards that we could hope for.

But, as a Nation, we value conservation to such an extent—and this is a testament to the character of the American people—we value conservation to such an extent that we have supported programs to encourage farmers and ranchers and rural residents to do even more than they already do to protect wetlands and to preserve grassland and other natural areas.

Programs such as the Conservation Reserve Program, the new Grasslands Reserve Program, the Environmental Quality Incentives Program, and the Conservation Security Program championed by Senator HARKIN all reflect a tremendous and important commitment to conservation. In fact, I have said that the 2002 farm bill was the "greenest" farm bill ever. Many of us remain extremely proud of those efforts.

But administration officials found a way to reallocate critical conservation funds away from many of these important programs. They have, by their actions, failed to allow government to follow through on the promises we made to the American people in 2002.

The Bush administration's approach doesn't recognize the important weight that Americans place on conservation—on protecting our natural resources.

It is also out of step with what Congress and the American people want and expect from a farm bill that was supported by a wide bipartisan majority only 2 short years ago.

These are only a few examples of the deficient rural policies that fail to address the very troubling figures I discussed earlier.

If we ask, Are we doing right by rural America? The answer is clearly no.

In the future, I will discuss other issues that impact rural America. But on these critical issues—disaster aid; energy policy; livestock, trade and conservation issues—on all of these matters, the answer is that we need a change.

The Bush administration is not doing right by American farmers, ranchers, rural residents, or the communities in which they live.

We can, and we should, do better. And I am optimistic about the future of rural America because I believe we will do better.

In the coming months, rural America will get a chance to learn more about those who have a positive vision for the future; those who understand that rural residents should not be taken for granted; and those who know that they have an obligation to provide serious leadership and strive to make progress.

Together, I am confident we will make that progress.

I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Mr. President, on behalf of the minority leader, we designate our time to Senator KOHL, 5 minutes; Senator DORGAN, 5 minutes; Senator CONRAD, 5 minutes; and Senator CANTWELL, 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I want to take a moment to address an issue of serious concern to families across the United States—the continued high cost of gasoline. Over the last few years, spring has always meant gas price spikes to southeastern Wisconsin. This year, that trend has gone nationwide, with consumers and businesses from coast to coast experiencing gas prices of over $2 a gallon.

The current average price for a gallon of gas is $1.89, up 40 cents over last year. That means that a family owning one car can expect to spend an additional $286 this year on gas over last year. If a family has more than one car, then they are looking at almost an additional $600. With job losses plaguing the manufacturing sector and stagnant wages for those who have been lucky enough to keep their jobs, that kind of increase in the cost of transportation is a serious problem.

And it is not only families who are feeling the pinch of high gas prices. Wal-Mart, the country's biggest retailer, has expressed concern that these higher fuel prices will result in lower sales—and in fact, the Commerce Department reported yesterday that retail sales saw their largest drop in 16 months. Our economy's health is dependent on consumer spending. If consumers are buying less because of high transportation costs, the family van will not be the only thing out of gas; our nascent economic recovery will also stall.

Much of the gas money squeezed out of our economy heads to OPEC countries, the result of their blatant price fixing. To address that, Senator DEWINE and I have introduced the "No Oil Producing and Exporting Cartels Act" or NOPEC. NOPEC will, for the first time, establish clearly and plainly that when a group such as the OPEC nations act together to restrict supply or set prices, they are violating U.S. law. The bill will not authorize private lawsuits, but it will allow the Attorney

General or the FTC to file suit under the antitrust laws for redress. Our bill will also make plain that the nations of OPEC cannot hide behind the doctrines of "Sovereign Immunity" or "Act of State" to escape the reach of American justice. This legislation would be a powerful tool to combat the illegal price fixing behavior of OPEC, behavior that would be severely prosecuted if it happened inside the U.S. or was carried out by U.S. companies.

Although OPEC is a big part of the problem of high gas prices, the lack of refining capacity across the country also contributes. Every day our economy demands almost nine million barrels of gasoline to keep the marketplace moving, but we lack enough oil refining capacity to meet the demand. Refineries are operating at 95 percent of capacity—and so we are forced to import 1 million barrels of refined gasoline a day.

The antitrust subcommittee on which I am the ranking member has looked into the issue of whether insufficient refining capacity is a manufactured crisis designed to raise prices by reducing the supply of refined product. No new refineries have been built in this country for 25 years, while scores have been closed. Some believe that this has allowed the remaining refiners to keep gasoline prices abnormally high. We are going to have to be vigilant if we are to keep the short supply of refineries from allowing another Enron-like gouging of consumers.

Indeed, I was gratified by the news last week that the FTC had begun a formal investigation into Shell's plans to close an important refinery in Bakersfield, CA, a refinery that produces 70,000 barrels of gasoline a day. Should the FTC conclude that the closure of this refinery results from efforts by Shell to control supply and raise prices, it must pursue all legal measures to protect consumers. The FTC must be tougher on all mergers in the oil and gas industry and act quickly and decisively to prevent oil companies from manipulating supply and prices. And Congress has important oversight responsibilities to make sure the FTC uses the powers we have given them.

The high price of gas is an issue that affects everyone, but to those on the bottom of the economic ladder it can be devastating. It is a serious problem when—because of the cost of gas—getting to work, finding a new job, or visiting the grocery store or the doctor become a luxury out of the reach of working families. It is a serious problem that we need to address seriously—and there are simple steps, like some I have outlined today, that we can take this year. We can and should act—not sit on our hands while working families again reach for the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

STANDING FOR AGRICULTURE

Mr. DORGAN. Mr. President, my colleague from South Dakota described the circumstances on the family farms and ranches in this country and why folks who are out there living on the land trying to grow a crop and raise some animals wonder whether the Government is on their side, wonder what is happening here in Washington, DC, with this administration and this Department of Agriculture, and why they won't stand up for their interests.

My colleague described many circumstances. Let me describe at least one. I am going to talk later today about the United States-Australia Free Trade Agreement, so-called, that I think undermines once again our agricultural interests.

Let me describe one example of this administration again deciding we are not going to stand for farmers and ranchers. It deals with China. It deals with wheat. An official from the U.S. Trade Ambassador's office in the last week in which he served in the Government gave a speech. He said the recommendation was that inside the administration they take action against China because China has been unfair in its decisions on trade with respect to U.S. agriculture.

If I can interpret that, we have farmers and ranchers who are trying to make a living, who are trying to raise some products and move them around the world and the Chinese, with whom we have a very large trade deficit—the largest in human history—have decided they are not going to play fair with us.

What is the result of a recommendation inside this administration to take action against China because China is not playing fair with respect to our ability to sell wheat to China? They say we are not going to take action against China because that would upset the Chinese. What do you think it does to farmers and ranchers out there who are trying to make a decent living?

About a week ago, I was out on a ranch in North Dakota, owned by the Ebers. They are out there by themselves. They are not a big conglomerate or a big corporation, only themselves. They run some cattle. They run a ranch, try to do a good job and try to make an income at the end of the year. I asked them, Where do you buy your groceries? It is an hour and a half away to go buy groceries. They are way out in the country.

You would expect and they would expect their Government would at least stand up for them when it comes to fairness with respect to trade agreements, whether it is CAFTA, or U.S.-Australia, or NAFTA, or the bilateral with China. Nobody is willing to stand for them.

This administration says with respect to China that we know the Chinese Government made commitments. We know the Chinese Government was supposed to do certain things and has not done them with respect to agriculture, but we are not going to do anything about it.

March 17 of last year is when a U.S. Trade Ambassador's official in the USTR office told a wheat industry meeting here in Washington, DC, that the USTR should file a case against China at the World Trade Organization in response to the failure of the Chinese to keep their commitments. He was leaving the USTR and going to another agency. Finally, somebody was candid about what was happening inside the administration.

This official expressed his frustration with the Chinese Government. He noted that Chinese officials have never disagreed with U.S. technical criticism of how China has been administering these so-called tariff rate quotas. He said the Chinese only make the political argument: You have to understand China. China is a special case, they say.

So this fellow said publicly that the trade policy review group in this interagency process in the Bush administration has given the U.S. Trade Ambassador's office the green light to move forward with a WTO case against China. That means in English that China is being unfair to our farmers and ranchers. So the technical folks said clearly we ought to take action against them. But he noted that many in the administration decided we can't do that; that would be an "in your face" action with respect to the Chinese.

Right after this official made these candid remarks, the administration disavowed those comments saying: No, no, he was not speaking for the administration. Of course he was. He made a very big mistake. He told the truth. He was candid.

My colleague from South Dakota asked the question: Why will they not stand up for the interests of farmers and ranchers? These are the bedrock entrepreneurs of our country who live on the land and try to do a good job and make a decent living. They expect their government to stand for them, to be on their side, to help them.

When they are confronted with an unfairness—and the example here is with respect to the Chinese who are mistreating our farmers and ranchers in international trade—they expect their government to stand for them. This administration, this trade ambassador, this trade policy from this administration fails to do so. It is a shame.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from North Dakota.

Mr. CONRAD. Madam President, in this discussion of farm policy and policy toward the rural parts of the country, I looked at the President's Web site for his campaign. It says, "President Bush understands that America's farmers are the heart and soul of this country. That is why he has worked so hard to help protect the rural way of life. He has proven his commitment to rural America time and time again. He pushed for and signed the 2002 farm bill."

I was one of the negotiators of the farm bill representing the Senate in the conference committee with the House. We spent well over 100 hours in negotiation. To say the President's assertion that he "pushed for" the farm bill is within hailing distance of the truth is to totally rewrite history.

Those who were involved in writing the farm bill have quite a different recollection of the history of that period than the President now portrays it. Let's go back to the time when we were negotiating the farm bill and see what the administration said then and see if it stacks up to the claim he is making now that he pushed for the new farm bill.

When the House of Representatives was working on the farm bill, on October 3, 2001, the President put out this Statement of Administration Policy:

> [T]he Administration does not support H.R. 2646 and urges the House of Representatives to defer action on the bill.

Does that sound like pushing for the bill? Or is that pushing for delay of the bill?

Then the statement of administration policy said:

> [N]ow is not the appropriate time for consideration of this bill.

And

> More time is needed for the fiscal picture to clear.

Then the administration said:

> The Administration believes that acting now on the significant fiscal and policy commitments of H.R. 2646 would be premature.

Does that sound like they were pushing for the farm bill, or were they pushing for delay of the farm bill?

Then when the Senate turned to the farm bill, the administration put out another Statement of Administration Policy. This is what they said:

> The Administration believes it is unwise, in this time of uncertain and changing federal resources and priorities, to enact policies that create unknown and potentially huge future demands on taxpayers.

Was that pushing for the farm bill? Or was that pushing for delay of the farm bill?

The President now claims he was pushing for the farm bill. The truth is, he was pushing for delay. He was pushing for deferment. He was pushing to wait.

What would have happened had we followed that advice? What would have happened?

First, the money that had been set aside in the budget for the farm bill would have run out. Then with the deteriorating fiscal condition of the Federal Government, resources for a new farm bill would have evaporated. In addition, a new estimate was about to come out about the cost of a farm bill that would have increased the cost and made it impossible to write the farm bill that was written.

For those who are concerned about taxpayers, they should understand, the farm bill that was written has thus far cost significantly less than projected. That almost never happens around here. The farm bill was projected to cost $18 billion this year alone. Instead, it will cost $14 billion, dramatically less than forecast.

But it is not just that savings. The even larger savings is to compare the current policy with the previous policy. If we make that comparison, we find the savings under this farm bill are even more dramatic, a huge reduction in expenditure, and yet this is a much more favorable piece of farm legislation for which the President now says he pushed. But at the time what he was pushing, he was pushing for delay. The fact is, delay would have killed the farm bill.

I remember working feverishly to convince my colleagues to move ahead, telling them that from my position on the Budget Committee I could see where this was all headed. If we had followed the Secretary of Agriculture's advice in this administration, we would have waited and waited and waited and the opportunity would have been lost.

The PRESIDING OFFICER. The Senator from Washington.

ENERGY RELIABILITY

Ms. CANTWELL. Madam President, I rise this morning to talk about our legislative priorities, and something I think this body needs to address before we adjourn next week. It is the issue of the reliability standards for our electricity grid and the fact that I think we are still putting the grid in jeopardy by not adopting reliability standards.

Even Enron activities in California, by its own admissions, jeopardized the reliability of the western electricity grid. That is certainly unacceptable. We need to have in place rules that explicitly ban market manipulation and rules that make reliability standards mandatory and enforceable.

In the documentation that has now been acquired through the Enron task force, federal agencies and organizations such as the Snohomish County Public Utility District, which is trying to get out of lawsuits and manipulated contracts that Enron is pursuing against it, it became clear that Enron continued to manipulate the market until its bankruptcy. Even in one scheme, called Get Shorty, Enron discussed in detail, and I quote from their comments and documents:

> This [Get Shorty] is obviously a sensitive issue because of reliability concerns. It would be difficult to justify our position if the lights go out because ancillary services were not available. The reason these services were not available is because we were selling them without actually having them in the first place.

In the Enron documentation and memos shared among various employees in the company about ways to scheme and make more money, they very well knew they were manipulating the market. They did not have these services, but sold them anyway at a higher cost, and thereby jeopardizing reliability.

Another summer is upon us and we have yet to take action on legislation that would move us forward in ensuring the integrity of the electricity grid by protecting consumers from these market manipulation schemes and putting regulatory standards in place for reliability.

Next month, in fact, will mark the first anniversary of the blackout in the Northeast and the Midwest that caused basically 50 million consumers and businesses in the Northeast and Midwest to lose power. In some cases that power was lost up to 4 days.

That blackout could have been avoided. When you think about not just the inconvenience to consumers but the fact it cost our economy $4 to $10 billion as a loss of economic activity, it is outrageous we are not stepping up and passing electricity reliability standards legislation as a stand-alone bill before we recess for the summer.

We know why the blackout occurred. A few months ago, in April, the U.S.-Canadian power system outage task force issued a report and the Department of Energy, together with the Canadian counterpart, convened a panel of experts that concluded this was something we could avoid if we put reliability standards in place. In fact, the No. 1 recommendation of that task force, which was reported to various Members of Congress and various committees, is to "make reliability standards mandatory and enforceable, with penalties for non-compliance."

That was the No. 1 recommendation out of that task force that investigated what happened in the Northeast and what happened in the Midwest.

So the question is, Why are we not passing reliability legislation before we adjourn, to make sure there are mandatory enforceable rules in place? After the task force's 7-month investigation was complete, Congress has been given an opportunity, many times on the floor, to pass reliability standards. Yet we have not done that. I think some of my colleagues are trying to get a larger energy bill passed first. There are many aspects of the comprehensive Energy bill this Senator would support and many I would not. But I guarantee you this, when this electricity reliability standards bill comes to the floor and is voted on, it will have unanimous support.

So the question is, why we are not peeling off something as important as reliability standards as we approach the summer's hottest months, to make sure businesses and utilities know they will have electricity supply and blackouts will not occur. What if the lights go out again this summer? What if they go out in August? God forbid they go out in September as many of my colleagues will be in New York doing their business and having meetings.

We know various Western States now, such as in Arizona, are putting in place programs to reduce demand because they have concerns. In a BusinessWeek article, FERC Chairman Pat Wood basically described the summer as "a rosary bead summer" in California because he has concerns that region is going to have some close calls.

We also know, according to the North American Electric Reliability Council's own Reliability Assessment for 2004, New York City "might be susceptible to reliability problems" again this summer.

So folks across the country could be affected by the cascading outages that happen to them or in nearby areas. In the words of Michael Gent, who is the president of the North American Electric Reliability Council:

> Whether legislation is adopted on a stand-alone basis or as part of a comprehensive energy bill, passage is essential. If reliability legislation had been enacted when first proposed, I believe that the blackout would not have occurred.

Why is that? Because right now, while consumers may think there are standards by which supply needs to be on the grid and reliability maintained, there are actually no mandatory rules. What happened in the Midwest and in New York was the fact that people did not have the supply available at a time that the demand was really there, or the transmission available to move the power. So consumers were caught in the dark—many senior citizens, individuals in hospitals. A whole variety of things occurred that were very unfortunate circumstances.

Now, we in the Northwest know this situation all too well. It was actually my predecessor, Senator Gorton, who first proposed this legislation and actually passed it out of this body, and then it languished in the House of Representatives. We waited again in 2002 and 2003 to get this legislation moved forward through the process. So I think it is critically important before this body adjourns next week that we pass the reliability standards legislation and implement it.

UNANIMOUS CONSENT REQUEST—S. 2236

So, Madam President, I ask unanimous consent that the Senate now turn to Calendar No. 465, S. 2236, a bill to enhance the reliability of the electric system; that the bill be read a third time and passed, and the motion to reconsider be laid on the table, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Madam President, reserving the right to object, we have had an energy bill pending that has been filibustered by our colleagues on the other side. We are not in a position where one Senator, unfortunately, can pass a bill. There may be many bills I would like to pass. We do not pass bills in this manner. We should get on with passing an energy bill. And, therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Ms. CANTWELL. Madam President, I hope my colleagues on the other side of the aisle will reconsider their position because we are not, in the next 5 to 6 days of legislative action, going to get a comprehensive energy bill. But we can get an energy reliability standards bill passed and put in place, and send a message sent to electricity providers across the country that there are going to be reliability rules and standards in place.

We cannot continue to hold hostage good energy reliability legislation for a comprehensive bill when consumers are at risk. We cannot continue to deny the reports across the country that more blackouts are coming. We need to act.

Now, Madam President, I would like to take a few minutes to expand on some of the other news and events that relate to this energy policy.

As my colleague mentioned an energy bill, I certainly would like to get an energy bill that did something to prevent market manipulation, or even just a stand-alone bill that would prevent market manipulation. We in the West have been astounded by the lack of response by the Federal Energy Regulatory Commission to the news and information about markets being manipulated.

I do not mean there is speculation about manipulation; I mean there are documents that have now been uncovered through organizations such as Snohomish County PUD; they are actually signed documents by various day traders at the Enron Trading Portland office that showed exactly how the trading schemes worked. While those utilities harmed will continue to pursue their case legally, it is absurd that the Federal energy regulators who are supposed to do their job in protecting consumers are failing to do anything. Basically they are the policemen on the watch and they are letting the crime continue to be committed.

When I say "continue to be committed," I would like to submit for the record an article that was recently published that shows the chances that these schemes might still be continuing in the State of Texas. The Texas Public Utilities Commission has an ongoing investigation, and there are a couple of companies down there that are actually pursuing this case. Some of the same Enron traders who were involved in the Portland office in these schemes have now moved on to other companies. CBS and others now have audiotapes showing that some of these Texas power giants might still be manipulating the market in the same ways that Enron did. So the question is, When are we going to stand up and do something about this?

I ask unanimous consent to have printed in the RECORD an article entitled "Accusation: Trader Recordings Show TXU Schemed to Spike Power Prices."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From CBS–11, July 8, 2004]

ACCUSATION: TRADER RECORDINGS SHOW TXU SCHEMED TO SPIKE POWER PRICES

(By Robert Riggs and Todd Bensman)

Audiotapes allegedly show traders for Texas power giant TXU carrying out illegal market manipulation schemes to spike electricity prices, much as Enron traders now stand accused of doing in California, according to several state competitors who claim the schemes damaged them.

CBS–11 obtained 250 hours of previously sealed telephone recordings of TXU trader transactions from Allen-based competitor Texas Commercial Energy. Company executives say the recordings prove TXU cornered Texas's newly deregulated electricity market last year and refused to sell until prices spiked many hundreds of dollars per megawatt hour above normal rates.

Officials for TXU, by far the state's largest energy company, deny that its traders ever illegally cornered Texas energy markets or squeezed competitors and said state regulatory investigators cleared the company of any wrongdoing.

The recordings of telephone trader transactions surfaced from a Texas Commercial Energy anti-trust lawsuit that claimed illegal market manipulation schemes by TXU drove the nascent energy company into bankruptcy after several cold fronts last year. A judge dismissed Texas Commercial Energy's lawsuit in June on grounds that the court did not have proper jurisdiction.

The company says it will appeal for a trial on the actual merits of its allegations.

"Now, the consumers get a chance to hear what their intentions were and how they were being damaged," said Steve Ousley, President of Texas Commercial Energy.

In one tape reviewed by CBS–11, TXU traders appear to gloat about excessive prices charged to Garland Power & Light.

TXU Trader 1: "They got a little power plant out there. I think they've got 250, 300 (megawatts). And if they're short, you know, they buy it from me sometimes."

TXU Trader 2: "Is that right?"

TXU Trader 1: "When I, when I bend them over the bench and give it to them (laughter).

TXU spokesman Chris Schein dismissed the discussion about the city of Garland as mere "boasting" and "verbosity."

"It's embarrassing, but there is no factual basis to what he said in terms of taking advantage of that customer," Schein said.

Texas Commercial Energy and other competitors tell CBS–11 that many other audio recordings prove that TXU imported and then put to use, during several 2003 cold fronts, the kind of market manipulation schemes that have resulted in federal action against traders for Enron, and also the Houston-based Reliant Energy Services, for trading abuses California.

In April, the Houston energy company Reliant and four of its officers were indicted in San Francisco on six counts of creating false energy shortages to spike prices.

In the course of its investigation of the TXU allegations, CBS–11 News learned that TXU had hired five ex-Enron traders, including one who came under FBI investigation for his previous work in Enron's indictment-plagued Portland, Ore. office and figures prominently in some of the Texas tapes.

"I think Texans should be outraged that they have adopted these Enron-like market manipulation schemes and even hired some of the same people that implemented the schemes out in California," Ousley said. "In Texas, market manipulation is all about the money. At the end of the day the consumers are going to end up paying for the market manipulation."

Until now, TXU has largely escaped the kind of public allegations of illegal market manipulation that has recently bedeviled former Enron traders and Reliant Energy. Last month, the release of the so-called "Grandma Millie" tapes of foul-mouthed Enron traders in Portland boasting of illegal trading schemes spurred widespread condemnation and pressure on Congress to investigate other energy companies.

Many of the taped TXU trader conversations reviewed by CBS–11 News are infused with jargon and would be difficult for industry outsiders to interpret. Interpretation of the Texas tapes has become central to the emerging controversy over them.

TXU's Chris Schein said his firm's interpretation of the tapes is that they show no wrongdoing at all.

"The kinds of shenanigans that you saw in California did not take place in Texas," he said. "And state regulators have been very concerned about that occurring."

Little is known about four of the five former Enron traders who have come to work for TXU, and Schein said affiliation with the scandal-plagued company should not automatically preclude employment at TXU.

But a fifth former Enron employee, Holden Salisbury, was hired by TXU from Enron's scandal-plagued Portland office in 2002, the company confirms.

Those who worked the Enron office remain under an active FBI investigation for market manipulation schemes known euphemistically inside the office as "Deathstar," "Get Shorty," and "Fatboy," California authorities say. Federal prosecutors have indicted and convicted several of Salisbury's former Enron supervisors on charges that they used market manipulation schemes, including Deathstar, to rip off millions from California ratepayers.

The 31-year-old Salisbury, who shows up repeatedly in the Texas tape recordings, has not been indicted or accused of any crime. His trading logs from Portland, obtained by CBS–11, indicate that he conducted multiple "Deathstar" transactions while working there.

In a brief interview with CBS–11 outside his Allen home, Salisbury would not say how he came to work for TXU but insisted he has done nothing wrong as a trader for either Enron or his current employer.

"I don't think I did anything wrong in Portland, and I don't think I have done anything wrong in Dallas," he said, declining to talk further without TXU permission.

TXU's Schein said the company would not allow Salisbury to talk further and that executives were angry that CBS–11 had tried to interview him at home.

Robert McCullough, a former utility executive in the Pacific Northwest, has worked as an expert witness in lawsuits against TXU and Enron. He said he was surprised TXU would hire anyone else from Enron's tainted Portland office.

"We found hundreds, literally hundreds, of documents where the different traders would sign off on specific schemes," McCullough said. "So it's very surprising to us that you would actually want one of those people on your team."

Asked why TXU would hire a trader from Enron's Portland office, Schein said Salisbury had passed a TXU background check. He later indicated the FBI had fully investigated and cleared Salisbury.

FBI officials in San Francisco, Ca., however, say the investigation of the personnel in Enron's Portland office was by no means complete and could yet yield additional cases.

"The FBI is in no way vouching for the character of Mr. Salisbury," said Special Agent LaRae Quy.

Salisbury figures prominently in some of the TXU recordings made during last year's February ice storm in North Texas.

Texas Commercial Energy officers and lawyers say the scheme Salisbury and others used involved buying up as much available energy on the open market as bad weather approached and then, cutting TXU's scheduled sales. According to Texas Commercial Energy, TXU traders would then refuse to sell, even lying to customers about ostensible shortages, until average $50 prices per megawatt hour spiked to a rare $1,000 per hour high.

In the following days, they say, TXU traders working together maintained tight control over prices, keeping them artificially high, but not so high as to trigger the unwelcome attention of state regulators.

Company officials say this 10:12 a.m. conversation on Feb. 25, 2003 between Salisbury and buyer Norm Berthusen of Cirro Energy occurred after an extended buying spree by TXU. They say it is but one of many recorded conversations supporting their contention that TXU traders conspired to withhold energy from the market.

Holden Salisbury: "TXU, this is Holden."

Norm Berthusen: "Hey Holden, Norm Bertheson at Cirro."

Holden Salisbury: "Yes sir."

Norm Berthusen: "Anything happening here in some of the short term power?"

Holden Salisbury: "Um, it's not looking too good right now. I don't think I'm going to have anything. . ."

Norm Berthusen: "Where's all the energy going?"

Holden Salisbury: "It's cold man."

Norm Berthusen: "I mean, it is, but hell, nobody's at work. Very few people. I mean. . ."

Holden Salisbury: "I don't know. . ."

Norm Berthusen: "Strange. . . Strange how we can have 56,000 available in the summertime and we can't get 40 together in the wintertime."

Holden Salisbury: "Yeah. I don't know. I mean there's (power plant) units that are down in the state."

Norm Berthusen: "What units are down?"

Holden Salisbury: "I don't know, but I know there are some . . . Look I've gotta go man."

Norm Berthusen: "Alright."

In an interview with CBS–11, Berthusen said he was suspicious that something nefarious was afoot but didn't know for sure until much later.

"I believe as a result of those actions that took place in February 2003 there may be a lot more overview from the (Public Utilities Commission) side of the fence in terms of monitoring some of this activity," he said.

TXU's spokesman, Chris Schein, said the recording shows no wrongdoing. He said Salisbury's apparent refusal to say which plants were off was in line with federal regulations prohibiting the trader from divulging such protected details.

Texas Commercial Energy officials point to recordings a month earlier as further evidence that TXU traders carried strategy of using market dominance to set prices at artifically high levels.

Traders Tim Drennan and Jim Dunkin discuss the "strategy."

Tim Drennan: "It's sitting at, uh, thirty-five percent . . . uh thirty four point, uh . . . thirty four and a half percent . . . uh forty six bucks, forty five bucks."

Jim Dunkin: "Yeah."

Tim Drennan: "So, eh, pretty much right in there where I think you wanted to be."

Jim Dunkin: "Excellent, excellent."

Tim Drennan: "Yeah. No, I agree. I eh, we eh, we're all on board with the, the, eh—with what we're doing here.

Jim Dunkin: "Good."

Later in the same discussion, according to Texas Commercial Energy officials, traders talk about cutting large amounts of scheduled energy deliveries to create an artifical scarcity in the market, thereby driving prices up.

Jim Dunkin: "What are you doing?"

Jerry 'Doc' Gatty: "I'm pulling my thumb wondering what Tim's gonna do here."

Jim Dunkin: "Well, cut it." (laughter)

Jerry 'Doc' Gatty: "We, we've got some big cuts in for nine o'clock, so . . . I'm ready to get to 9 o'clock and get it cutting so I know where I'm going. No, I know where I'm going."

Jim Dunkin: "To the bottom."

Jerry 'Doc' Gatty: "To the bottom."

Several hours later, according to Texas Commercial Energy officials, prices began to rise sharply to nearly $274, and the traders demonstrate that they have achieved control of prices.

Jim Dunkin: "That's just like yesterday. Everything's goin' just like we planned yesterday, except eh, except eh . . . on the prices. But that's fine. I mean, I don't really want to bump the prices unless we're 40 percent.

Tim Drennan: "I understand . . . We'll just keep them where they're at here, uh, for the rest of the day, unless we're, uh, unless we're super long. You know, if it gets over 40 percent, maybe I'll take em up to over a hundred. But right now . . ."

Jim Dunkin: "You can take them back up over to that . . ."

Tim Drennan: "Okay."

Jim Dunkin: ". . . if you get up over 40 percent."

Tim Drennan: "I understand, I understand."

Four hours later, the traders discuss price manipulation strategy for the following day by "cutting the load," or reducing scheduled energy sales, to create the appearance of shortages, according to Texas Commercial Energy officials.

Jim Dunkin: "I'd still go the same strategy tomorrow of having plenty on, but cut the load."

Tim Drennan: "Hey, cut-cut the load, go short, but just hold the price below 100 bucks.

Jim Dunkin: "Yeah, hold the price below 100 bucks. But I wouldn't roll a hundred bucks until I got the CT."

After some additional discussion about price bidding, Drennan said "And what we'll do is we'll just . . . we'll pull those prices back and keep it under 100, and I'll pass that on to Chad. And we're going to be fine."

Said Texas Energy Commission Vice President Bill Silliman: "They've got control over the prices. They only want to double the price, not create a five-fold increase that everyone would notice."

TXU's Schein says the recordings fall far short of proving that anyone at TXU has ever committed a crime or behaved unethically in business. He called the price spikes that occurred last winter "anomalies" due to a variety of natural causes and normal market circumstances.

"Those things don't occur, have not occurred in Texas," TXU's Schein said. "All of the market anomalies have been thoroughly investigated and found to have been no wrongful activities."

Schein was referring to a January 2004 staff inquiry into the allegations by the Public Utilities Commission's Market Oversight Division.

"At this point," the report concluded, in part, staff "has found no evidence of widespread, egregious price gouging in the . . . energy market by TXU."

But commission spokesman Terry Hadley conceded that investigators were only able to listen to a tiny fraction of the recordings, very late in their inquiry, before issuing the report in January. And, he said, court-ordered restrictions at the time prevented Texas Commercial Energy attorneys from helping investigators interpret the recordings beforehand. By contrast, TXU did work with investigators before the report was completed, Hadley said.

The investigation remains open, he said.

"Obviously, we don't have the resources to listen to everything," Hadley said. "They were considered to the extent that some had been reviewed. With our resources, we're not able to review all the thousands of hours of recordings. But . . . we can continue to review the situation.

Robert McCullough, the former utility executive who worked as an expert witness in lawsuits against TXU and Enron, questions whether the utility commission is capable of investigating anything. The number of investigators available to enforce complex deregulation rules, he said, is pitifully small.

"Unfortunately, in Texas, we don't have many police. We have one small office," McCullough said. "I don't doubt that those gentlemen work very hard, but it's like one policeman to patrol Dallas at the moment.

"The budget for the state PUC is $600,000," he said. "That amount of money could be purloined, taken from the consumers in an hour. It's like having the entire budget for the police force for the city of Dallas being the same amount as what's in the till of a Ma and Pa grocery store."

Ms. CANTWELL. The issue is really before us in the sense that we need to continue to push the Federal regulators to do their job, the Federal regulators being the Federal Energy Regulatory Commission. They have failed to do their job. We had an Enron collapse and scandal in which markets were manipulated, shareholders were conned, books were cooked, and various aspects of this investigation and prosecution are taking place. My hat is tipped to DOJ in their effectiveness in pursuing this case against various Enron employees, including their recent indictment of Ken Lay, even though that is a process in which Mr. Lay has his opportunity and will have his day in court. But I take great offense to Mr. Lay's PR campaign in which he goes on television saying that all that happened in California was California's fault, that it was wrong for them because they deregulated without proper supply.

Well, I think it is very clear there has been market manipulation as shown by the documents that are being provided, and it is a question of whether the Federal regulators are going to do their job.

Madam President, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Post from this week in which the paper criticized the Federal energy regulators for not doing their job. I think that is what we need, more attention to show that those Federal regulators have not had the bright light of day shown on them and that they are failing to do their job.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 12, 2004]

ENRON'S LEGACY

It has long been clear that ill-starred Enron Corp., whose founder and chief executive, Kenneth L. Lay, was indicted last week, deliberately manipulated electricity markets to intensify the California power crisis of 2000–01, forcing electricity prices up across the West. But recently released tapes of conversations between Enron traders have reminded the victims of just how cynical that manipulation really was. "I want to see what pain and heartache this is going to cause Nevada Power Company," gloats a trader on one of the tapes, just before completing a deal. "I'm still in the mood to screw with people."

The ratepayers of Nevada—and the rest of the West—are right to feel angry about what Enron did and right to feel aggrieved about the billions of dollars they overpaid for electricity as a result. It's hardly surprising that their anger has spread to Congress, particularly during an election year. Rep. Anna G. Eshoo (D–Calif.) recently got the House to pass an amendment to an energy appropriations bill, effectively requiring the Federal Energy Regulatory Commission (FERC) to give the public easier access to Enron documents. Some, including Sen. Maria Cantwell (D–Wash.) and Sen. Dianne Feinstein (D–Calif.) want the Senate to do the same.

But while calling for access to documents lets off political steam, it doesn't address the more fundamental problems with federal energy regulation, as many in Congress know perfectly well.

The much larger concern is that FERC's failure to resolve quickly the gaggle of multimillion-dollar lawsuits and regulatory cases filed by public utility commissions across the West has hampered investment and left energy markets in turmoil.

The fault is partly FERC's. Each case involves different legal issues, but on the whole, the commission's reaction to them has been slow, overly cautious and narrowly legalistic. At the same time, Congress has refused to heed the regulators' continued pleas for more powers, and particularly for the right to exact the same kinds of civil penalties other regulatory bodies do. Because FERC was set up in a different era, it is a quasi judicial body, with little ability to enforce rules. Its commissioners argue that they have acted according to their interpretation of the law, which among other things does not allow them to invalidate old contracts retroactively. Spokesmen also point out that some of Enron's behavior was ugly but legal, which limits what FERC can do now. Indeed, much of what happened can be attributed to the poor design of California's electricity markets—a design that FERC opposed.

Nevertheless, it is becoming clear that FERC's overly cautious approach to the Enron aftermath, the fault of both FERC and Congress, has damaged the regulatory commission's standing and even its ability to oversee market regulation in the future. In California, Nevada, Washington state and elsewhere, the acronym FERC has become a byword for impotence. Its job was to protect consumers, the argument goes; it didn't protect consumers, and it doesn't deserve more powers. Yet the future success of deregulated energy markets depends on the existence of a reliable regulator, with enhanced powers to enforce standard market rules and to penalize companies that fail to comply with reliability requirements or that manipulate markets. It's probably too late to undo all of the damage, but in upcoming cases FERC should take far more seriously the spirit of the law, which was designed to protect consumers, and Congress should quickly act to give FERC the powers it needs to prevent market manipulation.

Ms. CANTWELL. The article basically says:

> . . . FERC's overly cautious approach to the Enron aftermath . . . has damaged the regulatory commission's standing and even its ability to oversee market regulation in the future. In California, Nevada, Washington state and elsewhere, the acronym FERC has become a byword for impotence. Its job was to protect consumers, the argument goes; it didn't protect consumers. . . .

So I think we need to continue to push. In fact, the editorial goes on to say:

> . . . Congress should quickly act to give FERC the powers it needs. . . .

We must do our job in continuing to protect consumers from this market manipulation. When we have evidence now that shows it has taken place, and we cannot get the cop on the beat to investigate, and we now have documentation and suspicion that it may still be going on in other parts of the country, Congress needs to do its job.

Just as we did with the SEC in passing new accounting rules, we need to make sure the Federal Energy Regulatory Commission does its job on regulating wholesale power rates, making sure that they are just and reasonable and that the manipulation stops.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

(The remarks of Ms. COLLINS and Mr. BOND pertaining to the introduction of

S. 2659 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

IRAQ INTELLIGENCE

Mr. BOND. Madam President, I come to the Senate floor once again this week to talk about the Intelligence Committee report and what we know and what we have learned about the intelligence prior to this body authorizing the President to go into Iraq.

We have seen over the past year a concerted effort by outside groups, partisan attack machines, and even Members of this body going after the credibility and attacking the President and Vice President, sometimes personally. We have seen breathless media coverage of every word of those who profess to be nonpartisan but who prove to be anything but nonpartisan.

We have seen headlines alleging all types of wrongdoings. We have heard accusations of lying and misleading repeated as if they were the simple, obvious truth.

Now, after the Senate Intelligence Committee spent a year painstakingly reviewing these accusations, attacks, and smears, we can set the record straight, while only hoping that the media will devote at least some of the same attention to the facts as they did to the accusations and unfounded allegations. Yes, we found there were significant problems with the intelligence mechanisms, the lack of human intelligence, the failure to share information, the wall that had been built between intelligence agencies, and that we need to correct with appropriations and legislation. That is what I hope the Intelligence Committee can do. But we also need to correct the outright inaccuracies and political attacks.

Let's just review an example. First, let me take the interesting story of the initially anonymous former Ambassador, one Joe Wilson. As we point out in the additional views of Chairman ROBERTS, which Senator HATCH and I signed, Joe Wilson went on a media blitz with his allegations, appearing on more than 30 television shows in order to tell anyone and everyone that the President lied to the American people and that he was the "patriot" who debunked the claim of what he called in his book "the 16-word lie." Joe Wilson states on the "JOHN KERRY for President" Web site:

> The President misled the Nation in his State of the Union Address.

Then there was an ABC news story in which ABC said:

> A former Ambassador told ABC news that almost a year before Bush's speech he informed the CIA that the information was not credible. The Ambassador, who asked not to be identified, said the CIA asked him in February 2002 to investigate reports that Iraq was trying to buy uranium from Niger. After spending 8 days in the west-central African nation, the Ambassador said he told the CIA the information about uranium was "bogus and unrealistic."

That is pretty hard hitting.

This was a CNN headline:

> Diplomat: U.S. knew Uranium Report Was False.

Then Joe Wilson did Internet interviews. In one on Buzzflash, he said:

> I urged the Government to come clean with this story that was patently not true.

Then he went on Meet the Press and stated that he believed he had "effectively debunked the Niger arms uranium sale."

Andrea Mitchell asked him:

> Were they not properly briefed on the fact that you had the previous February been there and that it wasn't true?

Wilson said:

> No. No. In actual fact, in my judgment, I have not seen the estimate either, but there were reports based upon my trip that were submitted to the appropriate officials. The question was asked of the CIA by the office of the Vice President. The office of the Vice President, I am absolutely convinced, received the very specific response to the question it asked and that response was based upon my trip out there.

Well, now we have the facts, Madam President. The facts don't square with the claims. We not only have the Senate committee report, but yesterday we had Lord Butler's report investigating the intelligence obtained by British intelligence services that was shared with the U.S. and cited in the President's State of the Union Address. The Butler report states at paragraph 499:

> We conclude that, on the basis of the intelligence estimates at the time, covering both Niger and the Democratic Republic of Congo, the statements on Iraqi attempts to buy uranium from Africa in the Government's dossier, and by the Prime Minister in the House of Commons, were well founded. By extension, we conclude also that the statement in President Bush's State of the Union Address of January 28, 2003, "The British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa," was well founded.

That is what they said after looking at all the evidence. Paragraph 503 of the Butler report goes into detail and says:

> From our examination of the intelligence and other material on Iraqi attempts to buy uranium from Africa, we have concluded that:
>
> A. It is accepted by all parties that Iraqi officials visited Niger in 1999.
>
> B. The British Government had intelligence from several different sources indicating that this visit was for the purpose of acquiring uranium. Since uranium constitutes almost three-quarters of Niger's exports, the intelligence was credible.
>
> C. The evidence was not conclusive that Iraq actually purchased, as opposed to having sought, uranium and the British Government did not claim this.
>
> D. The forged documents were not available to the British Government at the time its assessment was made, and so the fact of the forgery does not undermine it.

Well, that is the first pitch. Facts 1, Joe Wilson 0.

What does the Senate Intelligence Committee say? On page 44 of our report, it says:

> When the former Ambassador spoke to Committee staff, his description of his findings differed from the DO intelligence report and his account of information provided to him by the CIA differed from the CIA official accounts. . . .
>
> . . . The former Ambassador said he discussed with his CIA contacts which names and signatures should have appeared on any documentation of a legitimate uranium transaction. In fact, the intelligence report made no mention of the alleged Iraq-Niger deal or signatures that should have appeared on any documentation of such a deal.

Then we went on to page 45:

> The former Ambassador [Wilson] also told Committee staff that he was the source of a Washington Post article ("CIA Did Not Share Doubt on Iraq Data: Bush Used Report of Uranium Bid"), which said, "Among the Envoy's conclusions was that the documents may have been forged because 'the dates were wrong and the names were wrong.'" Committee staff asked how the former Ambassador could have come to the conclusion that the "dates were wrong and the names were wrong" when he had never seen the CIA reports and had no knowledge of what names and dates were in the reports. The former Ambassador [Joe Wilson] said that he may have "misspoken" to the reporter when he said he concluded that the documents were "forged." He also said he may have become confused about his own recollection after the International Atomic Energy Agency reported in March 2003 that the names and dates on the documents were not correct and may have thought he had seen the names himself.

Second pitch: Facts 2, Joe Wilson 0.

Joe Wilson said in his book about how he was selected for the trip to Niger that his wife "Valerie had nothing to do with the matter. . . . She definitely had not proposed that I make the trip.

A Time Magazine article stated that Wilson "angrily said his wife had nothing to do with his trip to Africa." "That is bull [expletive]. That is absolutely not the case."

Page 39 of our report looks into the facts. Facts can come back to bite you when you make all kinds of charges. That conclusion was:

> Interviews and documents provided to the Committee indicated that his wife, a CPD employee, suggested his name for the trip. The CPD reports officer told the Committee staff that the former Ambassador's wife "offered up his name" and a memorandum to the Deputy Chief of the CPD on February 12, 2002, from the former Ambassador's wife says, "My husband has good relations with both the PM and the former Minister of Mines (not to mention lots of French contacts) both of whom could shed light on this sort of activity."

The report also states:

> On February 19, 2002, CPD hosted a meeting with the former Ambassador, intelligence analysts from both the CIA and INR, and several individuals from the DO's Africa and CPD divisions. The purpose of the meeting was to discuss the merits of the former

> Ambassador traveling to Niger. An INR analyst's notes indicated that the meeting was "apparently convened by [the former Ambassador's] wife who had the idea to dispatch [him] to use his contacts to sort out the Iraq-Niger uranium issue." The former Ambassador's wife told Committee staff she only attended the meeting to introduce her husband and left after about 3 minutes.

Third pitch: Facts 3, Wilson 0. Three strikes and you are out—and you should be.

Let me add a couple of other things. This is from the additional views of Chairman ROBERTS. These are findings that the staff made that were not accepted by our Democratic colleagues for inclusion in the final reports. The former Ambassador's public comments suggested that the Vice President had been briefed, but that is not correct. While the CIA responded to the Vice President's request for the agency's analysis, they never provided the information gathered by the former Ambassador.

The former ambassador, on "Meet the Press," said he was absolutely convinced the Vice President received the specific response based on his trip. The former ambassador was speaking on the basis of what he believed should have happened based on his Government experience, but he had no knowledge that it did happen.

These and other comments from the ambassador about his report debunking the Niger-Iraq uranium story were incorrect and has led to a distortion in the press and the public's understanding of the facts surrounding the Niger-Iraq uranium story.

The committee staff found that for most analysts, the former ambassador's report lent more credibility, not less, to the reported Niger-Iraq uranium deal. When we looked into it, not only was the trip by Joe Wilson to drink mint tea with his friends in Niger not a debunking of the British intelligence that Iraq had sought uranium from Africa, but he did include things that suggested that it was even more likely.

Why did he go off on such a tangent? In an interview with the committee staff, Joe Wilson was asked how he knew some of the things he was stating publicly with such confidence. On at least two occasions, according to the committee staff report, he admitted he had no direct knowledge to support some of his claims, and that he was drawing on either unrelated past experience or no information at all.

For example, when he was asked how he knew that the intelligence community had rejected the possibility of a Niger uranium deal, as he wrote in his book, he told committee staff that his assertion may have involved "a little literary flair."

"A little literary flair," when you charge the Vice President of lying based on information you had that was insufficient, inaccurate, and did not relate to the basic underlying information the British Government intelligence service provided? I think "a little literary flair" is not accurate. It is a fraud and a hoax. His statements were fraud. They were a hoax.

I have talked before about the people who owe some apologies for the assertions they have made about the President and Vice President. Let me add Joe Wilson as one who owes the Vice President a public apology—a public apology—for the unfounded, unbased accusations he made with just "a little literary flair." I think he owes the Vice President one, but I guess I will not hold my breath waiting until he provides it.

Unfortunately, that has been the practice. We have seen too often in too many places grand charges made and covered in the news media, and the committee goes back and we search and we search and we search to find what were the actual facts.

Democratic friends said the administration pressured analysts to change it or they influenced the views of the analysts. Chairman ROBERTS pursued every angle, invited everybody, pursued everyone, over 200, I think 240 interviews, and we came up with some conclusions.

Conclusion No. 83—and this is unanimously agreed to by Republicans and Democrats on the Senate Intelligence Committee:

> The committee did not find any evidence that administration officials attempted to coerce, influence or pressure analysts to change their judgments related to Iraq's weapons of mass destruction capabilities.

Conclusion 84:

> The committee found no evidence that the Vice President's visits to the Central Intelligence Agency were attempts to pressure analysts, were perceived as intended to pressure analysts by those who participated in the briefings on Iraq's weapons of mass destruction programs, or did pressure analysts to change their assessments.

I read an op-ed piece by one of my colleagues saying the administration did not do a good enough job of checking up on the analysis by the intelligence agencies. And in another breath, another one of my colleagues said they asked too many questions.

Madam President, let me tell you something I have learned as one new to the workings of the intelligence field. A good intelligence analyst puts forth his best or her best judgment on what to conclude from the often sketchy, incomplete facts they have before them and the reports that have to be evaluated, and they expect to be questioned. They want to know that the policymakers who are using that information have the best sense of what they know. And the Vice President, who was diligent—he was doing due diligence—went over and questioned them time and time again. Did he tell them to change their analysis? Did he tell them what judgment they wanted? No. What he told them was what the intelligence community knew they had to do, and that was to do their very best job to get it right.

There has been a lot of criticism of how the intelligence agency analyzed it. But we have lots of good people who work very hard. There are structures in place that have kept them from sharing. They did not have the information they needed. But to the best of their ability, they gave the Vice President what they thought was the best analysis.

The report also found in conclusion No. 1—most important:

> The committee found no evidence that the IC's—

Intelligence community's—

> mischaracterizations or exaggeration of the intelligence on Iraq's weapons of mass destruction (WMD) capabilities was the result of political pressure.

Conclusion No. 11:

> No analyst questioned by the committee stated that the questions were unreasonable, or that they were encouraged by the questioning to alter their conclusions regarding Iraq's link to al-Qaida.

That is, the link to terrorism.

As I said before, all of the charges, all of the outline of the Democrats' secret memo of November 2003 on how they were going to use the Intelligence Committee to attack the President, to influence the election have been debunked.

A lot of apologies are owed for the baseless charges that have been made against the President, the Vice President, the Department of Defense, and particularly Douglas Feith, who is attempting to serve the Secretary of Defense by asking questions and trying to get the best he could out of the intelligence community for the decisionmaking in the Department of Defense.

I hope, I trust—maybe I am gullible, but I trust now we can move beyond this and recognize that the intelligence that the administration had, the same intelligence that this body had when we approved going into Iraq, the same intelligence the world had when they said that Saddam Hussein was a bad guy and U.N. Resolution 1441 said that we need him to disarm, that was the best information we had at the time.

When we look back on it, we were absolutely dead right to go into Iraq to depose Saddam Hussein. As David Kay said after he finished, Iraq was a far more dangerous place than we knew. It had the capability, it had the equipment, it had the scientists ready to turn out weapons of mass destruction, chemical and biological, to turn over to terrorist groups. Let us hope and pray they were not able to turn over any.

The world is safer, the Iraqi people are safer, and the United States is safer because of the bold leadership of President Bush and Vice President CHENEY and our magnificent men and women in the military who are putting their lives at risk in Afghanistan and Iraq. We remember them and thank them in our prayers, and we also offer our best wishes and support for the Iraqi people to regain a decent country out of the mess that Saddam Hussein left.

I thank the Chair and yield the floor.

Mr. DEWINE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FEDERAL MARRIAGE AMENDMENT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the motion to proceed to S.J. Res. 40 is withdrawn.

Under the previous order, the majority leader or his designee is recognized for the purposing of making a motion.

AMERICAN JOBS CREATION ACT OF 2004

Mr. MCCONNELL. Mr. President, pursuant to the order entered last night, I move to proceed to H.R. 4520.

Mr. REID. No objection.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion is agreed to.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4520) to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

AMENDMENT NO. 3562

(Purpose: To provide a substitute for the bill)

Mr. MCCONNELL. Mr. President, on behalf of Chairman GRASSLEY, I call up a substitute.

The PRESIDING OFFICER. The clerk will report the substitute.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. GRASSLEY, proposes an amendment numbered 3562.

(The text of the amendment (S. 1637) is printed in the RECORD of May 18, 2004.)

Mr. REID. Mr. President, before the distinguished majority whip leaves the floor, I want to say something. We get things done around here in a number of different ways. One of the ways we get things done is we have to trust each other. To be at the point we are on this piece of legislation today took a lot of trust.

Last night, about 9:30, the floor leaders met right here in the aisle and the Senator from Kentucky indicated he wanted to do something differently. I today extend to him, through the chairman, my appreciation. There was a slight misunderstanding, nothing intentional, and that is certainly underlined and underscored. We could have had a big puff-up here this morning and had name-calling—You should have understood, you didn't, it is your fault—but I have to say the Senator from Kentucky is a man of his word and indicated if there was any misunderstanding he would take care of it. And he did.

I want the record to reflect I appreciate that very much. We are now going to go forward with a very important piece of legislation. But we could not have done that with good will prevailing but for the act of the Senator from Kentucky, for which I, on behalf of the whole Senate, extend my appreciation.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, let me say to my friend and colleague, the assistant Democratic leader, I do think we had a good discussion last night, and reached an agreement on moving forward with this important piece of legislation. The minor snafu my friend referred to we were able to work out in short order this morning, and that is the way the Senate ought to work.

I congratulate him for his important contribution to moving this matter forward as well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3563

(Purpose: To protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to eliminate the Federal quota and price support programs for tobacco, and to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities)

Mr. DEWINE. Mr. President, I have an amendment at the desk that I call up.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. KENNEDY, Mr. MCCONNELL, Mr. HOLLINGS, and Mr. DURBIN proposes an amendment numbered 3563.

Mr. DEWINE. Mr. President, I ask unanimous consent that reading of the amendment be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DEWINE. Mr. President, I am offering the amendment on behalf of myself, Senator KENNEDY, Senator MCCONNELL, and Senator DURBIN.

Mr. President and Members of the Senate, the amendment I offer this morning is a long time coming, but it is an amendment that I think has historic meaning for this Senate and for this country. It really is two amendments that we are combining. One is Senator MCCONNELL's bill, the tobacco buyout. The other part of the amendment is Senator KENNEDY's and mine and Senator DURBIN's FDA regulation of the tobacco bill. Each of these bills has been worked on for a long time. These bills are being combined in this amendment.

There is a time and a place for legislation. The time for both of these bills has come. This amendment is in a sense a marriage, a merger. Some people have referred to this as a shotgun marriage or an interesting marriage, an interesting alliance. I happen to think it is a proper marriage. I think it is a marriage that makes sense, and I believe it is a marriage that will last. I believe it is a marriage that will last not only through today when the Senate will vote on this amendment, and I believe will pass this amendment, I believe it is a marriage that will last through the conference committee that will come. I believe it is a marriage that will last to see this amendment and this bill become law. So I believe it will be a permanent marriage, a lasting marriage.

I will talk this morning about the FDA side. But before I do, let me say, I support Senator MCCONNELL's bill because, you see, I understand the problems of tobacco farmers. We have, along the Ohio River, north of the Ohio River, tobacco farmers, certainly not as many as my colleague does from Kentucky, but we have them. I understand the problems they have. They need this bill. They need the tobacco buyout.

My colleague from Kentucky and I have had many conversations about the need and the necessity to merge these two bills. It makes eminent sense to do it. So I thank my colleague for his good work. I thank him for his good counsel. It has been a pleasure to work with him for, frankly, over a year, as we have worked together.

Let me also say to my colleague from Massachusetts, it has been a great pleasure to work with him as we have worked on the FDA part of this bill.

Let me talk about the FDA regulation of tobacco. Senator KENNEDY and I have worked on this issue for some time. We introduced this amendment. This part of the amendment is designed to help protect consumers, especially children, from the dangers of tobacco.

Simply put, our amendment would finally—finally—give the Food and Drug Administration the authority it needs to effectively regulate the manufacture and sale of tobacco products. I say "finally" because many of my colleagues—first Senator McCAIN, back in 1997, 1998, began working on this. Senator FRIST did great work, as well as Chairman GREGG, who put a great deal of effort and work into this as well; and then Senator KENNEDY and myself. We have all been seeking FDA regulation of tobacco products. Congressman DAVIS and Congressman WAXMAN have a companion piece of legislation in the House of Representatives.

I say "finally" because the bill we are offering today is the product of long and hard discussions and negotiations that I have had with Senator KENNEDY and others and public interest groups and industry. Our bill has the support of the Campaign for Tobacco-Free Kids. Our bill has the support of Philip Morris. Our bill has the support of the American Heart Association, the American Lung Association, and the American Cancer Association.

It is a bill of which I am proud. It is worth the Senate's consideration and passage. It will provide the FDA, finally, with strong and effective authority over the regulation of tobacco products.

Why do we need this bill? I think we all know why we need it. Every day, nearly 5,000 young people under the age of 18 try their first cigarette. In my own home State of Ohio, 33 percent—one-third—of children smoke. These kids in Ohio by themselves go through 45 million packs of cigarettes each year. If that is not bad enough, think about this: 90 percent of smokers start smoking before the age of 19. More than 6.4 million children across this country will die prematurely because of a decision they will make as adolescents; that is, the decision to start smoking.

While States may have limited the options available for tobacco advertising under the 1998 master settlement agreement, the reality is tobacco companies are still able to choose the content of their advertisements, their ads that they run in magazines such as Sports Illustrated.

Sports Illustrated is read by tens of thousands of children across this country every single day. Kids read it every single day. These companies are savvy. They are smart. They have changed their marketing strategies. They have concentrated more money into different advertising markets. As a result, years after the major tobacco companies agreed to stop marketing to children as part of the tobacco settlement, children are still twice as likely as adults to be exposed to tobacco advertising. That is who is reading it. That is who is seeing it. That is who is hearing it.

According to the Federal Trade Commission's "Annual Report on Cigarette Sales and Advertisement"—just to take 1 year, the year 2000—that year represented the largest increase ever in tobacco company spending on "promotional allowances." That is the money tobacco companies pay retailers to promote their products in prominent locations in stores or for highly visible shelf space such as near the cash register on an aisle that a customer must walk by to pay the cashier. That particular year, cigarette manufacturers spent a record $9.57 billion on advertising and promotion.

That is an increase of 16 percent from $8.24 billion spent in the previous year. Tobacco companies also spend billions of dollars advertising enticing promotional items—lighters, hats, other products—they give away for free at the point of sale or, in other words, the cash register or the place of checkout in a grocery or convenience store. In fact, spending on such promotional or value-added items increased by 37 percent in just 1 year.

Let's not fool ourselves. These promotional strategies and advertisements reach our children. Three-fourths of the children visit convenience stores at least once a week. The places where tobacco products are marketed influence their decisions. It is that simple. We must not allow the industry to continue targeting children.

This isn't just about an advertising and marketing scheme. It is about that, but it is about more. Our bill not only addresses advertising, it also addresses the second problem. What is the second problem? It is also about tobacco manufacturers' failure to disclose the specific ingredients in their products. While simply listing the ingredients, toxic as they might be, might not seem like much to some, think of it this way: Current law makes sure we know what is in products to help people quit smoking, such as the patch or Nicorrette gum but not the very products that get people addicted in the first place, the cigarettes themselves. Isn't that crazy?

Think about this: Right now the Food and Drug Administration requires Philip Morris to print the ingredients in its Kraft macaroni and cheese but not the ingredients in its cigarettes, a product that contributes to the deaths of more than 440,000 people a year.

I ask unanimous consent to display in the Senate three different products: macaroni and cheese, a milk carton, as well as a cigarette carton I have right here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Right now, the FDA requires Philip Morris-owned Nabisco to print the ingredients contained in Oreo cookies and Ritz crackers but not the ingredients in its cigarettes, even though cigarettes cause one-third of all cancer deaths and 90 percent of lung cancer deaths. It is unfathomable to me that we would require the listing of ingredients on these products yet not require the listing of ingredients for one of the leading causes of death and disease.

Right now, the FDA requires printed ingredients for chewing gum, lipstick, bottled water, ice cream, but not for cigarettes, a product that causes 20 percent of all heart disease deaths and is the leading cause of preventable death in the United States.

A product that I consumed this morning, this carton of milk, we see all the ingredients on here. We can read them right on here: Reduced fat milk, vitamin A, et cetera, nutrition facts. It goes into great detail on the back. We can read all the details right here. It tells you anything you want to know. There it is. Here is the macaroni and cheese. We can turn it over and get the calories and all the ingredients: enriched macaroni product, durum wheat flour, wheat, niacin. It goes on and on and on and on, all the way down.

We see people, when they go to the grocery store, today they are so health conscious. They pick these things up and they start reading through to see if they have an allergy to something, to see what their kids are eating. They will read down to see if they want to buy the product. The same company that makes this, makes cigarettes. Yet certain brands of cigarettes they will get, there is nothing on here. There is the warning that has to be on here. It has been on here a number of years. There is nothing else on here—absolutely unbelievable.

Another way to look at this, another problem, if a company wants to market a food product that is fat free or reduced fat or light, that company is required to meet certain standards regarding the number of calories, the amount of fat grams in that product. Yet cigarette companies can call a cigarette, light or mild, and not reveal a thing about the amount of tar or nicotine or arsenic in that supposedly light cigarette.

Not having access to all the information about this deadly product makes no sense. It is something that needs to change. By introducing this bill, we are finally saying we are not going to let tobacco manufacturers have free reign over markets and consumers anymore. Today we are taking a step toward making sure the public gets adequate information about whether to continue to smoke or even to start smoking in the first place.

With this bill, we are not just saying: Buyer beware. We are saying: Tobacco companies, be honest. We are saying: Tobacco companies, stop marketing to innocent children. Tobacco companies, tell consumers about what they are really buying.

I realize full well that tobacco users and nonusers alike recognize and understand that tobacco products are hazardous to health. They understand that. But that is not what I am talking about. I am talking about requiring the tobacco companies to list the ingredients that are in their products, things such as trace amounts of arsenic and ammonia. It is time we finally give the FDA the authority it needs to fix these problems. The legislation that we are introducing would do just that.'

First, the bill would make changes regarding tobacco advertising. It would give the FDA authority to restrict tobacco industry marketing, consistent with the first amendment, that targets our children. Additionally, our bill would require advertisements to be in black and white text only, unless they are an adult publication and would define adult publication in terms of readership. Tobacco advertising is in magazines and on billboards along the highway. Tobacco advertising is in convenience stores, along the aisles and at the checkout counter, right beside the candy, where children are likely to see it. Tobacco advertising is at sporting events, part of promotional items where consumers can buy one and get one free. Tobacco advertising is on the Internet and in the daily delivery of mail.

Our bill would make changes regarding tobacco advertising. It would give the FDA authority to restrict tobacco advertising marketing content, consistent with the first amendment, that targets our children. Our bill would require advertisements to be in black and white text only and would define adult publications in terms of readership.

An issue that is related to advertising and marketing of tobacco products has to do with the flavored tobacco products which clearly target our children. We have probably all seen the flavored cigarettes—flavors such as strawberry, chocolate, and wild rum. The scent of strawberries filters through the unopened pack of cigarettes. Guess what. The cigarettes smell like candy.

A recent New York Times article described the scent of chocolate-flavored cigarettes "as if someone had lifted the lid on a Whitman Sampler."

We need to stop this. Children will be curious about something that smells or tastes like candy. Cigarettes should not be flavored and marketed in such a way to attract children and to encourage children to smoke. Our bill bans the use of flavors such as strawberry and grape, orange, cinnamon, pineapple, vanilla, coconut, and coffee, and other flavorings that would attract children to the product.

Second, our legislation would give consumers more information about what is in tobacco products. Specifically, the bill would provide the FDA with the ability to publish the ingredients of tobacco products. Despite the fact that 40 million Americans use tobacco products, many of them do not know what is inside the cigarettes or the tobacco product they ingest. They do not know the ingredients like tar and nicotine that are in the product they use. Consumers do not know what additives are included in the product, additives such as ammonia which makes the tobacco product more addictive because it increases the delivery of nicotine.

Tobacco companies do not disclose the specific ingredients in their products because they don't have to. Tobacco products are unregulated. Our legislation would give consumers more information about what is in tobacco products.

Specifically, the bill would provide the FDA with the ability to publish the ingredients in tobacco products. It would require a listing of all ingredients, substances, and compounds added by the manufacturer to the tobacco paper or filter.

It would require the description of the contents, delivery, and form of nicotine in each tobacco product. It would require information on the health, behavior, or psychological effect of the tobacco product. Finally, it would establish the approval process for all new tobacco products entering the market, new products like Advance, with this "trionic filter," which claims to have all of the taste but less of the toxins of other cigarettes.

One of the most dramatic changes our bill makes is that tobacco products will now have to be approved before they reach consumer hands. It makes sense that tobacco products should not be able to imply that they may be safer or less harmful to consumers because they use descriptions such as "light," "mild," or "low tar" to characterize the substance in the product. The National Cancer Institute found that many smokers mistakenly believe that low-tar and light cigarettes cause fewer health problems than other cigarettes. Our bill would require specific approval by the FDA to use those words so the consumers could be informed.

Mr. President, this bill will make a difference. It is a bill that will save lives. I will have more to say about this later in the debate.

At this point, I yield the floor to my colleague, Senator MCCONNELL.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The assistant majority leader is recognized.

Mr. McCONNELL. Mr. President, this is indeed a historic moment for Kentucky. Tobacco and the growing of tobacco has been an integral part of my State since it came into the Union in 1792. In fact, if you look carefully around the Capitol, you will find tobacco leaves actually painted here in the Capitol of the United States of America. Many people argue—and this is probably an exaggeration—that if it hadn't been for tobacco, the United States might not have been colonized because it was far and away the most profitable agricultural activity. That is most of what the people of that era did back in the beginning of our country.

The Senator from Ohio has correctly stated the important health consequences of the use of tobacco. It has taken us several hundred years to figure that out and to reach the point where we are today.

I want to start by commending my colleague, Senator MIKE DEWINE from Ohio. I have never observed a more skillful legislator than he during my time in the Senate. You can always tell when the senior Senator from Ohio has an idea on his mind: He will come up to you quietly and pull you off in the corner and begin to twist your arm. You know he is a formidable force who, when he has made up his mind about an issue, never lets go. Many bills that have cleared the Senate in the 10 years the Senator from Ohio has been here obtain the fingerprints of MIKE DEWINE. He is truly an extraordinary legislator. I know he is excited today that the bill he believes so deeply in has a chance to be added to this bill. It is very likely to be added to this bill as it goes to conference. I congratulate him for his outstanding work.

Having said that, the Senator is correct; this was a marriage of convenience. I can recall as recently as 1996, when I was running for reelection in my State, we were wearing T-shirts that said "keep FDA off the farm." The idea of FDA regulating this product, particularly if it went down to the farm, was universally unpopular in my State. I am not a great fan of FDA regulation today, but these two issues needed to be married in the U.S. Senate if we were to get either one of them out of the Senate and on the way down the legislative road toward some accomplishment.

Mr. President, there is simply no way to overstate how central tobacco has been to the history of my State. We started growing it from the beginning of the country. Kentucky's soil and climate were particularly suitable for this cash crop. Even with all of the problems tobacco has today, we always laughingly say in Kentucky that tobacco is the most profitable thing you can grow on a per-acre basis in our State that is legal. We also have a little marijuana problem in the mountains that we try very hard to stay on top of, and I expect that growing marijuana is more profitable. But even with all of these problems, tobacco is the most profitable thing to grow on a per-acre basis, far more profitable than corn, wheat, and the other crops we also grow:

In the 1930s, tobacco got in serious trouble, as a lot of agriculture did. Part of the New Deal, in establishing farm programs, included the establishment of the Tobacco Program. Unlike the other farm programs, it was a permanent program. It didn't have to be reauthorized periodically, like the other commodities that are under a Federal farm program. It was a permanent program. It assigned the land, based on how much tobacco was being grown in the 1930s, a certain amount, a certain acreage, and it did that in Kentucky, Tennessee, Virginia, the Carolinas, and Georgia. In that acreage, you had a legal right to grow. It was like owning some stock—you could sell it; you could lease it; it had value. We called them "quotas." By the time I started moving around the State in the early eighties and learning more about tobacco, we had 100,000 growers in 119 of our 120 counties.

In many of these counties, there is not much flatland; but since tobacco was so profitable on a per-acre basis, even if you had a tiny little plot, or quota, you could make pretty good money. You would see these quotas tucked back up in the hollows, right up on the edge of where the mountain went straight up. We had it in 119 of 120 counties. It was sold at auction around Thanksgiving. Farmers would cut the tobacco, strip it, put it into the barns, where it would dry for a month or two. It would be sold at these auctions, and the auctions would start around Thanksgiving, go through the Christmas season, and finish up in the early part of the year. Many of these farmers were part time.

When I came to the Senate, the average grower in Kentucky had three-quarters of an acre. That was the average. A lot of these folks were part time. But this was dependable cash. They could count on it being produced around Christmastime. For many very low-income Kentuckians, it provided Christmas money; for some it provided the opportunity to send their kids to college. It has been an integral part of our culture for a very long time.

None of these folks, of course, are engaged in selling the product to kids. They were making a legal living producing an agricultural crop that is older than America itself. But beginning with the Surgeon General's report in 1964, it was increasingly clear that this is a product that is not good for you.

The campaign that has gone on over the last 40 years is legitimate. In Lexington, KY, today, the heart of tobacco country, you cannot smoke in a restaurant. That is in Lexington, KY, the heart of tobacco country. And in Louisville, KY, my hometown, they have been having a big debate about the same issue.

I say to my friend from Ohio, if anything sums up how this has all changed, it is when you cannot smoke in a public place in Kentucky. So I think the health argument has been made. It is, however, a legal product. The health groups are not trying to make smoking illegal. That, of course, would produce an enormous black market and no good result.

So it occurred to this Senator back in 1998 when we were considering another tobacco proposal that it was time for a buyout. I never will forget joining Senator LUGAR of Indiana in advocating a buyout back in 1998. I was rimracked—rimracked—by the two big newspapers in my State. They said I turned my back on Kentucky culture; I had gone Washington; I had been up there so long I had forgotten what it was like in the hollows and the tobacco fields of Kentucky.

I was criticized by the Farm Bureau and the Burley Tobacco Co-op and all the establishment: How could you possibly be for a buyout? You are turning your back on us.

I took a survey of tobacco growers. I got a pollster and said: Let's go out and ask them how they feel about it. Frankly, they were against it, too. Fifty percent were against it; about 35 percent were for it. So the whole tobacco establishment was against the buyout in 1998 when I first advocated it.

Now, Mr. President, I am treated as a visionary. I was ahead of my time. If we had only joined you 6 years ago, we would have gotten this job done sooner.

Being treated as a visionary is kind of fun, but it does not get the job done. What is happening here today is we have an opportunity to move on down the road toward achieving something that neither the Senator from Ohio nor I thought was going to be achieved, which is some kind of FDA proposal, which I am not, as I said, very wild about, and a buyout which I enthusiastically support, and I cannot find a tobacco grower in Kentucky today who is not for the buyout.

The occupant of the Chair I know has tobacco farmers in his State as well. I bet he has not run into any lately who are not favorable to a buyout. There has been a complete shift in thinking, and the reason for that is apparent. This quota, this asset, is a shrinking asset. As the asset shrinks, the land values go down, and it has a real impact on our people.

Some people say: Why should the Government buy out this program? The answer to that is the Government created the asset. The Government, by establishing the quota program, created the asset, and now if the Government is going to terminate the asset, it is appropriate for the Government to compensate those for whom the asset was created.

As I said earlier, 20 years ago, we had 100,000 growers in 119 of the 120 counties in my State, and the average quota was about three-fourths of an acre. We do quotas by poundage these days, but three-quarters of an acre, which gives you the sense of the size, was the average.

Today, we are still growing burley in 117 of Kentucky's 120 counties, but the average has gone up to 5.7 acres. So we can see, Mr. President, tobacco farmers are leaving, consolidation is occurring even with the program.

The 2002 census of agriculture, which was released a year and a half ago, reflected about a 40-percent drop in the number of farms growing tobacco in all of the States—not only Kentucky, in all of the States. A 40-percent drop in the number of farms from 93,000 in 1997 down to 56,000 in all of the States. In Kentucky, from 1997 to 2002, we have gone from 46,850 tobacco farms down to a little under 30,000. That is still a lot of farmers—a lot of them—but their asset is shrinking.

That brings us to today. The House of Representatives—and I particularly commend two Congressmen, Congressman RICHARD BURR of North Carolina and Congressman RON LEWIS of Kentucky, who spearheaded that effort over on the House side and very skillfully leveraged the votes they had on a bipartisan basis in tobacco country to make it possible for the FSC/ETI JOBS bill to pass the House at all. So that proposal, a buyout only, is in the House bill.

The occupant of the Chair and the rest of us from tobacco-growing States in the Senate knew we could not get a buyout only through the Senate. That would have been our first preference. I say to my friend and colleague from Ohio, he knows that would have been my first preference. So we have a marriage of convenience here, not a shotgun marriage. It is a marriage of convenience. These two issues converge, and in the best of the legislative process, we put them together and believe we will be able to pass them later this day to go into conference. Congressman BURR and Congressman LEWIS deserve a lot of credit.

I also commend my colleague from Kentucky, JIM BUNNING, who has been a stalwart on this issue from the beginning and extraordinarily helpful in every way.

I would be remiss if I did not mention Senator ELIZABETH DOLE, who has been every bit as intense and committed to achieving this issue as anyone I have ever seen. It was a big issue in her election in 2002. She came into the Senate and said it was her top priority for North Carolina agriculture, and she has pursued it with intensity, with conviction, with one-on-one meetings, with Senators who were in a critical place to make a difference. I know she and others are going to be speaking on this issue later. But I say to her, we would not be here today without her extraordinary effort on behalf of this proposal.

This does not guarantee a buyout. I want to make it perfectly clear to my folks at home the job is not finished. But we have come further than I, frankly, thought we would get. Toward the end of last year, I had pretty much given up on the prospects of being able to get this proposal through. But now we are on the verge of having a buyout. They are a little different. The Senate version will be different from the House version—that frequently happens in the legislative process—but we are on the verge of having the tobacco quota buyout in both the Senate bill and House bill in conference, and that is closer than we have ever been before.

So we have made extraordinary progress, but I do want to caution those folks at home who care deeply about this issue that we are not there yet. We have come a long way, but we are not there yet. I know all of us in the Senate from tobacco-growing States on a bipartisan basis are going to continue to press this issue as hard as we can and hopefully conclude the buyout process.

I say in conclusion, it will be a big change. We have had a tobacco program in the burley and flue-cured States going back to 1938. It has been a way of life. But change is already occurring. The warehouse system is basically going away. People are growing tobacco under contract now, not selling it to warehouses in the way they used to. Change is coming. This is an opportunity to manage that change in such a way that people will be fairly compensated for the value of today's quota.

Mr. President, I am optimistic that we may be able to succeed, and I thank all of those who contributed to this process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I thank my good friend and colleague from Kentucky for his very kind comments. Those of us who work with Senator MCCONNELL in the Senate every day know he is a visionary. We know he understands his State.

We also know if Senators want to know how to get something done, they go to MITCH MCCONNELL. I do go to him and I do talk to him and I do get him aside, and I do not know if I twist his arm or not. I do talk to him and seek his counsel and advice. I am kind of a pest sometimes.

He was the one who said these two bills are natural to come together. He said that well over a year ago; and here we are today. It was his idea or his thought that these two bills could be married, and now we are sort of at the altar today. Yes, it is a marriage of convenience, but I happen to believe it is going to be a good marriage. I think it is going to be a marriage that will last, not only through this vote today, but I think it is going to be a marriage that will last through conference, and it is going to be a marriage that will make its way to the President's desk.

I think it is going to be for the benefit of the American people, the tobacco farmers, and the children of this country. I think it will be for the benefit of all Americans and for the health of all Americans. So I think it is going to be a good marriage, and I thank him for his help in bringing it about.

I yield time now to my colleague and friend who has worked so very hard on the FDA portion of this bill and has brought us to the Senate floor, the Senator from Massachusetts, Mr. KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join in commending my friend and colleague from Ohio, Senator DEWINE. Today I am joining him in presenting this amendment. We welcome obviously the workings and the contributions of Senator MCCONNELL together with the proposal that has been described as a shotgun wedding because, on the one hand, as we have heard a very informative and eloquent statement of the history of the growth of the tobacco industry, the industry itself—not the farmers but the industry itself—by and large has resisted the ability of the Food and Drug Administration, which generally has the overall jurisdiction in dealing with health issues, to be able to deal with this issue in order to protect the children of this country.

I was here in 1964 when we received the Surgeon General's report. It arrived like the crack of a whip when we read the Surgeon General's report and found for the first time the dangers of tobacco and its impact in terms of the health of the population generally, in particular with regard to children.

For years, those of us who were trying to deal with the health aspects of this issue, and particularly the health aspects of these issues as they relate to children, found strong opposition by the tobacco industry. They resisted the commonsense efforts that were being made to try and provide protections for the children of this country.

Now we have a working partnership with those who are interested in the tobacco farmers, which I am interested in, and those who are interested in protecting the children. We have come together to try to make a recommendation, the result of which will provide equity and fairness to tobacco farmers, paid for by the industry itself and not by the taxpayers, but also to provide the Food and Drug Administration with the kind of authority to help protect the children of this country from the No. 1 preventable health disease for people that the Federal Government can do something about. Tobacco causes one out of every three deaths from cancer, one out of five deaths from heart disease and 87 percent of lung cancer cases. We must slow down the amount of children smoking and the addiction that has taken place.

We have had a considerable period of time since the 1964 Surgeon General's report. We have the efforts that were made in the 1970s and 1980s to try to provide labeling on cigarettes to give information to those who were going to start smoking, and it has not been very effective. On the contrary, it was used by the tobacco industry as an offset, saying, look, we are not responsible. There was information that was on the various tobacco products and people were acting on their own.

We tried to strengthen the Office of Preventive Health. We tried to put some labeling on smokeless tobacco. We made some very modest steps forward in trying to deal with this issue. Then in 1998, when we had the great debate on the tobacco issue about compensation, there was a provision in that legislation which had a good deal of the kind of protections that are included in the DeWine-Kennedy amendment. A great deal of that was actually fashioned by our majority leader, Senator FRIST, who was very much involved in helping shape that particular proposal.

It is interesting, as we had this long debate on the Senate floor on tobacco, there was not a single amendment to try and alter that authority. It was generally agreed that that was a pretty good balance, going back to 1998. From that time, Senator DEWINE has picked up this opportunity and has continued to press this in the committee, and a number of our colleagues have been particularly involved in this issue. I think of our colleagues from Iowa and Illinois, Senator HARKIN and Senator DURBIN, and a number of others who have been extremely involved in trying to make sure we were going to provide some protections.

I mentioned the 1964 Surgeon General's report. I will include in the RECORD an appropriate part of the new Surgeon General's report that was issued on May 27, 2004. This is from the U.S. Surgeon General appointed by President Bush. He is this administration's Surgeon General, and this is what his findings are:

> U.S. Surgeon General Richard H. Carmona today released a new comprehensive report on smoking and health, revealing for the first time that smoking causes diseases in nearly every organ of the body. Published 40 years after the surgeon general's first report on smoking—which concluded that smoking was a definitive cause of three serious diseases—this newest report finds cigarette smoking is conclusively linked to diseases such as leukemia, cataracts, pneumonia and cancers of the cervix, kidney, pancreas and stomach.

It goes on:

> Statistics indicate that more than 12 million Americans have died from smoking since the 1964 report. . . .
>
> Another major conclusion, consistent with recent findings of other scientific studies, is that smoking so-called low-tar low-nicotine cigarettes does not offer a health benefit over smoking regular "full-flavor" cigarettes.

Then it continues:

> There is no safe cigarette, whether it is called "light," "ultra-light," or any other name, Dr. Carmona said. The science is clear: The only way to avoid the health hazards of smoking is to quit completely or to never start smoking.
>
> The report concludes that quitting smoking has immediate and long-term benefits.

And then it illustrates these, which is very hopeful.

> Dr. Carmona said it is never too late to stop smoking. Quitting smoking at age 65 or older reduces a person's risk of dying from a smoking-related disease by 50 percent.

This is an enormously important document. It updates the science and it demonstrates what an extraordinary challenge we are facing.

Now why do Senator DEWINE and I feel so strongly about giving the FDA the power to give particular focus with regard to children?

This chart, "Smoking begins early, adults who are daily smokers began smoking," shows that 16 percent of all of the smokers begin smoking by age 12; 37 percentage by age 14; 62 percent by age 16; and 89 percent begin smoking by age 18.

This is a very clear indication of what is happening out across this country. For children, starting at the age of 12, 16 percent are smokers. Five thousand start every day, and 2,000 become regular smokers. Every single day, 5,000 children start smoking, and 2,000 continue.

We have to ask ourselves, what are the circumstances? Why does DeWine-Kennedy give the FDA the power, as he has mentioned—and I will go over that shortly—why particularly about children? As we see, the children are the ones who get started, they are the ones who get addicted to cigarettes. Now we ask ourselves, why is that?

This is the result of International Communications Research:

> Have you seen any advertising for cigarettes or spit tobacco in the last 2 weeks?
>
> Teens, 64 percent; adults, 27 percent.

Do we understand that? It is 64 percent of teens, 27 percent of adults. All we have to do to understand this is to look at the various magazines that are coming out. In Rolling Stone, here it is: the large Winston cigarette, "Leave The Bull Behind." Everybody is young, beautiful, and enjoying themselves. All they have to do is light up a Winston in order to reach those circumstances.

Take Sports Illustrated. It is filled with the same kinds of advertising. Camels, here it is:

> The Roaring Twenties. Get it with a Camel. Smoke back-alley blend with a hint of bourbon.

My friend talked about the new chocolate cigarettes. This is what we are seeing.

The appeal is to children. The danger is to children. What we are trying to do is give the FDA the authority and the power to do something about protecting children.

As the Senator from Ohio knows, we lag behind virtually every other country in the world. Our neighboring country of Canada has done something about it; Australia has done something about it; and now the European Union is doing something about this issue. Now we have the opportunity to do something about it with our particular proposal.

This is a very modest program. As the Senator from Ohio has pointed out, it is a fair and balanced approach to the FDA regulation. It creates a new section in FDA for the regulation of tobacco products with standards that allow for consideration of the unique issues raised by tobacco use. It is sensitive to concerns of tobacco farmers, small businesses and nicotine-dependent smokers, but it clearly gives the FDA the authority it needs to prevent youth smoking and reduce addiction to this highly lethal product. This amendment also provides the financial relief for the hard-pressed tobacco farmers that has been outlined and commented about earlier by Senator MCCONNELL.

This proposal is a legitimate buyout plan designed by tobacco State members for the benefit of their tobacco farming constituents. It is far superior to the ill-conceived proposal in the House.

The heart of this amendment is the FDA provision which will lead to fewer children starting to smoke and to fewer adults suffering with tobacco-induced disease. Public health groups tell us it is the most important legislation we can pass to deal with the Nation's No. 1 health hazard. We must deal firmly with the tobacco companies' marketing practices that target children and mislead the public. The Food and Drug Administration needs broad authority to regulate the sale, distribution, and advertising of cigarettes and smokeless tobacco.

The tobacco industry currently spends over $9 billion a year to promote its products. Much of that money is spent in ways designed to tempt children, as I pointed out, to start smoking before they are mature enough to appreciate the enormity of the health risk. When you get 16 percent of children 12 and younger to start smoking, they certainly do not understand the health risks they are going to be faced with so that they can make a judgment or decision about the risk. The industry knows that more than 90 percent of smokers begin as children and are addicted by the time they reach adulthood. If we are serious about reducing youth smoking, the FDA must have the power to prevent industry advertising designed to appeal to children wherever it will be seen by children.

This legislation would give the FDA the ability to stop tobacco advertising which glamorizes smoking where it will be seen by significant numbers of children; it grants FDA full authority to regulate tobacco advertising "consistent with and to the full extent permitted by the first amendment."

The FDA authority must also extend to the sale of tobacco products. Nearly every State makes it illegal to sell cigarettes to the children under 18, but the survey shows those laws are rarely enforced and frequently violated. The FDA must have the power to limit the sales of cigarettes to face-to-face transactions in which the age of the purchaser can be verified by identification. This means an end to self-service displays and vending machines.

We have the chart that will show where cigarettes are being sold. It is right next to the candy in stores. This is an average store where you see the candy bars. Who eats the candy bars? The children will eat this candy. Right above it are all the advertisements for tobacco products as well as tobacco products that have the same smell, the same scent and taste as candy as well.

This legislation will give youth access and advertising restrictions already developed by the FDA the immediate force of law, as if they had been issued under the new statute. There are rules that have gone through the process extensively. They are ready to be implemented. This legislation provides that.

Nicotine in cigarettes is highly addictive. The medical experts say it is as addictive as heroin or cocaine. Yet for decades tobacco companies have vehemently denied addictiveness of their products, and no one should forget the parade of tobacco executives who testified under oath before Congress that smoking cigarettes is not addictive. Overwhelming evidence in industry documents obtained through the discovery process proved the companies not only knew of this addictiveness for decades but actually relied on it as the basis for their marketing strategy. As we now know, cigarette manufacturers chemically manipulated the nicotine in their products to make it even more addictive.

Given the addictiveness of their products, it is essential the FDA have the authority to effectively regulate them for the protection of public health. Over 40 million Americans are currently addicted to cigarettes. The FDA should be able to take the necessary steps to help addicted smokers overcome their addiction and to make the product less toxic for smokers who are unable or unwilling to stop. To do so, the FDA must have the authority to reduce or remove the hazardous ingredients from cigarettes to the extent it becomes scientifically feasible. The inherent risks in smoking should not be unnecessarily compounded.

This legislation will give the FDA the legal authority it needs to reduce youth smoking by preventing tobacco advertising which targets children, to prevent the sale of tobacco products to minors, to help smokers overcome their addiction, to make tobacco products less toxic for those who continue to use them, and to prevent the tobacco industry from misleading the public about the dangers of smoking.

Now is the time for the Senate to address the critical health issues. The interest of tobacco State members in passing a tobacco farmers buyout provides a golden opportunity. By joining a strong FDA bill with relief for tobacco farmers, this amendment should receive broad, bipartisan support. We can accomplish both of these worthy goals during the session. This approach is supported by the public health community and by the farmers' organizations. Most importantly, it is the right thing to do for America's children.

(Disturbance in the Visitors Gallery.)

The PRESIDING OFFICER. Order will be restored in the gallery.

Mr. DEWINE. I thank my colleague for his very strong statement. Again, I congratulate him for all his great work. He has been just a wonderful advocate. His advocacy for this issue goes back many, many years.

Let me yield to my friend and colleague from Virginia just for 2 minutes.

Mr. WARNER. Mr. President, I thank the distinguished manager. I commend him, Senator KENNEDY, and many others who have worked on this legislation which I wholeheartedly support.

We are privileged to have, in my State, a number of tobacco farmers who are enduring extraordinary economic hardships. Also, I serve on the committee on which serves the distinguished manager of this legislation, the Health Committee, as it relates to the Federal Drug Administration.

I understand you have coupled the two together.

That has been the objective of our committee some several years now during which we have looked at this, and the two will be put together. I once again indicate my support and accommodation to those who made it possible.

Mr. President, I speak today with a great deal of anxiousness and anticipation. As a result of the World Trade Organization's finding of U.S. noncompliance with international trade obligations, retaliatory tariffs have been exacted on U.S. exports. Each month these tariffs will increase until Congress passes the FSC/ETI bill. The costs to the American economy can be avoided. I am pleased that we can pass this bill today and am hopeful that it can move swiftly through conference.

Oftentimes things move at a glacial pace here in the U.S. Senate. But if there is one thing I have learned in my many years as a Member of this institution, it is that there are rare instances that the pace becomes so swift that one could miss something if he or she were to blink. The announcement that we would return to consideration of the FSC bill with an amendment on tobacco may have struck many of us as an indication that today was to be one of those days. However, today is just the next step in the long journey for many of us in this room.

For a number of years I have worked with many of my colleagues in the Senate and Members of the House of Representatives to address an issue of vital importance to the rural communities of the South. We have met with our farmers, drafted numerous pieces of legislation, consulted with experts in economic and agriculture policy—and we have done it over and over again. Today, the Senate finally stands poised to speak as a body to end the outdated tobacco quota system.

Our tobacco-growing communities, long dependent on the cultivation of tobacco, have been devastated by foreign competition and the quota system that keeps the price of leaf artificially high. The amendment submitted by the Senator from Ohio contains language from a bill crafted by a coalition of members from the tobacco farming States of Kentucky, North Carolina, Tennessee, South Carolina, Georgia, and Virginia. The Tobacco Market Transition Act will end the current tobacco quota system, provide compensation to growers and owners of quota, and provide grants to States and institutions of higher education to reduce community reliance on the production of tobacco.

I have been a member of this body for 26 years and can say without equivocation that for the farm communities of southside and southwest Virginia there is no more important national policy. I can also say that not much is more controversial and polarizing than tobacco legislation. There are concerns with a buyout that "makes farmers instant millionaires," or that it raises taxes, or that it imposes a cost to the general treasury. I am pleased to say that this amendment does none of those things.

Still, many have stated that a buyout will not pass the Senate without being coupled to legislation specifically giving the Food and Drug Administration the authority to regulate tobacco products. While these two policy goals have for years seemed mutually exclusive, sometimes in the legislative process major national needs that appear to be in conflict come together to forge a comprehensive national policy. Such is the case today, as we consider both a tobacco quota buyout and FDA regulation of tobacco as part of one amendment.

While many tobacco farmers vehemently opposed FDA regulation of tobacco not even 10 years ago, the issue has evolved since then. Today, the simple fact today is that most tobacco farmers support FDA regulation so long as it is coupled with a tobacco quota buyout. That has certainly become the predominant view of Virginia tobacco farmers who I have spoken with over the last several years. And, that is clearly the view of several groups who represent growers in my State. The Virginia Farm Bureau; the Virginia Tobacco Growers Association; the Virginia Sun-cured Growers Association; the Virginia Dark-Fired Growers Association; the Virginia Agricultural Growers Association; Allies for Tobacco, Inc.; and Concerned Friends for Tobacco all have signed on to a set of core principles stating that it is in the best interests of the public health community and the tobacco producer community for the FDA to have authority to establish fair and equitable regulatory controls over tobacco products.

But not only has the farm communities' position on FDA regulation of tobacco evolved over the years, so has the position of the largest tobacco company in the United States, if not the world. Less than 10 years ago, Philip Morris actively opposed efforts to grant the FDA authority over tobacco. Today, that same company, now known as Altria, which is headquartered in the Commonwealth of Virginia, is actively supporting legislation to grant the FDA the authority to regulate tobacco.

What we have seen over the last 10 years is an amazing coming together of public health advocates, tobacco farmers, and a major tobacco company. Many in the Congress have helped lead the way. The amendment that stands before us is the culmination of the hard work of many, including Senators FRIST, MCCONNELL, KENNEDY, DEWINE, and the chairman of the HELP Committee, Senator GREGG, who always helped keep this issue on the committee's agenda. My colleague from Virginia, Congressman TOM DAVIS, also played an important role.

The compromise that has been reached in the Senate is an important one not only because, as I stated earlier, it will provide the help that our tobacco farmers so desperately need. It is also important because it will improve our public health. And that second point is an important one to me.

You see, my father was a doctor. He was a surgeon gynecologist, and he dedicated his life to medical research. Much of his research was spent on efforts to eradicate cancer. Ironically enough, though, it was ultimately this same devastating illness that my father worked so hard to find a cure for that ultimately took his life.

So, as I think about my father today, I know that he is smiling down because the Senate is about to pass a bill that could help reduce the cases of cancer and reduce the number of premature deaths in this country related to tobacco.

We know that smoking is one of the foremost preventable causes of death in the United States. It is estimated to cause over 400,000 deaths in America each year. That is why we have warning labels on cigarette packages and public awareness campaigns against smoking. The dangers of smoking are clear.

The bill before us today will help us reduce those dangers in many ways. Most notably, in my view, is the modified risk section, which I believe is the hallmark of the FDA portion of this amendment. This section provides the FDA the authority to approve modified risk tobacco products that reduce harm of tobacco-related disease and benefit the public health. With the imprimatur of the FDA, current users of high-risk tobacco products could be encouraged to use these reduced risk products. And, as they move down the continuum or risk with the products they use, we should see a corresponding decrease in the number of tobacco related illnesses as well.

While the public health benefits of this amendment are strong, it is also very important to make clear that the FDA legislation before us today is balanced. I worked extensively with Senator DEWINE and Senator KENNEDY to make sure of that. For example, this legislation will in no way restrict the rights of adult Americans who wish to smoke or use other tobacco products. At my request, and the request of others, Senator DEWINE and Senator KENNEDY modified their original legislation to make it clear that the FDA would not have the power to ban all cigarettes and other tobacco products. Under this amendment, that power is reserved to Congress, where it properly belongs.

Today we take a great step to protect the public health of all American citizens and the economic health of our tobacco farmers, their families, and their communities. The passage of this amendment is a great triumph for this body and represents the spirit of legislative cooperation and compromise that has long been the cornerstone of this institution. It is my sincere hope that we can soon celebrate the final conference report for this bill and the inclusion of the amendment on which we vote today.

Thank you, and I yield the floor.

Mr. DEWINE. Mr. President, I thank my colleague for his support and for his very good statement.

I yield at this time to my friend and colleague from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise today in support of the FSC/ETI bill that will end tariffs on our manufactures. But also, it will finally bring much needed relief to the tobacco growers of my State.

The bill before the Senate today addresses many important tax issues that face American companies, both at home and abroad.

The many international provisions that are contained in the bill are important changes to a badly outdated part of the Tax Code.

The centerpiece of this bill, of course, is a provision to expand tax incentives to America's manufacturing sector. During debate on this bill, I was pleased that we adopted the bipartisan amendment that I offered with Senator STABENOW.

Under our amendment, America's manufacturing companies—small and large—will see their tax rate decline by almost 1.5 percent this year. That is compared to the rate cut this year of only one-third of 1 percent that was previously contained in the bill. It is imperative that we get this relief to our U.S. manufacturers as quickly as possible.

We were also able to include in this bill my amendment to extend the net operating loss period to 5 years rather than the 3-year period included in the original bill. This important provision, which will allow companies facing financial challenges to see increased cash flow to assist them in investing and hiring, is one that Senator CONRAD and I have worked on together in committee.

The WTO ruling on the FSC-ETI regime authorized the European Union to start imposing sanctions of over $4 billion on U.S. exports. During the first month of tariffs we have seen products from apparel to paper hit with penalties approaching 10 percent. Many other products important to my State, such as horses, are on the initial retaliation list and will also face this tariff.

They have a list of over 1,600 U.S. products from nearly every part of the U.S. economy that will be penalized because we have not repealed the FSC/ETI regime.

But most importantly, this amendment will help my tobacco growers.

Since Daniel Boone first came through the Cumberland Gap, farming has been both the economic and cultural backbone of the Commonwealth. The family farm is the basis of Kentucky culture and it has been based around tobacco.

For years we in Kentucky have tried to diversify from the tobacco crop.

We have had some success, vegetables, beef cattle, cat fish, corn, chicken and other crops have been quite successful, worm farms and other have not been as successful. But nothing brings as much as a return as tobacco.

Most of the tobacco farmers in my State are not full-time tobacco farmers. They either have an off-farm job, or primarily raise other crops or raise livestock.

But the money they get from tobacco, pays their mortgage, or puts their kids through school or allows them to keep farming. Outside of the western part of Kentucky, we do not have tens of thousands of acres of flat land. We need a crop that grows on rolling hills and that thrives in our climate. Tobacco does that.

But a number of things have conspired against tobacco in the last few years.

The previous administration declared war on tobacco and by extension, tobacco farmers. The Asian economic crises have hurt exports. The Master Settlement Agreement and State tax increase have dramatically raised the price of cigarettes. And although American tobacco is still superior, the companies have invested so much overseas that the gap has narrowed between American tobacco and cheap foreign tobacco.

As I am sure most of my colleagues know, there are no direct payments to tobacco farmers, but we do have a price support and production control program. Growers own quota which they can buy, sell, or lease. The government administers this program to make sure it runs effectively and that growers only sell what they are allowed to under the quota system. If you grow too much, you can't sell it.

But the quotas have lost 60 percent of their value since 1998. Not many businesses would be around if they lost 60 percent of their income in 5 years, and we have lost a lot of growers. We have many who are barely holding on. They need help, we can give that to them and get the government out of the tobacco business at the same time.

We don't have big tobacco in my State. The last big tobacco company pulled out a few years ago.

What we have is little tobacco. We have over 30,000 tobacco growers. We also have over 100,000 tobacco quota owners. Many of those are elderly who can no longer work their land, so they lease their quota and that income becomes a major part of their retirement security.

That quota is tied to the land. It has a direct effect on the property taxes Kentuckians pay.

Those taxes build and fund schools, provide clean water, pay for emergency services, pave roads and help fund every community in Kentucky. If we don't help my growers get relief, we face the very real prospect of having ghost towns in Kentucky.

The amendment we have before us today will buy out the tobacco program.

We will give our growers relief and end the federal price support program. We will also let many growers, whose average age is 62, retire and get out of the business. Dr. Will Snell, of the University of Kentucky, estimate 70–75 percent of tobacco growers will get out of the business with a buyout. We will allow growers to pay off their debts and enjoy their retirement.

The amendment also has FDA Authorization of tobacco. This is a dramatic increase in the regulatory authority of the FDA.

I am not comfortable with it. I do not want the FDA inspecting my growers' crop.

FDA regulation is a bad idea. My growers are in dire straits. They desperately need help. FDA regulation is a very steep price to pay for a buyout, but if it is the only way to get my growers relief, this Senator will vote for it.

Make no mistake about it, the program will end. The only question is whether we end it on our terms or big tobacco terms. Please, please support the tobacco growers in this country and give them an equitable solution for the little tobacco growers all across this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I thank my colleague from Kentucky for his very good statement. I assure my colleague that with the language which has been drafted in the FDA section, we have taken certainly one of his concerns into consideration and the FDA is not allowed on the farm. There is protection in there. I appreciate his comments.

I ask unanimous consent to add Senator COLLINS as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, one of the very enlightening aspects about this legislation, the FDA part of this legislation, is how many of the editorial writers—not just in the national papers but many of the papers throughout the country—have weighed in on this issue and they have done this very eloquently. Frankly, they have been more eloquent about this than I have been in the Senate.

I will take a couple of minutes and read what some of the editorials have said about this issue. I start with the Lexington Herald Leader, Lexington, KY, May 21 of this year.

> Tastier poison; New cigarettes prove need for FDA control.
>
> Mandarin Mint. Smooth Fusions. Midnight Berry. We're not talking herbal teas or fruit smoothies, folks. We're talking cigarettes.
>
> The latest evidence that the tobacco industry has no shame is the marketing of sweet-flavored cigarettes. . . . Straight-faced company spokesmen say the new brands are aimed at adult palates. Please. The goal is obvious: Appeal to kids and hook new smokers.

This lethal version of candied cigarettes, along with the appearance of the new generation of "safer cigarettes" is also the latest evidence that Congress should at long last give the Food and Drug Administration oversight of tobacco.

The FDA has the authority to monitor a manufacture's claim about a pack of breath mints or chewing gum but the tobacco industry can roll out new brands of cigarettes and claim they pose less risk of emphysema and cancer or help smokers quit, and the FDA has no say-so at all.

This is from the Columbus Dispatch, Columbus, OH, June 26, 2004:

> The legislation to allow FDA regulation of the tobacco industry is far from frivolous. It has the support of many anti-smoking groups, along with cigarette maker Philip Morris. The tobacco industry has operated irresponsibly for decades, and every time it shows a sign of turning over a new leaf, it does something to remind people that it is not trustworthy. FDA regulation should have happened decades ago.
>
> That smoking-cessation products are heavily regulated, but the products that actually kill people are not is the ultimate absurdity. . . .
>
> Congress has a duty to protect public health, not to shield an industry that has a long history of deceit and death.

Mr. KENNEDY. Will the Senator yield?

Mr. DEWINE. I yield to my colleague from Massachusetts.

Mr. KENNEDY. There was reference made by our friend, the Senator from Kentucky, about the FDA and its ability to interfere with farmers, to somehow impose their guidance or will upon farmers.

I ask if the Senator from Ohio does not agree with me that we addressed this issue on page 23 of the amendment, which says:

> The provisions of the chapter shall not apply to tobacco leaf that is not in possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the FDA have any authority to enter on to a farm owned by a producer of tobacco leaf without the written consent of such producer.

This issue is of concern. This was not what we were looking for. Looking at it is enormously important. Those under that view will have assurances from the Senator from Ohio. Not only our assurances but the legislative assurances that the FDA is not in any way going to have any role whatever in dealing with any of the producers themselves, the farmers.

Mr. DEWINE. I thank my colleague for the question. I am looking at the same language. He read it correctly. It is directly in the amendment. It was originally in the bill that my colleague from Massachusetts and I wrote and introduced.

I have penciled in here "FDA can't go on the farm," which is a shorthand version of what he said. But actually it goes further than that. It is not just on the farm but it is basically any kind of FDA interference in this area.

In earlier versions, years ago, the bill may have given my colleague from Kentucky something to worry about but this version clearly makes it abundantly clear the FDA cannot do this. I am glad my colleague has pointed this out.

I have other editorials I can read but I see my colleague from Illinois is in the Chamber. If he is ready to speak, I am more than happy to yield him time.

Mr. DURBIN. I thank the Senator from Ohio. I don't know how much time is remaining. I don't want to take too much.

Mr. DEWINE. I inquire of the Chair how much time remains.

The PRESIDING OFFICER. Thirteen minutes remain.

Mr. DEWINE. Mr. President, I say to my colleagues, the Chair, and to my colleagues in the Chamber, I have only had one Senator come to me requesting time in opposition. I probably would propound a unanimous consent request to take some time from the opposition with the understanding that—I have not done that yet—anyone who wants to speak in opposition, obviously, we would make that time available.

I yield 10 minutes to my colleague from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Ohio and the Senator from Massachusetts for their leadership.

This is an issue which hits close to home for many Americans. It is an issue we have faced in our families where people we dearly love have been victims of tobacco-related disease. It is an issue which we face every day in America when children make the decision to start using tobacco products—either spit tobacco or cigarettes—and become addicted, and one out of every three of those children who choose the addiction will die from it. That is a reality.

Tobacco is still the No. 1 preventable cause of death in America today. It is preventable if we do our job, regulating the product.

The bill before the Senate says we will give to the Food and Drug Administration the authority to regulate tobacco. The Food and Drug Administration operates under a law which specifically excludes tobacco. It said tobacco is neither a food nor a drug. It falls between the cracks.

So the Food and Drug Administration has the responsibility, when it comes to macaroni and cheese, to make sure it is wholesome, to make certain it is safe, but it does not have that same opportunity or authority when it comes to Marlboro cigarettes or any other package of cigarettes. When you look at the back of the macaroni and cheese, it states the contents and ingredients. You can look all over the Marlboro cigarette package and you will never figure out what is in it. It is more than just natural tobacco. There are a lot of chemicals in here, and these chemicals are harmful.

What Senator DEWINE and Senator KENNEDY do today is to call us together and say, finally, after so many years—40 years of being convinced that tobacco causes cancer, heart disease, stroke, lung problems—after all these years we are going to give to the Food and Drug Administration the authority to regulate this product.

This is not a radical idea. This is common sense. Mr. President, 15 years ago, as a Member of the House of Representatives, I offered an amendment to ban smoking on airplanes. It was an amendment that was opposed by the tobacco lobby, opposed by the leadership, Democrat and Republican, in the House of Representatives, and no one thought I had a chance. But I won, and I passed it. It became the law of the land. Now, if you went into an airplane and said: "Incidentally, we decided to change the rules. Anybody who wants to smoke, go ahead," people would just stand up and say: "Are you crazy? Secondhand smoke can kill you. We're not going back to those old days."

What Senator DEWINE and Senator KENNEDY are doing is telling us: Look forward to a future where we start making commonsense health decisions that are going to save the lives of millions of Americans.

Now, what is going on politically here? Sadly, there is an effort coming out of the House of Representatives to put together an $8 or $9 billion buyout of those who have tobacco allotments in America. It is an old piece of agricultural law that some people were able to claim the right to grow tobacco and be given a Government allotment. It is the closest thing to being given some title or royalty that you can imagine because those folks are then entitled to grow tobacco and have special treatment under the law.

What they have said is, if we want to end this program, you have to pay us to end it. We have made money over the years with it, but you have to pay us to end it, $8 or $9 billion.

Well, I swallow hard when I think about that notion of giving $8 or $9 billion from hard-working taxpayers across America to these tobacco growers. But I finally was brought to the conclusion that if that is the only way we can get FDA regulation of tobacco products in America, all right, I will buy that compromise. It is a painful compromise to think of that much money, but that is the reality.

What we have today with this proposal from Senator KENNEDY and Senator DEWINE is to move us in the direction of what we need: to put into FDA law the power to regulate tobacco; for the first time in our history, to give the Food and Drug Administration the authority to restrict tobacco advertising.

Cross the border into Canada and look at a package of cigarettes. There is a clear warning—not the worthless warnings we have been stuck with for four decades—clear warnings that might give somebody some pause before buying this dangerous product. Our FDA ought to have that same authority.

We also need more authority to aggressively stop the sale of these deadly tobacco products to our kids. The Food and Drug Administration can do that, but they need the authority to do that.

We also need to make sure the Food and Drug Administration has stronger warning labels that prevent the tobacco industry from making terrible misrepresentations about their product.

Do you remember "light" cigarettes—lower in tar, lower in nicotine, and so forth? It turns out it was a complete fraud on the public. A class action lawsuit brought against the tobacco companies disclosed that they knew they were lying to the American consumers but did it anyway. They made so much money at it they were going to do it anyway.

Well, they were nailed with a lawsuit that a lot of people are talking about. But it is because of their deliberate misrepresentations about the facts of their product that they were nailed by this lawsuit.

The passage of this law gives the Food and Drug Administration the right to police tobacco advertising, to make certain they do not lie and mislead American consumers.

It also sets standards for reduced-risk products. There is a lot of research going on here. I do not know if it will lead to anything positive, but it leads us in the right direction, as far as I am concerned.

I know there are others on the floor who want to speak. I am happy to cosponsor this measure. I believe this is a historic moment that the Senate has a chance to acknowledge what the tobacco companies themselves have acknowledged. When they entered into an agreement with the States' attorneys general across America, they acknowledged that the Food and Drug Administration needed to have the authority to regulate their product. A major company, Philip Morris, has come forward and said they accept that. They are prepared to accept this proposal from Senator DEWINE and Senator KENNEDY. Now we have a chance to put it in law.

What we are going to do with this legislation is save lives in America. We are going to reduce the incidence of pulmonary disease, the incidence of disease and stroke and heart attack and death associated with tobacco.

If we did nothing else in this session—and we may do nothing else—this is the single most important thing we can do to make America a healthier place and to give our kids a fighting chance. I stand in strong support of this proposal by Senator KENNEDY and Senator DEWINE.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent that Senator SNOWE be added as a cosponsor of S. 2461, the Family Smoking Prevention and Tobacco Control Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I see my colleagues on the floor. Before I yield time, I want to read one more editorial. As I said, to me, it is interesting how the editorial boards across this country have spoken out about this bill, and I think have done so very eloquently.

On June 19, 2004, the Cleveland Plain Dealer wrote as follows in their editorial:

> Most people know that smoking cigarettes is risky. But no one can say for sure what's in them, or if "low tar" cigarettes and other "safer" smokes live up to their claims.
>
> The bill would give the FDA the power to approve cigarettes, to force them to live up to their billing and to allow the states to regulate advertising. Altria, alone among cigarette makers, has blessed the DeWine-Kennedy bill—possibly as a shield from lawsuits, although aggressive trial lawyers will try to turn that shield into a smoke screen.
>
> However, the bill does not exceed its grasp. For example, it forces companies to eliminate tutti-frutti scents that appeal to youngsters, but it prevents the FDA from banning nicotine, that poisonous active ingredient in cigarettes.
>
> The growth of so-called "low-tar" or "mild" cigarettes, the lure of fruit scents and the biochemical stew of ingredients stuffed into smokes demand some government supervision.
>
> Cigarettes can't be banished. That would make outlaws of thousands whose only crime is destroying their own health. But the FDA should know exactly what Americans are smoking when they light up. The DeWine-Kennedy bill will help clear the air.

Mr. President, I yield to my colleague, Senator REED from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I commend and thank my colleague Senator DEWINE and my colleague Senator KENNEDY for this legislation. They have been in the vanguard for many years of protecting the health of all Americans, but particularly protecting the health of children. I have also been active, along with Senator DURBIN and others, in this effort.

Actually, in August of 1996, the FDA promulgated rules to regulate the tobacco industry. But these rules were litigated to the Supreme Court. In a very closely divided decision—5 to 4—the Court essentially said: Congress, you must make it clear that the FDA has the authority to regulate the tobacco industry. That is what the DeWine-Kennedy amendment is doing—making it very clear, very explicit that the Food and Drug Administration may regulate the tobacco industry.

Now, there was a question about the law, but there was no question in the minds of the Justices about the effect of tobacco as a public health issue. Justice Sandra Day O'Connor stated, in her majority opinion, that tobacco was "perhaps the single most significant threat to public health in the United States." Justice Breyer, who was in the minority, recognized that the FDA should already have this power because essentially their mandate is "the overall protection of the public health." And this is the gravest crisis in public health we face in terms of a product that is unregulated, certainly in our economy.

The DeWine amendment brings this issue to, I hope, resolution today. I hope we will give authority to the FDA to involve itself in the greatest public health issue that faces the United States; that is, the consumption of tobacco products.

This DeWine-Kennedy amendment also is very timely because less than a month ago a 50-year study was published in the British Medical Journal chronicling the outcomes of almost 35,000 British doctors who smoked.

This detailed, longitudinal study is the first one to clearly link cigarette smoke to lung cancer and show that on average, a life of smoking will be a decade shorter than a life without smoking. Of the 35,000 subjects, epidemiologist Richard Doll reports that almost half of all persistent cigarette smokers died because of smoking, and a quarter died before age 70. Perhaps more striking was a finding that quitting smoking can mitigate or even reverse these effects. For instance, stop smoking by the time you are 30 and you will have the same average life expectancy as a nonsmoker. Stop at 50 and you will lose only 4 years of life instead of 10.

Clearly, there is still time to help, and particularly to help the children of America. But that can only be done if the FDA has the power to regulate the sale and distribution of cigarettes.

That is something at the heart of the Kennedy-DeWine amendment. It will ensure that children will not have easy access to tobacco products by restricting tobacco advertising and limiting the sale of cigarettes to face-to-face transactions where the purchaser's age can be verified. It will provide for stronger warning labels and allow the FDA to change their text over time to keep their impact strong. And it would help the 46 million Americans addicted to cigarettes by authorizing the FDA to reduce or remove hazardous ingredients from cigarettes, as science allows. These are important provisions that will have a real impact on the health of all Americans, and it is no surprise that this legislation has enlisted the strongest possible support of, among others, the American Cancer Society, the American Heart Association, the Campaign for Tobacco-Free Kids, and the American Lung Association.

We understand the dangers of cigarette smoking. This legislation will empower the Food and Drug Administration to confront those dangers head on, to confront the most significant public health problem that faces America. It will allow them particularly to protect children. It is typical of the concern and the conscientious efforts of the two principal sponsors, Senators DEWINE and KENNEDY. I thank them for their effort, and I join them in this endeavor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I thank my colleague for his eloquent statement.

There are still some who question whether the tobacco industry is targeting young people. If anybody doubts that, I refer them to what the tobacco industry is continuing to do as far as advertising. Sports Illustrated is read by adults, but it is certainly read by kids, anybody who has a teenager who is interested in sports. And you don't have to be a teenager. Kids start reading Sports Illustrated when they are 9, 10 years old. I did. When you look at some of the advertising in Sports Illustrated, it is absolutely, unbelievably focused on kids.

Here is an example. This is Sports Illustrated, 2002 NFL preview. Look at the back. An awful lot of kids are going to see that. Here is advertising for smokeless tobacco. Just take a look at that. "Where's the chicks? Intense premium tobacco taste, Rooster, icy minute, the bold one." If that isn't targeted to kids, teenagers, I don't know what is.

The next one, if that is not targeted to young kids, I don't know what is. I suppose it is targeted to someone 22, 23, but it is also targeted to someone 16. We know where they are going and what they are doing.

Let me get back to some of the editorials. The Hartford Courant said it very well on June 14:

> Four decades ago the Government linked smoking to lung cancer and urged Americans to kick the habit.
>
> Now the Surgeon General Richard Carmona says the impact on health is "even worse than we knew" and has added nine diseases to a growing list conclusively linked to cigarettes. The latest includes leukemia, cataracts, pneumonia and cancers of the cervix, kidney, pancreas, and stomach.
>
> Although many people have quit, smoking remains the leading contributor of death in America, killing 440,000 people each year. Smokers typically die 13 to 14 years younger than do nonsmokers. With 2 percent of adults smoking, the rate is declining so slowly that the Government concedes it will not meet its goal of 12 percent by 2010. The Surgeon General's sobering report ought to stir Members of Congress to take up legislation to give the Food and Drug Administration authority to regulate tobacco. A proposed bill would let the FDA prohibit the marketing of tobacco to minors, require stronger warning labels, a listing of ingredients on packages, and limit the use of harmful chemicals in the product.

That was from the Hartford Courant.

An editorial from the Columbus Dispatch, May 30:

> Congress needs to grant FDA the power to regulate big tobacco. Because of its long history of reckless disregard for the truth, the tobacco industry is in dire need of strong Federal regulation. The latest demonstration of industry irresponsibility is the introduction of cigarettes in flavors such as mandarin mint and mocha taboo. Such cigarettes would seem to be a violation of the multibillion-dollar 1998 tobacco settlement which was supposed to prohibit tobacco companies from marketing to minors. This isn't the first time the tobacco companies have blown smoke in the face of the tobacco settlement. A study in the New England Journal of Medicine reported in August 2001 that tobacco companies spent more on advertising in youth-oriented magazines in the 2 years after the agreement was signed than they did in the year it was signed. Let's not forget the years of lies spewed by the tobacco companies as they claimed cigarettes posed little or no danger to smokers, all the while knowing the deadly truth. Congress needs to pass it. Then the FDA needs to take aggressive action. The tobacco companies have operated for far too long with inadequate oversight, leaving death in their wake. It is time for Congress to stand up for the people and grant the FDA the power to crack down on this irresponsible industry.

So said the Columbus Dispatch on May 30 of this year.

The Hartford Courant again, another editorial, January 26, 2004:

> The U.S. Food and Drug Administration regulates food, drugs and medical devices, but it has no authority over tobacco products which annually are linked to millions of deaths.
>
> When he was FDA commissioner in 1994, David Kessler proposed regulation of cigarettes, but the Supreme Court nixed the idea, saying only Congress could give the agency such power.
>
> Giving the FDA oversight of a product that is detrimental to public health seems like a matter of common sense. Congress, however, hasn't seen it that way.
>
> The FDA has long performed a critical service by testing and regulating consumer products to ensure safety. That authority should extend to tobacco.

Another editorial, this one from the Akron Beacon Journal, dated June 28 of this year:

> The Federal Food and Drug Administration can make manufacturers disclose what goes into your bottled water, foods and medications. [But] it can't make tobacco companies reveal what goes into their cigarettes and other tobacco products. The agency can demand that drug companies support with research the health claims they make for their products. [But] not so with tobacco companies.
>
> Tobacco products were identified as leading causes of cancers, heart disease, and other serious ailments decades ago. They account for billions of dollars in health care costs and are a factor in the deaths of several hundred thousand people every year. It is long past time to put the products under regulations at least as strict as those for ice cream.

The Akron Beacon Journal continues:

> It has been four years since the U.S. Supreme Court told the Food and Drug Administration and its commissioner at the time, David Kessler, that Congress had not given the authority to regulate tobacco products. Congress has an opportunity to fill the void through bipartisan bills recently introduced in the Senate by Ohio's Mike DeWine, a Republican, and Democrat Edward Kennedy,

> and in the House by Tom Davis, a Virginia Republican, and Henry Waxman, a Democrat from California.
>
> This legislation would grant the FDA the necessary authority, none too soon, to protect the public health and guard children, in particular, against addictive and risky tobacco use.
>
> Among other provisions, the legislation would give the FDA approval authority over all new tobacco products entering the market, bar the use in tobacco products of flavors that are enticing to children, and restrict advertising and promotions that target children. It also would require companies to provide research information for claims on reduced-risk products and to submit a list of product contents and components, including the paper and filters.

This is an editorial from the Akron Beacon Journal, June 28, 2004.

Mr. President, we are getting close to the end of this debate. I say to any of my colleagues who have any desire to come to the floor of the Senate and argue in favor of this amendment or come to the floor and argue in opposition to the amendment, we are getting close to closing out this debate. I invite them to come to the Senate floor. We are getting very close to coming to the end of the debate. Now would be the appropriate time to come to the floor.

At this point, I yield to my colleague, Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank my colleague from Ohio for the good work he so often does on behalf of the safety and well-being of young people. Therefore, it is no surprise to see Senator DEWINE sponsoring or creating this kind of amendment—something that can markedly affect the well-being of children in our society in general.

I want to lend my support to the DeWine-Kennedy amendment, to see if we cannot finally get past these years of delay and obstruction, to permit the FDA to have jurisdiction over tobacco products. It is long overdue, and I am hopeful that the Senate will take this historic step today.

There are very few people my age who weren't induced to smoke by all kinds of influences. When I was a soldier many years ago in Europe during the war, the thing we used to look for in our emergency pack was the little packet of four free cigarettes. We never realized it, but the military was marketing for the cigarette companies, because once someone had a few cigarettes, that was it for almost a lifetime. Nothing, other than perhaps some illegal drugs, illicit drugs, such as cocaine, is more addictive than tobacco. Perhaps even they don't compare.

I used to smoke. I smoked a lot. Fortunately, my youngest daughter, who was about 7 years old at the time, had more sense than I did. She said to me: Daddy, today we learned in school that if you smoke, you get a black box in your throat." She said, "I love you; I don't want you to have a black box in your throat." That was after dozens of times that I tried to stop smoking. I smoked for 25 years. There were dozens of times I swore I would stop smoking and never could quite muster the energy or conviction to do it. But when she gave me that message, within 3 days I was no longer smoking. All I had to do was remember how her eyes looked at me so pleadingly and said, "Daddy, stop smoking." That was it for me.

When I came to the Senate, I was determined to do something where I might be able to protect Americans, especially our young people, from the dangers of tobacco. I am pleased to have worked on tobacco control, starting long before it became a mainstream issue.

In 1987, along with now-Senator DURBIN, formerly Congressman DURBIN, we authored the law banning smoking on airplanes. It was a tough fight and it was said, "You will never get it done." But we persisted and convinced a lot of people that changing the rules about smoking in airplanes was worthwhile. It had a long, arduous trip. First, we were able to negotiate for 3 hours, or 2 hours, and settle for 2 hours, with a promise that we would examine the result and maybe change our minds in 18 months and relent.

I had a friend in the tobacco business, and one day he said to me, "Frank, come on, this hasn't been proven dangerous yet." This goes back to the 1980s. I said, "I'll tell you what. If you can convince your father and the other members of your family to start smoking and confirm that they smoke two packs a day, and do it for a year, I will call off my opposition." Obviously, that never happened. They knew how dangerous tobacco was, as did the manufacturers of tobacco products going back to the 1930s.

The addiction and the harm that comes from nicotine was widely known by the people in the industry, again, in the 1930s. We saw that once nonsmokers could experience a smoke-free environment in the cabin of an airplane, they began to demand it in more places than that. It changed things radically for people who were unable to fly because they had respiratory conditions. And they learned something. If cabin attendants who didn't smoke were on a flight, they learned that the nicotine residue could last for many days after in their body fluids. So it was pervasive. The attitude on tobacco began to change radically.

I had an opportunity to write further law, and I put into the statutes a law that required that any building that children inhabited, whether it was a library, hospital, youth hostel, daycare center, could not have any smoking present unless it was in a confined room, a single room that was ventilated to the outside, as long as Federal money was being given there. That succeeded in turning into law and protecting our children even further.

I have long supported FDA jurisdiction over tobacco—a milestone I hope we will reach today.

Mr. President, make no mistake, tobacco addiction is still a huge problem in America. Tobacco continues to be the No. 1 cause of preventable death and disease in our Nation.

Each year, tobacco claims over 430,000 lives in the United States and serious health impairment occurs as a result of tobacco—emphysema, heart trouble, all kinds of terrible conditions associated with tobacco.

According to the Centers for Disease Control, if current tobacco use continues in the United States, an estimated 6.4 million children will die prematurely from a smoking-related disease. This is alarming because every day nearly 5,000 young people buy cigarettes for the first time.

Once again, that addiction is enormous. In addition to the human costs, huge economic costs occur in our Nation. It is estimated that direct medical expenditures attributed to smoking total now more than $75 billion each and every year.

Despite all of this, the Food and Drug Administration has not been able to take action to reduce tobacco's harm on society. By way of example, right now the FDA, as we have seen on a poster displayed here, can regulate a box of macaroni and cheese but not a pack of cigarettes. If you want to know the ingredients in macaroni and cheese, it is on the label. But for cigarettes, there is scant information on ingredients, toxins, chemicals, et cetera. It makes no sense.

Today, we have worthless health warnings, no control over what tobacco companies claim about the relative health effects of their products, no authority to curtail tobacco marketing to kids, and no ability to order the industry to remove especially hazardous ingredients.

The amendment before us today has the support of the entire public health community, including the American Cancer Society, the American Heart Association, the American Lung Association, and the Campaign—an effective campaign, by the way—for Tobacco-Free Kids.

Today, we have a historic opportunity to give the FDA the legal authority it needs to prohibit tobacco advertising that targets children, the authority to prevent sale of tobacco products to minors, and the authority to make tobacco products less toxic than they need to be, although I am very suspicious about that because there is much misleading advertising talking about tobacco light cigarettes, et cetera. There is no assurance they are less lethal than ordinary cigarettes. We want to give them the authority to prevent the tobacco industry from misleading the public about the dangers of smoking.

I join with other colleagues and hope that we can muster enough support for this bill to give the U.S. Food and Drug Administration the authority it needs to regulate tobacco, as it does other drugs. We owe it to families across this country. We owe it to young people who think it is going to be a kick, but it is a kick they will remember for the rest of their lives once they start.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I thank all the cosponsors of this amendment for their good work. Senator HOLLINGS has done an excellent job. I congratulate him, as well as the other cosponsors. I thank my colleague, Senator LAUTENBERG, for his very eloquent remarks. He and I have worked on issues that affect public safety. He has been a leader in highway safety. He and I have been on this floor together and have worked on legislation that we hope has saved the lives of children. He has been a good partner. I appreciate his comments again today. It is good to be working with him again.

Mr. LAUTENBERG. If I may intervene, Mr. President, for one moment, with Senator DEWINE's approval, we worked on issues that focus on protecting children's health in particular. We want the drunks off the highways. We want to get tobacco out of the grasp of children. We want them not to be seduced into smoking to look like they are bigshots, like they have grown up to a point. I remember the days—and I am sure the Senator from Ohio does—when athletes were endorsing tobacco products and doctors were endorsing tobacco products. Thank goodness we do not have that anymore.

I commend the Senator from Ohio. I have always enjoyed working with him on issues. I pay my respects to his excellent work on this amendment. I hope it is adopted.

Mr. DEWINE. Mr. President, I appreciate my colleague's good comments but, more importantly, I appreciate his good work.

I know from talking to a few of my colleagues that there is some reluctance to grant the FDA this authority. I want to make a few comments directly to those colleagues.

I do not think there should be this reluctance. We do not worry about having a product, such as macaroni and cheese, that has labeling information on it. We have come to accept that. We have come to think it is a pretty good idea to know what is in a product. If tomorrow we went to the grocery store and all this information on the side panel, nutrition facts, was all blank, some of us would think that was rather strange. We have come to accept that. We think it is OK. In fact, we expect it. It is the right thing to do. We want to know what is in the product.

Every product we buy, from bottled water to macaroni and cheese, we know what is in it, every product except tobacco. Every product we consume we know what is in it; there is a label; it is regulated, except tobacco.

How did we get here? We got here because there is an anomaly in the law. Without going through all the lawyer talk and all the constitutional and statutory history, basically the Supreme Court looked at Congress and said: If you guys want to change that and give FDA the authority to regulate tobacco, too, you have to do it. You are the ones who have to do it. That is why we are here today. We are the ones who have to do it. It makes sense for us to pass legislation that says to the FDA: You go ahead and do it. That is what this is all about.

This is not exactly a radical idea or a revolutionary idea. The only reason it sounds strange is we have just never done it before. But it is time to do it.

It is also time, when the tobacco companies make outlandish claims about low tar and ultra light, for them to be held to the same standards as the macaroni and cheese is or the milk. There are certain standards, and when you say the food product is thus and so, it has to be thus and so. There are certain standards. It ought to be the same way with tobacco.

Again, all we are saying is they ought to be held to the same standards as anything else we put into our bodies.

We all know that even tobacco, a legal product, if used as it is intended to be used, is still dangerous.

So it still makes common sense to have some regulation and have the FDA do it. So this is not a radical, crazy idea. This just makes good, common sense. The reason it is in front of us is because the courts have said, if the FDA is going to have this authority, it has to be given to them and it has to be given to them by statute, and we are simply giving it to them by statute. So in a sense, it is a simple bill that a quirk in history, a quirk in the law previously, has brought us to this point. So we are the ones who are doing it.

That is one major part of the bill. The other major part of the bill is to say we are going to control how they market this dangerous product, and there is no doubt it is a dangerous product. That debate ended years ago. Legal, yes, but dangerous, yes. We have a right, as a society, to control how this dangerous product is marketed to children, and we are going to control that within the bounds of the first amendment.

The court is going to confine us to the first amendment. We are not going to violate the first amendment because the courts are not going to allow us to do that. But we are going to confine it and say there are limits. Kids cannot be targeted because it is a dangerous product. There is no dispute it is a dangerous product. We know it is a dangerous product. We cannot make it illegal for all the reasons we know we cannot make it illegal because that just is not going to work. Prohibition will not work. But it is dangerous.

We do not want kids to get addicted. We know that most people who smoke today started smoking when they were minors. We know if one makes it to 19 or 20 and they have not started smoking they are probably never going to smoke in their life. So there is an inherent societal interest in not having our kids smoke before they are 19 or 20. If they can make it that far, they are probably going to be OK.

So we have an interest in not allowing these companies to target young kids, and we are going to do everything we can within the confines of the Constitution, and that is what this bill is trying to do and will do.

This bill will save lives. It will save lives because we are going to allow the FDA to do what it can in regard to regulation, and because we are going to allow more regulation in regard to advertising a lot of lives will be saved by this bill. It is the right thing to do. The time for the bill is now.

I see my colleague from Georgia is on the floor, and I yield to him.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. I thank the Senator from Ohio for yielding me some time to talk a about this bill today. I want to talk about three things. First, with respect to the issue of smoking, all of us know and now understand that smoking is hazardous to one's health. There is simply no question about that. That is not even in the debate. Fortunately, I am one who has never smoked in my life, but I come from a part of the country, as does the Presiding Officer, where tobacco has been a mainstay. So I want to talk about the effect of what we are doing today is going to have on tobacco-growing regions of our country.

Tobacco has been a mainstay of the agricultural community since the Indians first inhabited this country. Tobacco has been a product that has been traded and bartered for literally hundreds of years, both in America as well as outside of America. In my part of the country, which is a heavy growing tobacco area, it has been the mainstay and the staple product of small family farms for literally hundreds of years. That is going to be coming to an end, in my opinion, with the passage of this legislation.

The tobacco industry has taken any number of hits over the last two decades, and some of it for the right reasons. We need to educate people about the hazards of smoking tobacco. We need to educate people that if they do smoke, it is likely going to kill them.

The fact is, there are a number of individuals in this country who having been educated have still made a conscious decision to use tobacco products. The last thing I think we need for the Federal Government to do is to intrude further into the lives of Americans and say they cannot do this.

Now, that is one thing we are doing with this legislation. I think it goes that far. Maybe not saying one absolutely cannot do it but it is pretty well going to limit the number of customers to future tobacco growers and future tobacco manufacturers in this country, which means that jobs in the tobacco industry are going to be moving out of this country and we are going to see a complete overhaul and change in that manufacturing sector, as well as in the growing sector.

I can remember very well in my hometown where we had three tobacco markets, and we used to sell all tobacco at the auction market. We would have buyers come in every summer and all of the farmers and their families would go to the tobacco market on opening day. We would literally have an auction bale by bale or pile by pile of tobacco that would be bought by one of the tobacco companies and used in the manufacturing of various tobacco products.

As soon as that auction was completed on the sale of the farmer's tobacco, he would take his family downtown in my hometown, and this happened literally across dozens of other communities in the South, and he would buy the family clothes for school that year. The opening day of the tobacco markets was a big deal because that is the product that provided the income for the family farmer for literally hundreds of years in the South.

Today, it still does. Even though over the years with the attacks that have been made on the tobacco industry and we have seen the tobacco quota cut in half, our farmers are generating half the income today with about double the expenses that they were 20 years ago. This is simply because the demand for tobacco has decreased due to Federal regulations and because we are seeing imported tobacco replace domestic tobacco. This is a result of the price that the farmer needs to receive due to the cost of production that he faces each and every year.

What we are doing today to that farmer is we are going to increase the price even more. We are going to make him less competitive and we are, as a practical matter, going to drive the American farmer out of the tobacco-growing business, which is going to be a change in a way of life for many small towns across the South. Is it the right thing to do?

Well, I am not sure everything in this bill, outside of the FDA, is perfect, but I do agree with the way we are doing it and the reasons why we are doing it. Now I am going to talk about the FDA for a minute.

What we are saying to the tobacco farmer is, look, we gave you a quota that you earned over the years through your growth of tobacco. We know you bought this quota in some instances and in some instances it was passed down from father to son to grandson. In some instances you bought it when you bought the farm. But in any event, a price was paid for the ownership of the tobacco quota. Today, we have cut your asset that you bought and paid for by 50 percent just in the last 5 years. We have taken the ability away from you to generate an income sufficient to meet the needs of the quality of life that your family is used to living.

So what we are doing is compensating those farmers. We are going to give some money to them for this quota that we have taken away. We are now going to take it all away and, even though we did not compensate them for that 50 percent they have lost in the past 5 years, we are going to compensate them for the remaining quota that they have. I think that is a fair and reasonable thing for us to do.

I have been adamant from the very first day that we engaged in this issue regarding the buyout, and I have been working on this for 4 years now, but we have been very adamant that the taxpayer ought not to fund this buyout.

I don't think that is right. I don't think we should use money from other valuable programs to pay for this buyout. I think it can be funded in the right way, by those folks who use tobacco products.

Is that going to be injurious to the tobacco industry? You bet it is. But that is the only way it should be funded in a reasonable and rational society in which we live today when you are dealing with such a controversial product.

What this bill does is it provides compensation to the tobacco grower, compensation to the quota holder, and the funding of that compensation to be paid for by those individuals who use tobacco products. That is fair and reasonable, and I support that aspect of this particular amendment wholeheartedly.

Last, I want to talk about FDA. I have been very strongly opposed to the inclusion of FDA regulation in any tobacco buyout bill or as a stand-alone without a buyout. However, I intend to support this today because it is the only means by which we are going to get this buyout bill done. I support it because I hope that in conference we are going to be able to change some of the provisions that are included in the FDA portion of this amendment. I want to mention some of those specifically.

First of all, what we are granting to the FDA in this amendment is this: It will grant FDA indirect authority to mandate changes in farming practices. This bill places no limits whatsoever on FDA authority to reduce or ban compounds found naturally in tobacco leaf. Many new mandates FDA is likely to adopt will be achievable only through dramatic changes in tobacco farming operations—for example, changes in things like types of soils where tobacco may be grown, changes in cultivation practices or even curing techniques. If we think that by passing this bill we are not going to put FDA on the farm, we are wrong. That is simply going to happen.

Next, the bill would give FDA extremely broad authority to regulate advertising, sale, and promotion of tobacco products, thus giving the bigger tobacco companies a tremendous advantage over smaller tobacco companies. The effect of that is going to be this: Anyone who does smoke—and I encourage everybody to quit smoking—but if you are going to smoke and you are going to buy tobacco products, when you go into the 7-Eleven to buy a pack of cigarettes, they are not going to be visible. The only thing you are going to be able to do is either tell the proprietor of that store, Let me see all of your tobacco products, or you are going to walk in and announce what brand of cigarettes you want to buy.

We all know that name-brand identification is key to marketing of any product, particularly when it comes to something like tobacco. The bigger companies who have been around for years and years and have made brand names very popular and very identifiable are going to be the successful entrepreneurs and the successful companies at the end of the day. The smaller companies that have come into business in the last several years do not have a chance. We are telling those companies: We are sorry but nobody knows the name of your product, so, in effect, nobody is going to walk up to the counter and say: I want a pack of that cigarette brand that was started just a couple of years ago. That is not going to happen. We are going to put the smaller companies totally out of business, in my opinion, and we are going to make the bigger companies bigger. They are going to still keep marketing tobacco, they are still going to keep selling tobacco, and it will continue to have the same harmful effect it has today.

Again, the FDA should focus on its primary business. It is widely acknowledged that the FDA approval process for new drugs is not as fast as it could or should be. If the FDA has additional regulations to administer to make cigarette products safe, it will no doubt remove the primary mandate of ensuring a safe food supply and safe effective drugs.

In effect, what we are going to do with the passage of this bill is to put the FDA on the fender of every tractor that is driving across a tobacco field in the South. It is going to be a new day for a lot of us who come from very rural areas where tobacco has been a mainstay of the economy of our particular counties and communities. It is not going to be a very pleasant day. But on that day, if it is going to happen, we need to make sure those individuals who have made it their life's work to grow a legal product and send it to a manufacturer to manufacture in a legal way will get some compensation to offset the negative impact this is going to have on their lives. We need to make sure as we do this we do not get unreasonable with respect to the thousands and thousands of jobs that are dependent upon this industry.

Tobacco products are going to be sold anyway. My guess is it is going to be manufactured by offshore manufacturing facilities in Europe or some other country and shipped into the United States. These jobs are going to be lost here and moved to those facilities. If it is going to happen, we need to make sure that the individuals at the very lowest level, at the grower level, are compensated for the loss they are going to have.

I compliment my friend from Ohio, who has been very open to discuss this issue. I know he feels just as passionately about his amendment and making sure that we strengthen FDA regulations. I respect that. We just happen to disagree on this particular issue.

But I say, too, my friends over on the House side—Congressman RICHARD BURR from North Carolina, Congressman JACK KINGSTON from my State of Georgia, Congressman BILL JENKINS from Tennessee—that have been real stalwarts in making sure they included the buyout provision in the FSC/ETI bill, thank you for your hard work. We are here today to make sure a buyout is included the Senate bill.

I am very hopeful in the conference committee, as it moves forward, they will look at the result of this FDA regulation. What we as conservatives need to think about is keeping the Government out of our daily lives on a more regular basis rather than putting the Government on the shoulder of every individual in the tobacco industry, more than they are today. I believe that is wrong. I do not think that is the route we ought to take. But I am going to support this amendment simply because it appears that is the only way we can get a buyout that is going to adequately compensate our tobacco farmers.

I thank the Senator from Ohio for yielding the time. I thank him for his cooperation in moving this amendment forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I thank my colleague from Georgia for his statement. Obviously we have a disagreement about the impact of FDA on farmers. He knows I do not agree with him in regard to that impact. The language of this bill is pretty clear. I believe we have done a good job keeping the FDA away from the farmers, but that is certainly something we can discuss in the future.

Let me yield to my colleague from North Carolina who has just come to the Senate floor, Senator DOLE.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from North Carolina.

Mrs. DOLE. Mr. President, significant progress has been made toward achievement of a tobacco quota buyout which our farm families and rural communities in North Carolina and other tobacco-producing States so desperately need. A few weeks ago, thanks to the commitment and hard work, in particular, of RICHARD BURR and MIKE MCINTYRE from the North Carolina delegation as well as Chairman THOMAS and House leadership, a tobacco buyout passed the floor of the U.S. House of Representatives. Today, we have the historic opportunity to get a tobacco buyout across the floor of the U.S. Senate. I thank Senator MCCONNELL for his legislation and his leadership in bringing us to this point.

Why should we go along with the tobacco buyout on the FSC/ETI bill? Why is a buyout necessary? Because the status quo is simply not an option. If nothing happens this year, according to noted agricultural economist Blake Brown, tobacco families and farmers face a 33-percent cut in quotas for the 2005 crop year.

Let's take a look at how we got where we are today. Look at this chart. By 1996, tobacco farmers had experienced 7 straight years of a stable and significant supply of quota. In 1997, quota increased 12 percent, leading many farmers to expand their operations. Barns were bought to cure more tobacco, equipment was bought to replace that which was worn out, and land and quota was bought to make their operations more efficient. Significant amounts of money were borrowed to make these investments.

Since 1997, quota has dropped almost 60 percent. Farmers still have outstanding loans at the bank to pay for quota they no longer have. To put this in layman's language, this type of cut in quota is equivalent to cutting your paycheck more than half while you are still paying the bank for an asset you no longer own.

The current devastation our farm families and their rural communities face is certainly not of their making. The current tobacco program was never designed to accommodate the significant changes that have engulfed this industry. It is an outdated New Deal program that is discouraging purchases of American tobacco by domestic and foreign buyers because it has made the United States uncompetitive on the world market. Foreign buyers who once looked to the U.S. market are now purchasing tobacco from other countries and bypassing the U.S. market altogether for their supply.

The numbers do not lie: The U.S. now accounts for only 7 percent of all flue-cured tobacco production in the world. Let me be clear: All we are doing under current policy is allowing countries such as Brazil and China to reap the economic benefits of worldwide tobacco production. We are not reducing overall tobacco production—we are simply allowing it to be siphoned off by other countries.

Let me bring a little more perspective to the buyout of quota. People in North Carolina and other tobacco-growing States invested in tobacco quota since the 1930's. The Government created this asset—allowing it to be bought and sold. As a result, the value of quota makes up a substantial portion of many farmers' balance sheets. The value of quota is recognized by county governments; it is taxed just like land and other assets. In fact, tobacco quota is even subject to the inheritance tax.

It is estimated that more than 60 percent of the tobacco farmers today will exit the business entirely if a tobacco buyout is achieved. Most are at retirement age, just hanging on a little while longer in hopes of being able to pay off their debts. They have hung on and continued to produce in hopes that things would get better, knowing that if they got out now they would have to sell their farm and liquidate other assets to settle up with their lenders. Even with a buyout, many will still be short.

Every week my office continues to receive numerous calls from tobacco farm families in desperation. There is a deep feeling of helplessness. And all they can do is get on their knees and pray that those of us who have been given the privilege of serving in Congress will act—and act soon.

A tobacco quota buyout is sorely needed. It will allow those who want to pay off their debts, and who want to retire, the opportunity to do so with dignity. The opportunity to know that all they have worked for has not been in vain. It will allow the widow whose sole source of retirement income is from quota rent and social security the opportunity to get a fair return in exchange for the taking of her quota.

If nothing happens this year, these farmers will be forced to give up all that they have. After 6 years of loaning on collateral, there is nothing left for the banks to do except foreclose, especially with another 33 percent cut in quota for the 2005 crop year on the horizon. There will be no holding out for just a while longer. This may sound like rhetoric to some, but it is the precise truth for countless thousands of farm families. I have been there to see it and I could not be more dead serious about this. Status quo is simply not an option.

It is absolutely critical that this legislation is achieved this year, and I am grateful for the progress that has been made to get this bill to conference. I look forward to working with my colleagues to ensure that this much needed legislation becomes reality.

It is either now—or never. These rural citizens—the very ones who have helped make this country great—are barely hanging on for their very survival. And it is not just them. It is the retailers, equipment dealers, chemical and fertilizer dealers and a whole array of small local businesses. These are the very small businesses that create the majority of new jobs in tobacco-producing States—and jobs that are much needed. With enactment of a tobacco buyout, rural communities will be able to grow back the jobs that have since left our borders and restore hope to countless families who have labored all of their lives under the sun to feed and clothe America and the world.

My State has thrived on traditional industries such as textiles, furniture and tobacco. In recent years, thousands upon thousands of jobs have been lost—leaving rural economies devastated and creating pockets of poverty in many of North Carolina's counties.

And now, as tobacco farmers and rural communities reach for a life-line, we have the opportunity to help them. Rather than conceding tobacco production to countries such as China, rather than allowing foreclosures to thousands of farmers, rather than allowing the negative economic ripple effect to be felt throughout rural southeastern America, let us do the right thing for our farmers and rural communities.

It is way past the time for us to take action, and getting this bill to conference is a very important and critical step.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I thank my colleague from North Carolina for her eloquent comments.

At this time, I yield time to my friend and colleague from the State of Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Thank you, Mr. President. I thank my colleague, Senator DEWINE, for yielding.

Let me commend the eloquent remarks of the Senator from North Carolina, Mrs. DOLE. Her remarks are the same sentiments that I will be expressing, maybe not with the same eloquence but with the exact same concern we both share for the citizens of North Carolina and Virginia.

I also thank Senator CHAMBLISS for looking out for the people of his State. But most importantly, when we listen to the remarks of the Senators from Virginia, from North Carolina, from Georgia, South Carolina, Kentucky, and Tennessee, it is common sense why this is such an important issue for the people of our States, for our economies, and the opportunities for many people.

I commend Senator DEWINE for his efforts in this regard. But mostly I want to commend Senator MCCONNELL of Kentucky for his leadership. He has worked very hard, along with the others of us in the tobacco-growing States in this effort to achieve a tobacco quota buyout.

In the other body, as was stated by Senator DOLE, Congressman BURR and Congressman MCINTYRE worked very hard, as well as Congressman VIRGIL GOODE from Southside Virginia. I know many of my colleagues have said on many occasions that it is all important to be advocating policies and ideas that promote freedom, that promote job opportunities, and improve the competitiveness of America. That is why I think we must equitably find a way to end this tobacco quota system.

As I said, I agree with the comments of Senator DOLE and Senator CHAMBLISS who spoke before me. But some people question, "Why is it so important to end this outdated, old, punitive quota system?" The reason it is important is because it is antiquated, it is a restrictive quota system which harms the ability of tobacco-growing families to earn a living by artificially increasing their costs of production because they have to pay the quota holder.

If you are producing a product and you have added costs per pound, those dollars per pound for the right to grow has to go into the price for which you sell that product. Otherwise, you keep running a loss and you go bankrupt. Senator DOLE was talking about the similar experiences farmers are having in her State. I know these tobacco-growing families are hard-working families in Southside and Southwest Virginia who have worked long and hard hours on these farms. Their families have owned those farms and those lands for many years. Growing is not easy. You have to prepare the soil, you have to get seedlings going, you have to plant them at the right time, and you have to tend the crop. You have to worry about pests and mold. Then there is the harvesting which has to be done, whether it is flue-cured or whether it is a burley tobacco which has different harvesting requirements, and then the curing of that crop after you have harvested. It is a lot of hard work.

In Virginia, there is estimated to be about 8,400 tobacco farmers and more than 120,000 tobacco-related jobs throughout the Commonwealth of Virginia. Virginia is the fifth largest tobacco-producing State. It is the second largest manufacturer of tobacco products. Virginia is the largest exporter of tobacco products. Clearly, tobacco plays an important role in Virginia's economy, agricultural or otherwise.

These tobacco-growing families and farmers and communities in my own State of Virginia, as well as many other tobacco-growing States, need this quota buyout to remain competitive in the world marketplace. They have to be competitive because our States are not the only places in the world that grow tobacco. It is grown all over the world, whether it is in South America, Africa, or Asia. Without getting rid of this quota system, we stand to lose thousands of jobs at a time when a lot of our manufacturing base is being lost to other countries.

There are provisions—and I know the Senator from Georgia, Mr. CHAMBLISS mentioned this—in this amendment which I do not favor, specifically, the potentially burdensome oversight by the FDA on merchants who sell tobacco products. However, I believe this buyout is needed to allow an important element of our American economy to survive. This buyout will allow farmers who wish to continue to grow tobacco to do so in a competitive environment or at least allow them to better compete. If they do not care to grow it any longer, they will be able to use this buyout in a way to find a transition to some other farming or another line of work, rather than allowing this just to continue, which will be a long suffering collapse and disaster economically for those families.

We talk about many of the farmers. One of the farmer's name is Kevin Mottley, a fourth-generation young farmer who says he wants to carry on with his family tradition. That is something to be proud of. We are happy to hear that. Of course, he is talking about a tough situation with international competition, but he wrote that, "With the recent cuts in tobacco quotas and prices on other farm commodities down, it's harder to keep our farm operating."

That is the economic impact on a real farmer, a real person, in Virginia. He understands this buyout is not only important for individual families; it is also important for the communities that depend on the strength of the tobacco-growing segment of our economy. The current quota system makes Virginia-grown tobacco less competitive versus foreign-grown tobacco. While U.S.-grown tobacco is generally a better quality, it does cost much more due to this onerous quota system. Thus, the cigarette manufacturers are using or have an incentive to use more foreign-grown tobacco.

As less tobacco is grown, it is less profitable, obviously, to growing families in this country and also in their communities and counties in which they are farming. If we can achieve this buyout, it will make U.S. tobacco more competitive, thus positively impacting the economies of rural communities and towns.

Some will grouse about the cost of this buyout. I believe it is fair compensation to end this government program. Well, look at how much the Federal Government taxes tobacco. There is a 39-cent tax per pack of cigarettes. The Federal Government garners about $8 billion a year on tobacco taxes. Throw in all the State and local taxes, heck, it is around $30 billion. Beginning July 1st, 2005, Virginia cigarette taxes will increase to 30 cents a pack. Those that will be hurt by this increase are all the businesses along the Tennessee and North Carolina borders. Raising those taxes means they will lose sales at those convenience stores and country stores.

The Federal Government gets plenty of money, $8 billion a year, from taxing tobacco. We need to realize when farms are hurt, it also hurts our economy. When the tobacco farming sector suffers, there are other non-tobacco sectors that are affected, as well. The economic losses associated with the recent changes in the tobacco sector have resulted in the loss of more than 57,000 jobs in the six major tobacco-growing States. While the primary sector affected is the tobacco-growing sector, losing more than 39,500 jobs, these tobacco sector job losses created an additional loss of nearly 18,000 jobs in the non-tobacco sectors.

It demonstrates that the tobacco production prices impact such diverse businesses as local farm supply stores, banks, health care providers, manufacturers, retail businesses, and many others in the non-farm sector in these communities.

One needs to understand there is no crop that produces the yield per acre that tobacco does. When the tobacco quota is reduced, that affects all of the money, all of the revenues available within these rural communities.

I have previously stated I am not in favor of FDA regulation. The reality, however, is that it has been joined to this measure. It is the way that the salutary, vitally necessary quota buyout will be addressed today in the Senate.

I am voting for this because of the quota buyout. I hope the conference report—I know Senator DEWINE may not have the same hopes but I will express my views—I hope the conference report will knock out or diminish the harmful impact of FDA on convenience stores and advertising consistent with First Amendment rights.

I have heard Senator DEWINE state this will not have an impact on growers. I hope it will not have an impact on growers. There may be some certain aspects we ought to look at. Maybe it ought to be done through USDA in making sure foreign-grown tobacco meets the same standard we want for tobacco grown in this country, for pesticides or chemicals that are not naturally occurring in the tobacco plant.

I do believe, however, that we do not need FDA regulation to prohibit and protect children from purchasing cigarettes. That is usually the argument, that we have to protect the children. That is fine, but I think it can be done without onerous FDA regulations. I fear, if FDA has regulatory authority over tobacco manufacturers and producers, we will end up with decisions being made further away from the people, given to officious and meddling regulators. Rarely do I see the federal government or any agency resisting a temptation to expand its power. Once the FDA has control over tobacco retailers and manufacturers, they will be subject to ever changing restrictions dictated by future political considerations.

I do commend the efforts of Senator DEWINE and Senator MCCONNELL and others who worked on this; I will be voting for this measure to keep this bill moving and gaining momentum. It is very important. We are taking a major step forward with this measure in making sure our tobacco-growing families can be competitive with foreign-grown tobacco.

It is also important that we understand there are a number of aspects in the underlying bill, the JOBS bill, which are important to our economy. There are aspects of it I have worked with my colleagues on to put in, including the Homestead Preservation Act which helps displaced workers who have lost jobs due to international competition. There are folks, and many are in the same areas as the tobacco farmers, in rural communities who have lost textile jobs. The Homestead Preservation provision will help them with mortgage assistance for 1 year to help them keep their homes and protect their credit ratings as they work toward strengthening and updating their skills and getting back on their feet with a new job. That is an important provision.

There are also provisions that help make the United States more attractive for foreign companies to invest and create jobs in this country.

The main point is this is an amendment that advances a long talked about, long sought after, absolutely essential provision, the tobacco quota buyout, which is so important to people not only in Virginia but also tobacco-growing States across this country.

I am glad, while there may be some differences clearly on the FDA provisions, that the Senate has come together and has put forth this, on balance, very positive, competitive idea in an amendment. I hope my colleagues will vote for it, it will be passed, and we can move to the conference committee, and, ultimately, next fall pass this JOBS bill which is so important for our country.

I thank my colleague Senator DEWINE and yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Ohio.

Mr. DEWINE. Mr. President, I thank my colleague from Virginia for his good statement. I thank him for his support of the amendment. I just say that our hope for this bill, after passage, obviously, is different. I hope this marriage continues. He hopes for a divorce. I hope the marriage will be a long-lasting one. As I have said earlier, I think it will. It is a logical marriage. I think the FDA regulation will not be onerous. It is logical.

I think tobacco farmers will not in any way be burdened by this legislation. But the children of tobacco farmers, as well as the children of all Americans, will be benefited by FDA regulation, just as they are benefited by FDA regulation of milk and macaroni and cheese and of every other product we consume. It just makes sense to me, and it makes absolutely no sense we would not be regulating products such as tobacco. The time is finally here that we will recognize this, and the American people will recognize it today, that we should, in fact, be regulating a tobacco product.

At this time, let me yield to my colleague Senator HARKIN. Before I do that, let me inquire of the Chair, how much time is remaining?

The PRESIDING OFFICER. Seventeen and a half minutes.

Mr. DEWINE. Seventeen and a half minutes.

Mr. SESSIONS. Seventeen and a half minutes total?

The PRESIDING OFFICER. Seventeen and a half minutes total.

Mr. DEWINE. Seventeen and a half minutes total is remaining.

How much time would my colleague from Iowa need? I ask my colleague from Alabama, do you seek time as well?

Mr. SESSIONS. Seven minutes.

Mr. DEWINE. Senator KENNEDY wants some time at the end, I know. He told me he wants 5 minutes at the end. I probably will want a minute or so.

I ask the Senator from Iowa how much time he would like.

Mr. HARKIN. I would ask for 15 minutes, if I could have it.

Mr. DEWINE. We only have 17½ minutes.

The PRESIDING OFFICER. Seventeen minutes.

Mr. DEWINE. Seventeen and a half, and Senator LOTT wants some time.

Mr. HARKIN. We only have 17½ minutes left on the whole debate?

Mr. DEWINE. Seventeen and a half minutes total.

Senator LOTT is going to speak in opposition.

I ask the Senator from Alabama, are you in opposition?

Mr. SESSIONS. In opposition.

Mr. DEWINE. I say to the Senator, Senator LOTT and my colleague from Alabama both have preference because it is all opposition time.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I ask the floor leader, the Senator from Ohio, did I hear correctly, there is only 17½ minutes left on the side that is for the amendment?

Mr. DEWINE. No. There is no time.

The PRESIDING OFFICER. Under the total time, the total time on the amendment.

Mr. HARKIN. Is it 17½ minutes?

The PRESIDING OFFICER. Sixteen minutes now.

Mr. DEWINE. We need to move.

I wonder if I give my colleague, to start with, 4 minutes, and then go from there.

Mr. HARKIN. I will try. Thank you.

Mr. DEWINE. And then maybe an additional minute, if you need it, and we can go from there.

Mr. SESSIONS. Mr. President, I know Senator LOTT wants to speak, also. I will try to keep my comments to 6 minutes or 5 minutes. So I don't want to object to the 4 minutes, but I think the Senator would need to come in on that time or there won't be enough for this side to be heard effectively. So I will not object.

Mr. DEWINE. Let me ask the Chair, is the time now controlled by the opposition or is it total time?

The PRESIDING OFFICER. The remaining time can be controlled by the opposition.

Mr. DEWINE. All right.

Mr. SESSIONS. Mr. President, I yield the Senator from Iowa 4 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 4 minutes.

Mr. HARKIN. Mr. President, I rise in support of the amendment. We have an opportunity to address one of the most significant health threats of our lifetime; and that is tobacco use.

Quite frankly, we have been trying for some time to get FDA jurisdiction so they could better control advertising. I have a couple charts to show why we need to do that. The tobacco companies continue to say they do not advertise to minors, but here is Kool cigarettes. They have advertisements for hip-hop and rappers and all that. They are not going after me. They are going after kids. This is what Big Tobacco is doing. That is why we need to regulate tobacco.

Here is another one: Liquid Zoo flavored cigarettes. This happens to be strawberry. They are not going after adults. They are going after kids to get them hooked on tobacco.

Then we get this fraudulent kind of advertising. This is Eclipse cigarettes: The best choice for smokers who worry about their health is to quit. Here's the next best choice. But there is absolutely nothing to back up their claim that it is some kind of a healthier cigarette, of which I say there is no such thing. That is why we do need to get FDA authority.

Secondly, as a member of the Agriculture Committee, and as ranking member, I am sorry this did not come to the Agriculture Committee. It is the committee of jurisdiction.

But I will say this, that we have a lot of farmers who hold quotas on tobacco. They have held them for many, many, many years. They are now seeing that the amount of tobacco they can produce under the quotas is being reduced, so their future and their ability to earn a living from tobacco is slipping away. This buyout will help them to build a better future. For many, it will not be in tobacco growing, and they need help to move to something else. But at least this tobacco buyout will give them some equity, some hope. Many of these farmers are growing tobacco because their parents did. Many of them have small plots of tobacco. They are using that for their family income.

Now, as we try to phase out tobacco use in this country, to get people to smoke less and less because of the health costs and health risks, we cannot forget about a lot of these farmers who, let's face it, their family incomes are based on this, so they need help. That is why I have been for a tobacco buyout in the past, to help these farm families. As they transition out of growing tobacco—maybe into other crops—they need help. I hope those of us on the Agriculture Committee will help them to do so. I think this amendment is a good amendment. It will tend to move us in the right direction on both fronts.

I say, in closing, in my estimation, the FSC bill needs this. The House approached it the wrong way. They put it on the backs of taxpayers, when it ought to be paid for by the manufacturers, which I assume would pass the cost on to users of tobacco. That is the way it ought to be done. That is the way we had agreed upon doing it prior to the House adding that amendment.

So I say the conference committee must adopt the approach that insists on combining a strong FDA regulation with an industry supported buy-out for tobacco farmers unlike the approach the House took by putting the buy-out on the backs of the taxpayers and completely disregarding FDA regulation.

So again, this amendment moves us in the right direction, both to help a lot of family farmers but also to help our kids, to help future generations so they will not be bombarded with this kind of phony advertising we are seeing from the tobacco companies.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I guess it is only in the Congress that we can have one bad bill that cannot be passed on its own, and we can add to that another bad bill that cannot be passed on its own, and, lo and behold, we can have two bad bills that you would think would not have a dog's chance of passage, and here we are on the verge, I am sure, of passing this amendment.

I do not know how the quotas need to be paid out, and how much people ought to get, but we really need to spend some time on it. It was basically suggested to me recently that we ought to be thankful this bill started out at $18 billion in buyout costs and that now it is only $13 billion. We are supposed to say thank you for saving us. But I wonder how we started out at that figure to begin with.

Mr. President, I ask to be notified when I have used 5 minutes.

The PRESIDING OFFICER. The Chair will do so.

Mr. SESSIONS. Mr. President, the chairman of the Committee on Health, Education, Labor, and Pensions, Senator JUDD GREGG, has worked very hard on the tobacco regulation issue. He has had hearings. He has studied it. His staff has worked on it. Members of the committee have been engaged in it. His ideas have been completely bypassed in this amendment that is going forward today.

Senator MIKE ENZI is a champion of small business, who has spent a lot of time dealing with small convenience stores and working with them on their problems. The breadth of this language they feel very strongly about. He had amendments and some ideas to fix that. All of that has been bypassed.

The trade bill is a critically important bill. We want to see that pass. It is just too typical of how we have to do business or feel we have to do business that the bill gets these two pieces of legislation—neither one of which has been thoroughly considered and effectively analyzed—attached to it. I don't believe it is about public policy, and it is something we ought not support.

They say they are going to tax the manufacturers. I can understand some of my colleagues on the other side of the aisle believing that is not a tax on consumers, but everybody knows a tax on the manufacturer drives up the cost of the product and is, in fact, a tax on the people who consume the product. We might as well put it on the cigarette package so the citizens will know how much the Federal Government has made them pay extra for the cost of the product they wish to consume.

I do not favor tobacco. I believe it is a deadly product. We ought to eliminate it in any way we possibly can in a reasonable way. But I also believe in freedom, and I know that there are people who believe that they have a right to smoke and have been given that right. To just exorbitantly continue to exercise more and more of our ability to put taxes on it is not a good idea.

The regulations in the FDA bill are very troubling. We know there was a lawsuit over this issue sometime ago, and the courts ruled that the FDA did not have the power to regulate tobacco. As a result of that, we now come back with this legislation.

I know there are some good people involved in this, wanting to see this bill pass for various reasons. One group is absolutely committed to increased regulation of tobacco, and they don't care if we spend $50 billion on the buyout. Another group wants a big buyout, and they don't care what kind of regulations we put on convenience stores or on the sale of this product.

The net result is an unhealthy deal for public policy in America. I wish we had more time to get into it. I am told that the cost of the buyout per acre is $20,000. I know Senator LOTT has some fine farmland in Mississippi. I don't know how much he could buy at $20,000. It would be more than one acre, I am sure. He probably could buy land in Jackson, MS. I am just kidding.

I think we are moving in the wrong direction. I want to be on record as objecting to this process. I am sorry that it was sprung on us this way. It is adding too much. We should not allow this to happen. I hope we can make this thing better as time goes by.

I yield the floor and reserve the remainder of the time for this side.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, are we still operating under the 3-hour time agreement with regard to the tax bill and the tobacco issue?

The PRESIDING OFFICER. That is correct. The opposition has approximately 6 minutes remaining. The proponents have no time.

Mr. LOTT. Mr. President, I yield myself such time as I may consume. I am not sure whether I could be considered pro or in opposition to in this particular case, but I do want to be heard on the broader issue and also on the tobacco provisions.

I begin by congratulating and expressing my appreciation to leaders on both sides of the aisle for finally coming to an agreement on a process that will get us into conference on this important legislation. It is unfortunate that it has been delayed for weeks. We should have been in conference a month ago or more. Some of the demands about how we would go to conference or what would happen in that conference have been very inappropriate. One can't preordain what will come out of a conference. They can't say that any one person will determine whether a conference is reported, whether it is a leader or anybody else. But this issue is so important that we need to go into conference. It is about some important tax provisions that will help manufacturing, service, and our high-technology businesses and workers.

It is a way to deal with a problem we have caused by a ruling by the World Trade Organization saying that our tax provisions, our alleged subsidies, were not in compliance with WTO, and we are being penalized in an increasing amount each month on a lot of American products because we have not dealt with this issue. We should have dealt with it a year or two ago, but at least now we will have an opportunity.

Without rewriting the history, I think we need to get this bill into conference. We need to deal with this problem caused by the World Trade Organization's ruling, and we need to deal with the funds that are available because of that in a way that will help job growth and the economy.

This is all well-intentioned. I have been pushing to go to conference. I must say, I am very worried about what is going to come out of conference. This bill and the one from the House have acquired a lot of barnacles. If you allow enough barnacles to be attached to the hull of a ship, it will sink. This one is in real jeopardy of sinking.

First of all, as has become our pattern in the Congress, we are greedy. A bill that should be revenue neutral or should be somewhere around $50 billion has become—I don't know how much—$150 billion. How far is it going to go? The distinguished chairman of the Budget Committee tells me it is $170 billion. We do have a little deficit. Anybody notice that?

Here we have taken a good opportunity to do something good that would be responsible in dealing with trade practices and protecting our own producers and creating jobs, and we are going to distort it way out of proportion. It has become a pretzel. I went along with adding the energy tax provisions to the bill. I didn't think that was the way to do it; I said so at the time. But it was at least the tax provisions, and it gave us some way to maybe deal with the energy needs of the country. But that was the first of the barnacles that was added.

And then in the House, I saw on the media this week where all these provisions have been added that will benefit General Electric, that would give them additional tax breaks and will contribute probably to more jobs going overseas. How did that happen? Did somebody miss that? Did it get in there without anybody being aware of it?

Then the House added about $10 billion for a tobacco allotment buyout. I assumed that was just an aberration in the House and that Democrats and Republicans would say they are not going to do that and we would get back to the basics of this bill. Now the Senate is going to join the stampede. We are going to regulate tobacco with the FDA, and we are going to have a buyout even bigger. I guess this alternative would be paid for by the industry. What in the world is tobacco policy, whether it is the amount of the allotment or the FDA, doing in this bill?

I am very worried that this bill is going to—and we are adding to the confusion—sink under its own weight in conference, and our companies and producers in America will be hit with an ever-increasing import fee every month.

Here is what we ought to do. We need to get a grip, cut out all of this unrelated stuff in this bill. Some of it I would have to sacrifice, too. I want an energy bill. This may be the only vehicle leaving town. I would like to put the entire energy bill, with some modifications that may be necessary, in this bill. But this bill, on its own, needs to be done. It needs to be done clean. It needs to be cut by probably two-thirds. And we need to get all the undergrowth that has been added to it off of it.

If we could do that and still find a way to get an energy bill, a highway bill, and a jobs growth bill done without all of the adds that are costing billions of dollars, we could go out of this session with our heads held high. But we are setting up a box that we may not be able to get out of.

I oppose this proposal on tobacco. I am very much concerned about how we are going to get through conference and get this bill down into the $50 billion range where it should be instead of $170 billion. We have all contributed to the problem. I plead guilty. We all have. But now is the time where generally, when you go to conference, you get over your temporary political fantasies and you do the right thing. You produce a bill that can pass and will help the economy.

Will we do it this time? I am sure that the distinguished chairman of the Finance Committee, who enters the Chamber smiling, can work miracles in this conference. I am expecting it and looking forward to supporting him in that effort.

With that, I yield the floor.

The PRESIDING OFFICER. All time has expired.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent to speak on the FSC/ETI bill for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, most of the speakers have been proponents. I compliment Senator DEWINE and Senator MCCONNELL for getting included this deal. I want to make two or three comments. One is on the process. The FDA bill we are now going to vote on—I venture to say nobody knows much about it because, and correct me if I am wrong, it has not been reported out of any committee. The very extensive bill, very important bill, has 155 pages of regulations and not 1 paragraph that says the FDA has regulatory authority over tobacco. It is a lot of regulatory statute proposed to be the law of the land.

There is a tobacco buyout provision that costs $12 billion. I have yet to see the language. Neither of these bills was reported out of committee, and neither should have had a time agreement. I wasn't consulted on a time agreement on these particular amendments. All of a sudden, we find out at 9:30 there is a time agreement and we are talking about spending $12 billion—and, oh, yes, you cannot amend it. I am kind of offended by that.

Senator GRASSLEY used to say we should have some kind of limitation on payments. We find out, according to some analysis, some farmers will make millions of dollars on the tobacco buyout. I would say, wait a minute, if we are going to buy out a quota—a quota is a Government benefit basically which we have given and which has benefited a few. We find out that 85 percent of the quotas go to nonfarmers. I would like to have the benefits go to the farmers. We don't have a chance to offer that amendment. I would like to say the benefit should be going to tobacco farmers. We don't have a chance to offer that. We have an FDA bill before us. Senator GREGG has a proposed amendment; I would like to offer that or consider it. We don't have a chance to do that. We don't have a chance to offer one amendment. Yet we are saying let's add this to the FSC/ETI bill.

I agree with Senator LOTT, who says we should pass the FSC/ETI bill, and we are held up for weeks after we already passed it on the floor of the Senate.

The House, in my opinion, made a mistake. The House made a mistake when they passed FSC/ETI. They put in a $9.6 billion tobacco buyout as part of their package. Now we are getting ready to say that two wrongs make a right. Since they do it, we will do it, too, except where they spent $9.6 billion, we will spend $12 billion. At least, to their credit, they got out of the tobacco program when they spend $9.6 billion. They are going to pay the tobacco farmers and get out of the Federal price support program for tobacco. But we don't do that on this proposal. We are going to spend $12 billion on supposedly buying out quota. Guess what. At the end of the day, you still have a tobacco program, a price support program. That is ludicrous. What a waste of money. We are going to spend $12 billion and not end the program? I cannot imagine doing that. I cannot imagine that we would pay people for a quota, most of whom are not farmers, and then we are going to continue a price support program at the end of the day. That is in this bill. It is all tied together. You don't have a chance to break it apart, don't have a chance to amend it. This is very offensive to the legislative process. It is very offensive to the taxpayers.

The regulatory authority I have heard many people bragging on is very broad. For example, I don't know if people are aware of it, but maybe we want to give the Secretary of HHS a blank check to regulate and/or outlaw tobacco. In reading on page 45, it says:

> The Secretary may, by regulation, require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to and the advertising of and promotion of the tobacco product, if the Secretary determines such regulation will be appropriate for the protection of public health.

The Secretary can do anything he darn well pleases, including banning tobacco, I guess. I am no fan of tobacco. Frankly, I have had family members who got cancer as a result of it. It almost took my mother's life—lung cancer, emphysema, all probably directly related to tobacco. I had a brother with serious cancer. I am no fan of tobacco. I don't use it. I don't want my kids to use it. I urge people not to use it. I question having a new Federal program where we are going to have $12 billion to buy people out of their quotas, including most of the people who don't even grow tobacco, and then we are going to say, yes, at the end of the day, we are going to continue the tobacco program, and then we are going to put it on a FSC/ETI bill where it doesn't belong.

We need to pass the tax bill and resolve conflicts with the WTO so we can eliminate surcharges and tariffs on products coming into the U.S. We need to do our work.

This tobacco provision, which has not had a hearing in the Agriculture Committee or in the HELP Committee, and hasn't had a hearing on either FDA or a markup of the appropriate legislation before the appropriate committees—all of a sudden we are getting ready to pass legislation that is going to make, according to one estimate, over 500 people millionaires—millionaires—and we don't even have a chance to amend it. I wonder how many of my colleagues are aware of that. I wonder how many have a clue what is in this proposal. I venture to say that very few do. Maybe the sponsors do. Maybe there was some deal cooked up last night. I don't know. I am looking at the size of that amendment and saying, Mr. President, that is pretty thick. I wonder how many billions of dollars are going to be spent as a result of this amendment without people really knowing what they are voting on.

I will vote no on the amendment. I urge my colleagues to vote no on this amendment. If we pass this, there is going to be a tobacco provision in the House bill and the Senate bill, and that will make it difficult to delete in conference. As a conferee, I plan on opposing tobacco. I was going to oppose energetically having the House pass that as part of the FSC/ETI bill. It doesn't belong there. If we put a similar provision in the Senate bill, it more than likely will be there. I will tell you it may be too much of a load for that bill to pass conference. I can see all kinds of ways that this could bog down the conference totally, and we will end up having no bill. Who wins out of that? Certainly not the tobacco growers. Certainly not tobacco.

Some people allege that the regulations benefit one tobacco company at the expense of the others. I don't know. I just know this is a crummy way to legislate. This is not the way we should be doing business in the U.S. Senate. We should not be gumming up an already overloaded bill by including this provision.

I urge my colleagues to vote no on this amendment when we vote later today.

I yield the floor.

Mr. COCHRAN. Mr. President, I am pleased that we are finally able to proceed with this legislation and remove serious barriers to American agricultural exports.

Since the World Trade Organization ruled against the United States over our Foreign Sales Corporation and Extraterritorial Income tax rules, we have had ample time to address this issue. In fact, the Senate Finance Committee reported legislation that would bring the United States into compliance with our trade obligations on October 1, 2003.

European Union tariffs on our farm exports have steadily increased, making them increasingly less competitive in international markets. The EU retaliation list includes about 400 agricultural, food and forest product tariff lines of imports from the United States. Proceeding with this legislation will help us regain market share and export opportunities that will have added benefit for truckers, rail lines, shippers and related businesses. This will help the export of U.S. agricultural products to hit a projected record of more than $60 billion this year.

In addition, I am pleased that an agreement could be reached to allow for the consideration of a tobacco buyout amendment to this legislation. I commend our members of the Senate Agriculture Committee who have worked diligently to reach this point. Particularly, Senators MCCONNELL, CHAMBLISS, DOLE and MILLER and their staffs have brought us to this point through careful negotiation.

Over the past decade, tobacco producers have seen their tobacco quota cut in half and resulting in an economic crisis among tobacco-dependent communities. This buyout provision will provide the estimated 57,000 tobacco farms in the United States the necessary resources to continue their livelihood or transition into more diversified operations. The amendment is also a move in the right direction in eliminating the archaic tobacco quota system. It is my hope that this important provision will enable tobacco producers the ability to better compete in a free market system.

As chairman of the Committee on Agriculture, Nutrition, and Forestry, I look forward to working with my colleagues in both the Senate and House of Representatives to ensure that farmers in the United States who choose to continue to grow tobacco will have that opportunity. I urge my colleagues to support this amendment and the underlying bill.

Mr. ROBERTS. Mr. President, I discuss the amendment we are about to vote on. Let me state at the beginning: I am supportive of a tobacco buyout for our tobacco producers and quota holders, and I will work to help them achieve this goal. However, it should be a buyout without strings attached and that will truly end the program.

Unfortunately, this legislation does not achieve this goal. While the bill does provide a buyout, it then implements annual restrictions on acreage and production. I have previously stated on this floor my opposition to acreage and production controls for all crops and commodity programs. This program should be no different.

I am also concerned that these acreage controls may not be legal under our World Trade Organization commitments. If these controls would indeed be declared illegal under our commitments, we could be subject to a ruling that would put us far above our WTO agriculture spending caps. This would not only have significant impacts for tobacco and this program, it could have a significant impact on all our commodities and farm programs. I cannot support voting for this proposal and putting all our other commodities at risk.

If these provisions were removed, I believe there would be no question that this proposed program would be WTO legal, and I would have no trouble supporting the buyout. I will let my colleagues that serve on the conference of this bill make their own decision regarding FDA regulation and the funding mechanism for the buyout. But, I urge them to support the House language implementing a buyout with no future acreage and production restrictions being put in place.

Mr. FEINGOLD. Mr. President, I will support the amendment offered by the Senator from Ohio, Mr. DEWINE, and the Senator from Massachusetts, Mr. KENNEDY, but in doing so I also want to note my concern about the potential for unconstitutional infringement on commercial speech that the amendment may engender in the regulations it directs to be promulgated to regulate tobacco advertising. There is little doubt that the health of our citizens, and in particular the health of our children, are a substantial governmental interest. And given that substantial interest, some regulation of tobacco advertising may be appropriate.

Further, the amendment appropriately sets forth some safeguards that strive to prevent unconstitutional infringement on commercial speech, and I commend the authors for including that sensible protection. Moreover, in the wake of the Lorillard case in 2001, we now have a somewhat clearer legal standard in this area that can guide these proposed regulations.

But the rights spelled out in the first amendment of our Constitution are so fundamental to our liberties that we must be especially sensitive to the potential for Government overreaching. For that reason, while I will support the amendment, I will also be monitoring this aspect of the amendment closely as regulations of tobacco advertising are developed and implemented.

Mr. HATCH. Mr. President, I address the DeWine-Kennedy amendment to H.R. 4520, the American Jobs Creation Act of 2004.

Let me say at the outset that I will vote for this proposal tonight, because I am fully supportive of measures to end tobacco use in the United States. I can think of few public health dangers worse than tobacco, and this is especially true for young people. Certainly, in my home state of Utah, I hear time and time again from concerned parents and health advocates who point out the devastating health consequences of tobacco use.

So, I think it is critical that we go to conference on this issue. However, my support for the amendment is not without some serious reservations, and I hope they can be addressed and corrected in conference.

My first concern is that the committee of jurisdiction, the HELP Committee, should have had the opportunity to consider fully the text of S. 2461, the Family Smoking Prevention and Tobacco Control Act, which is included in the DeWine-Kennedy amendment, before it is brought to the floor for this vote.

Having been the chairman of that committee for several years, I know full well the complexities of the Federal Food, Drug and Cosmetic Act. Three hours of debate are not enough time to consider legislation that makes such dramatic changes to current law.

I have only had a short time to review this legislative language but I believe there are several troubling components. For example, the tobacco company marketing provisions alone in this amendment raise serious 1st Amendment issues, as do the provisions granting authority to state and local governments to impose specific bans or restrictions on the time, place and manner of tobacco advertising. I would have preferred we have a more lengthy debate on about the implications of these provisions before we vote.

I also think we need to give serious study to the drafting of the language providing the FDA with the authority to regulate tobacco products. This area of the law is extremely complex. In addition, I must point out that the FDA already has been charged with numerous responsibilities and has been criticized time and time again for its inability to meet statutory requirements due to funding constraints. In fact, just yesterday, I held a hearing in the Senate Judiciary Committee on the safety of imported drugs where FDA officials told members of my Committee how difficult it would be for them to ensure the safety of imported drugs because the agency is already strapped for resources. How can we expect the FDA to take on new responsibilities without supplying the agency sufficient funding for performing its current duties?

In closing, let me address the tobacco buyout provisions.

Mr. President, I am all for measures to reduce our Nation's dependence on tobacco, and measures to encourage less tobacco production are an important part of that equation.

I am encouraged that the amendment we are considering tonight does not use taxpayer funds to accomplish the buyout. That is an important point. I also recognize that the program will help get the Government out of the farming business while making temporary assistance available to farmers as they adjust to the free market. That being said, questions worthy of serious consideration have been raised about where this assistance will go, and I think we need to study that more.

Mrs. FEINSTEIN. Mr. President, I rise today to support the amendment offered by my colleagues Senators DEWINE and KENNEDY. The amendment they have offered today is the product of many years of hard work and leadership.

The amendment combines legislation to empower the Food and Drug Administration, FDA, to regulate tobacco products with Senator MCCONNELL's tobacco buyout bill.

I believe this is the right approach. Last week, seven of my colleagues and I wrote to Senators FRIST and DASCHLE to express our view that no tobacco buyout plan should move ahead if it does not include meaningful and effective FDA oversight of tobacco.

The 5-year, $9.6 billion tobacco buyout provision in the House FSC/ETI bill is not only worse for tobacco growers than the McConnell bill, but it does nothing to protect public health and to reduce tobacco's tremendous toll in health, lives and money.

The DeWine-Kennedy amendment gives the FDA the authority to: Restrict advertising and promotions that appeal to children; stop illegal sales of tobacco products to children; require changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful or less addictive; prohibit unsubstantiated health claims about so-called "reduced risk" tobacco products that would have the effect of discouraging current tobacco users from quitting or encouraging new users to start; and require the disclosure of the contents of tobacco products and tobacco industry research about the health effects of their products.

This amendment is supported by the American Cancer Society, the American Heart Association, the Campaign for Tobacco-Free Kids, and the American Lung Association.

Tobacco use is the leading preventable cause of death in the United States. Every year in America, tobacco use kills more than 400,000 people and costs our Nation more than $75 billion in health care bills. Today approximately 4,000 children under age 18 will try smoking for the first time and 2,000 children will become regular smokers. Smoking is the cause of one-third of all cancers.

Unless we act to pass FDA regulation of tobacco, this number will only get worse.

During my time in the Senate, I have become very involved with cancer. I am the co-chair of the Senate cancer caucus and the vice-chair of C-Change, formerly the National Dialogue on Cancer, which is chaired by former President and Barbara Bush.

The cancer community is united in the belief that the single most important preventive measure is to place tobacco products under the regulatory control of the Food and Drug Administration. I stand behind the cancer community and express the same belief.

I firmly believe that cancer cannot be conquered without addressing smoking and the use of tobacco products.

Smoking results in death or disability for over half of tobacco users, according to the Centers for Disease Control, CDC.

Over the past two decades, we have learned that tobacco companies have manipulated the level of nicotine in cigarettes to increase the number of people to their product.

There are more than 40 chemicals in tobacco smoke that cause cancer in humans and animals, according to the CDC. Tobacco smoke has toxic components, as well as tar, carbon monoxide and other dangerous additives.

It is long past time to reduce the addictive nature of cigarettes and curtail the marketing of these products to young people. I believe that empowering the FDA to regulate tobacco will help do that.

The U.S. Surgeon General and the Centers for Disease Control and Prevention have unequivocally demonstrated that, for example, antismoking campaigns can reduce smoking, a major cause of cancer.

California is a good example. My State started an aggressive tobacco control program in 1989 and throughout the 1990s. As a result of California's aggressive approach, is the first State in the Union to see a decline in lung cancer among women, as a result of the State's active prevention efforts.

This amendment will provide meaningful regulation by the Food and Drug Administration of the content and marketing of tobacco products, especially the addicting and carcinogenic components.

I am pleased to note that even the Philip Morris companies has acknowledged the need for FDA to regulate tobacco.

It is long past time to reduce the addictive nature of cigarettes and curtail the marketing of these products to young people. This amendment gives FDA the power to regulate tobacco products' content, design, sale, and marketing.

I am a strong supporter of this amendment. However, I will not support any final proposal that weakens the DeWine-Kennedy amendment or contains a tobacco buyout provision that is fully funded by general revenues.

Mr. ENZI. Mr. President, I cannot support this amendment that would place the regulation of tobacco products under the jurisdiction of the Food and Drug Administration.

The question is not whether the Federal Government should regulate tobacco products. It should and it does already, through a variety of agencies. The regulations are based on a variety of laws that Congress has passed over the past few decades.

We have Federal laws to require health warnings on all packaging and in all print and outdoor advertisements. We have prohibited the advertisement of tobacco products on television and radio. We require the Secretary of Health and Human Services to report to us every 3 years on research findings about tobacco and addiction.

We also require States to prohibit the sale of tobacco products to anyone under age 18. States that do not comply with this requirement risk the loss of Federal block grant funding.

The question again is not whether Federal regulation of tobacco products is appropriate. It is whether the FDA should be responsible for a broad new regulatory scheme that would cover everything from the manufacture of smokeless tobacco to the sale of cigarettes at the corner store.

At a time when the FDA's challenges have never been greater or more significant, the last thing we need is to give the FDA a huge task that will draw attention and focus away from its already considerable responsibilities.

The FDA is already overworked and underfunded. We ask the FDA to be responsible for so many things: ensuring that new drugs and medical devices are safe and effective, safeguarding the Nation's blood supply, regulating the manufacture and distribution of food additives and drugs that will be given to animals, and increasing the security of our food supply. Consumer and industry groups regularly complain that the FDA's budget is inadequate and its mandate is too broad to enable the agency to manage its current workload.

Yet here we are, proposing to give the FDA another huge responsibility, for which it will have to create another huge bureaucracy within its already sprawling structure. Now, more than ever, our families and children need to know that the FDA can meet its current obligations.

I recognize that a number of important voices in the public health community are calling for FDA regulation of tobacco products, but I fail to understand why regulation by this particular agency is so critical.

Those who support FDA regulation of tobacco say that they are not interested in banning cigarettes or other tobacco products. This makes no sense to me. With everything we know about the dangers of tobacco use, how would the FDA arrive at any other conclusion but to ban tobacco products?

One of the purposes of the bill would "vest the FDA with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products." Well, we know that nicotine is an addictive drug and by itself may cause health problems. And we also know that tar and other chemicals in tobacco products are very harmful to our health.

How would the FDA remain true to its mission without requiring manufacturers of tobacco products to reduce the level of nicotine to zero? Reducing the level of the addictive drug in tobacco products would effectively result in a ban of tobacco products—after all, how would a smoker get their "nicotine high" from a nicotine-free product?

Having said that, I believe an outright ban on tobacco products is impractical. If I thought that banning cigarettes would stop people from smoking, I would say let's pass a law and make it so. Banning cigarettes will not stop people from smoking, though, just like prohibition failed to stop people from drinking.

So if we are not going to ban tobacco products, then what is the point of FDA regulation of tobacco? We already have the necessary tools to address the other concerns that some use to justify giving the FDA this new power.

For instance, the Federal Trade Commission has broad authority to prevent false or misleading claims for consumer products, and Congress has given the FTC the explicit authority to oversee the labeling and advertising of tobacco products.

For health or safety claims in advertising, the FTC generally requires a high level of substantiation, including competent and reliable scientific evidence. The record shows that the FTC has not hesitated to exercise its enforcement authority to prevent or correct false or misleading tobacco product advertising, including express or implied claims about exposure and other health-related issues.

So, if a cigarette manufacturer were to promote a "reduced-risk" product with misleading advertising or unsubstantiated claims, I am confident that the FTC would take decisive action against them. In fact, researchers supported by the National Institutes of Health are already studying "reduced-risk" products with a skeptical eye, providing the type of independent scientific review that goes well beyond anything the FDA customarily produces on its own. This suggests to me that manufacturers of "reduced-risk" products are not going to be able to count on the Government's silence in response to any advertising claims they may make.

I would rather have the FTC continue its vigorous enforcement against dangerous or deceptive advertising claims rather than set up a regulatory scenario under which the FDA puts its "stamp of approval" on a reduced-risk cigarette. Most Americans see the FDA as the protector of the public health, yet everyone agrees that smoking kills, and that there is no such thing as a "safe" cigarette. The FDA would send a mixed and confusing message if it were suddenly to begin approving tobacco products that would still kill the user, just at a slower pace.

Another argument for FDA regulation of tobacco products is that we need to involve the FDA if we are going to crack down on illegal sales of tobacco products to children. Right now, this job belongs to State and local governments, and I believe it should stay that way.

Every State has laws against selling tobacco to people under the age of 18, so the issue is enforcing these laws, not creating new ones. And these current laws are working. The number of kids who have purchased tobacco in retail stores has dropped by 50 percent since the implementation of the Federal Synar amendment in the late 1990s.

Working together with States, communities and retailers, we already are making great strides in preventing kids from purchasing tobacco. Our current efforts are working, so it makes no sense to change horses in midstream and bring the FDA into every convenience store across America.

To reduce underage access to tobacco, we ought to build upon the successes of the Synar amendment. This Congress is due to reauthorize the agency that oversees the implementation of the Synar amendment. This gives us the perfect opportunity to consider how the Synar amendment is working and what we could do to make it even more effective.

Combining greater education with tougher enforcement is the answer to tobacco prevention. The States that take the most comprehensive approaches to tobacco prevention, particularly those that work closely with local programs and coalitions, have achieved some of the best records, in preventing the initiation of tobacco use by kids.

We should hold these States out as models for others, instead of inserting a new Federal bureaucracy into the equation. Our Federal efforts should support our communities by providing tools and information for adults on the dangers of tobacco use, teaching our kids about these dangers so that they don't start using tobacco, and on enforcing the laws we already have on the books. But our local communities and states should take the lead.

Stopping kids from smoking will require continuing collaboration between State governments, local governments, community organizations, academic institutions, and Federal agencies like the FTC and the Department of Health and Human Services. And this partnership is working. It has successfully reduced the prevalence of smoking in the United States by 22 percent from 1990 to 2002. It also has reduced the prevalence of smoking by high schoolers by 22 percent from 1997 to 2001.

These numbers show that we are making progress. Let's not mess with success. Let's stick with what is working.

I am no fan of tobacco, but I am going to vote against giving a huge new responsibility to the already overburdened FDA. Giving tobacco regulation to the FDA will not stop adults from smoking, and I doubt whether the FDA would to any better at keeping cigarettes out of the hands of kids than our States and communities are doing.

I reject the notion that the way to show you're "for kids" and "against big tobacco" is by voting for the creation of a new and unnecessary bureaucracy that would operate under a mandate that is simultaneously too broad and too vague.

This vote is not a choice between kids and big tobacco. This vote is about the best way for the Federal Government to continue regulating tobacco products.

I will oppose this amendment because I believe the best role for the Federal Government in tobacco prevention is to focus on education and enforcement. We already have the laws and regulations in place. Let's use them to the fullest before we create new ones.

Mr. DASCHLE. Mr. President, for several years, those in tobacco country have been working to enact a program to transition tobacco farmers out of the current tobacco quota program. At the same time, many of us have been working to give the Food and Drug Administration regulatory authority over tobacco. Today we have the opportunity to pass legislation that does both.

In the finest tradition of the U.S. Senate, this amendment embodies compromise that represents a careful balance of often disparate and competing interests. While no member got everything they wanted, each participant has won important victories that made this proposal stronger.

Senators from tobacco areas have been pushing for a tobacco buyout, to transition tobacco farmers from the antiquated quota system. Being from a rural State, I understand the economic engine that agriculture provides rural America. And, I appreciate the struggles that tobacco farmers have faced in recent years.

The tobacco buyout included in this amendment provides tobacco farmers and quota holders important economic assistance as they transition from the current tobacco quota program to the free market. The buyout has several features that are superior to the House-passed buyout bill. First, the buyout is paid for through assessments on the tobacco manufacturers instead of by the taxpayers. Second, the legislation limits the production of tobacco to traditional growing areas. This ensures that tobacco farmers who choose to continue growing tobacco do not have to unfairly compete with startup tobacco production in other parts of the country. Third, this legislation provides impacted states with economic development grants to help diversify tobacco dependent economies.

On the Democratic side, both Senator EDWARDS and Senator HOLLINGS have been working tirelessly on tobacco for several years. And, Erskine Bowles has personally called scores of my colleagues to let them know how important a buyout is, and how important it was to get this done. In large part, his efforts to educate members about the effects the quota cuts have on farmers and communities helped ensure passage of the buyout today. His advocacy also helped ensure an additional $50 million in economic support for North Carolina was included in the bill.

Many of us also feel very strongly that we need to provide FDA with authority to regulate tobacco. Each year, I am visited by South Dakota youth advocates who volunteer their free time to discourage tobacco use by their peers. They are some of the most impressive young people you could hope to meet. And their cause couldn't be more important.

In the United States, over four million high school students are current or past smokers—29 percent. Thirty-three percent of South Dakota high school students smoke. In South Dakota alone, 5,100 kids try cigarettes for the first time each year. Of those, 2,300 South Dakotans under the age of 18 become regular, daily smokers each year. These numbers are alarming because it is truly a matter of life and death.

Four-hundred thousand people die each year from their own cigarette smoking. Forty thousand die because other people smoke. In South Dakota, 900 children have lost at least one parent to a smoking-caused death. And, in addition to the human cost, there are significant financial costs. The total public and private health care expenditures caused by smoking in this country total over $75 billion each year. Medicare alone has over $20 billion each year in smoking-related expenditures.

Today, we are considering legislation to address this critical public health need. I thank Senators DEWINE and KENNEDY for their hard work on this issue. The bipartisan bill we have before us would give the FDA the authority to restrict tobacco advertising, particularly advertising that targets children. Under this bill, the FDA could prevent tobacco sales to children and limit cigarette sales to face-to-face transactions in which age can be verified. The bill calls for stronger warnings on packaging and allows the FDA to prevent cigarette manufacturers from misrepresenting the facts. It would also allow the FDA to reduce or remove hazardous ingredients from cigarettes, when feasible, in order to help those who are addicted.

The FDA authorities provided by this amendment are critical to reducing smoking, particularly among our children. And the provision to assist tobacco farmers are critical to remedy a growing problem. This bipartisan amendment represents a true compromise and I urge my colleagues to support it.

Mr. HARKIN. Mr. President, we have a chance today to address one of the most significant public health threats of our lifetimes—tobacco use. For my entire tenure in Congress I have been working to protect our children from big tobacco and the horrendous health risks associated with the deadly habit. It was in 1977 that I first introduced legislation calling for repeal of the tax deductibility of tobacco advertising and marketing so taxpayers would not have to subsidize billions to promote smoking. Back in 1998, I introduced the KIDS Deserve Freedom Act to give FDA authority to regulate tobacco and more specifically set up a plan to cut the number of kids who start smoking in half. More recently, I introduced the HeLP America bill to reform our health care system to focus more on prevention and wellness. It would require tobacco companies to reduce teen smoking rates or instead face a stiff financial penalty.

Unfortunately, victories in the tobacco wars have come few and far between. But I am more hopeful now than ever that we can pass a comprehensive plan that would once and for all change how this Nation deals with tobacco and dramatically cut the number of our kids addicted to this deadly product. More that 400,000 Americans die of tobacco related illness at a cost of over $100 billion. And the tobacco industry has been engaged in a systematic campaign of distortion and deceit to hook kids and hide the facts from the American people.

Our goal is to be on the Senate floor 3 years from now announcing that, indeed, child smoking has been cut in half.

The time is ripe for regulation. Every day, 4,000 children under age 18 start smoking, of which 1,000 will ultimately die of smoking-related diseases. Almost 90 percent of adult smokers started using tobacco at or before age 18; the average youth smoker begins at age 13 and becomes a daily smoker by age 14½.

We cannot wait another day to end these senseless and preventable statistics. The Dewine-Kennedy-McConnell amendment will once and for all give the FDA the authority they need to regulate this industry while at the same time give tobacco farmers the ability to get out. I want to be clear, though, there has already been a tremendous amount of compromise to get to this deal and this FDA authority/buyout combination must be kept together for any FSC conference to occur. But the time has come for desperately needed regulation.

Five years after the multi-billion-dollar settlement with big tobacco, I think we can all agree that we still have a great deal of work to do to protect our Nation's children from tobacco. While the tobacco settlement prohibits television and billboard marketing of tobacco and direct advertising to children, the end result has been less than perfect.

The tobacco companies have perceived kids as young as 13 years of age as a key market. As an RJR Tobacco document put it, "Many manufacturers have 'studied' the 14–20 market in hopes of uncovering the 'secret' of the instant popularity some brands enjoy to the almost exclusion of others. . . . Creating a 'fad' in this market can be a great bonanza."

The tobacco industry spent an estimated $10 billion on advertising and promotion in 2001. That is $30 million every day. This number is more alarming in light of the fact that this $11 billion is a 67 percent increase in spending from 1998 when the settlement took effect.

I suppose the tobacco industry can respond by saying that none of this spending was directed specifically at young people. But we do know that in 2000, $60 million was spent on advertising in youth-oriented magazines. We know that, while promotional items such as t-shirts, backpacks, and CD players are ostensibly for smokers over 21 the end result is that 30 percent of kids 12 to 17 years old own at least one of these promotional items. This is frightening because students who own a promotional item are 4 times more likely to be smokers than kids who don't see these items. Even though we don't see tobacco packaging as blatant as Joe Camel, the industry has become more sophisticated in their approach. Let's take a look at some of these products. You tell me a hip-hop picture on Kool cigarettes is not directed at kids.

A package of Liquid Zoo cigarettes looks more like a candy package than anything.

And there is more. Big tobacco is using promotions and more creative marketing strategies but they are also using slicker tactics than that. Take for example a study that found 50 percent of tobacco retailers had tobacco ads at young kids' eye level. That is tobacco marketing at three feet or lower. Twenty-three percent of these tobacco retailers had cigarette product displays within 6 inches of candy. How can we say that this is not marketing directed at our kids? These are the kinds of tactics that are unconscionable and must be stopped. The FDA must be given the necessary authority to regulate tobacco.

And what about disclosing ingredients? Tobacco can make claims that their cigarette is safer, and we have no way of proving that.

Today, the Senate will consider an amendment that is critical to the health of both the kids and the adults in our country. This amendment would give the Food and Drug Administration the authority to protect ourselves from the dangers of starting smoking. This amendment would give the FDA the authority to regulate the sale, distribution, and advertising of cigarettes and smokeless tobacco in order to stop tobacco company marketing practices that target children and mislead the public. It would also give the FDA the authority to crack down on vendors who continue to sell cigarettes to kids.

HHS Secretary Tommy Thompson testified just this morning that over $150 billion was spent on tobacco-related illness last year. That is only the monetary cost of this lethal product. Forty-seven million Americans smoke, and 400,000 people a year die because of it. Smokers have a one in three chance of dying from smoking-related conditions. This is not the future that we want to doom our children to. I hope my Senate colleagues will join me in protecting the health of our youth by supporting this important amendment.

This quota buyout is far from perfect, but I can go along with it as long as it is inextricably bound together with the FDA authority. It is absolutely essential that these two components remain tied together in any final legislation that is sent to the President for signature.

The quota buyout has been sought by tobacco growers and by the tobacco companies. Basically, they say that the current system, begun in the Great Depression, is out of date. It cannot accommodate the present-day global market in tobacco and tobacco products.

A new system without quotas will be easier for tobacco growers and the tobacco companies to operate under. The buyout of quota will help farm families who face a bleak economic future in tobacco farming make the transition to other opportunities. Clearly, ending the quota and price support system will lower the cost to the tobacco companies of acquiring tobacco for manufacturing.

If we are giving the tobacco companies an easier system—a less costly system—in which to procure tobacco and conduct their business of manufacturing and selling tobacco products, then it is absolutely critical—even more critical—that the FDA have basic authority to regulate the marketing of tobacco to the public—and to children most importantly.

It is also essential that the quota buyout be paid for through assessments on the tobacco companies, as it is in this amendment. That is so for several reasons. In essence, the funding approach in this amendment is a continuation of the principle that has been in effect for over two decades, called the No-Net-Cost Tobacco Program.

The No-Net-Cost principle—although it has not been followed 100 percent—is that the taxpayers do not bear the cost of operating the tobacco quota and price support loan program. By the same token, if we are ending the tobacco quota and price support loan program in this amendment then the taxpayers should not be forced to bear that cost. If the taxpayers pay for the quota buyout that would take our policy backwards and abandon the principle established, as I say, more than 20 years ago.

We have learned much in the intervening years since the No-Net-Cost principle was adopted in 1982 about the actions and behavior of the tobacco companies. In the face of the companies' infamous record, it would be a blatant travesty of justice to use taxpayer dollars now for the benefit of the tobacco companies through ending the quota and price support loan program.

In any case, the taxpayers don't have the money to fork over for a tobacco quota buyout. The House of Representatives has adopted a quota buyout spending $9.6 billion of taxpayer money. In this time of record budget deficits, it would be irresponsible to saddle our children and grandchildren with another nearly $10 billion in debt plus interest costs for years into the future. And it would be even more irresponsible to use taxpayer funds for that purpose when critically important farm bill programs for conservation, rural development, research and renewable energy have been cut.

One last point. This legislation should have been considered by the Committee on Agriculture, Nutrition and Forestry prior to floor action. It is unfortunate that something as significant as the elimination of an existing agricultural program and the creation of a new program did not benefit from consideration by the committee of jurisdiction.

I would like to turn my attention very briefly at this time to the issue of overtime. We are about to go to conference on the FSC/JOBS bill, and as we all know, our Senate version of that bill contains my overtime provision, which passed this body with 52 votes.

We voted in the Senate to ensure that any worker who currently has the right to earn overtime as a result of his or her job duties, would not lose that right under the Bush administration's new rules, due to take effect next month.

When we debated the new rules back in May, I and others argued that they represented a shameful assault on the paychecks of millions of hard-working Americans. We were right. Earlier this week, three former Department of Labor, DOL, officials, who worked under Republican and Democratic administrations, released a report that detailed their assessment of the new rules. It states unequivocally that in every instance where DOL has made a change to existing rules, with the exception of the salary-level adjustment, it has weakened the criteria for overtime exemptions.

The portion of the rule that expands overtime eligibility for low-income workers by raising the minimum-salary threshold is a good step. My amendment allows that portion of the rule to go forward. I believe the salary threshold should be raised even higher than in DOL's proposal, to take inflation into account.

Also this week, the Economic Policy Institute, EPI, released its analysis of DOL's final rule, which found that 6 million workers will lose their right to overtime when the new regulations take effect. EPI's analysis of the administration's new rules include these findings:

Nearly 2 million administrative workers will lose overtime rights under a rule change that makes "team leaders" ineligible, even when they don't supervise others on the team.

A change in the definition of who is a "learned professional" will mean the end of overtime eligibility for about 920,000 workers without a college or graduate degree.

Overtime rights will end for about 1.4 million workers reclassified as executives under the new rules, even though they do little supervision and a great deal of manual or routine work, and they only recommend "changes in status" of other workers.

Others who will lose their current overtime rights under various provisions of the new law are: 130,000 chefs, sous chefs, and cooks (to be reclassified as "creative professionals"); 160,000 financial services workers; 117,000 teachers and computer programmers.

The stakes for workers—and for our economy—are high. Time-and-a-half pay accounts for about 25 percent of the total income of Americans who work overtime. I hope the conferees will retain our provision. Millions of American workers deserve an iron-clad guarantee that their overtime rights are safe.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. BAUCUS. Mr. President, I support the Kennedy-DeWine tobacco amendment to the JOBS bill. I believe that FDA authority must go hand-in-hand with any tobacco buy-out. I am pleased that we were able to reach this compromise. Although I was unable to cast my vote for this important amendment, I did want to be on the record in support of the amendment.●

Mr. INHOFE. Mr. President, we have repeatedly regulated tobacco consumption because it is a real public health hazard and we need to make certain that people are aware of the risks they take in using it. Of course, that does not mean that any law that regulates tobacco is a good one. The amendment we are discussing would indeed not make good law. I would like to call your attention to troubling aspects of this current amendment that authorizes Food and Drug Administration, FDA, regulation of tobacco.

This amendment would create more bureaucracy and increase the size of government by giving the FDA more control over the tobacco industry. This increased bureaucracy will lead to the need for more funding and personnel to enact the new regulations. This amendment would give the Secretary the power to impose "restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health." Here are some further examples of the increased FDA authority: It would allow the Secretary to require warning labels to cover half a pack of cigarettes, even requiring colors, graphics, and formats.

It would give the Secretary authority to require disclosure of any cigarette or other tobacco product constituent including any smoke constituent that he deems to benefit public health. This could very easily be an impossible burden levied at the Secretary's whim.

When it comes to record keeping, this bill simply says that the Secretary of the FDA will take into account the size of businesses when putting the regulations into place. This new authority is too vague, and it could be interpreted as giving the FDA the ability to discriminate based on arbitrary ideas of what size a business should be. This amendment would give the FDA wholesale authority to regulate every aspect of construction, ingredients, components or properties, including the sale, distribution, access, marketing and labeling, through the application of "product standards."

I am also troubled by the fact that we do not have the option to make amendments to such an expansive bill since it is being rushed through the Senate attached to the FSC/ETI bill instead of following traditional committee procedures such as hearings and markup and floor amendment.

This amendment cites underage tobacco use as a reason for increased regulation. Underage use is troubling, but the fact is that there are already decisive laws in place to prevent minors from purchasing tobacco. There is a need for better enforcement, not more FDA regulation. The authority given to the FDA in this amendment no longer focuses on reducing youth usage, but rather, on adult consumption by stating that the new restrictions focus on protecting the public health.

Another problem is that this amendment holds retailers accountable for labeling when it is the manufacturer's responsibility. "This paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with this subsection."

These FDA regulations would reduce competition by increasing regulatory costs and restricting the ability to communicate with adult smokers.

These proposals place so many barriers to the introduction of new conventional products, those making no health claims and potentially reduced risk, that it discourages their development.

It increases black market attractiveness. The numerous restrictions and regulations provide ample incentives to illegal operators.

I ask unanimous consent that the text of several statements made by the National Association of Convenience Stores, the American Conservative Union, the Association of National Advertisers, the American Association of Advertising Agencies, the American Advertising Federation, the American Wholesale Marketers Association, and many on the HELP Committee, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF CONVENIENCE STORES,
Alexandria, VA, June 17, 2004.

Re KEY VOTE ALERT.

Hon. Senator FRIST,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR FRIST: I am writing on behalf of the National Association of Convenience Stores (NACS) to inform you that as drafted, and without significant changes, the Kennedy-DeWine amendment to the FSC/ETI bill, regarding FDA's authority to regulate the sale of tobacco products has a significant negative impact to the retailing community and therefore, NACS urges you to oppose this effort.

NACS is an international trade association that represents the over 130,000 convenience stores across the United States whom employ over 1.4 million hard working Americans. Small family- owned operations predominant in the convenience store industry, and in fact, 70 percent of NACS members own and operate 10 or less stores.

This legislation, introduced by Senators TED KENNEDY and MIKE DEWINE and Representatives HENRY WAXMAN, TOM DAVIS and MARTY MEEHAN, has several fundamental problems.

Convenience Stores Receive Unequal Treatment: Under this legislation, all tobacco retailers are NOT treated equally. To be comprehensive, all retailers of tobacco, including those selling over the internet, through the mail, through adult-only locations, and on Indian reservations, must abide by the same regulations, however, these bill fall far short. Further the bill does not specify how the law will be enforced (state, local or federal authorities), thereby neglecting the issue of Native American sovereignty and enforcement on tribal lands (to which all consumers have access through the internet).

Responsible Retailers Treated Unfairly: Authors of this legislation continue to hold retailers liable for actions out of their control. For example: If a company trains its associates in an agreed-upon age-verification course, that company should not lose its tobacco license if a trained associate makes a mistake (knowingly or accidentally). If the company is irresponsible and does not prepare its associates properly, only then should the store have its tobacco license suspended. Additionally, retailers should not be held responsible for the numerous warning labels being required on product delivered to them.

Missing Penalties on Minors: Minors, not retailers, initiate attempted illegal transactions. There should be adequate penalties to discourage both supply and demand of underage tobacco consumption. These bills have no such provision.

Lacking Key Provision: Retailers need tools to help continue to crack down on illegal sales. Another provision missing would allow for easier electronic age verification for retailers choosing to use this tool.

Unconstitutional Provisions Included: There are also advertising restrictions, which the U.S. Supreme Court has already struck down as unconstitutional. Moreover, these restrictions could negatively impact signage inside a store since it may be visible from outside the store.

Although the authors indicated that retailers' concerns were addressed in this legislation bill, they fell short in several areas and failed to address several major points of contention. Without significant changes to the Family Smoking Prevention and Tobacco Control Act (S. 2461 and H.R. 4433), NACS urges Members to oppose this legislation and will KEY VOTE AGAINST any similar amendment that negatively impacts the retailing industry.

Sincerely,

ALLISON R. SHULMAN,
Director, Government Affairs.

AMERICAN CONSERVATIVE UNION,
Alexandria, VA, July 15, 2004.

DEAR SENATOR: The American Conservative Union has learned that anti-smoking and public health advocates are dropping their support of the proposed FDA legislation which is scheduled for consideration on the Senate floor today. Members of these groups have concluded that no evidence exists that links established performance standards by the FDA to safer products and fewer deaths, as argued by Philip Morris.

In fact, public health advocates are convinced that the basic regulatory framework established by the FDA bill will make it virtually impossible for reduced-risk products to enter the marketplace. When the economic incentive for companies to fund comprehensive and meaningful research into significantly safer products is taken away, the economic enticement of profit ceases to exist.

FDA regulation could potentially be used to encourage research, develop and market actual reduced risk products, but the proposed legislation does the opposite. It acts as a roadblock preventing development and marketing of these constantly evolving products.

The passage of FDA regulation is good for only one thing: padding Philip Morris' bottom line.

This new information further reinforces ACU's opposition to the current FDA regulation legislation. On behalf of our one-million members and supporters, the American Conservative Union strongly urges you to oppose and vote against FDA regulation of American tobacco, an industry that already is sufficiently regulated by the federal government. This harmful prospect is bad for American business, and more importantly, curbs the incentive for continuing the research and development of safer products, as public health experts have concluded.

JUNE 1, 2004.

Hon. JUDD GREGG,
Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Association of National Advertisers (ANA), the American Association of Advertising Agencies (AAAA) and the American Advertising Federation (AAF), we are writing to express our opposition to several of the marketing provisions of S. 2461, the "Family Smoking Prevention and Tobacco Control Act."

We oppose section 102 of the bill, which would direct the Secretary of Health and Human Services to publish an interim final rule that is "identical in its provisions" to the proposed rule promulgated by the FDA in 1996. Legal experts from across the political spectrum agree that the sweeping and unprecedented restrictions in that proposal, which would result in a de facto ban on tobacco advertising, would violate the First

Amendment. In fact, the U.S. Supreme Court held in the Lorillard case in 2001 that a Massachusetts tobacco regulation that was virtually identical to one part of the FDA proposal was unconstitutional.

Section 201 of the bill would add new disclosure requirements for all tobacco advertising on top of those contained in the FDA's 1996 proposed rule. In addition, the bill would require the FDA to conduct a rulemaking to determine whether it should mandate the inclusion of tar and nicotine yields in all labels and advertising. All of the various disclosure requirements of S. 2461 place the government in the role of copywriter. By "seizing" a substantial portion of every tobacco ad for government-mandated disclosures, the bill raises First Amendment concerns about "compelled speech" and could result in an unconstitutional "taking" of a company's commercial property in violation of the Fifth Amendment.

We also oppose section 203 of S. 2461, which would grant new authority to state and local governments to impose "specific bans or restrictions on the time, place and manner" of tobacco advertisements. Much of the advertising for tobacco products occurs in interstate commerce. Allowing individual states and local governments to impose their own bans or restrictions would result in a crazy-quilt of inconsistent laws, making tobacco advertising virtually impossible.

We take no position on the provisions of the bill that would generally grant the Food and Drug Administration (FDA) the authority to regulate tobacco products.

Enacting the FDA's 1996 Tobacco Advertising Restrictions Would Violate the First Amendment

We believe that the sweeping tobacco advertising restrictions promulgated by the FDA in 1996 violate the First Amendment rights of tobacco companies to communicate with adults. The FDA's proposal would impose the following restrictions on tobacco advertising:

Ban all outdoor advertising for tobacco products within 1,000 feet of any elementary or secondary school or playground;

Require all permitted tobacco advertising, including direct mail, to be black text on a white background, except in magazines, newspapers or other periodicals with adult readership of 85% or more, or fewer than 2 million readers under the age of 18;

Require all advertisements and labels to identify the tobacco product as a "nicotine delivery device";

Require all advertisements to contain a government-dictated "brief statement" (in addition to the current Surgeon General's warning) to serve as a warning about possible dangers associated with the use of tobacco products;

Ban the use of promotional items such as hats or T-shirts containing the name or logo of a tobacco product, and prohibit other promotional techniques such as product give-aways, rebates or refunds;

Require sponsorship of athletic, musical, social or other cultural events in corporate name only;

Require all advertisers of tobacco products to fund and participate in a national public education campaign designed to discourage the use of tobacco products by minors. The FDA would require the annual fund established for this campaign to total $150 million;

Require compliance with more stringent requirements as enacted by state and local governments; and

Authorize the enactment of additional restrictions seven years after implementation of a final rule if the number of minors who use tobacco products has not decreased by 50% from 1994 levels.

The net effect of the FDA proposal would be a de facto ban on advertising tobacco products. This regulatory package violates the First Amendment protections for commercial speech.

The U.S. Supreme Court has made it clear that truthful, nondeceptive commercial speech cannot be banned or restricted unless the restriction "directly and materially advances" a "substantial governmental interest" and is "narrowly tailored" to "reasonably fit" that interest. See *Central Hudson Gas and Electric Corporation* v. *Public Service Commission of New York*, 447 U.S. 557 (1980).

In *44 Liquormart, Inc.* v. *Rhode Island*, 517 U.S. 484 (1996), a unanimous Supreme Court reaffirmed that all truthful, nondeceptive advertising about a legal product is entitled to the same level of First Amendment protection, regardless of the product.

In the *Lorillard* case, the Supreme Court struck down a regulation promulgated by the Attorney General of Massachusetts that was similar in many respects to the FDA's proposed rule. The Massachusetts regulation banned outdoor ads within 1,000-feet of schools, parks and playgrounds and also restricted point-of-sale advertising for tobacco products. See *Lorillard Tobacco Company* v. *Thomas Reilly, Attorney General of Massachusetts*, 533 U.S. 525 (2001).

In finding that the Massachusetts regulation was not narrowly tailored, Justice O'Connor actually noted a similar problem with the FDA regulation: "First, the Attorney General did not seem to consider the impact of the 1,000-foot restriction on commercial speech in major metropolitan areas. The Attorney General apparently selected the 1,000-foot distance based on the FDA's decision to impose an identical 1,000- foot restriction when it attempted to regulate cigarette and smokeless tobacco advertising. (Citations omitted) But the FDA's 1,000-foot regulation was not an adequate basis for the Attorney General to tailor the Massachusetts regulations. The degree to which speech is suppressed—or alternative avenues for speech remain available—under a particular regulatory scheme tends to be case specific. (Citations omitted) And a case specific analysis makes sense, for although a State or locality may have common interests and concerns about underage smoking and the effects of tobacco advertisements, the impact of a restriction on speech will undoubtedly vary from place to place. *The FDA's regulations would have had widely disparate effects nationwide. Even in Massachusetts, the effect of the Attorney General's speech regulations will vary based on whether a locale is rural, suburban, or urban. The uniformly broad sweep of the geographical limitation demonstrates a lack of tailoring.*" (Emphasis added)

Thus, the Supreme Court has already examined one provision of the FDA proposal—the 1,000-foot ban on outdoor ads—and suggested that it violates the First Amendment because it is not narrowly tailored.

The Supreme Court rejected the efforts of the Massachusetts Attorney General to "childproof" the flow of information in our society. Children deserve to be protected from inappropriate or harmful material, but the government may not use the guise of protecting children to impose sweeping restrictions on information intended for adults. In *Bolger* v. *Youngs Drug Products Corporation*, 463 U.S. 60 (1980), the Court stated that efforts to restrict advertising cannot lower discourse in society "to the level of the sandbox" and citing *Butler* v. *Michigan*, 353 U.S. 383 (1957), that "Government may not reduce the adult population . . . to reading only that which is fit for children." 463 U.S. at 73.

One of the most vocal critics of the tobacco industry, Harvard Law School Professor Laurence Tribe, argued that the tobacco advertising bans included in the master settlement agreement between the tobacco companies and the states, if legislated, would raise serious First Amendment concerns. So have a broad range of public policy groups, from the Washington Legal Foundation to the American Civil Liberties Union (ACLU). In testimony to the Senate Judiciary Committee on February 20, 1998, the ACLU stated: "The ACLU believes that . . . both legislation and proposed regulation by the Food and Drug Administration (FDA) . . . on tobacco advertisements . . . is wholly unprecedented and, if enacted, will most likely fail to withstand constitutional challenge. Moreover, we believe that the enactment of the proposed tobacco advertising restrictions would impose a drastic curtailment of commercial speech and could have a chilling effect on the right of the public and businesses to engage in free speech about controversial subjects."

A number of legal scholars, including Judge Robert Bork; Burt Neuborne, Professor of Law at New York University School of Law; Rodney Smolla, Professor of Law at the College of William & Mary; and First Amendment expert Floyd Abrams have all publicly testified regarding the constitutional problems with legislating this type of speech restriction. In a Washington Legal Foundation publication in 1996, Judge Bork stated: "[T]he recent proposal of the Food and Drug Administration (FDA) to restrict severely the First Amendment rights of American companies and individuals who, in one way or another, have any connection with tobacco products [is] patently unconstitutional under the Supreme Court's current doctrine concerning commercial speech as well as under the original understanding of the First Amendment."

While the government has a legitimate interest in fighting the use of tobacco products by minors, the FDA's proposed regulations sweep far too broadly and result in massive censorship of truthful speech aimed at adults.

New Disclosure Requirements Would Overload Advertisements

As noted above, the FDA's proposed rule from 1996 would require that all ads identify the tobacco product as a "nicotine delivery device" and contain a government-dictated "brief statement," in addition to the current Surgeon General's warnings. Section 201 of S. 2461 would add another layer of disclosures to all ads. It would require the "label statement" to comprise at least 20% of the area of the ad, to be placed at the top of each ad with specific type-sizes. Further, section 206 of the bill requires an FDA rulemaking to determine whether the agency should also mandate the inclusion of tar and nicotine yields in all labels and advertising.

These various disclosure requirements would result in information overload for all tobacco product ads. By mandating these disclosures and requiring specific type sizes, the bill would place the government in the role of copywriter. It raises serious First Amendment concerns about "compelled speech." It could ultimately result in an unconstitutional "taking" of the company's commercial message in violation of the Fifth

Amendment. Advertising is not free. When a tobacco company purchases advertising space, it acquires an important property interest. The multiple disclosure requirements of S. 2461 would literally "seize" a substantial portion of the company's space and conscript it for government-mandated messages. This would be an interference with both free speech and property rights.

New State/Local Ad Restrictions Would Make Tobacco Advertising Impossible

We are strongly opposed to section 203 of S. 2461. That provision would authorize states and thousands of local governments to impose "specific bans or restrictions on the time, place and manner, but not content," of tobacco advertising. This could result in a crazy quilt of inconsistent advertising restrictions, both intra-state and inter-state. For example, tobacco advertising is often placed in publications with regional or national distribution. How could a tobacco company place an ad in a popular magazine that complies with hundreds or potentially thousands of inconsistent restrictions on the "time, place and manner" of tobacco ads?

This provision would make tobacco advertising impossible on a regional or national basis and result in a *defacto* ban on this category. It would authorize state and local governments to engage in censorship of one form of speech based solely on its content.

Conclusion

Some claim that tobacco products are unique, so that it is permissible to ignore the First Amendment just for those products. The Supreme Court has rejected this theory in a series of cases, including *Lorillard* and the *44 Liquormart* case. What you do to tobacco advertising today, you will be urged to do to advertising for many other "controversial" products tomorrow. Justice Thomas recognized this in his concurring opinion in the *Lorillard* case: "Nevertheless, it seems appropriate to point out that to uphold the Massachusetts tobacco regulations would be to accept a line of reasoning that would permit restrictions on advertising for a host of other products."

Don't start down this road to content-based censorship of advertising. We urge you to remove these marketing provisions from S. 2461. The government can take strong, effective steps to restrict tobacco sales and access to minors without trampling on the First Amendment.

Thank you for your consideration of our views.

Sincerely,

Daniel L. Jaffe, Executive Vice President, Association of National Advertisers, Washington, DC.

Richard F. O'Brien, Executive Vice President, American Association of Advertising Agencies, Washington, DC 20036.

Jeffry L. Perlman, Executive Vice President, American Advertising Federation, Washington, DC 20005.

The Association of National Advertisers (ANA) is the industry's premier trade association dedicated exclusively to marketing and brand building. We represent more than 340 companies with over 8,000 brands that collectively spend more than $100 billion annually in marketing communications and advertising. Our members market products and services to both consumers and businesses. More information is available at www.ana.net.

The American Association of Advertising Agencies (AAAA), founded in 1917, is the national trade association representing the American advertising agency business. Its nearly 500 members, comprised of large multinational agencies and hundreds of small and mid-sized agencies, maintain 2,000 offices throughout the country. Together, AAAA member advertising agencies account for nearly 80 percent of all national, regional and local advertising placed by agencies in newspapers, magazines, radio and television in the United States. AAAA is dedicated to the preservation of a robust free market in the communication of commercial and non-commercial ideas. More information is available at www.aaaa.org.

As the "Unifying Voice for Advertising," the American Advertising Federation (AAF), headquartered in Washington, D.C., with a Western Region office in Newport Beach, California, is the trade association that represents 50,000 professionals in the advertising industry. AAF's 130 corporate members are advertisers, agencies and media companies that comprise the nation's leading brands and corporations. AAF has a national network of 210 ad clubs and connects the industry with an academic base through its 210 college chapters. More information is available at www.aaf.org.

DEAR SENATOR: I am taking this opportunity to write to urge your opposition to the Kennedy-DeWine amendment to the FSC/ETI bill, regarding FDA's authority to regulate the sale of tobacco products.

As President of the American Wholesale Marketers Association (AWMA), I represent convenience distributors nationwide and our distributor members represent more than $85 billion in US Convenience product sales. Many of our members are your constituents. On behalf of my AWMA members, I am writing to let you know of our deep concerns over the devastating impact this legislation would have upon our industry.

Tobacco products are among the many goods distributed by our members and many of these businesses are small, family-owned operations. The burdensome recordkeeping requirements and the onerous regulations resulting from this legislation would work a tremendous hardship on these business owners. In addition, there are concerns that this legislation could be "the camel's nose under the tent" and create a back door ban on tobacco products through additional restrictions on the approval, sale, distribution and advertising of these products. And, the costly layer of regulation to be imposed by this legislation would cause problems for these family-owned businesses while providing no real benefit to the public.

Our AWMA members consider this issue to be of vital importance and, therefore, I urge you to vote against any legislation that would provide for FDA regulatory authority over tobacco products. Thank you in advance for your kind consideration of these concerns.

Sincerely,

SCOTT RAMMINGER,
President,
American Wholesale Marketers Association.

STATEMENT BY MEMBERS OF THE HEALTH, EDUCATION, LABOR AND PENSIONS COMMITTEE

Many on the HELP Committee have concerns with the FDA aspect of the amendment based on the following reasons, "In our view it does not represent principles of good government. It does not produce a strong uniform FDA. For example, we are concerned about the preemption provisions—we are concerned about the lack of due process in the reissuance of a Clinton era tobacco rule—also we are concerned about the claims of the provisions of the bill."

Mr. INHOFE. These groups are all concerned about the bill. I echo their concern. This proposal will greatly increase Federal mandates and regulations on tobacco that lead to more Government control. I find it troubling that Congress is willing to grant so much authority to an executive agency while not allowing us adequate time to evaluate and possibly amend this legislation.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I ask unanimous consent to proceed for 5 minutes.

Mr. REID. Mr. President, I ask unanimous consent that whoever is in opposition have an equal amount of time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, as we close debate, I thank Jeff Teitz, Senator KENNEDY's very able assistant, who has worked on this legislation, and I also want to thank my assistants, Abby Kral, Paul Palagyi, Mike Dawson, and Karla Carpenter, who could not be here because she had a baby. We miss Karla, and we welcome into the world Davis Matthew, her son who was just born. We are very glad about that.

Let me respond very briefly to my friend from Oklahoma and his comments about the FDA bill not having seen the light of day. The amendment that is in front of us is the DeWine-Kennedy bill, which is now an amendment. The DeWine-Kennedy bill was actually introduced in May of this year. It is the only FDA regulation of tobacco bill that was introduced, so it has been out here for people to look at for a long time. It was the product of lengthy negotiations between health groups and others. We went back and forth for a long time. It is not really dissimilar to other bills that have been talked about before in other negotiations. It has evolved over a long period of time. It is the work product of Senator KENNEDY and myself, but it is the second generation or third generation of what others have done.

So the concepts in this bill are not fundamentally new. There is nothing in this bill that should come as a surprise to anyone.

As I said, this has been on the floor for a long time. People have had an opportunity to look at it. Interested parties have had a chance to examine it.

Mr. President, I ask for the yeas and nays. I think we are getting close to closing this down.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DEWINE. Mr. President, Senator KENNEDY would like to close at this point. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take a moment to once again thank Senator DEWINE for his strong leadership in our Health, Education, Labor, and Pensions Committee on this issue. I thank our leaders for bringing us to where we are. I thank Senator MCCONNELL for the opportunity to work with him on this issue. And I thank our colleagues for the strong support we have seen during the course of this discussion.

This health issue is the most important health issue we are facing on which we can make serious progress, progress that is almost the equivalent of conquering cancer—it is that important—because we have an epidemic of smoking that is affecting the children of this Nation. It is enormously adverse to their health conditions, and it is a source of premature death to them as they grow and develop in the future, causing all kinds of health ailments.

This is a children's issue, a health issue, a family issue because with this legislation, there are going to be more children who are going to be able to see their parents when they grow older and there are more children who will see their grandparents when they grow older. We have an opportunity to make a major downpayment and major progress in the quality of health for these children.

I thank those who have spoken in favor of the legislation. Hopefully, we will get strong support for it when the votes are cast.

Mr. President, I ask unanimous consent that a list of supporters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF SUPPORTERS OF DEWINE-KENNEDY FDA BILL

American Academy of Family Physicians, American Academy of Nurse Practitioners, American Academy of Pediatrics, American Cancer Society, American College of Cardiology, American College of Chest Physicians, American College of Physicians, American College of Preventive Medicine, American Dental Association, American Heart Association, American Lung Association, American Medical Association, American Public Health Association, American Psychological Association, American School Health Association, American Society of Addiction Medicine, American Society of Clinical Oncology, American Thoracic Society, Association of Maternal and Child Health Programs, Association of Schools of Public Health.

Campaign for Tobacco-Free Kids, Center for Parish Nursing & Health Ministries, Center for Tobacco Cessation, Children's Defense Fund, Church of the Brethen Witness/Washington Office, Church Women United, Evangelical Lutheran Church in America, General Board of Church and Society of the United Methodist Church, General Board of Global Ministries The United Methodist Church, Special Program on Substance Abuse and Related Violence (SPSARV), Health Ministries Association, Interreligious Coalition on Smoking or Health, Islamic Society of North America, National Latino Council on Alcohol and Tobacco Prevention, National Association of County and City Health Officials (NACCHO), National Association of Local Boards of Health, National Center for Policy Research for Women & Families, National Education Association, National Woman's Christian Temperance Union, National Women's Law Center, Oncology Nursing Society.

Office of Family and Children's Ministries of Disciples Home Missions of the Disciples, Praxis Project, Presbyterian Church (USA), Washington Office, Seventh-day Adventist Church, Society for Public Health Education, Tobacco Program, Interfaith Center on Corporate Responsibility, United Church of Christ.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I have a couple comments. Again, I compliment my colleagues, Senator KENNEDY and Senator DEWINE. They have been steadfast in their advocacy. Senator DEWINE is right, he and Senator KENNEDY introduced this a long time ago. If I am correct, it did not pass out of a committee, it is not on the calendar, and all of a sudden it appears on the floor.

These are two bills combined, and my biggest objection is with the buyout. The buyout is $12 billion. How often do we spend $12 billion around here without having any hearing on it? The buyout did not pass out of a committee. It did not pass out of the Agriculture Committee. It certainly was not considered by the Budget Committee.

There is no payment limitation, I say to Senator GRASSLEY. In the House bill, with the $9.6 billion, it is estimated by one group to be 480 millionaires. Some estimates are 85 percent of the quota owners are not farmers. I do not know how many of those will be made millionaires.

The Senate bill we are going to vote on does not even eliminate the tobacco program. A lot of people are thinking we will spend this money, we will buy the quotas back, and then be done with it. No, there will be a Federal board set up by the Secretary. The Secretary will establish a permanent advisory board for the purpose of setting what kind of tobacco shall be in the Acreage Limitation Program, I tell my colleague from Nevada, where they limit acres, make recommendations on acres.

The Secretary, with the Tobacco Quality Board, shall establish and maintain the Acreage Limitation Program for each crop, each kind of tobacco. If we have an acreage limitation program, that is a price support program. That is a continuation of the tobacco program.

So we are going to throw away $12 billion and maybe benefit one tobacco company versus all the other tobacco companies, spend a whole lot more money, have another 100 some-odd pages of regulations, some of which were so intrusive—I have not had a chance to review these regulations in detail, but in past years, some of these regulations dealt with convenience stores. If a convenience store did not check IDs of people up to age 21 or age 25, they could be penalized and fined and successively with higher penalties. If they did not check IDs three or four times of somebody who is 24 years old—they are military and obviously old enough to smoke—if they did not check their ID, the fines could be in the thousands of dollars.

That was in previous regulations. I am not sure if it is in these regulations because I have not had enough time to decide. I know there is a blank check for the Secretary to outlaw tobacco if he so desires, to ban advertising if he so desires.

I don't like tobacco consumption. I don't want people to smoke. If Congress wants to ban tobacco, let's do it. Let Congress do it. Let the elected officials do it, not the Secretary of HHS. These regulations are too broad. I know Senator GREGG had a proposal that was not quite as aggressive. I would like to vote on it. I would like to consider the two. We don't even have the option. The option is take these regulations, 155 pages—and my guess is most were promulgated by the Clinton administration which we rejected earlier—and then let's add a $12 billion buyout program that almost guarantees we will have a buyout program that comes out of conference on the FSC/ETI bill.

My final comment is, two wrongs do not make a right. The House was wrong to put in a tobacco buyout in the FSC/ETI bill. Now we are going to double that wrong and almost ensure it is going to come back from conference with a multibillion-dollar buyout, where some people are going to make millions of dollars. We are going to pay people a whole lot of money and maybe even continue the program. That is absurd. That is a waste of money. That is paying people for the privilege—frankly, if they had a quota, the Government gave them a quota; they had a special benefit over all other landowners in the United States. Oklahoma did not have a quota. We could not grow tobacco if we wanted to. We could not get the higher prices. Now we give a special reward to people who have a quota. We buy them out, and we are going to have a price support program in addition if we pass the Senate language.

That is bad legislation. I hope our colleagues will recognize if they vote for this today and if it comes back from conference in any way resembling this, they are going to be embarrassed because a year or so from now, somebody is going to do a report saying XYZ tobacco quota owner—and there are several in the District of Columbia. I don't know how much tobacco is grown in the District of Columbia, but quotaholders in the District of Columbia get millions of dollars. They are going to be reading about this and be upset, and they are going to say: Congress, how could you do this? Then they are going to go back and say: Congress didn't debate this much.

I compliment my colleague from Ohio. Most of the debate has been on the FDA regulations, not the buyout.

I hope my colleagues reject the amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, this has been a very good debate. In closing the debate, I thank all those who have participated. I ask my colleagues to vote yes. Ultimately, this is a question about common sense, having the FDA regulate this product, and it is a question of saving lives. That is what we will do.

I thank the Chair, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. GRASSLEY. I now ask unanimous consent that the FSC bill be temporarily set aside and I now move to proceed to H.R. 4759, the Australia Free Trade Agreement. I further ask consent that there be 6 hours equally divided between the chairman and ranking member or their designees; provided further that all other provisions of the statute remain applicable to the bill.

Further, I ask unanimous consent that following the use or yielding back of the time the Senate proceed to a vote on the passage of H.R. 4759, and immediately following that vote the Senate resume consideration of the FSC bill and proceed to a vote in relation to the DeWine amendment as provided under the order.

Finally, I ask unanimous consent that there be 2 minutes equally divided for debate prior to the second vote.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that we would have 2 minutes on each side, if there is opposition to this, which I think there will be. Is that right?

Mr. GRASSLEY. Yes. That would be on the DeWine amendment?

Mr. REID. Yes.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. GRASSLEY. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Before the distinguished chairman makes his statement, for the 3 hours on our side, I would ask that 90 minutes of that time be assigned to Senator DORGAN, 60 minutes to Senator CONRAD, 15 minutes to Senator DAYTON, and 10 minutes to Senator FEINGOLD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senate will now proceed with 6 hours of debate equally divided.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, for staff and Senators who are not on the floor, I call attention to the fact that we are starting the debate on the United States-Australia Free Trade Agreement. We have 3 hours on this side. I have not had many requests for time, and I know that two or three Members want to speak. I urge those Members to come over early to speak because if we can yield back time we do want to do so.

I was only going to speak about 7 or 8 minutes. The Senator from Oklahoma wanted to speak 5 minutes. Is there any problem if I give the Senator from Oklahoma 5 minutes right now and then I speak 7 or 8 minutes and then the Senator from North Dakota can have the floor?

Mr. DORGAN. No problem.

Mr. GRASSLEY. I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4759) to implement the United States-Australia Free Trade Agreement.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I congratulate Senator GRASSLEY and Senator BAUCUS for the way they have managed this bill. They have conducted their work in a very appropriate way. They had hearings on this bill. I want to compliment Ambassador Zoellick. Our trade negotiator did an outstanding job in putting this together.

This trade agreement is a win/win. It is a win for Australia and it is a win for the United States. I am pleased to see the Senate work as it is supposed to work. We had hearings on it. We had a markup in committee. We are now having it considered on the floor.

This is going to open additional markets and reduce tariffs for the United States. It is going to be a win for Australia as well. Both countries, strong allies, will benefit as a result.

Prime Minister Howard of Australia has been a good friend and ally of the United States. He has been steadfast in helping us in many ways, trade being one of them. Again, free trade, equal trade, open access, we are winning or gaining more because the tariffs were higher on their side in many respects and so this is positive for United States consumers and for Australian consumers.

Again, I want to compliment the administration for proposing this agreement, for the work that was done by our trade negotiators, and also by Senator GRASSLEY and Senator BAUCUS for bringing this up so quickly on the floor, getting it through the Finance Committee and ultimately through the Senate today. I also want to compliment our leader, Senator FRIST, for making this happen.

I led a delegation to Australia earlier this year. We felt very strongly in our support not only for this agreement but frankly in strengthening our relationships with such a great ally and friend as Australia. So I am very pleased to support this agreement. I urge our colleagues to support it with an overwhelming vote later this afternoon.

I yield the floor.

Mr. GRASSLEY. Mr. President, I yield 2 minutes to the Senate majority leader.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT REQUEST—AUTHORIZING THE JUDICIARY COMMITTEE TO MEET

Mr. FRIST. Mr. President, the agreement we have underway provides for two votes later this afternoon. The first is final passage of the Australia free-trade bill and the second is the DeWine amendment to the FSC legislation. I hope we will not need all 6 hours set aside for the Australia bill. Some members have already spoken over the course of yesterday, and therefore we may be able to expedite consideration of this bill over the course of the afternoon by yielding back some time.

In any event, for the benefit of Senators, I wanted to notify them we will be stacking these two votes later today.

On another matter, I have been notified that the minority objected to the Judiciary Committee meeting today at 2. The other 12 committee requests were granted, and that one request was objected to. There is a lot of important work to be done by the Judiciary Committee. As I look at it, the chairman has four judges on the agenda, as well as legislation. As I look at the schedule, I note that the Hatch-Feinstein constitutional amendment on flag desecration was scheduled as well today. I feel it is important to get to both the nominations as well as the legislation.

It was only the other day there were complaints on the floor about not taking constitutional amendments through committee, and that is on their agenda today. Now we have objections to going through the process of having the committee meet to consider the nominations and legislation. I hope my colleagues on the Democratic side will rethink their objection so we can proceed and the Judiciary Committee can proceed with this important business and allow these committees to do their work.

I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup on Thursday, July 15, 2004, at 2 p.m. in the Dirksen Senate Office Building, Room 226.

Mr. REID. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, while the distinguished majority leader is on the floor, we have already started receiving calls in the cloakroom and I am sure the Republican cloakroom has received similar calls. If we are able to finish the work on the trade bill and the FSC conference legislation that is now before the body, will we have votes tomorrow?

Mr. FRIST. Mr. President, before I commit to no votes tomorrow, these two bills we are voting on today are very important and I would think we would not have votes tomorrow, but before people take that and sort of run with it, let me have some conversations over the next 30 minutes or so.

Mr. REID. Also, I ask the leader, through the Chair, would he also give some indication before the day is out as to what he plans on Monday?

Mr. FRIST. We will. There are a lot of Members whose schedules very much depend on when we vote either tomorrow or later tonight—hopefully not later tonight, but earlier tonight as well as on Monday night or Tuesday morning. We will work all of that out within the next hour or so, so we can notify Members.

Mr. DORGAN. Will the majority leader yield for a question?

Mr. FRIST. Be happy to.

Mr. DORGAN. Mr. President, the majority leader is speaking of schedules, in this case the schedule of the Senate Judiciary Committee. I inquire of the majority leader about the schedule with respect to legislation he and I have spoken about at great length. The last occasion was about midnight on the floor of the Senate, after which I allowed the nomination of Dr. McClellan to proceed. As a result of that, the issue of allowing prescription drug reimportation in this country and legislation that is bipartisan in scope with over 30 Senators now cosponsoring it, I had intended and hoped we would have an opportunity to vote on that on the Senate floor. I have not had the opportunity to speak with the majority leader at length in recent days, but my hope would be we could go back and revisit what is put in the CONGRESSIONAL RECORD. And my hope is what was put in the CONGRESSIONAL RECORD will then allow us to have an opportunity on the floor of the Senate to advance the legislation that we previously discussed dealing with the reimportation of prescription drugs and allowing us to put downward pressure on prescription drug prices in this country.

I ask the majority leader whether he has had an opportunity to go through that and whether he could give me some advice as to when he would allow that to be debated on the floor of the Senate?

Mr. FRIST. Mr. President, I will be happy to be in discussion with my colleague. Since our discussion, now many weeks ago, we have made real progress in terms of understanding the potential impact of allowing the reimportation of drugs. I think there has been a lot of discussion on both sides of the aisle. We had an extended meeting yesterday talking about the safety issue surrounding it.

Since our discussion, there have been hearings in the appropriate Health, Education, Labor and Pension Committee. There has been a bill put together by the principals in the committee, the responsible committee. There have been scheduled markups, and I believe there is a markup scheduled for next week on that particular bill. So progress is being made.

It is a very important issue. We are talking about not just reimportation and the cost of drugs, but we are talking about the safety of drugs being used. I think we have made a huge amount of progress over the last several weeks, so in terms of scheduling and looking at what time that might be considered on the floor of the Senate, I will be happy to be in discussion with my colleague.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am happy to bring to my colleagues the United States-Australia Free Trade Agreement Implementation Act. This is a bill that Congress must pass to actually implement what has been negotiated as the United States-Australia Free Trade Agreement. This is under the process that we call trade promotion authority. This is a process by which Congress, which has the constitutional power to regulate interstate and foreign commerce, has delegated negotiating authority to the President to negotiate certain trade agreements. But because we have that constitutional authority, we cannot give to the President of the United States the authority to change U.S. law as it might be negotiated.

So we are now dealing with legislation that changes U.S. law and makes the United States-Australia Free Trade Agreement not a treaty approved just by the Senate of the United States, as we know treaties are, by two-thirds vote, but this is basic law. It has passed the House of Representatives by a majority vote, hopefully it will pass the Senate by a majority vote, and it is to be signed by the President.

We are dealing with the constitutional authority of the Congress to regulate foreign and interstate commerce, but understanding that it is not reasonable to expect 535 Members of Congress to deal with foreign countries, we have asked the President to do that for us but under guidelines that we have set down and with Congress having the final authority. We are in the process of exercising that final authority.

As is true of almost any agreement, this one might not be perfect. However, I believe it will provide significant benefits to the United States, our economy, and particularly to the economy and the people of my home State of Iowa.

During committee consideration of the agreement, we heard from a number of different sectors of the economy which stand to benefit from the agreement. At the top of the list is the U.S. manufacturing sector and all the jobs that exist in that sector that will be stabilized and enhanced as a result of American manufacturing selling a lot more to Australia because certain duties that now are on those products will be gone.

Under the agreement, more than 99 percent of U.S. manufacturing exports to Australia will become duty free immediately after this agreement is signed by the President. This is the most significant reduction of manufacturing tariffs ever achieved in any U.S. free-trade agreement.

This is very good news for manufacturers such as the Al-jon company of Ottumwa, IA, employing 100 people. Today, about 10 to 15 percent of Al-jon's production is exported. They are confident that with a level playing field they can do even better. This bill helps level that field.

During testimony before my committee, John Kneen, chairman of the board of Al-jon, testified that while they have had some success selling in Australia, their exports are currently limited by two factors: First, Australia currently imposes a 5-percent tariff on their exports. And, second, the cost of shipping heavy equipment to Australia is very high. While we cannot do much about the cost of shipping, we surely can eliminate the 5-percent barrier with the enactment of this trade agreement.

It is not just the company of Al-jon that will benefit. Mr. Kneen testified that over 19,000 U.S. companies that currently export to Australia are likely to benefit from what he termed the "instant competitive advantage" provided by the elimination of these tariff barriers on U.S. manufacturing exports.

These companies include other Iowa manufacturers such as John Deere, which has four manufacturing plants in my State. John Deere anticipates increased exports to Australia on account of this free-trade agreement.

The U.S. agricultural sector stands to benefit from the agreement as well, as duties on all U.S. farm exports will be eliminated, reducing tariffs on U.S. agricultural exports by over $700 million. Processed food, soybeans, oilseed products, fresh and processed fruits and vegetables, all will benefit from these duty reductions. For U.S. farmers and our ranchers who compete with Australian agriculture, special safeguards and tariff rate quotas are included as part of the agreement to make sure that trade is not only free but fair.

The free-trade agreement negotiating process also opened the door to eliminate scientifically unfounded barriers to the importation of U.S. pork and U.S. pork for processing. These are all major Iowa products because we are No. 1 of the 50 States in the production of pork. While Australia made its scientific determination regarding pork outside of the free-trade agreement negotiations, the intensive consultation process that naturally flows from engaging in bilateral trade negotiations helped in the resolution of that very important matter. Dermot Hayes, an economist at Iowa State University, estimates that the elimination of these unfounded barriers could increase U.S. exports of pork to Australia by over $50 million annually.

The United States-Australia Committee on Sanitary and Phytosanitary Measures, and the Standing Technical Working Group on Animal and Plant Health Measures, which are established under the FTA, will help to ensure that all Australian standards on United States agricultural imports are based on sound science and are not used as a basis for protectionism.

Iowa's service providers will also benefit from new market-access openings in Australia for our service exports. These commitments, along with new, transparent trading rules, should provide a lot of important new market opportunities for Iowa's service exports.

And, for the first time, this agreement opens much of Australia's lucrative government procurement market to United States exporters. The government procurement provisions are especially important, as Australia is one of only a few developed countries that are not members of the World Trade Organization Agreement on Government Procurement.

In sum, the United States will benefit from the United States-Australia Free Trade Agreement. I urge my colleagues to vote for S. 2610, the United States-Australia Free Trade Agreement Implementation Act.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. BAUCUS. Mr. President, today the Senate begins consideration of the U.S.-Australia Free Trade Agreement. I support this agreement for one simple reason: Trade means jobs.

The U.S. economy is the most flexible, vibrant, and dynamic in the world. We owe that to the ingenuity of the American people and their relentless thirst to create and to innovate.

We also owe it to the policies we have put in place to support the innovation that keeps our economy growing and creating jobs. That includes embracing open trade.

Twelve million Americans—1 out of every 10 workers—depend on exports for their jobs. And these jobs pay thousands of dollars more than jobs unrelated to trade.

Now, some think of trade as helping only big multinational companies. In reality, trade helps companies of all sizes. Firms with fewer than 20 workers make up two-thirds of American exporters.

Trade also creates benefits for communities across the country. In Montana, nearly 6,000 jobs depend on manufacturing exports. And more than 730 Montana companies, mostly small and medium-sized businesses, export products overseas.

Despite the well-known benefits of trade and the vibrancy of the U.S. economy, the last few years have been difficult ones.

Since January 2001, the American private sector has lost nearly 2 million jobs—mainly in manufacturing. And service-sector jobs—once virtually immune to international competition—have begun to move offshore in increasing numbers.

When people talk about jobs moving overseas, they frequently talk about trade. Too often, the proposed solution is to retreat into isolationism and raise barriers to trade. In my view, that's exactly the wrong approach. We should engage in more trade, not less.

But we must be smart about trade. We must enforce our trade laws and our trade agreements. We must ensure that markets remain open to U.S. companies, and that U.S. companies can compete on a level playing field.

We should reject the notion that we must lower standards in this country to compete. Instead, we must look to raise standards in the countries we trade with. The Trade Act of 2002 made tremendous progress in this regard, but we must continue to "race to the top."

The free trade agreement with Australia is the kind of agreement we should be negotiating. It offers both broad commercial benefits and high standards.

Australia is one of the few countries with whom the U.S. enjoys a trade surplus, with the bulk of this surplus in manufactured goods.

With this agreement, U.S. manufacturers predict that U.S. exports will grow by an additional 20 percent—$2 billion per year. Montana already exports $3.4 million per year in industrial goods to Australia. And these exports will grow with this agreement.

This is great news to manufacturing workers who have been hard hit by massive job losses. It is especially important in a State like Montana, where we have lost 3,300 manufacturing jobs in the past 4 years. These losses represented 15 percent of the Montana manufacturing workforce.

But it's not just about manufacturing. This agreement will also benefit U.S. service providers. Australia will expand access for cross-border services, and to enhance regulatory transparency. That will mean greater opportunities in financial services as well as those services provided through new and innovative technology.

Beyond these benefits, the agreement also increases protections for intellectual property. And it requires Australia to offer greater opportunities to U.S. bidders in government procurement.

All of these improvements will translate into a more fair and open market for U.S. producers. That will mean more jobs and higher wages for U.S. workers.

At the same time, this agreement opens the door to a greater relationship with one of the most vibrant and promising economies in the world. Australia stands as a gateway to the fast growing markets of Southeast Asia. This agreement will help U.S. companies further develop their export potential.

Now, some have expressed concerns regarding agriculture. Australia exports many of the same commodities that the U.S. produces—most notably, beef, dairy, and sugar. Yet Australia offers a much smaller consumer market in return.

Those of us from States that produce these commodities were concerned. However, given the close relationship between the U.S. and Australia, and given the substantial benefits to the manufacturing and service sectors, it was clear to me that Congress would approve an Australia agreement.

The only solution to this challenge for U.S. agriculture was good, old-fashioned tough negotiating. I urged Ambassador Zoellick to work hard to preserve the interests of rural America, by treating U.S. commodities sensitively.

I pushed him to ensure a long transition period, and to provide strong safeguards where necessary. I am pleased to report that U.S. negotiators responded to these concerns and met me more than half way.

For beef, there is an 18-year transition period and two automatic safeguards. As we drafted the implementing legislation for this agreement, I worked hard to ensure that there were significant protections for Montana's ranchers.

For dairy, the agreement ensures a slow pace for increased market access, while maintaining over-quota tariffs—a chief priority for U.S. producers.

Finally, U.S. negotiators preserved current sugar policy, in order to enhance our prospects to achieve global reform in the WTO.

These protections help shape an agreement that is balanced and sound. It enhances opportunities for U.S. companies and workers, while also being sensitive to the interests of our farmers and ranchers.

Let me turn to one final issue that has been receiving attention lately. In the last couple of days, some Members have questioned whether this agreement affects U.S. government regulation of prescription drugs.

These concerns involve the potential impact of trade agreements on U.S. healthcare programs, including Medicare, Medicaid and the VA and DOD programs, and the implications of the agreement on the adoption of drug reimportation legislation in the future.

USTR has assured Congress that the provisions in the agreement will not require any changes to the administration of U.S. health programs. And that no changes to current U.S. law or administrative practice are necessary to implement the agreement.

Furthermore, because Australia itself does not permit most pharmaceuticals to be exported, we are assured that this agreement will not impede Congress from considering and enacting reimportation legislation.

My own view is that the concerns raised by these provisions are more hypothetical in nature than concrete. Nonetheless, this is an issue that Congress—and the Finance Committee—should explore more thoroughly as we move forward on trade negotiations in the future.

I urge my colleagues to vote for this agreement. This is an agreement that will help our long-term competitiveness. This is an agreement that will create jobs. This is an agreement that is good for Montana and good for America. I hope it will receive strong support.●

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we meet here in the Senate again to talk about the issue of international trade, a very important issue for our own country.

I would like to follow up on my colleague's comments about the Constitution. The Constitution does, indeed, talk about trade. It talks about who is responsible for international trade in this country. It is article I, section 8 of the Constitution. It says:

> The Congress shall have power to regulate commerce with foreign nations.

Yet Congress has largely given away that opportunity and the responsibility with respect to trade.

What the Congress has done, strangely enough, is to put itself in a straitjacket by voting and passing legislation called "fast track"—which doesn't sound like English, perhaps, to most people—fast-track trade authority.

Fast track means that Members of Congress will promise that when a trade agreement is negotiated somewhere else in the world in secret, behind closed doors, by our trade ambassador, when it is finally brought back to the Senate for a vote up or down, the Congress will prevent itself from ever being able to offer amendments to change it if it thinks something in it is wrong. That is fast track. The Congress has decided to limit its own ability to fix problems. I didn't vote for fast track, but the majority of my colleagues did.

So we have a situation where we have a rather innocuous trade agreement today between the United States and Australia. There is not much in this agreement that is of great moment. There are a couple of bad things in it that should be taken out. We should have a vote on the provision dealing with pharmaceutical drugs. We ought to have an opportunity to amend this trade agreement in a way that deals with trading authorities, such as the Australian Wheat Board and the authority in Australia that deals with the sale of cattle. These are state trading enterprises that would be illegal in this country. We are actually having to say, let's trade with someone else who has a monopoly in marketing operations in agriculture, and we will consider that fair. It is not fair at all. I will talk about that at some length.

In any event, the Congress, through its lack of wisdom, I must say, has decided to use what is called fast-track trade authority, which means this agreement is here now and no one may offer any amendments because Congress decided to put itself in a straitjacket. So we have a circumstance with no amendments.

Let me at least describe where we are with international trade. Most people do not want to talk about it.

This is a massive failure. This is a colossal failure of this country on international trade.

This chart shows the countries with which we have trade surpluses. They are not in red, they are in green. All these countries in red are countries with which we have trade deficits—some very large. You look at a map of the world and you will see that we have on only a very few occasions trade surpluses. One of them happens to be with Australia. That will soon be gone after we pass this trade agreement. That is the case with every trade agreement we have done. But Australia, Egypt, Belgium—there are just a few countries with whom we have a surplus. With the rest of the world, of course, we have a large, abiding, substantial trade deficit.

Last month, I put this on a chart and showed it on the floor of the Senate. The Washington Post says, "U.S. Trade Deficit Set Another Record In April." That trade deficit was $48 billion in 1 month, almost $50 billion in 1 single month. Month after month after month we see this trade deficit.

Let me go through a bit and perhaps show some charts that might give us the opportunity to ask the question, Are we really doing well here?

This is all about jobs, as you know. It is about where the jobs are located. It is about outsourcing. It is about moving jobs from here to another country.

Let us look at what is happening to our trade balance. This is the merchandise trade deficit. You will see this is dangerous, in my judgment, and very alarming. You won't hear anybody come to talk much about it. This is sort of the unseen, the hidden part of our policy that will cause, in my judgment, substantial problems in the future. You can make a case that the budget deficit, the big budget deficit—incidentally, it is the biggest in history—will be repaid. It is a deficit the American people will repay to themselves. You can make that point. But you cannot make that point with the trade deficit. This large trade deficit will inevitably be repaid by a lower standard of living in this country. It is getting worse and worse year after year after year. And every single year, when another trade agreement is brought to the Senate floor, we are told what a wonderful agreement it is and how much we are going to sell and what good times we are going to have as a result of this agreement. Yet in every single case our trade deficit grows, jobs leave this country, and you will see that we are mortgaging this country's future.

Let me talk about some specifics, if I might. This is our trading partner to the north, Canada, a country with which we have a wonderful relationship. They, of course, have a terrific relationship with us with respect to this trade balance.

When we passed something called the North American Free Trade Agreement, we had a relatively modest trade deficit with Canada—somewhere in here. But now it has grown to be a very substantial trade deficit with Canada. I will talk a little about why in a few moments.

China is the granddaddy of trade deficits. You will see what is happening in China. We are seeing massive and record trade deficits, of $130 billion a year. It is getting worse, worse, worse, and it is going to hurt this country.

What about the European Union? We used to actually have a bit of a trade surplus with the European Union. That has gotten worse and worse. It is now nearly as large as the merchandise trade deficit we have with China.

Japan is another interesting one. Japan, while not quite as large as Europe and China, demonstrates the fundamental and relentless incompetence of policymakers in trade. Over and over again, year after year, every single year, we have this deficit with Japan, somewhere between $50 billion, $60 billion, $70 billion a year, every single year.

Now Mexico. We had this big old NAFTA, North American Free Trade Agreement we negotiated with Mexico and Canada. When we negotiated it, we had a trade surplus with Mexico and a modest deficit with Canada. We turned that into a big deficit with Mexico and a larger deficit with Canada. So much for whether this North American Free Trade Agreement worked.

We could not offer any amendments to any of these agreements because of this foolishness called fast track, which, incidentally, inhibits us today in the Senate on this trade agreement with Australia.

I will go through some of the examples. I could start by talking about Japan. I mentioned the circumstance with Japan. We have a large trade deficit with Japan, and it just keeps on going every single year, $45, $60, $70 billion, forever. Europe will not allow that, by the way, but we do. I am talking about Europe and its relationship with Japan. We are a country that, in most cases, converts what should be hard economic policy—that is, trade policy—into softheaded foreign policy and we do not want to take action anywhere to stand up for America's interests.

I will talk about Japan in the context of my State. We produce a lot of beef. We have a lot of ranchers who work hard. They get up in the morning and work on that ranch. They are hoping to make a decent living. They want to sell some beef to Japan. But guess what. Nearly 15 years after a beef agreement with Japan between our country and Japan, which was trumpeted on the pages of all the newspapers—the United States and Japanese trade negotiators reach agreement on beef—15 years later, there is a 50-percent tariff on every single pound of American beef that goes into Japan. That would be considered a failure under any circumstance here, but in our relationship with Japan, it is just fine—a 50-percent tariff on every pound of beef. Should we be able to send more T-bones to Tokyo? I think so, sure. The tariff actually went down to 38 percent, and because we got a little more beef in to Japan, it snapped back to 50 percent. It is symbolic of the trade problems we have.

Does anyone want to do anything? Do we hear anyone rushing off to try to solve that problem? No. No one talks about that problem.

Let me use the Chinese tariffs on cars for a moment. Two years ago we did a bilateral agreement with China—actually, almost 3 years ago, now—a bilateral trade agreement with China. Our country decided, through our negotiators with China—a country with which we have a large deficit and it is growing dangerously high—we decided in our bilateral trade in automobiles we would agree to the following: China, you can put a 25-percent tariff on any cars that we try to sell in China after a long phase-in and we will apply a 2.5-percent tariff to any cars that you might want to sell in our marketplace.

In other words, our negotiators signed up to a deal that said, we know you have a really big surplus with us, or we have a big deficit with you, but with respect to automobile trade, you go ahead and impose a tariff that is 10 times higher than the one we will impose on automobiles going back and forth between China and the United States.

Of course, right now, China is gearing up an auto industry for exports and our negotiators said it is fine for them to have a tariff that is 10 times higher than we would have. That is fundamentally incompetent. We do not know who negotiated that, of course. This is not a matter of Democrats or Republicans. It is just incompetence, gross incompetence.

I will talk a little about Korea and automobiles, and I have used this example many times. I don't have the latest year's data, but trust me, it is about the same. Over 600,000 Korean vehicles are coming into this country. Ships are on the high seas, packed with Korean cars, coming in so the American consumers can purchase them. Good for our consumers. But when 618,000 Korean cars come into our country for our consumers to purchase, guess how many American cars are in the Korean marketplace for Koreans to purchase? There are 2,800 U.S. cars able to be sold in Korea and over 600,000 Korean cars in the United States.

With respect to Korea, I might point out that we actually were making some progress recently. It was with a vehicle called the Dodge Dakota. When it looked as if that was beginning to pick up, we were actually going to be able to sell some in Korea, they did not like that and took action quickly to begin to shut that down.

The question is, Why will this country, when all of this translates to jobs here or there, why will this country decide it is all right in our relationship with Korea to have them ship 600,000 cars this way and then keep American cars out of Korea? It does not make any sense to me. What that means is fewer jobs in the United States and more in Korea. That means people are laid off here and people are hired there.

I know the agreement we are debating involves Australia, and I will talk about Australia in a couple of minutes, but it is important to put this discussion in a frame of reference. We will hear today by those who support this trade agreement that this is a wonderful agreement, this is nirvana, and if we just step back and we can see into the future, this will be new jobs, new economic growth, new opportunity. Nonsense. Total nonsense.

In each and every circumstance, our trade negotiations have resulted in trade agreements that have undermined our jobs and undermined our economic growth.

Want to talk about specifics? I will put the charts back up. Europe, Japan, China, Korea, Canada, Mexico—show me one of these circumstances where the trade agreement has buttressed the producers in this country, the employers in this country, the workers in this country toward new opportunities. In the aggregate, with each of those circumstances, we have lost ground rather than gained ground.

I know when we talk about this, people, especially the more institutional thinkers on this subject, say, well, your discussion demonstrates you do not get it, you do not see over the horizon, you do not understand what is happening internationally. This is a global economy. Why not shape up and listen and you will finally begin to understand this. You are nothing but a xenophobic isolationist stooge. Join the rest of the protectionists and just sit down.

I am not a protectionist, unless that means you want to protect the economic interests of this country, and if so I plead guilty and demand to be called that. I want to protect the economic interests of this country. I believe it is in this country's best interest to expand opportunities to trade. I believe that strongly.

For the first 25 years after the Second World War, our trade policy was almost exclusively foreign policy because we were trying to help others get back on their feet. But in the second 25 years after the Second World War, trade policy continued to be foreign policy when, in fact, it should have been harder nosed economic policy.

I began to raise questions about trade as a result of a trade agreement with Canada some long time ago. I suppose it was around 14 years ago. I was serving in the House of Representatives and I was on the Ways and Means committee. They were going to vote on the United States-Canada Free-Trade Agreement. It, too, was done with fast track, where no one was able to offer an amendment. A little provision was stuck in that agreement that allowed the Canadian Wheat Board, a sanctioned monopoly in Canada and which sells Canadian wheat through the monopoly—and that would be illegal in this country—to continue to move massive quantities of Canadian grain, underselling our farmers with unfair prices and secret prices into our country, into our marketplace. I raised those issues but to no avail.

So we came to the final vote on the United States-Canada Free-Trade Agreement and the vote in the Ways and Means Committee of the House of Representatives was 34 to 1. I was the one who opposed it.

I was told by all my colleagues: We want this to be a unanimous vote. It is very important for our committee. You must join us to get a unanimous vote on this trade agreement. I said: But the agreement is bad. The agreement is wrong. The agreement is going to hurt farmers and ranchers in an awful way in this country. So I voted no.

About 3 years later, I drove to the Canadian border one day, the border between North Dakota and Canada. I rode with Earl Jensen, who was driving a 12-year-old orange truck. It was a little old 2-ton orange truck. We rumbled up to border with some durum wheat on the back of his truck, all the way to the Canadian border.

On this windy day, we saw 18-wheel trucks coming from Canada to the United States, all loaded with Canadian grain, all of them headed to our marketplace, all of them with secret pricing, all marketed by the Canadian Wheat Board—a monopoly—which would be illegal in this country. All the way to the border we saw those trucks, dozens and dozens of trucks. The Canadians were saturating our marketplace, injuring our farmers in dramatic ways.

Well, we got to the border in this little old orange 12-year-old truck. We had about, I guess, 100 bushels of durum wheat in the back. When we got to the border station, the Canadian folks said: What do you have in the back of this truck? We said: We have durum wheat from North Dakota.

Remember, all the way to the border, we had 18-wheel trucks full of durum wheat from Canada going into our marketplace at secret prices. We found later, incidentally, they were at prices that were dumped prices that were designed to undermine our farmers. But we were told at the border station entering Canada we could not get just a small amount of wheat from the United States into Canada. Why? Because you just cannot. It is the way this works. It is a trade agreement. One side gets to dump all their products into our marketplace, and a little orange truck gets stopped going into theirs.

A woman from Bowman, ND, married a Canadian. She told me she came home to Bowman one day, and because she liked to make whole wheat bread, her dad from the farm loaded up some grain in a couple grocery sacks. She drove back to Canada after Thanksgiving. She got to the border. Again, all these 18-wheel trucks were hauling Canadian durum south. She got to the border, and they forced her to throw out these two bags of wheat from a North Dakota farm that she was going to take back into Canada to make whole wheat bread. It was because you could not take that into Canada.

There is not one person in this Congress, in my judgment, not one in the U.S. House, not one in U.S. Senate, who will stand up and say: Yes, that is fair. That is right. We support it. We stand by it. That is what we intended. Not one. Yet none will lift a finger to change it. And that is just one small example that got me involved in this question of fair trade. Why on Earth will this Congress not stand up for this country's economic interest?

When it comes to international trade issues with respect to the production of manufactured goods—I have mentioned before and let me do it again because I am not at all embarrassed by repetition, so let me do it again and again and again—the Huffy bicycles that are made in this country, which I have spoken about repeatedly, are a wonderful bicycle, but they are no longer American bicycles. Huffy bicycles, most people know, are bought at K-Mart and Wal-Mart and Sears. They are 20 percent of America's marketplace for bicycles. They were made in Ohio by workers who made $11 an hour. They were proud of their jobs. In fact, the Huffy bicycles had a decal on the front just below the handlebar with the American flag. But those workers in Ohio do not make $11 an hour. They were fired. Huffy bicycles are made in China for 33 cents an hour by people who work 7 days a week, in some cases 12 to 14 hours a day. And the people in Ohio, who were proud to make these bicycles, had to go home one day to say to their spouse: Honey, I've lost my job. It wasn't because I didn't do a good job. It wasn't because I didn't like my job. It was because I can't compete with 33-cents-an-hour labor.

I don't know, I guess this truly is a globalized economy. Globalization has galloped along, and we are not going to change it. Have the rules for globalization moved along quite so quickly? I don't think so. What are the rules for globalization?

The next picture is of a little red wagon most of us have ridden in. The little red wagon is called the Radio Flyer. This little red wagon was an American fixture for 100 years. For 100 years, they made the little red wagon in our country. Not anymore. It is gone. You buy labor for pennies an hour somewhere and have them make the little red wagon, and then make sure you have them make it in a way that allows them to sell it back into the American marketplace.

Yes, you can still buy the little red wagon. You can still buy Huffy bicycles in the American marketplace. But they are not made here. They show up as a big red bar on that trade chart I showed you, and that big red bar means jobs, and it means jobs that left here and went there. It means a worker in Ohio who made the Huffy bicycle now does not have a job. Because they are bad workers? No. Because they will not work for 33 cents an hour. They cannot do that.

So there are all kinds of elements to this issue of international trade, something that, in my judgment, is going to impose a substantial burden on this country with the kind of Federal deficits and kind of trade deficits we are now waging. You cannot experience these deficits year after year after year and not be forced, at some point, to turn to them, face them, and deal with them.

We ought not, in my judgment, deal with them by saying that we want to retreat from trade. Our country, in my judgment, should lead the world in trade—but lead the world in saying to others: There is an admission price to the American marketplace. There is an admission price here. You cannot, as a country, decide you are going to hire kids, pay them pennies, put them in unsafe plants, fire them if they try to form a labor union, and then produce your product and ship it to Pittsburgh or Fargo or Los Angeles or Denver. You cannot do that because we won't let you do that.

I will give you an example in China. This is a story from the Washington Post that I was interested in. It is a tragic story, but it is a story that mirrors a story of a couple of young women who came to a hearing I held a few months ago from Honduras who worked in a factory. You can find them all over the country—the young kids who work in a carpet plant at age 11. They tell us they have their fingertips burnt deliberately so that when these young kids are making these carpets with needles and they stick their fingers, it won't hurt because the burning of the fingertips creates scarring, so it does not hurt the kids when they stick themselves. You can find this all over the world.

Let me describe this story. This happened to be in China. In this article, it says:

> On the night she died, Li Chunmei must have been exhausted.
>
> Co-workers said she had been on her feet for nearly 16 hours, running back and forth inside the Bainan Toy Factory, carrying toy parts from machine to machine.
>
> It was the busy season before Christmas. Orders peaked from Japan and the U.S. for stuffed animals.
>
> Long hours were mandatory, and at least two months had passed since Li and the other workers had enjoyed even a Sunday off.
>
> Lying in her bed that night, staring at the bunk, the 19-year-old claimed she felt worn out.
>
> The factory food was so bad, she said she felt as if she had not eaten at all.
>
> "I want to quit," one of her roommates . . . remembered her saying. "I want to go home."
>
> Finally the lights went out. [She] started coughing up blood. They found her in the

> bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth. Someone called an ambulance, but she died before it arrived.
>
> The cause of Li's death remains unknown. But what happened to her last November . . . in southeastern Guangdong province is described by family, friends and co-workers as an example of what China's more daring newspapers call guolaosi.
>
> The phrase means "over-work death," and applies to young workers who suddenly collapse and die after working exceedingly long hour days, day after day.

Stories of these deaths highlight labor conditions that are the norm for a new generation of workers in China. Tens of millions of migrants have flocked from the nation's impoverished countryside to its prospering coast.

Perhaps more evidence is in a story about child labor in El Salvador—a country that our trade ambassador has just signed a new trade deal with:

Jesus Franco has scars crisscrossing his legs from his ankles to his thighs, and many more on his small hands. For more than half of his young life—he is age 14—he has spent long days cutting sugar cane, and he has the machete scars to prove it. And so do his four brothers age 9 to 19.

The point of this is simple: The rules of trade, in my judgment, have to be rules that recognize what we have accomplished in this country. We had people die on the streets in this country, demonstrating for the right to organize as workers. We had people demonstrate and die in the streets over that principle. It was a hard-fought battle to demand that workplaces be safe for workers in this country but which got there. It was not easy to get kids out of coal mines and kids out of manufacturing plants with child labor laws, but we did it.

This country battled long and hard on the question of what is fair compensation, and we have a minimum wage. We fought all of those issues and established standards. Do we now believe the conditions of international trade shall be that anyone who produces anything anywhere should have admission to the American marketplace to sell that product in our marketplace? I don't think so. We ought to lead on the basis of what fair trade relationships really are.

There are so many more issues dealing with international trade, many of them that affect our farmers, affect ranchers, affect workers. They affect businesses, small businesses trying to make a living.

The Australia trade agreement is brought to us as an innocent, rather innocuous agreement. It is not the CAFTA agreement, the Central American Free Trade Agreement, which is completed but will not be brought to this Congress before the election. That, of course, is for political reasons. The Australia agreement, despite the fact that I will vote no—and perhaps a few of my colleagues will vote no—will pass today. It is not as controversial as the Central American Free Trade Agreement, which is going to have difficulty in the Senate. But CAFTA won't come before the Senate in the coming months, because the President and the trade ambassador decided they don't want to bring it here before the election. They don't want to have this debate.

I want to have this debate. I don't think that is a Republican or Democratic problem. I think both political parties have shortchanged the country over two decades on trade policy. But we ought to have the debate now because it is about jobs, growth, and opportunity in the future.

Let me talk for a moment about Australia. As I indicated earlier, the Australia trade agreement is with a country that is similar to ours in many respects, a much smaller economy but similar. I don't allege this is the kind of problem we had when we were trying to connect a trade agreement with the country of Mexico, where you were trying to connect two countries with dissimilar wages and dissimilar standards. That is not the case with Australia. Australia is a wonderful country with great people. I would love to visit Australia. I have not yet visited Australia and would love to do that at some point.

My complaint is that we reach a trade agreement that consigns farmers and ranchers to great jeopardy. Let me tell you why. The Australians, like the Canadians, sell their grain, their wheat, through an Australian wheat board. In fact, it is the second largest exporter in the world, with 16 percent of the global share. Every grain of that that is sold internationally is sold through the Australian wheat board which is a sanctioned state monopoly, a state trading enterprise that would be illegal in our country.

We have been told time and again by the trade ambassador that we are going to deal with that. In future trade agreements we will not allow state trading enterprises to exist in circumstances where they can undercut our prices and dump their products into our country.

I described the circumstance in Canada with the massive quantity of grain coming down to our country and my not being able to get into Canada with a little orange truck with a few bushels. We have for years attempted to get information from the Canadian wheat board about the conditions under which they are selling into our marketplace at secret prices, and they have said: Go take a hike. We don't intend to tell you a thing. The prices are secret. We don't intend to disclose them. Get out of here. They told that to the GAO, which went up there at my request: We don't intend to tell you a thing.

What evidence we do have suggests that they, as most monopolists will do, abused their pricing power and decided at secret prices to undercut our marketplace, and they have dramatically injured our farmers. That is not only me speaking. That is from studies that have been done by the Center for Agriculture and Trade Research. They have calculated the dramatic amount of money lost by family farmers as a result of unfair trade.

Now we have an Australia trade agreement. The Australian wheat board continues to exist in this trade agreement. There is nothing in this agreement that says, as we hitch together and connect our two countries in a trade relationship, you must divest yourself or create a circumstance where you are not using a state trading authority unfairly. Nothing here prevents them from doing exactly what the Canadians do.

The Australians are also positioned to do great harm to our country on beef trade. There are almost no export benefits for our cattle and beef producers with this free-trade agreement. Given Australia's relatively small population, its very large cattle herd, and its position as the world's largest beef exporter, the potential of Australia becoming any kind of an importer of our beef is almost nil. Instead, the only significant benefit I can see and many can see as a result of this with respect to cross-beef trade will be the U.S. beef packing industry which will profit from increased imports brought in under this agreement.

The beef industry is highly concentrated in a way that is pretty dangerous. I mean dangerous to consumers because the more concentration you have, the more pricing power they have and the more they price profits away from ranchers and towards themselves. They price it in a way that is disadvantageous to consumers.

There are serious problems that could exist with respect to agriculture, and there is nothing anybody can do about that. I would love to offer an amendment that deals with these two issues, but you can't because of fast track.

Finally, there is a provision in this agreement that is particularly pernicious. This is a trade agreement with Australia that includes a provision on prescription drugs. This is from the New York Times:

> Congress is poised to approve an international trade agreement that could have the effect of thwarting a goal pursued by many lawmakers of both parties: The import of expensive prescription drugs to help millions of Americans without health insurance.
>
> The agreement, negotiated with Australia by the Bush administration, would allow pharmaceutical companies to prevent imports of drugs to the United States.

This is a trade agreement, and they stick in a provision about prescription drugs. They did the same in Singapore.

My guess is, they will do it every chance they get. What is this? It is anticonsumer, pro-pharmaceutical industry. It is an attempt to thwart those in this country who want to find a way to put downward pressure on prescription drug prices. How might one do that? By allowing the market system to act.

We pay the highest prices for prescription drugs in the world, and yet we are not able to purchase the identical prescription drug, the same pill put in the same bottle, made by the same manufacturer, from a pharmacist who is 5 miles north of the United States-Canada border.

A man talked to me the other day in North Dakota. He said his wife had breast cancer and she has taken the drug Tamoxifen for her breast cancer for 5 years and has just finished. She is now off the drug. For 5 years they traveled to Canada to buy their 90-day supply of Tamoxifen and bring it back across the border because they will allow 90 days of importation for personal use of prescription drugs. A pharmacist can't do it, but an individual can if they live near the border. So for 5 years they traveled to Canada. Why? Because you can buy Tamoxifen in Canada for 10 percent or 20 percent of the price you will pay in the United States.

Why can't a pharmacist or a distributor go to Canada and buy that prescription drug? It is FDA approved, a drug that is put in the same bottle, made by the same company.

Another example is Lipitor. Lipitor is made in Ireland. It is one of the bestselling drugs in our country for the lowering of cholesterol. It is sent from Ireland to two places. It is made in Ireland in an FDA-approved plant. It is sent to Winnipeg and then Grand Forks, ND, and all over the world, of course. But the difference between the same bottles that are sent to Grand Forks, ND and Winnipeg is in Winnipeg you will pay $1.01 per tablet, and in Grand Forks you pay $1.81 per tablet. What is the difference? About 100 miles and a border and a provision that protects the pharmaceutical industry from reimportation. That is helped, with respect to Australia and other countries this administration intends to negotiate trade agreements with, by their sticking in this trade agreement a provision dealing with the reimportation of prescription drugs. It is anticonsumer, and it shows how little regard those who negotiated this have for the marketplace. Let's let the marketplace be the arbiter of consumer prices on prescription drugs. Let consumers have opportunities to access prescription drugs in other areas where there is a safe supply.

The Australia Free Trade Agreement is going to be passed by the Congress today—not with my vote, I might add, because I think it undercuts and potentially injures family farmers and ranchers and our senior citizens who need affordable prescription drugs.

I hope that even as we do this, as the Congress addresses this issue, those who care about the long-term economy, long-term economic health of this country, opportunities and growth of this country—I hope they will take a hard look at these trade relationships and about our aggregate trade deficits that are growing alarmingly. I am not asking that we today do anything that is particularly radical. I am saying we need to address these things. Can we, will we, should we address the trade deficit with Europe that is growing rapidly? Should we, can we address the trade deficit with China that is moving rapidly up, the highest in the world? Mexico? Canada? Korea? Can we address any of those? All of them relate to American jobs.

It is safe to say there is not one Member of the Senate who comes to work with a blue suit every day and takes a shower in the morning, not at night, because that's the nature of our job—it is safe to say there is not one Member of the Senate that ever lost his or her job because of a bad trade agreement. It is probably safe to say there is not one journalist in this country who consistently writes about trade issues and seldom talks about these trade balances. It is safe to say they have never lost their job because of a bad trade agreement. But we can talk about a lot of people who have. We have a chart that shows the number of people who have lost their jobs with respect to NAFTA. This is not my speculation; these are companies that actually applied to the Department of Labor as a result of laying off workers due to the North American Free Trade Agreement. There was a provision in NAFTA that if you lay off workers as a result of NAFTA, you can apply for trade adjustment assistance. Here are the top 100 companies certifying they laid off United States workers due to our trade agreement with Mexico and Canada—mostly Mexico in this case.

Levi Strauss is No. 2. They laid off 15,676 people. Levis are all-American. That is like bicycles and little red wagons, right? When you buy Levis these days, you are not buying American.

Fruit of the Loom shorts and T-shirts used to be made in America. I always said it is one thing to lose your shirt but now Fruit of the Loom is gone.

From these 100 companies alone, a couple hundred thousand people lost their jobs. They all had hopes, dreams, and aspirations. They love this country and try to do their best. They were told by any one of these companies, sorry, you are out of work, we are moving to Mexico.

Next time you buy a Fig Newton cookie, guess what. You are eating Mexican food. Fig Newtons were made in America for a long, long, long time. But Fig Newtons, like Levis, like Fruit of the Loom, are now Mexican. When somebody says let's have Mexican food, go buy some Fig Newtons.

The point is this: We had people working in all these areas producing these products. I will go back to the chart that I used when I began about what has happened in the aggregate to our trade deficit year after year after year. It shows this very substantial failure. All of these big deficits represent jobs that moved, jobs that should have been here but are not, jobs that could have been created here but weren't, or jobs that were here and left.

Let me again say I don't believe the solution to this is putting up walls, deciding that we are isolationist, that this is not an international economy. I believe the answer to this is to finally use the term fairness in the context in which it ought to really mean fair trade for all countries. Trade agreements should be mutually beneficial. But these trade agreements, the ones I have described, consistently and relentlessly have been unfair to this country. We were big and strong enough in the 25 years after the Second World War to withstand that. We were the biggest, strongest, and best in the world, and we could take any country on in economic competition and beat them with one hand tied behind our back. After World War II, we were that good. As other countries grew and became stronger and better, they became tough international, economic competitors. Our trade policy never changed. It largely remained foreign policy.

Last year, the administration's Trade Policy Review Group recommended take action against China, for failing to live up to its obligations on China trade. But the administration didn't. Why? Because the administration concluded that this would upset the Chinese. That is foreign policy; it has nothing to do with hardnosed economic policy.

This country lives in a world in which we have incredibly tough competitors. It requires us, it seems to me—if we are going to maintain this standard of living, it requires us to care a little about the preservation of that standard of living, and that in turn depends on both the entrepreneurs and those who work, the producers and the workers.

We have not done nearly what we should do in this country to stand up for our economic interests on international trade. I believe trade can be good, but much of the trade we have been engaged in in recent years has resulted in the largest trade deficit in history and will inevitably detract from this country's opportunity to grow, prosper, and create new jobs in the future, unless and until this Congress and this administration stand up and understand we need to take action on behalf of our country to protect our economic interests. All I ask for is fair trade.

I will vote against the Australia Free Trade Agreement because it contains three bad trade provisions, because we cannot get these removed due to fast track, which itself is an unfairness perpetrated in the Congress.

My expectation is that, even without my vote, this free-trade agreement will pass. But I will be back to talk about trade issues in the future.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Ohio.

Mr. VOINOVICH. Mr. President, with a sense of regret, I come to the Senate floor to speak in opposition to the legislation before us to implement the free-trade agreement negotiated by the administration with our good friend and ally, Australia.

One thing I have made clear throughout my career in Government is the fact that I believe in free trade. As Governor of Ohio, I supported NAFTA and the establishment of the WTO. As a Senator, I supported permanent normal trade relations for China, the Andean Trade Preference Expansion Act, and the so-called "fast track" trade negotiating authority. I also supported our FTAs with Jordan, Chile, and Singapore.

Until very recently, our economy has been bleeding jobs—23,000 manufacturing jobs lost in my State of Ohio between May of 2003 and May of 2004, which is over half of the total 41,000 jobs lost in all sectors.

While I still firmly believe in free trade, I cannot stand idly by while our trade laws are ignored by other countries and go unenforced by our own. I will no longer allow the illegal trade practices of other countries that put good, hard-working Americans in the unemployment lines to be disregarded, because that is exactly what is happening.

When it comes to trade, China is the elephant in the room that everyone is afraid to acknowledge because they fear it will rear its ugly head. It seems as if we want to waltz with the Chinese and, for some reason, we are afraid to step on their toes for fear they might get mad.

As I and many of my colleagues see it, the two most prevalent trade issues we face are the manipulation of China's currency and their resistance to reform and enforcement of their intellectual property rights laws as required by their WTO accession agreement.

My good friend and colleague from South Carolina, Senator LINDSAY GRAHAM, and I held a press conference last month to highlight a finding in a report by the United States-China Economic and Security Review Commission, a Commission we in Congress created to suggest changes to current U.S. policies with regard to China.

The report issued by the Commission was quite alarming, and I suggest that every Member of both this and the other body read the trade sections of that report.

The Commission reinforces what I have been hearing from Ohio businesses and what I have been saying for years: China is not trading fairly and is hurting Ohio workers and American workers. As we know, since the early 1990s—this is the early 1990s—China has pegged its currency at 8.28 yuan per dollar, which is believed to be anywhere between 15 and 40 percent lower than it should.

This action has the effect of making U.S. products more expensive than items produced domestically. It also makes the retail prices paid here in the United States for Chinese goods artificially low, generating less demand for our domestic products. If demand is lowered both here and overseas of U.S.-manufactured goods, companies will lose money and lay off workers. They already have.

The Commission's report states that if China were to end its currency manipulation, it is believed other East Asian countries, such as Japan, Taiwan, and South Korea that have also manipulated their currencies in order to remain competitive with China, would also follow suit and end their manipulation.

The Commission has arrived at a unique solution to China's currency manipulation. They do not believe China's currency should be floated, as are most developed countries' currencies, because China's banking system and financial markets are simply not prepared. Instead, they recommend that it be pegged to a "market basket" of several trade-weighted currencies to avoid fluctuation of any one country. That is exactly the kind of "outside the box" thinking Congress had in mind when we created the Commission as part of the fiscal year 2001 Defense authorization bill.

The Commission recommends that the administration take strong action to thwart China's exchange rate practices, something I have repeatedly urged the administration to do myself.

Last fall, I introduced the Currency Harmonization Initiative through Neutralizing Action, CHINA, of 2003. This legislation requires the Secretary of the Treasury to analyze and report to Congress within 60 days whether China is manipulating its currency to achieve an advantage in trade. The CHINA Act also expresses the sense of Congress that the administration should pursue all means available to remedy China's currency manipulation.

The other pressing trade issue is China's lack of enforcement of intellectual property rights laws. This issue at least is getting some traction in the Senate. Unfortunately, not enough of my colleagues are aware of how bad this situation is or of how long the situation has persisted.

In April 1991, China was named a priority foreign country by the USTR under section 301. After further investigation, the U.S. threatened to impose $1.5 billion in trade sanctions if an IPR agreement was not reached by January 1992. While that deadline was met, by 1994, the USTR again listed China as a priority foreign country because they failed to properly enforce their laws. New talks failed for almost a year before a new agreement regarding Chinese IPR laws was reached.

As part of their new commitment, China agreed to take immediate steps within 3 months, establish mechanisms for long-term, effective enforcement, and provide greater market access for U.S. products. In 1996, USTR again listed China as a priority foreign country for not fully complying with the latest agreement. Talks stalled until China was threatened with $2 billion in sanctions when they reportedly satisfied U.S. demands.

However, the problem remains as estimates show the piracy rate for IPR-related products in China to be around 90 percent. Chinese law enforcement officials often lack the resources or the will needed to vigorously enforce IPR laws. Under the terms of the Chinese accession to the WTO, they were to immediately bring their IPR laws into compliance with the WTO Agreement on Trade Related Aspect of Intellectual Property Rights.

This also has not happened as promised. U.S. firms are still losing billions of dollars per year in China alone, and all we have to show for it is a string of broken promises that started in 1991.

I remember being in China in 1995 with a trade mission and speaking to the Chinese Government about the importance of enforcing their intellectual property rights. They said: Yes, we are going to do it. Here we are, 2004, and they have not continued to do the job they are supposed to be doing.

Regardless of China's staggering piracy and counterfeiting operations, they are far from being the only problem area in the world. The U.S. Trade Representative lists 18 countries as ones with which we have "significant concerns" with respect to their IPR laws and enforcement. In my opinion, this is far too many countries flouting their international obligations.

In the Governmental Affairs Subcommittee which I chair, I held a hearing on April 20, 2004, that focused on intellectual property violations in the manufacturing sector of the economy, and another on December 9, 2003, which examined the ability of the Department of Commerce and the U.S. Trade Representative to negotiate, monitor, and enforce our complex trade laws in a rapidly shifting global trade environment.

Also, just last month, I participated in a hearing held by Chairman LUGAR in the Foreign Relations Committee which focused on China's inability to enforce intellectual property rights when it comes to music, films, and software. To quote the testimony of Jack Valenti, the head of the Motion Picture Association of America:

> Piracy problems are only becoming more severe. In 2002, the piracy rate in China for American films, home videos, and television programs was about 91 percent. In 2003, the pirates captured at least 95 percent of that market. The current level of piracy is worse than it has been at any time since 1995 when it was 100 percent.

But these industries are only the beginning of those suffering from China's disregard for international standards.

Perhaps the greatest problem to overcome is to change the perception in many countries that intellectual property rights do not exist. For U.S. manufacturers, artists, filmmakers, and others, the protection of intellectual property is not an abstract concept because at stake are their livelihoods and those of the people who work with them and for them.

We must make it clear we will not tolerate these trade violations. If the United States were to, in some way, violate a trade pact, the whole world would be beating down our door demanding we change our ways and pay for damages. But when we ask that countries follow the trade pacts to which they already agreed, we are denounced as bullies. Well, I say, let's be bullies.

My concern is that we may not be able to be bullies because, as I learned in my hearings, we do not have the mechanism in place to enforce our trade laws. In other words, we do not know who we should bully around because we do not know who is breaking what agreement. Moreover, testimony indicated that our Government is not doing anything to help the companies that are having their intellectual property stolen.

The state of enforcement is nothing short of abysmal. Amazingly, USTR only employs a grand total of 225 people. It has become painfully obvious that this is an insufficient number of employees to negotiate, monitor, and enforce our trade deals.

Given the impact of changing global economic forces, it is important for our trade agencies to have the right people with the right skills and knowledge to effectively monitor and enforce our complex trade agreements.

It was clear from the testimony delivered at the hearing that our Department of Commerce, the Customs and Border Protection Agency at the Department of Homeland Security, the USTR, and the rest of the 17 or more Federal agencies responsible for monitoring and enforcement of our trade agreements cannot do so effectively.

This could accurately be described as a case of the left hand not knowing what the right hand is doing. In my days of service in government as a Senator, Governor, and mayor, I have never seen such a hodgepodge of agencies and departments struggle with a relatively simple mission to enforce our trade laws.

Following my April hearing, I visited the Web site given as an example of what the Federal Government was going to do to help manufacturers that had become victims of counterfeiting. On that Web site was a telephone number, which I called. However, the person on the other end of the line had no idea that anyone but those with problems relating to immigration would ever be calling that number.

So I called later and I told them who I was, GEORGE VOINOVICH, U.S. Senator, and that I wanted to know what resources were available to victims of counterfeiting, and eventually I was connected to the correct person. Small business owners should not have to deal with such nonsense when asking their Government for assistance.

I am pleased to say that those answering the line are now aware of this other function. But the way it works is, if I am an Ohioan who has an IPR problem, I call this number and then they give me the number of my local Customs office and ask me to call them to begin my complaint. That is ridiculous. It is absolutely no help whatsoever to smaller manufacturers in this country.

I have been pressuring this administration at the highest levels to address the many issues we have with China. In March of this year, along with Senators LINDSEY GRAHAM, SCHUMER, and DURBIN, I sent a letter to President Bush requesting an emergency meeting with the President, Treasury Secretary Snow, and Ambassador Zoellick to discuss concrete action regarding continuing illegal undervaluation of China's currency. That was 5 months after I wrote to Ambassador Zoellick, Secretary Snow, and Commerce Secretary Evans urging them to initiate a 301 investigation into China's practice of currency manipulation.

The response we received from the administration? None. Nothing was known about the stance of this administration until April 28 of this year when Secretaries Snow, Chao, Evans, and Ambassador Zoellick held a press conference to announce they would reject a yet-to-be-filed 301 petition requesting an investigation into China's currency manipulation. Needless to say, I was extremely disappointed that the administration would announce such a position before even receiving the petition documents.

China continues to tolerate rampant piracy of copyrighted U.S. material, with rates of piracy running above 90 percent across all copyright industries for 2003.

This year, piracy is estimated to cost U.S. industries $2.6 billion. Technology has made it much easier to copy or steal the engineering, packaging, and so forth of a product than in the past.

I was talking with a shareholder in a golf club manufacturing outfit 6 months ago. He said that within 3 days after they put a golf club out on the market they were already counterfeiting it in China and sending it to the United States.

Another example, in my own State, Gorman-Rupp Company of Mansfield, which testified at my April hearing, since 1933 has designed and manufactured pumps used for many applications, including water, wastewater, petroleum, government uses, and agriculture. A Chinese company has not only copied and exploited Gorman-Rupp product manuals and performance specifications, but the Gorman-Rupp logo is still displayed on the products in the Chinese company's literature. In other words, this is a case where they copied the machine, the pump, to a "T," then they used the same promotional material that Gorman-Rupp uses for their material. They copied it line and verse and are using it to promote their pirated product.

Unfortunately, patents do not protect American manufacturers.

America's competitive edge is derived from innovation and the resulting steady influx of new products and services. Intellectual property rights protect and promote this innovative spirit. In too many cases with too many foreign countries, our intellectual property is the last edge we have because of a fundamentally unbalanced playing field.

Many of our competitors do not have to consider environmental standards, labor laws, employee safety, litigation costs—and this Congress has to do something about litigation costs in this country. It is a tornado cutting through the economy and we just sit here and do nothing—health care costs. Losing our intellectual property is the last edge we have.

The United States-China Economic and Security Review Commission believes the administration should file a WTO dispute on the matter of China's failure to protect IPR and to promulgate and enforce WTO-required laws. To quote the report:

> Follow through and action have been limited. . . . The Commission believes that immediate U.S. action is warranted.

I hope my colleagues read the report. The Commission believes that immediate U.S. action is warranted on this issue. There is a sense of urgency. We are just going to Tweedledee Tweedledum? We have done nothing since 1991 on IPR and it is now 2004 and we are still doing nothing?

As I said, I believe in a fair playing field in which competitive and comparative advantage wins the day. We cannot continue to let countries walk all over us. The one country that everyone seems to be afraid to call on the carpet for flagrant violations of their international agreements is China. I do agree with some of my colleagues that maybe the reason we are not doing it is because of foreign policy decisions, but we have to put a stop to China's illegal and unethical trade practices.

There are people who come into my office and literally shed tears, people who have been in business for years, and they are going out of business because of competition from China because of the fact they have taken their patents. So we need to do something. We have to do something now.

Despite these overwhelming problems facing our Nation's manufacturers, I must say I have yet to see any significant action on behalf of the administration to respond. Now I have talked to some people and they say, oh, yes, GEORGE, we are working on this; we are talking to people; we are negotiating and we are doing this.

Well, it is time to bring it to the surface. Let the American people know what they are doing instead of hiding out. Make it an issue. Let the Chinese know we are serious about this thing. Let them know the U.S. Congress is serious about it. Let them know the administration is serious about it. So we can get some action.

Last month I made it known that I would not support any new trade agreements until there was a movement on these two fronts, and that makes me feel very bad. I am a free trader. I believe in free trade. But we do not have fair trade. Maybe the only way this Senator from Ohio, who has a lot of people who are on the edge of losing their businesses, can maybe get someone's attention in the administration to get out and start talking about this the way they should be so the American people, and particularly the voters in Ohio and the manufacturers and the people losing their jobs, is to say to them I will not support any other trade agreement on the Senate floor until they do something about the currency manipulation in China and the enforcement of intellectual property rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I see the Senator from South Carolina. I know he wants to speak so I will be succinct in my remarks.

I have listened to the Senator from Ohio, whom I greatly respect. I believe there are good free-trade agreements and there are bad free-trade agreements. I believe the proposed United States-Australia Free Trade Agreement is a good free-trade agreement. I intend to vote for it. I believe it will strengthen our economy. I believe it will create more jobs in the United States and it will also strengthen the historic close ties between our two countries.

I have a special fondness for Australia. In 1987, when I finished two terms in the Governor's Mansion, our family moved to Australia and we lived there for 6 months, my wife and I and three teenagers and a 7-year-old. I remember my 7-year-old son wanting to know if there would be McDonalds there. I remember fly fishing in Tasmania with my older son Drew, and thinking I was about as far from Nashville as I could get on Earth. I think maybe I was.

We didn't know much about Australia when we went, but we learned about Australia there, and we found it a great place to learn more about our own country. In spite of the distance between our countries, our countries could not be closer. Australians and Americans are literally cousins, almost first cousins. We are both pioneers. We both started out as underprivileged people. In some cases, our ancestors started out as prisoners, stuck in a new place, far from home, trying to find a new life.

They lived hard lives, those earlier ancestors, but each generation worked hard to make life better for the ones who came next. We successfully settled continents and, from a patchwork of natives and immigrants, created a unique identity, of which we are each proud.

It is our similarities that have led us to the close relationship we enjoy today. Australia has been one of our staunchest allies in our toughest times. We stood together in World War II, in Korea, in Vietnam, in the first gulf war, and in Iraq today. Australia contributed more than 2,000 troops to the effort in Iraq and has been a strong supporter in the war on terror. Their F–18 fighter aircraft have joined ours in air strikes on enemy military targets. Few countries in this world have been stronger allies of ours than the Australians.

Even before this agreement, Australia has been one of our major trading partners—$28 billion in two-way trade annually passes back and forth between the United States and Australia. In fact, the United States enjoys a rare trade surplus with Australia, $9 billion last year.

This agreement means our relationship can only grow stronger. It is good for us. It is good for them. The U.S. Trade Representative estimates the agreement will generate at least $2 billion per year in dollars for both countries by the year 2010. More than 99 percent of United States exports of manufactured goods to Australia will become duty free immediately upon ratification of this agreement—the most significant, immediate reduction of industrial tariffs ever achieved in a United States free-trade agreement. Australia in turn will see the elimination of tariffs on more than 97 percent of its exports. U.S. investment in Australia will increase, and closer ties with the United States economy will generate investment in Australia from all over the world.

I believe the United States-Australia Free Trade Agreement is good for our economy and it is good for our alliance. It benefits the farmers and manufacturers and investors and citizens of Australia as well. It further opens the door to trade in Southeast Asia, one of the fastest growing regions in the world.

I am pleased to add my voice in support of this momentous agreement and to celebrate the further strengthening of the tie between the United States and our first cousins in Australia.

The Senate will be talking about the tobacco buyout later today. I will be voting for the proposed amendment when it comes up.

Tobacco farmers in Tennessee have increasingly struggled to succeed under the antiquated federal supply and price controlled tobacco programs. I grew up in East Tennessee, and small family tobacco farms were a part of the lifestyle and economic vitality of that area where my family has lived for seven generations. Because of the Depression-era federal tobacco programs, the number of tobacco farmers in Tennessee has decreased from more than 35,000 farms in 1980 to roughly 20,000 today. Revenue has gone down by $25 million. We have 80,000 Tennesseans who depend on quota lease payments for some part of their income.

This legislation, that I intend to vote for, will provide a short term bridge to tobacco growers and quota holders and the communities in which they live. Tennesseans who own quotas will receive a fair transition away from lease income they have received. Growers will receive transition payments as well. The buyout would last over ten years and mean roughly $1 billion to the family farmers, quota lease owners, and communities in Tennessee.

I believe if we pass this legislation that it can be combined with what has passed the House of Representatives to be a program that is fair to the tobacco growers, good for the economy and doesn't cost the American taxpayer one red cent. It's hard to come up with a combination that good very often.

I have not been a fan historically of FDA regulation of tobacco, a legal product, and while I am not 100 percent satisfied with the FDA proposal, I am willing to accept this compromise in order to move the tobacco buyout forward.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to speak for 20 minutes of the time under the control of the Democratic manager.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, right to the point with respect to the Australia trade agreement, I join my friend from Tennessee in endorsing this particular trade agreement. Trade is what we say it is, a trade for the benefit of the particular countries involved. It is not aid. People wonder why we are in such difficulty. The difficulty lies in the proposition that the old David Ricardo doctrine of comparative advantage has been superseded now, not by any doctrine of natural advantages, such as Ricardo had in the early 19th century when he enunciated that particular doctrine, but it is contrived and we are the contrivers. We are looking at them, my colleagues in the Senate and the House, the Government itself.

If anybody wants to improve our position on trade, we can go right to the particular beef with respect to the distinguished Senator from Ohio. He said he called the Secretary of Treasury and asked that there be a petition for an investigation of China's trade practices, a 301 proceeding. He didn't get any results.

I see the distinguished ranking member, former chairman of our Budget Committee, on the floor. If you looked at 11 o'clock this morning, the public debt to the penny is $484 billion. Last year we ran a deficit of $562 billion. Don't give me this off-budget and on-budget, public budget, Government budget, private budget, or whatever else. No, that is how much more we spent than what we took in. It is already $484 billion and I will take all bets it will exceed $600 billion.

In fact, although they talk about the war and everything else of that kind, during the 5 years of World War II from 1941 to 1945, during that 5 years we added to the debt $200 billion, in the war to end all wars. We add that every 4 months under this administration, some $200 billion.

I mean, we are up, up, and away. So when you call over to the Secretary of Treasury and the Secretary of Treasury calls over to the Minister of Finance in Beijing, China, and he says: You know, you have good Senators. They are on my back. They are complaining. We have to get something done.

He says: Well, I am sorry, but we will have to quit, we will have to stop buying your bonds, quit financing your debt.

Japan has $400 billion of this Treasury. The Chinese have over $150 billion. So when we do not pay the bill and everybody says tax cuts, got to have tax cuts to get reelected—you now meet yourself coming around the corner. That is why you can't get the Secretary of Treasury to do anything on trade.

But let me go to Australia. The general measure of a good trade agreement is that it is with those countries that have relatively the same standard of living. The reason I point this out is because they would be amazed for me to come up in favor of a trade agreement. They have me down as a textile protectionist, and I have passed four textile bills that have gone through the House and Senate and been vetoed by Presidents Carter, Reagan, and George Herbert Walker Bush.

But be that as it may, yes, I voted for the Canadian Free Trade Agreement but against the Mexico Free Trade Agreement on NAFTA. Why? I can see my friend Senator Moynihan from New York saying: Wait a minute, down in Mexico they have to have a free market before they can have free trade.

There was the common market approach in Europe. Before they allowed Greece and Portugal into the common market, they taxed them as members of the European Union over a period of years for $5 billion, so that it could develop the entities of a free market, labor rights, respected judiciary, property rights, and the other things that go along with capitalism. Obviously, Australia, we always whine. I can hear my labor friends: We have to have labor rights, we have to have environmental protection. They have better labor rights in Australia and better environmental protection in Australia. But they have relatively the same standard of living.

Right to the point: We have a plus balance on trade. You don't get every one of the protections. There are some protections in there for beef, and there is a gradual opening. They phase out the tariff rate quota on dairy products over an 18-year period. And they import sugar. It is not liberalized in any way. That has been protected for the United States. Australia has maintained its monopolies on wheat, barley, and rice. They receive the right to maintain or restrict the foreign content of television programs.

In other words, they protect local production and the pharmaceuticals. We thought a bill was coming up shortly with respect to pharmaceuticals in Australia. They subsidize the drugs for the population there. Therefore, they wanted to restrict drugs coming from Australia into the United States because they didn't want to start subsidizing American consumers.

There are a few exceptions. But it is a solid agreement.

We don't have a better friend—whether we were going into Korea, whether we were going into Vietnam, whether we were going into Iraq. I am telling you right here and now that the best friend we have ever had is Australia.

We have relatively the same standard of living with different restrictions here, there, and yonder. If we can't get an agreement with them, who?

Let me talk about another particular point. There is none better in the Senate than my distinguished colleague from North Dakota, Senator BYRON DORGAN. He was talking about fairness.

After World War II, we started the Marshall Plan, and financed the development of Europe and the Pacific rim countries. We sent the equipment, the expertise, the money, the technology, and it worked. We spread capitalism. It has prevailed over communism in the Cold War, and everybody is happy. But in that 50-year period, instead of following our example by giving up a good part of the textile industry, giving up a good part of the automobile industry, giving up a major part of the electronics industry—and I could go right on down the list, steel and otherwise—they didn't follow suit.

When they talk about free trade, it is interesting to look at the 1992 foreign trade barriers. Some act like we have to set the example. We tried that for 50 years and flunked. We have flunked the course.

In 1992, they had 265 pages of restrictions in the foreign trade barriers—the Office of the U.S. Trade Representative. Then in 2002, 10 years later, they had exactly 455 pages. It went up by 200 pages. Since I have been doing this, the Trade Representative has put out a newer one in smaller print. No kidding. They are clever over there. They don't think you are watching.

The movement is to protectionism. How in the Lord's world do you think we are going to survive in a trade war? That is what we are in—protectionism for free trade.

The question before this body is how to get there. Come on.

It is like world peace. Everybody is for world peace, but the best way to preserve the peace is to prepare for war. The best way to attain free trade is raise the barrier to a barrier. We then remove both. It is competition.

It is trade. The word "trade," free trade is an oxymoron. There is nothing free. There is no free lunch.

I can tell you now in this globalization, come on. Senator, you don't know anything about globalization. You don't want to compete. You don't understand. We have globalized. We have globalization going on.

Did you know that the United States of America invented globalization? We invented it under Alexander Hamilton. We had just won our freedom as a fledgling colony.

The Brits said, Wait a minute, to Hamilton, we will trade with you what Britain produces best, and you in the new United States of America trade back with us what you produce the best. Hamilton started globalization. He told the Brits to bug off in his Report on Manufacturers.

We started globalization, and we have continued it.

Do you know what it takes for protectionism? We didn't even pass an income tax until 1913. We financed government for 100 and some years.

Theodore Rex said, on page 21—this is the turn of the last century under Teddy Roosevelt.

> This first year of the new century found her worth twenty-five billion dollars more than her nearest rival, Great Britain, with a gross national product more than twice that of Germany and Russia. The United States was already so rich in goods and services that she was more self-sustaining than any industrial power in history.
>
> Indeed, it could consume only a fraction of what it produced. The rest went overseas at prices other exporters found hard to match. As Andrew Carnegie said, "The nation that makes the cheapest steel has other nations at its feet." More than half the world's cotton, corn, copper, and oil flowed from the American cornucopia, and at least one third of all steel, iron, silver, and gold.
>
> Even if the United States were not so blessed with raw materials, the excellence of her manufactured products guaranteed her dominance of world markets. Current advertisements in British magazines gave the impression that the typical Englishman woke to the ring of an Ingersoll alarm, shaved with a Gillette razor, combed his hair with Vaseline tonic, buttoned his Arrow shirt, hurried downstairs for Quaker Oats, California figs, and Maxwell House coffee, commuted in a Westinghouse tram (body by Fisher), rose to his office in an Otis elevator, and worked all day with his Waterman pen under the efficient glare of Edison lightbulbs. "It only remains," one Fleet Street wag suggested, "for [us] to take American coal to Newcastle." Behind the joke lay real concern: the United States was already supplying beer to Germany, pottery to Bohemia, and oranges to Valencia.

We walked into the World War II Memorial and over on the right-hand side you see a saying by President Roosevelt in 1942 of how we won that war. He gave tribute to Rosie the Riveter, the American production machine. That is how we built it, with protectionism.

Now for 50 years, we have given it away. We continue to want to give it away and put ourselves in the hands of the Chinese and Japanese by not paying our bill. They are financing our debt.

There you are. That is the reason for the situation we are in. We are the ones to blame. Before you open up Smith Manufacturing, you have to have clean air, clean war, Social Security, Medicare, Medicaid, minimum wage, plant closing notice, parental leave, safe working place, safe machinery, the Americans with Disabilities Act—I can keep on going. But you can go to China for 58 cents an hour and have none of those requirements.

America is leaving and organized against us and the U.S. Chamber of Commerce has turned into the International Chamber of Commerce. The multinationals are taking it over and they are all hollering, "free trade," "free trade," continuing to produce overseas, dump back into the United States. And we are in the hands of the Philistines; namely, WTO.

Every time we bring a dumping case, they say it is violative of WTO. You can't sell a product at less than cost in the United States but you can take a foreign Lexus automobile and sell it for $35,000. That same automobile sells for $45,000 back in the Tokyo market. The competition is market share; it is not profit.

This is a very complicated subject. We have to come to grips with it. There are going to be exceptions to those countries that have the same standard of living. You have your national interests and national concerns.

I voted for free trade with Jordan. She is our only friend out there helping us with Israel in the Middle East. So you make those exceptions because it is in our national interest to do so.

But the general rule of thumb is, it is the standard of living, and on trade itself, we have to get organized. We need, instead of a Department of Commerce, a Department of Trade and Commerce. We need to transfer the special Trade Representative over there. We need to start enforcing our laws, get a U.S. attorney, an assistant U.S. Secretary of the Department of Justice as we have on the antitrust division and put him in there in the trust division with us in trade.

We have to get more Customs agents. We have to get in and start competing and quit whining against each other and understand we are not getting anywhere. We are going out of business every day. Exports and imports have been going up years on in, but, for the first time, our exports, now, have gone down in the last 4 years, rather than up.

Yes, thank Heavens for the farmer. I see the American farmer on the floor of the Senate. Thank Heavens we have the plus balance of trade there. Other than that, we are not making anything anymore.

Of course, in Europe, which was a good market, they do not want to buy anything from us on account of Iraq. We have turned them off. We are not only having to pay for Iraq in human tragedy and otherwise, but we have to pay for it in our trade balance now with Europe.

I could go right on down the list. Just one word. Yesterday, I picked up the article with respect to William Safire. Safire said we had no agents in Iraq, none. I have seen one figure $30 billion and another figure $40 billion intelligence effort and we had nobody in Iraq. It reminds me when I served for 8 years on the Intelligence Committee and we came back in before the gulf storm—the "we" being Senator Bill Cohen and myself—and we wanted to get briefing on Saddam going into Kuwait. They told us the CIA didn't have anybody that could brief us. We had to send over to the Defense Department.

George Tenet was the staff director at the particular time. Here, some 10 years later, we still don't have anybody. Do you know what they told me why we didn't have anybody? Because Israel will tell us. Mossad is the best intelligence in the world. And all of this dog chasing its tail about whether the intelligence was distorted or misinterpreted or pressured or what have you, I can tell you now the survival of Israel, our best friend, depends on having intelligence on what is going on in downtown Baghdad, all over Iraq, all over Syria, all over Iran, and in Egypt. They know. They got to know. And therein you do not need intelligence. That is the dog that didn't bark.

My friend Bob Novak was talking about the dog that didn't bark. If there had been any weapons of mass destruction, our friend, Israel, would have said: Go there, go here, go there. They knew it. And George Herbert Walker Bush said:

> I firmly believe we should march into Baghdad. . . . It would take us way beyond the imprimatur of the international law bestowed by the resolutions of the Security Council, assigning young soldiers to a fruitless hunt for a securely entrenched dictator and condemning them to fight in what would be an unwinnable urban guerilla war. It could only plunge that part of the world into even greater instability and destroy the credibility we were working so hard to reestablish.

It would turn the whole Arab world against us.

That is where we are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from North Dakota for his courtesy in letting me make a brief statement before he makes his statement.

I rise today to express my strong opposition to the United States-Australia Free Trade Agreement and the legislation that has been introduced to implement it. This is the latest in a string of deeply flawed trade agreements. It is a bad deal for dairy farmers, it is a bad deal for consumers, and it is a bad deal for Wisconsin.

The agreement undermines our dairy industry by displacing the domestic milk supply. It proposes to increase quota access to the U.S. market for Australia's dairy producers, while failing to address the flood of milk protein concentrate imports that is entering the country through a tariff loophole and that has been harming U.S. dairy farmers for some time. There can be no doubt that this agreement will put downward pressure on dairy prices and will further accelerate the loss of dairy farms in Wisconsin and across the Nation, which is something I have been working hard to stop.

Wisconsin is still the No. 1 producer of cheese in the United States. But this agreement will hurt Wisconsin cheesemakers as they attempt to compete against the ever-rising flood of Australian imports. By signing this agreement without addressing MPCs, the administration turned a blind eye to the concerns of the Wisconsin dairy industry.

The adverse effects of the agreement are not limited to our dairy farmers. During the informal mock markup, a majority of the Senate Finance Committee expressed concerns about safeguards to protect American ranchers and cattle producers from unfair imports of beef products. Those concerns underscore the importance of the administration consulting and working with Senators in the drafting of the implementing legislation.

Instead of honoring the informal process set forward in the trade promotion authority, the administration and the Senate leadership ignored these concerns. The result is to further undermine the ability of the Senate to weigh in on trade agreements, which was already greatly weakened by the passage of fast-track authority.

This is not the only problem with the trade agreement between the United States and Australia. As an original cosponsor of bipartisan legislation that would allow Americans to safely purchase prescription drugs from countries including Australia, I am particularly troubled by reports that this agreement would effectively ban reimportation of prescription drugs from Australia.

In February, I wrote to the Senate Finance Committee and urged them to address this issue before the unamendable legislation implementing the trade agreement was brought to the Senate floor for a vote. Now, reports raise real questions about whether Congress can repeal the trade agreement's ban on reimportation of prescription drugs from Australia, even if it later passed legislation permitting reimportation. I do not see why we should be voting now on a trade agreement that would potentially tie the hands of both Australia and the United States on this vitally important issue.

This legislation may well be a template for future trade agreements to include similar provisions that restrict the safe reimportation of drugs. I strongly disagree with efforts by trade negotiators to address an issue that Congress is currently actively considering. Congress should be setting policy on an issue as important as the importation and the reimportation of prescription drugs, not our trade negotiators.

There continue to be many concerns about the impact of this agreement on the U.S. health care system, particularly the Federal programs aimed at helping our veterans, our seniors, and our neediest citizens. These questions need to be resolved to ensure access to safe and affordable prescription drugs.

I have introduced a bill, S. 1994, which would address what I believe is one of the biggest flaws of the new Medicare prescription drug benefit. My bill would allow Medicare to negotiate the prices of prescription drugs offered under this new benefit. There is widespread support for giving Medicare this authority. It only makes sense we let Medicare use its considerable leverage to help lower the cost of prescription medicines for seniors. But there are questions about how this agreement would impact Medicare's ability to negotiate drug prices, should legislation such as mine be passed by Congress.

We need more time to answer these questions and to fully understand the possible interaction of this agreement with legislation to allow the safe reimportation of prescription drugs. Trade promotion authority provides expedited consideration of trade agreements, but we are well ahead of any deadlines imposed. This Chamber could easily have waited until next week or even into September to consider this measure. With only 20 hours of debate allowed, the Senate should not have rushed headlong into this debate today. There is simply no excuse for Congress hastily taking up the Australia Free Trade Agreement before resolving these questions.

The administration presented a bad deal to Congress and the American people. Not only will this agreement hurt Wisconsin's dairy industry, but the whole process has undermined Congress's constitutional authority over trade policy and it has weakened our ability to make policy. For those reasons, I will oppose the United States-Australia Free Trade Agreement implementing legislation, and I urge my colleagues to vote against this measure.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to express my strong opposition to the so-called United States-Australia Free Trade Agreement. This is really not a free-trade agreement at all. This is a negotiated trade agreement, and our side, once again, lost the negotiation.

I believe the United States-Australia Free Trade Agreement is one more example of the United States trading away its economic strength for some other agenda. Somebody once said: The U.S. has never lost a war and never won a negotiation. That certainly is true of this agreement.

First, I believe the focus of our trade policy should be opening markets to U.S. exports where we have the most to gain. We need to level the playing field for our producers, and we need to open major markets around the world that remain closed to us. Unfortunately, that is not the trade policy or agenda being pursued by this administration.

Our current trade policy is completely off course. Our negotiators have failed to secure a good deal for agriculture in the WTO talks. Instead, they have opened trade talks with countries that offer few new export opportunities for the United States.

Commercial gain should drive our trade policy. But it has become clear that foreign policy considerations are the primary factor influencing our trade agenda. It is no secret here in Washington what this agreement is about. It is not about a trade advantage for the United States. It is not about improving the economic strength of America. This is a payoff. This is a payoff to Australia for backing our Iraq policy. That is what this is about.

Not surprisingly, the results of this flawed trade policy are abysmal. Our trade deficits are skyrocketing. Last year, the trade deficit hit an all-time record of $497 billion. And this year, what do we anticipate? Well, it is going to be much worse.

Mr. President and colleagues, we can look back and see what has happened under this trade agenda. In 1997, we had a trade deficit of $108 billion. That was only 7 years ago, and look what has happened. Every year it has jumped, and jumped dramatically. From 1998 to 1999, it went up almost $100 billion; from 1999 to 2000, almost $100 billion; from 2001 to 2002, up, up, and away again, approaching $100 billion for 2002 to 2003. Goodness knows where it will be this year.

These developments have serious consequences for our economy. This is not just numbers on a page. This is not just columns on a chart. This has real-world consequences for the U.S. economy.

Earlier this year, the Washington Post carried an article expressing the concerns of economists about our trade and budget deficits and the falling value of the dollar. It reported:

> The twin trade and budget deficits are both approaching a half trillion dollars, and with U.S. consumer debt also at record levels, it is up to foreigners to keep the U.S. economy afloat.

Let me repeat that: "it is up to foreigners to keep the U.S. economy afloat."

The U.S. economy now borrows $1.5 billion a day from foreign investors, said Sung Won Sohn, chief economist of Wells Fargo & Co., and that level could reach $3 billion a day in the near future.

Where are we getting the money from? The Senator from South Carolina had it right. We are approaching $600 billion from Japan, $150 billion from China. We are even borrowing money from the so-called Caribbean banking centers—$80 billion from the Caribbean banking centers. And we have yet our tin cup out, even in South Korea. Who would have guessed that the mighty and powerful United States would have to go hat in hand to South Korea and borrow $40 billion?

The Washington Post article went on to say:

> Currency traders fretting over that dependency have been selling dollars fast and

> buying euros furiously. The fear is that foreigners will tire of financing America's appetites. Foreign investors will dump U.S. assets, especially stocks and bonds, sending financial markets plummeting. Interest rates will shoot up to entice them back. Heavily indebted Americans will not be able to keep up with rising interest payments. Inflation, bankruptcies and economic malaise will follow.

On agricultural trade, the story, regrettably, is much the same.

Things are getting worse, not better. Our surpluses have gotten steadily smaller since 1996. Always agricultural trade has been one of our leading areas of surplus, but that surplus is shrinking and shrinking steadily. Last year we had the smallest agricultural trade surplus since 1987. We are going full speed in reverse in every sector. This is an ominous warning to the American people of the direction of this flawed and failed trade policy.

The fact is, this administration is not leveling the playing field for our producers or opening major new markets for U.S. exports. Instead, it is opening our markets to a flood of agricultural imports unfairly traded that threaten American family farmers. To me, focusing on this free-trade agreement and more like it and neglecting a successful WTO agreement is a recipe for disaster for American agriculture. Mark my words, friends: We are going in the wrong direction.

Those with whom we compete are not playing according to some fair set of rules. They are subsidizing at a rate, in Europe alone, five times our rate here. They account for over 87 percent of the world's agricultural export subsidy in Europe, 30 times the rate here. And the results are clear. They are gaining market share year after year after year and now rival our own share of the world market.

America needs to wake up to the gathering threat. I regret to say, this agreement with Australia is a perfect example. On agriculture, the United States had almost nothing to gain and a lot to lose. The simple fact is that Australia is never going to be a large export market for U.S. commodities, but it poses a serious threat to certain commodities produced here at home such as beef and dairy. It is very clear. Any objective analyst can look and see what was the opportunity for America and what was the threat. The threat totally overwhelms the opportunity.

In addition, Australia has an export state trading enterprise known as the Australian Wheat Board. Grain growers in my State have had a bitter experience with these State trading enterprises. Ever since passage of the so-called Canadian Free Trade Agreement—again, that was no free-trade agreement; it was another negotiated trade agreement, and our side lost the negotiation there as well, especially when it came to agriculture—the United States has been flooded with a tidal wave of unfairly traded Canadian grain, undercutting our producers, undercutting our prices, putting our people at risk, costing my State nearly half a billion dollars.

Our neighbor to the north maintains a government-sponsored monopoly known as the Canadian Wheat Board. The Canadian Wheat Board is the only exporter of western Canadian grain. It is a monopoly. It uses this monopoly power to undercut prices to our producers, not just in my State of North Dakota but in Montana, in Idaho, in Minnesota, and all across the northern tier of the United States, undercutting through unfair trade practices the family farmers who are the heart of the heartland of America.

We have been fighting for 15 years to resolve problems created by the Canadian Wheat Board, and we have learned a bitter lesson. We have learned that once something is permitted in a trade agreement, it is virtually impossible to fix. That is why I was disappointed to learn that the Australia Free Trade Agreement does nothing—I hope my colleagues are listening—to curb the unfair trading activities of the Australian Wheat Board. This was a priority for many farmers. The U.S. wheat industry has decided to oppose this agreement because of this one defect alone.

Some will argue that we have a trade surplus with Australia, and, therefore, it is a good country with which to enter into a trade agreement. That argument sounds good, but history teaches us something quite different. I remember so well when we debated NAFTA. I want to make clear my own position on trade. I supported the agreement with China. I supported WTO. I opposed NAFTA. I opposed the Canadian Free Trade Agreement because in those cases, I believed our negotiators got taken to the cleaners. I will tell you, our negotiators got taken to the cleaners on this one as well.

The record, I believe, will be clear. Back in NAFTA, remember what we were told. We were told: We have a trade surplus with Mexico, and if we just approve this agreement, the surpluses will grow.

We can now go back and check the record. Did the $2 billion trade surplus that existed with Mexico before NAFTA increase? No. Did it stay the same? No. There is no trade surplus with Mexico anymore. Now we have a trade deficit, not a small trade deficit, not $2 billion, not $4 billion, not $8 billion, but $40 billion of trade deficit. And some come on this floor and call it a success. What would it take to call it a failure? I am amazed to hear people come out on this floor and call NAFTA a great success. We went from a $2 billion trade surplus to a $40 billion trade deficit, and they call that a success? What are they thinking of? We are full speed in reverse in this country in terms of our trade position in the world.

Trade agreements are no guarantee of trade surpluses, and opening our market to further import competition without creating new export opportunities is a serious mistake. That is exactly what this agreement that is before us today does when it comes to agriculture. There will be virtually no new agricultural exports to Australia as a result of this agreement. But when it comes to the American beef and dairy industries, there will be significant increases in imports that they will face—and on an unfair basis—because we know of all the hidden subsidies they have in Australia for those industries. We know how they play the game.

I have concluded that from the perspective of the farmers and ranchers I represent, this agreement is a bad deal.

Second, the mistake has been compounded by a massive loophole in implementing this bill with regard to beef safeguards. Ever since the Australia Free Trade Agreement was signed, the administration has said over and over that the agreement had an automatic guaranteed safeguard to protect our U.S. beef industry against unfairly traded imports. That is what they told us. That is what they told American ranchers and farmers, that it was automatic, that it was guaranteed. But check the fine print. See what they have done in the final hours. They have slipped you a Mickey. It is not guaranteed. It is not automatic. It is all subject to a waiver and a decision by one person who doesn't happen to be in the Congress of the United States.

We were told that the industry would not have to worry if imports of Australian beef surged or prices in this country plummeted. The safeguards were automatic and were guaranteed.

But now we find the safeguard is not automatic and not guaranteed. In fact, this safeguard has a loophole big enough to drive a cattle truck through. The implementing bill before us specifies that the USTR can waive the beef safeguards whenever it determines that extraordinary market conditions make it in the national interest to do so.

Here is what it says:

> The United States Trade Representative is authorized to waive the application of this subsection if the Trade Representative determines that extraordinary market conditions demonstrate that a waiver would be in the national interest of the United States.

Who decides? The Trade Representative of the United States. That is not what the Constitution says. The Constitution doesn't say the Trade Representative decides these questions of international commerce. The Constitution of the United States says:

> The Congress shall have power . . . to regulate commerce with foreign nations. . . .

Not the Trade Representative or Ambassador, but the Congress. And the

Congress has given away its responsibility in these free-trade agreements with the fast-track procedure. We have done that based on a promise that is being violated in this agreement for the first time in a trade agreement.

Listen well, my friends. Listen well. Understand what is about to happen on the floor of the Senate. For the first time, in an unprecedented way, the role of Congress is being further reduced. The legislation before us does not require the Trade Representative to even consider the effect on the beef industry of waiving the safeguards. If he or she determines that a lower price for hamburger is in the national interest, it can waive the safeguard, even if doing so clearly injures the U.S. beef industry, which the safeguards are supposed to protect. The legislation doesn't give Congress, the body charged in our Constitution with regulating tariffs, any meaningful say in this decision.

As I show on this chart, Article I, section 8 of the Constitution says Congress shall have the power. In this agreement, it is the Trade Representative who has the power. The statement of administrative action says, "The United States Trade Representative will notify Congress of its decision to waive the safeguard at least 5 days before the waiver goes into effect."

The Congress shall have the power to get a 5-day notice of what the Trade Representative has decided. That is not what the Constitution of the United States intended. It didn't intend for a Trade Representative to give 5 days' notice to the Congress of the United States before their decision is made, with no role for the Congress of the United States. That is not what the Constitution says.

This agreement does not in any way commit the USTR to even listen if the Congress expresses concerns or objections. I don't think that is right. I don't think that is how this agreement had been sold to the American people. I know that is not the way it was sold to the ranchers and farmers of North Dakota, South Dakota, Montana, Idaho, and every other State. They were told there was automatic guaranteed protection for them.

That is why, when the Finance Committee conducted its markup of the Australia agreement 2 weeks ago, I offered an amendment. My amendment insisted that Congress have a say before the Trade Representative decides unilaterally to waive this safeguard.

This is where it gets interesting, because my amendment was adopted on a vote of 11–10. Here is the vote: 11 votes for the Conrad amendment, 10 votes in opposition. The Conrad amendment is not in the agreement that is before us. Have you ever heard of that happening before? Have you ever heard of an amendment passing in a committee that has jurisdiction and it is excluded when it comes out here on the floor? It is as though those 11 Senators never voted.

The administration ignored the amendment passed in the Finance Committee and, as a result, the legislation before us contains the very same loophole that was rejected by a majority of the Senate Finance Committee. That is profoundly unfair to America's ranchers and cattlemen. It ignores the express will of the Senate Finance Committee, and it is yet another example of why I have concluded this legislation is a bad deal.

Before moving on to discuss why I find this process so troubling, let me address one other issue that has been raised with respect to my amendment. Some have argued that my beef safeguard amendment was unconstitutional. That argument is simply a red herring designed to avoid a discussion of the merits of the amendment. I have yet to hear anyone argue that Congress should not have any say before the U.S. Trade Representative unilaterally waives the safeguard that was promised to America's cattlemen. The Finance Committee has a long history of considering conceptual amendments rather than requiring legislative language. That is how the Finance Committee of the United States does its work. We offer conceptual amendments that are later translated into legal language. That is the way it works.

My amendment said fundamentally that Congress must act before the U.S. Trade Representative can waive the safeguards promised to the beef industry. I have consulted with the Congressional Research Service, because one of their staff members asserted there might be a constitutional problem with what I proposed. I now have a memo from the very same gentleman who raised the constitutional question saying there were at least two ways to take my conceptual amendment and make it constitutionally permissible. But that is not what happened. As I have said, CRS has concluded in a memo to me that the concept expressed in my amendment could have been implemented in at least two ways without raising any constitutional problems.

First, the Conrad amendment could have been implemented through the statement of administrative action. The statement of administrative action is a document submitted to the Congress that explains the agreement on how the administration intends to implement it. Since the statement of administrative action is an executive branch document, it explains how the executive branch will choose to operate. No separation of powers problems would exist.

Moreover, this is precisely how a commitment to Senator BAUCUS with respect to the beef safeguard was implemented. It was not included in the legislation. It was put in the statement of administrative action.

Alternatively, it would have been entirely consistent with my amendment to implement it through a congressional disapproval process. This process is very familiar to Senators. For years, the Congress voted annually on a resolution extending normal trade relations, or most-favored-nation status, as it was then called, treatment for China. There has never been any question that this waiver process was fully constitutional. Thus, had there been any interest in making my amendment work, it would have been easy to find a way to do it.

So I can only conclude that those who talk about the Constitution are simply avoiding the real issue. The real issue is whether the U.S. Trade Representative should be given the power unilaterally to revoke a safeguard that was sold to our beef producers as an absolutely automatic guaranteed protection against surges of unfairly traded Australian beef imports that would damage our U.S. beef industry.

On that issue, a majority of the committee clearly said no. They didn't just say no, they voted no. I have yet to hear anyone make a persuasive argument why the USTR should be able to unilaterally take away this safeguard. It is unfair to those who supported my amendment. The process was short-circuited to drop the Conrad amendment. In particular, it is unfair to our ranchers and cattlemen to take away that safeguard.

Let me address the process the Finance Committee followed in dropping my amendment, and why it is so troubling.

The chairman of the Senate Finance Committee is a fine man. He is, in fact, a good friend of mine. But with all respect to the chairman, the process that was followed to subvert the will of the majority of this committee was egregious. It sets a very dangerous precedent that threatens the underpinnings of the fast-track process.

As all Members of this body already know, the Constitution gives the Congress—not the President—the responsibility for regulating foreign trade. Yet in recognition that we cannot have 535 trade negotiators, the Congress has agreed to the fast-track process for considering trade agreements.

In agreeing to fast track, each Senator gives up the most fundamental rights of a Senator. We give up our right to amend, the most fundamental right of all Senators. And we give up our right to extended debate, a second of the most fundamental rights of any Senator. In essence, we are giving up our right to protect our constituents.

In return, there is supposed to be a detailed consultation—a detailed consultation—with the Congress throughout the process of negotiating trade agreements and developing the implementing legislation.

In practice, the Finance Committee in the Senate is the focus of this consultation because the Finance Committee has jurisdiction over trade policy. In theory, the committee has extensive input during the process of negotiating trade agreements and developing the legislation to implement them. Theoretically, it does not then need to amend the implementing bill once it is formally introduced.

Understand, here we are on the floor of the Senate. There is a treaty. Normally, every Senator would have the right to offer amendments to it. We would have the right to extended debate. We have given up those rights under the fast-track process. We do not have the right to amend. This bill will be considered in less than 20 hours. There is not the right to extended discussion, to illuminate, to educate so that people fully understand what is happening. Those fundamental rights of any Senator have been given up in the fast-track process.

When it comes to developing the implementing bill, this consultation occurs through what is known as the mock markup process because it is not a real markup because we have given up those rights. Instead, we have what is called a mock markup. The mock markup is the Finance Committee's opportunity to amend the implementing bill before it is formally introduced, and then cannot be amended under fast-track rules.

This informal process has a long history. For past agreements, the process has lasted months and produced a host of changes. To give just one example, 14 amendments were adopted during the mock markup of the North American Free Trade Agreement. The amendments added during mock markups were addressed in a mock conference and then included in the final formal implementing bill. I recall this history to make several points because people need to understand what is happening.

Everything has changed. We have never dealt with a trade matter in the way we are dealing with it today. My colleagues need to understand the consequences of what is about to happen because they are enormously serious for every Senator, and they are enormously consequential for this country.

First, in the past, the committees have always insisted on sufficient time for all members of the committee to review the draft implementing bill and have their concerns addressed.

Second, it is not at all unusual for changes to be made, for amendments to be made during the mock markup process, including many that did not have the support of the administration.

Third, when the mock markup process produced changes, it did not spell doom for the agreement.

Fourth and finally, the chairman of the Finance Committee did not vote down the package simply because it included a provision with which the administration or the chairman disagreed.

But what happened during the mock markup of this bill, the Australia free trade agreement, threatens to make a mockery—a mockery—of the process of congressional consultation. In the Australia agreement, we got the bum's rush.

The agreement was completed on February 13, but we did not see implementing legislation until June 18. More than 4 months went by with no implementing bill to review. And then after 4 months of delay, we were told we would have 4 business days before the mock markup to respond to a provision on the beef safeguards that was totally unexpected.

When I indicated my intent to offer an amendment, the Trade Representative made clear that my input was unwelcome. He simply did not want to entertain a serious substantive concern that is important to the ranchers and cattlemen whom I represent. Yet addressing these concerns before an unamendable fast-track bill is precisely the purpose of the mock markup process. That is the whole point of going through this exercise, is to give Senators a chance in the committee of jurisdiction to make changes if they prevail in a vote.

I did prevail in a vote. My side won, but it is not in this agreement. That has never happened before. Mr. President, I say to Senators, they better think long and hard about what that means. They better think long and hard about what that means for the process. They better think long and hard about what that means for fast track because if this trade of giving up our right to amend and our right to extended debate is a hollow one without meaning, that there is supposed to be a congressional consultation, that there is supposed to be a parallel process that allows Senators to alter the package before it comes to this floor, if that is all hollow, if that is all a sham, if that is all a phony exercise, then Senators better think long and hard about giving up that power to amend and that right to extended debate because the rest of this process has become an absolute sham.

I offered my amendment. It prevailed on an 11-to-10 vote, but the normal process was not allowed to play out. Instead, the committee followed the unprecedented course of voting down the amended recommendation in its entirety. Then the administration submitted its original proposal all over again without the amendment. That is good; that is arrogant.

In essence, what the administration is saying is that voting down a recommendation is tantamount to approving it. They are ignoring the clearly expressed will of a majority of the members when it comes to the language on beef safeguards. It is like voting down a bill on the Senate floor after it has been amended and trying to claim that defeat is the same as adopting the bill that was originally brought to the floor. What a sham.

That strikes me as dangerous. It opens the process to abuse, and it reduces the committee's role in crafting trade policy. It may have been expedient in this instance, but I believe that we will come to regret this precedent and this day. It invites a future President to ignore any recommendations made by the committee on future trade-implementing legislation.

Remember what the Constitution says? The power is with the Congress on the question of regulating commerce with foreign nations.

This is not a dictatorship. This is not a circumstance where the power was vested by the Constitution of the United States in the President of the United States. The Constitution of the United States says:

> The Congress shall have the power . . . to regulate commerce with foreign nations. . . .

The Australia Free Trade Agreement promises few, if any, benefits to U.S. agriculture and has little or no positive effect on our overall economy or perilously large trade deficits. Instead, it puts certain sectors of American agriculture at extreme risk.

Before I move on, I remind my colleagues that the fast-track process is up for renewal next year. To the extent that it becomes clear to colleagues that the consultation promised in the fast-track process is a sham, a snare, and a dilution, it will become infinitely more difficult to extend fast track. Who is going to want to give up their right to amend, who is going to want to give up their right to extended debate, if there is no right to serious consultation by the committees of jurisdiction; if it is all just a game and there is no meaning to votes that are cast? That is what is about to happen. It is a sham.

Moreover, the safeguards that were supposed to protect ranchers and cattlemen from excessive and unfairly traded Australian imports turned out to be a false promise. They are not automatic or guaranteed as promised. Instead, they can be waived at any time without any input from Congress. That is unfair to our ranchers, our beef industry.

Finally, the process that the Finance Committee followed sets a terrible precedent. No Senator should welcome the precedent that the administration can simply ignore the votes of the committee of jurisdiction on a particular trade issue important to the people we represent, secure in the knowledge that a trade-implementing bill can be pushed through as part of a larger take-it-or-leave-it package.

For all of these reasons, I will strongly oppose the Australia Free Trade Agreement that is before us.

I conclude by saying to my colleagues if anybody does not think we are setting a precedent that has enormous consequences down the road, think again. I have been here long enough to see what happens when this is done. For the purpose of expedient action one year, that precedent can grow like a cancer. Right now, I believe what is being done is so egregious and so wrong that it sows the seeds for undermining the entire fast-track procedure.

When Senators awaken to what is being done, I think they will be very reluctant to give up their fundamental rights to amend legislation implementing a trade agreement. I think they will be very reluctant to give up their right to extended debate. Those are the most fundamental rights of any Senator.

There is a reason those rights were extended to Senators. It is so they can protect the rights of the minority, so they could slow down a process so people could think carefully about the effects and the implications of legislation before this body. That is the fundamental constitutional role of the Senate. It is being jeopardized by this fast-track process that has become not just a fast track, it has become a railroad job.

When votes do not matter, when consultation does not matter, when one person decides the commerce with foreign nations, this country and this body has gone off the track.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I was hoping that the Senator from North Dakota would stay around. First, I support the Australia Free Trade Agreement because it is for the sole purpose that it is in the economic interest of the United States of America. I do it within our constitutional power to regulate interstate and foreign commerce. I do it in the tradition of the last 70 years, since the 1930s, of the United States doing everything it could to lead the rest of the world in the reduction of barriers to trade; to enhance not only the economy of the United States of America but the economy of the entire world.

Let no one have any doubt in their mind, this is in the economic interest of the United States and that is the only thing the United States ought to be considering as we consider this legislation.

The charge was made that the only reason we are doing this is because of the friendship of Australia and their support in our efforts in Iraq. If I can do something in the economic interest of the United States and at the same time enhance our relationships and show our respect for a friend in the world community of nations, I am not going to back away from doing that, because through almost 100 years of the involvement of the United States in military activity for the promotion of peace and liberty around the world Australia has been an ally on which we could count.

Australia is not going to agree to this agreement because they might like the United States of America. Australia is going to look at this and ask: Is it in their economic interest? Now, their administration has already said that it is because it is signed. I do not know whether Congress has acted down in Australia, but nobody is going to be concerned about the economic interests of America except Americans and the elected representatives of America. Nobody is going to be concerned about the economic interests of Australia except the people of Australia and their elected representatives.

It just happens that everything does not have to be black and white, that when we do things in public policy and in international trade and in our foreign relations sometimes things can be done to accomplish more than one thing, and it happens that we have an opportunity in this vote today not only to do something in the economic interests of the United States of America but also to enhance our relationship with a friend in the world.

From a member of a political party who is always badmouthing our President of the United States because he is engaged in world activities, military activities without seeking enough help from other nations and from the United Nations, I think it is talking out of both sides of your mouth when you condemn us for trying to do something for a nation that has been a friend of ours—in this case, Australia.

The other thing I noticed about the debate that just went on is the charts that have been put up all afternoon by people on the other side of the aisle bemoaning the unfavorable balance of trade we have. What do they want to do? Do they want to tell the consumers of America that you cannot buy from anywhere in the world you want? Why do we have the balance of trade we do? It is because the U.S. consumers are king and they can do anything they want to do and they are doing it. They are exercising their economic freedom. They are also exercising the opportunity of the marketplace to buy from what they think is the place to get the best quality for a certain price. That opportunity happens to be enhanced the greater the competition. The freer the trade around the world and the fairer the trade around the world, the more opportunities there are for our consumers to buy whatever they want to buy, of the quality they want, at what they consider a fair price.

I don't know that any Member of this Congress who has been complaining about the unfavorable balance of trade has introduced any legislation saying the consumers of America cannot buy this product or that product. Are they going to tell the consumers of North Dakota what they can buy or not buy? Are they going to certify to their people that their judgment as political leaders is better than the judgment of the consumer of America and the marketplace, including the consumer of North Dakota? I don't see them doing that.

The other thing is, why do we have an unfavorable balance of trade? One of the reasons is the people of America are not saving as much. But what do we get from the other side of the aisle when it comes to giving the taxpayers of America an opportunity to have more discretionary income? We hear complaints from the other side of the aisle that this side of the aisle is giving too many tax cuts because they happen to believe that 535 Members of Congress are smarter and better able to decide how to spend the money than the 130 million taxpayers of America. I don't believe that. But when taxes are high, there is less discretion for savings, and it impacts negatively upon our balance of trade.

The other thing I wonder about, with the other side of the aisle talking about the high trade deficit—one-third of that trade deficit comes from the importation of energy into America, mostly petroleum. We had an energy bill up last November, and that energy bill is defeated by a filibuster on the other side of the aisle. When we want to set an energy policy, so we import less energy, so we reduce our unfavorable balance of trade to some extent, they deliver 13 out of 49 Democrats to break a filibuster. When they want to kill the confirmation of judges who the President appoints, they can deliver 46 out of 49 Democrat votes to kill those judges. But when their own leader votes for a motion to bring about a national energy policy so we are not importing so much energy, so the balance of trade is not so unfavorable, what do we get from the other side? They don't even support their own leader when he says he needs it for his State.

So don't complain about the unfavorable balance of trade in America when you espouse policies that tend to make it worse, or question the wisdom of the consumers of America, to put your judgment above the judgment of 280 million people in America, that you know more than they do about what they ought to be doing with their money.

Now I want to address whether Congress is giving up constitutional power. I am addressing specifically the accusation that has been made by the Senator from North Dakota, Mr. CONRAD, who just finished his remarks. First of all, I have yet to see the memo obtained by Senator CONRAD from the Congressional Research Service which he says supports his claim that his amendment could be made constitutional. But in any event, with respect to his argument that one way to implement his amendment in a constitutional fashion would be in the statement of administrative action—and it is on that point that I want to comment—this is precisely the type of revisionist history that I warned of earlier, yesterday, in our committee meeting.

I read from the amendment that he put before the committee:

> The amendment enhances the consultation requirement in the waiver provisions by adding a requirement in paragraphs 202(c)(4) and 202(d)(5) that the Finance and the Ways and Means Committees must both affirmatively approve a proposed waiver before the USTR can waive the application of a safeguard.

This amendment calls for specific changes to two sections of the implementing legislation. How could language added, then, to the statement of administrative action possibly effectuate this amendment, which calls for changes to the implementing bill? The answer is, very clearly it couldn't. But even if it could, this argument ignores the fact that the statement of administrative action is a statement of administrative action, not a statement of congressional action. But the amendment calls for action by two committees of Congress, not for action by the administration.

I would like to remind my colleague from North Dakota of the principle of separation of powers. In fact, that principle underlies the Supreme Court Chadha case and is the reason why the amendment as drafted and as voted on by the Finance Committee is unconstitutional. So any argument that the statement of administrative action offered a way to implement the amendment in a constitutional way is without merit.

What about the argument that the amendment could have been implemented in a constitutional way if requirements for action by the full Congress and presentation to the President for his signature were added, according to the decision of Chadha? In effect, under this interpretation, the amendment would require additional legislation to be enacted before a beef safeguard measure could be waived. That is the only way you could remain consistent with our Constitution. And it requires a contorted reading of the language of the amendment that was actually introduced and was voted on by the committee that day.

But let us assume that a legislative procedure was intended by the amendment, as contorted as that may be. The problem is, such a procedure conflicts with the obligations assumed by the United States in annex 3(a) of the agreement. In sections (b)(4) and (c)(5) of annex 3(a), the United States commits to retain the discretion not to apply a beef safeguard measure.

If the President is required to wait for congressional action before granting a waiver, that deprives the administration of the discretion to grant a waiver. Even if the amendment were to be implemented consistent with the U.S. Constitution, it would at the same time be inconsistent with the terms of the agreement.

Again, we see this amendment for what it truly is. It was political maneuvering, pure and simple. It was intended to obstruct the process. It was intended to force the administration to explain its rejection of an unconstitutional amendment or, based on these new arguments about constitutionality, the administration would be forced to explain its rejection of an amendment that was inconsistent with the agreement.

In either case, the administration's rejection of the amendment would have been used by some to argue that the trade promotion authority process was flawed, that the administration ignored the will of the Finance Committee.

They would have also argued that the administration had not done enough to protect the U.S. beef industry from imports, an allegation that is completely without merit if you read the terms of this agreement.

Any way that you revise the reading of the amendment, its purpose was to delay formal consideration of the bill and give opponents a political issue to try to exploit.

Again, as chairman of the Finance Committee, I did not want to see that happen. I wanted to end the obstructionism, end the political gamesmanship, and end the consideration of an unconstitutional amendment.

The majority of the committee voiced their will, and the amended recommendation was not approved. The trade promotion authority process was on and the process moved forward, leading us to the consideration of this very important legislation today, much in the economic interests of our people.

Again, I call on my colleagues to recognize the value of the underlying agreement with Australia and to support the implementation bill when we vote on it in a short period of time.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will be brief. I thank my colleague from Iowa. I don't want to get into a debate about the Energy bill right now. We have our differences there. The only point I would make is, without six Members on his side of the aisle, we never would have succeeded. It was not just this side of the aisle.

I definitely want to reduce energy dependence, as do most of my colleagues. The bill had virtually no conservation, which many of us are for. I am for both new production and conservation. The bill had no conservation, and, of course, there is the "e" word which is very good for Iowa but not so good for New York. I will not get into the "e" word issue here. But there are different ways to increase conservation.

In the views of many of us, this bill was not a bill that would have reduced energy dependence the way it should have. Certainly, it didn't get much bang for the buck. I don't want to get into a debate with my colleague. I know we all want to vote. I appreciate the sincerity and eloquence which he brings to all of the debates. I enjoy having them with him, but today we will not.

I rise reluctantly against the US-Australia Free Trade Agreement before us today, for one reason only. There have been other issues with this agreement. In my State, we are very concerned about dairy. But I think the people who put the agreement together were mindful of that. While the dairy farmers of New York State are not overwhelmingly pleased with the provisions in the agreement, they believe they have come a long way. I think the agreement does do some good for manufacturing export, and I care about that. But what bothers me is one provision in this agreement. It bothers me so that it leads me to vote against the agreement; that is, the provision dealing with the importation of drugs.

It has become clear in recent weeks that the pharmaceutical industry has not only done everything in its power to thwart drug reimportation legislation before this Congress, but now they have hijacked the trade agreement negotiation process as well. That practice has to end.

Given that we have fast-tracked, many of us, when we see an odious provision put into the agreement, have no choice but to vote it down and hope it will come back without that provision. Frankly, that provision has very little to do with the guts of the Australia Free Trade Agreement. Prescription drug reimportation is a policy that has gained more and more bipartisan support as this year has progressed. My guess is that if, say, the bill from the Senator from North Dakota would get a vote on the floor, it would pass. It would pass in a bipartisan way. That, of course, is because the cost of drugs is going through the roof, and it is harder and harder for our citizens to pay for these miracle drugs. They are great drugs. I salute the pharmaceutical industry for coming up with them.

But one of the great problems we face is that the research is borne not by the citizens of the world but only by the citizens of the United States, even though the drugs are sold throughout the world. We have to do something to change that.

But as usually happens these days, as a proconsumer idea such as reimportation gains more and more momentum and support, the pharmaceutical industry begins to see the writing on the wall, and they look for every way possible to prevent it from becoming reality.

Now it seems, of all things, the US-Australia Free Trade Agreement has become the perfect vehicle to begin the march to put the kibosh on importation.

It is no longer enough that this administration refuses to stand up to PhRMA and negotiate lower drug prices.

The Medicare prescription drug bill, now law, that we have before us, is a failure. It is not even being mentioned by the President in his campaign because they refuse to let Medicare negotiate with the pharmaceutical industry for lower prices. That costs about $200 billion, and that means there was not enough money to create a good program. But that is not enough.

Now that we have come up with another way to deal with the high cost of drugs, reimportation, the administration actively, through trade agreements, is helping the big drug companies ensure that they can get the same exorbitant prices in every market around the globe, and at the same time putting up a barrier around our borders to prevent lower drug costs from coming in. That has gone too far.

The administration says it is unacceptable that foreign price controls leave American consumers paying most of the cost of pharmaceutical research and development—I couldn't agree more. That hits the nail on the head.

We have to relieve U.S. consumers of some of the burdens of the cost of research and development by making sure that other equally developed countries pay their fair share. But that is not what we are talking about with the US-Australia Free Trade Agreement. Absolutely not.

What the administration is doing is giving the drug companies the tools to raise prices in other countries while pushing policies that keep low drug costs out of this country.

Is that fair? Does that provide any relief to the American consumer? Absolutely not.

I have heard the argument that this provision doesn't have a practical effect because the Australian Government doesn't allow the exportation of its drugs anyway.

First of all, if you look closely at the way it is written, it isn't limited to restricting importation from Australia.

As they say in Shakespeare, there's the rub.

If they really were just concerned with Australia, they would say nothing in this provision would affect importation anywhere else. But that is not the case.

This proposal creates an obligation for the United States to pass laws that prohibit importation not just from Australia but from everywhere, including Canada.

If it truly doesn't have a practical effect, or if it is not reasonable to assume that Australia would hold us to our obligations—who knows—for all we know, the Australian Government could make a deal with the pharmaceutical company to lower their prices—why is the provision in the agreement at all?

Why aren't pharmaceuticals at least exempted? Everyone knows what is going on in this Chamber about reimportation. Everyone knows what is going on in this country. In my State of New York, citizens from Buffalo, Rochester, the North Country, and even New York City get on buses and go for hours to buy drugs in Canada.

If this provision has no practical effect in this trade agreement, then its only purpose must be to make it more difficult to pass a drug importation bill. It can and might become precedential—we have it in Australia; we should put it elsewhere.

The provision was put in the Australia Free Trade Agreement to set a precedent, to lay the groundwork. The Industry Advisory Committee to the USTR on these issues has clearly stated this purpose. Their report states that "each individual FTA should be viewed as setting a new baseline for future FTA/s"—that this should be setting a floor, not a ceiling.

If that is the case, that is bad news for the millions of Americans who must pay for prescription drugs and had hoped lower costs of imported drugs would prevail.

Simply put, this provision fortifies the administration's opposition to importation and makes the law that much harder to change. Beyond that, this trade agreement may even affect our ability to negotiate prices in the few programs in which the Federal Government still has some control.

The provision is nothing more than a backdoor opportunity to protect the big pharmaceutical companies' profits and keep drug prices high for U.S. consumers. I have had some talks with the heads of the pharmaceutical industries. Some of the more forward-looking progressive ones realize that something has to give; that the U.S. consumer cannot pay for the cost of research for drugs for the whole world; that the prices are getting so high that we have to do something; that the balance between the dollars of profit that are put into research versus the balance of dollars that are put into all kinds of salesmanship has to change. I hope those leaders in industry understand that putting this provision in this agreement undercuts that kind of view.

The nature of trade agreements is changing. They are not just about tariffs anymore. They are getting into other substantive policy issues which dictate the parameters for health care delivery around the world.

These are fundamental policy decisions with serious implications for access to affordable health care which can and will affect millions of people both overseas and, of course, here at home. Yet PhRMA is the only health care expert at the table for these negotiations. That has to end.

I also argue that adding provisions such as this, virtually extraneous provisions that come from someone else's agenda, and putting them into trade agreements hurts the argument for fast track. This is just what people who are opposing fast track said would happen. Here it is, a year later, it has.

There are all kinds of questions swirling about how this trade agreement may affect Medicare, Medicaid, the VA, and DOD programs, and to be honest, no one seems to be able to explain what its effects on these programs will be.

My view is we cannot, we must not wait until after these agreements are put together to consider their potential effects on U.S. policy. I warn my colleagues, vote for this and then you find out that you have locked yourself into something on drug policy that you never imagined. This Member is not going to do that. This Senator is not going to do that.

This provision can be stripped from the agreement and we can come back and pass it next week, next month. We cannot have it as an afterthought—something we are all scrambling to understand the day before the vote.

Frankly, drugs are not the same as tractors. There are huge public health implications to the decisions made by the USTR. It is frightening to think these decisions are being made without the input of a neutral public health advisory committee. We have to put an end to the practice of PhRMA inserting provisions into trade agreements that affect policy elsewhere. There must be someone at the table to protect access to affordable drugs and other health care in this country. The risks are too great to ignore.

For that reason, I will vote no on this agreement in the hopes we can strip out this odious provision and then move forward with the proposal which I will then support.

I ask unanimous consent that a related article from the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 12, 2004]

TRADE PACT MAY UNDERCUT INEXPENSIVE DRUG IMPORTS

(By Elizabeth Becker and Robert Pear)

WASHINGTON, July 11.—Congress is poised to approve an international trade agreement that have the effect of thwarting a goal pursued by many lawmakers of both parties: the import of inexpensive prescription drugs to help millions of Americans without health insurance.

The agreement, negotiated with Australia by the Bush administration, would allow pharmaceutical companies to prevent imports of drugs to the United States and also to challenge decisions by Australia about what drugs should be covered by the country's health plan, the prices paid for them and how they can be used.

It represents the administration's model for strengthening the protection of expensive brand-name drugs in wealthy countries, where the biggest profits can be made.

In negotiating the pact, the United States, for the first time, challenged how a foreign industrialized country operates its national health program to provide inexpensive drugs to its own citizens. Americans without insurance pay some of the world's highest prices for brand-name prescription drugs, in part because the United States does not have such a plan.

Only in the last few weeks have lawmakers realized that the proposed Australia trade agreement—the Bush administration's first free trade agreement with a developed country—could have major implications for health policy and programs in the United States.

The debate over drug imports, an issue with immense political appeal, has been raging for four years, with little reference to the arcane details of trade policy. Most trade agreements are so complex that lawmakers rarely investigate all the provisions, which typically cover such diverse areas as manufacturing, tourism, insurance, agriculture and, increasingly, pharmaceuticals.

Bush administration officials oppose legalizing imports of inexpensive prescription drugs, citing safety concerns. Instead, with strong backing from the pharmaceutical industry, they have said they want to raise the price of drugs overseas to spread the burden of research and development that is borne disproportionately by the United States.

Many Democrats, with the support of AARP, consumer groups and a substantial number of Republicans, are promoting legislation to lower drug costs by importing less expensive medicines from Europe, Canada, Australia, Japan and other countries where prices are regulated through public health programs.

These two competing approaches represent very different ways of helping Americans who typically pay much more for brand-name prescription drugs than people in the rest of the industrialized world.

Leaders in both houses of Congress hope to approve the free trade agreement in the next week or two. Last Thursday, the House Ways and Means Committee endorsed the pact, which promises to increase American manufacturing exports by as much as $2 billion a year and preserve jobs here.

Health advocates and officials in developing countries have intensely debated the effects of trade deals on the ability of poor nations to provide inexpensive generic drugs to their citizens, especially those with AIDS.

But in Congress, the significance of the agreement for health policy has generally been lost in the trade debate.

The chief sponsor of the Senate bill, Senator Byron L. Dorgan, Democrat of North Dakota, said: "This administration opposes re-importation even to the extent of writing barriers to it into its trade agreements. I don't understand why our trade ambassador is inserting this prohibition into trade agreements before Congress settles the issue."

Senator John McCain, an author of the drug-import bill, sees the agreement with Australia as hampering consumers' access to drugs from other countries. His spokesman said the senator worried that "it only protects powerful special interests."

Gary C. Hufbauer, a senior analyst at the Institute for International Economics, said "the Australia free trade agreement is a skirmish in a larger war" over how to reduce the huge difference in prices paid for drugs in the United States and the rest of the industrialized world.

Kevin Outterson, an associate law professor at West Virginia University, agreed.

"The United States has put a marker down and is now using trade agreements to tell countries how they can reimburse their own citizens for prescription drugs," he said.

The United States does not import any significant amount of low-cost prescription drugs from Australia, in part because federal laws effectively prohibit such imports. But a number of states are considering imports from Australia and Canada, as a way to save money, and American officials have made clear that the Australia agreement sets a precedent they hope to follow in negotiations with other countries.

Trade experts and the pharmaceutical industry offer no assurance that drug prices will fall in the United States if they rise abroad.

Representative Sander M. Levin of Michigan, the senior Democrat on the panel's trade subcommittee, voted for the agreement, which could help industries in his state. But Mr. Levin said the trade pact would give a potent weapon to opponents of the drug-import bill, who could argue that "passing it would violate our international obligations."

Such violations could lead to trade sanctions costing the United States and its exporters millions of dollars.

One provision of the trade agreement with Australia protects the right of patent owners, like drug companies, to "prevent importation" of products on which they own the patents. Mr. Dorgan's bill would eliminate this right.

The trade pact is "almost completely inconsistent with drug-import bills" that have broad support in Congress, Mr. Levin said.

But Representative Bill Thomas, the California Republican who is chairman of the Ways and Means Committee, said, "The only workable procedure is to write trade agreements according to current law."

For years, drug companies have objected to Australia's Pharmaceutical Benefits Scheme, under which government officials decide which drugs to cover and how much to pay for them. Before the government decides whether to cover a drug, experts analyze its clinical benefits, safety and "cost effectiveness," compared with other treatments.

The trade pact would allow drug companies to challenge decisions on coverage and payment.

Joseph M. Damond, an associate vice president of the Pharmaceutical Research and Manufacturers of America, said Australia's drug benefit system amounted to an unfair trade practice.

"The solution is to get rid of these artificial price controls in other developed countries and create real marketplace incentives for innovation," Mr. Damond said.

While the trade pact has barely been noticed here, it has touched off an impassioned national debate in Australia, where the Parliament is also close to approving it.

The Australian trade minister, Mark Vaile, promised that "there is nothing in the free trade agreement that would increase drug prices in Australia."

But a recent report from a committee of the Australian Parliament saw a serious possibility that "Australians would pay more for certain medicines," and that drug companies would gain more leverage over government decisions there.

Bush administration officials noted that the Trade Act of 2002 said its negotiators should try to eliminate price controls and other regulations that limit access to foreign markets.

Dr. Mark B. McClellan, the former commissioner of food and drugs now in charge of Medicare and Medicaid, said last year that foreign price controls left American consumers paying most of the cost of pharmaceutical research and development, and that, he said, was unacceptable.

Mr. SCHUMER. I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Arizona.

Mr. MCCAIN. Mr. President, the United States-Australia Free Trade Agreement negotiated by the administration is not perfect. The distinguished chairman and ranking member of the Finance Committee would agree with me on that point.

It is often said around here that we should not let the perfect be the enemy of the good. This agreement for which we vote on implementing legislation today passes the "good" test, but barely.

Throughout my career in public service, I have been an ardent supporter of free trade. Opening markets to the free flow of goods and services benefits America, benefits our trading partners. Trade liberalization creates jobs, expands economic growth, and provides consumers with access to lower cost goods and services. The North American Free Trade Agreement, despite criticism from some, has increased our cross-border trade between our northern and southern neighbors by incredible amounts of money, creating economic growth and prosperity on both sides of the border.

In my judgment, free trade should mean truly free trade. There are some portions of this agreement which take admirable steps in that direction. For example, over 99 percent of the manufactured goods traded between our two countries—manufactured goods—will be duty and quota free and textile and apparel tariffs will be phased out.

According to the International Trade Commission, U.S. consumers will receive a net welfare benefit increase of between $438 million and $639 million if the agreement is fully implemented.

Ideally, this free-trade agreement would reach 100-percent duty-free treatment and tariff elimination immediately but I recognize that may not be possible.

What I find truly offensive are protections for special interests such as dairy, beef, and sugar. Even these protections, however, pale in comparison with the language in this agreement that covers patented pharmaceutical products.

I am astonished by the decision of the U.S. Trade Representative, Mr. Zoellick, for whom I happen to have the greatest admiration and appreciation. I am astonished that he would include language which would impair our ability to pass and implement drug importation legislation.

The Singapore Free Trade Agreement, which went into effect on January 1, was the first free-trade agreement to include language that could impact drug importation. In a side letter of understanding between our respective Trade Representatives, both nations agreed the language would not prevent Singapore from engaging in the parallel importation of pharmaceuticals. Thus, the U.S. Trade Representative effectively made the provisions applicable only to the United States.

USTR claims this language is consistent with longstanding U.S. patent law. If that is indeed the case, and if Singapore is not obligated to abide by the language, then why is the language included in the agreement? I suspect it was included in order to protect powerful special interests and to provide a template on which to base intellectual property provisions in future free-trade agreements.

In fact, the Industry Sector Advisory Committee for Chemicals and Allied Products, which advised U.S. negotiators on this provision, stated that this language "should not be viewed as setting any ceilings for the intellectual property chapters for future free-trade agreements; rather, each individual free-trade agreement should be viewed as setting a new baseline for future free-trade agreements."

This pharmaceutical language was slipped into the Singapore FTA below the radar screen, without recognition of its potential implications for drug importation. Since that time, similar drug provisions have cropped up again in both the Australia FTA before us and the recently completed Morocco FTA.

Let's be clear about this language. It is antithetical to the spirit of free trade and serves only to block American consumers from accessing lower cost goods and services.

Not only does the intellectual property language in the Australia FTA offend all free traders, it also contravenes clear congressional intent. Let's look at the facts. In 2000, Congress passed the Medicine Equity and Drug Safety Act, MEDS Act, to allow American consumers to import lower cost prescription drugs from 25 industrialized countries with regulatory systems similar to ours. Although language added to that law acted as a poison pill and effectively prevented importation from taking place, congressional intent was crystal clear: We want to allow Americans to import safe prescription drugs.

In the years after the MEDS Act passed, the cost of prescription drugs has continued to rise, the number of uninsured Americans has continued to grow, and Congress has continued to debate the issue of drug importation. This week, a study from Boston University found that drug spending, as a share of income, rose by 50 percent between 1998 and 2002.

In the last 3 years, several additional importation measures have passed both Houses of Congress with substantial bipartisan support. In States, cities, and counties across the country, governments are implementing programs that would allow their residents to import lower cost prescription drugs. Today, approximately two-thirds of Americans believe they should be able to import lower cost drugs.

Where does this leave us? Congress has repeatedly voted, with bipartisan majorities, to allow drug importation. States and local governments are doing the same. An overwhelming majority of Americans believe they have a right to import cheaper medicine. AARP, the leading advocacy group for senior citizens, recently joined the battle.

So a simple question comes to mind: What is our U.S. Trade Representative, who is charged with representing the interests of the American people, doing? Why deliberately include language in bilateral trade agreements that could thwart importation efforts? Why flagrantly disregard the intent of Americans and their elected representatives? It seems to me that the special interests have found friendly territory.

Now, supporters of this language will claim that nothing in this agreement prevents the Congress from passing legislation with respect to drug importation. They are absolutely correct. No trade agreement can prevent Congress from exercising its constitutional right to pass laws that govern our Nation. However, the language in this trade agreement does tie the hands of Congress, further complicating our efforts to pass a drug importation law.

The USTR general counsel, John Veroneau, testified along these lines last month. He told the House Ways and Means Committee that new legislation on drug importation "could give rise to an inconsistency between U.S. law and a commitment under this trade agreement." Given that similar language is now in not one but three trade agreements, it will presumably present the same problem for each.

Let's be intellectually honest here. It is simply bad policy to enter into bilateral agreements knowing we want to modify domestic law and thereby place ourselves in violation of these various agreements. Imagine Americans' response if they knew that domestic health care policy was being crafted not by their elected officials in Congress but, instead, by free-trade negotiators.

Now that this language is in three agreements, a precedent has been established for future FTAs. Indeed, USTR officials have indicated they intend to pursue similar language in all future FTAs. This means that future drug importation legislation will leave us in violation of our obligations to an ever greater number of trading partners and allies, undoubtedly creating a greater challenge to enacting and implementing importation law.

When Americans wonder how this continues to happen, maybe they should take a glance at the list of intellectual property "advisors" who worked with the negotiators. These advisors include representatives from—guess who—drug companies—guess who—the pharmaceutical industry as a whole, and other lobbyists with a direct interest in blocking drug importation. How many public health and consumer advocacy groups were included on this committee? Zero.

There is a popular philosophy among coaches known as game slippage which offers that you can make your team practice all you want, but, invariably, come gametime, some of what was taught in practice will not be applied during the game. I fear the administration is suffering from game slippage. It appears that Congress's intent over the last several years to address drug importation has slipped from the collective conscience of the administration and the U.S. Trade Representative when negotiating gametime comes around.

Our trade negotiators must be less mindful of special interests and more responsive to the express intent of the Congress. We granted the President trade promotion authority in 2002 to demonstrate our Nation's reenergized commitment to negotiating strong free-trade agreements. TPA was designed to lead to free trade, not more protection. Yet we have protectionist measures in this FTA for the pharmaceutical, sugar, beef, and dairy industries that will likely result in higher prices and, in some cases, less supply.

This agreement is not the first in which the administration has made use of TPA to promote its legislative priorities. Last year, immigration provisions were included in the Singapore and Chile FTAs. If the administration is to continue to enjoy the privilege of TPA, trade agreements must no longer be vehicles that include items rightfully addressed by Congress under the Constitution.

The United States has been and should be the leading promoter of an open global marketplace. Steel tariffs, agricultural subsidies in the farm bill, and other forms of protection, however, have damaged America's free-trade credentials. If special interest carve-outs, as the one for the pharmaceutical industry in this FTA, continue to pollute our trade agreements, we will all be worse off. Our economy will suffer and our leadership role on trade will further decline.

I have spoken at length about the very serious drawbacks of the Australia FTA. I will reluctantly support this implementing legislation because it, nevertheless, will have a net positive impact on the American economy. I also will vote for it because of my profound respect for the Government and the people of Australia. They have bravely stood by us for many decades and have shown enormous courage in helping us to fight the global war on terror. We are privileged to call the Australian people friends, and my comments here today should in no way reflect poorly on the proud nation with which we will embark on a new trading relationship.

Mr. President, I will vote yes. But the administration must understand that continuing down a protectionist path harms American consumers and engenders ill will among our allies and trading partners. I support passage of this legislation, but should another FTA being negotiated now or in the future come before the Senate with similar protections for special interests, I will find it extremely difficult to do so again.

FSC/ETI TAX BILL

Mr. President, before I continue, I would like to mention just a word about the FSC/ETI tax bill that we apparently have an agreement to go to conference.

The June 19 editorial in the Washington Times, not known for liberal propaganda, stated:

> The ideal solution would have been a quick, simple repeal of FSC–ETI, which is bad economic policy in any case. . . .

Unfortunately, both the House and the Senate versions of the bill became magnets for special interests. A steady train of lobbyists tacked on $167 billion in tax breaks over the next 10 years to the Senate bill, while the House bill expanded by $143 billion in similar additions. The Senate bill, for example, includes breaks for NASCAR racetracks and foreign dog-race gamblers, while the House version lavishes its attention upon tobacco growers, timber owners and alcohol distillers. The imminent House-Senate conference, predictably, promises to be a de facto food fight between congressmen, lobbyists and tax watchdogs. And so while the lobbyists duke it out, EU sanctions will continue to rise, and American manufacturers and the U.S. economy will deal with the consequences.

There are many other editorials about how incredible this bill has become and how we have lost any possible sense of what we are doing to our deficit and to the American people. If we pass this bill in its present form, I will do whatever I can to make sure every American knows what we have done here for the special interests in this town. Despite the passage of campaign finance reform, they rule in a way which is almost unprecedented at least in the 22 years I have been a Member of Congress.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, there is an order in effect allowing 2 minutes per side on the matter that will follow the Australia Free Trade Agreement, the tobacco amendment. I ask unanimous consent that there be a total of 4 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Reserving the right to object, when would this time begin?

Mr. REID. I would say through the Chair to my friend, we are going to vote immediately on the free-trade agreement. We yield back any time on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I yield back time on this side.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 4759) was ordered to a third reading and was read the third time.

Mr. HATCH. Mr. President, I rise today to support the United States-Australia Free Trade Agreement. I do so because it is good for the cause of free and fair trade, it is good for the United States, and it is good for Utah.

I wish to commend my colleagues on the Senate Finance Committee, particularly Chairman GRASSLEY and ranking minority member BAUCUS. They have assiduously worked with the administration to complete the legislation implementing years of negotiations. Working with our colleagues on the Ways and Means Committee, we have prepared legislation that, I believe, will pass overwhelmingly in both Houses. That it does so reflects on the strengths of this agreement, and on the hard work of members in both committees. To date, the process for putting this agreement in place has been fair. Members have been given ample opportunity to voice any concerns they may have about the substance of this agreement both on the Senate floor and in briefings with the U.S. Trade Representative's office. No one can legitimately say this has been a partisan process. No one can legitimately say they have not had a chance to review and comment on this historic agreement.

However, this agreement would not have been completed had Congress failed to provide the President with fast-track trade promotion authority. These agreements are complex, and the interests are vast, and, as we know, Congress can slow the process by endlessly nitpicking details for political advantage. Without trade promotion authority granted by a majority of this body to the President in 2002, the President would have failed to advance his agenda of creating American jobs by leveraging the strength of our economy into free and fair trade regimes created by us.

Toward that last point, I wish to commend the small team at the United States Trade Representative's Office, led by the extremely able Robert Zoellick, for their work through these years in advancing the President's free trade agenda. The Australia Free Trade Agreement before the Senate will boost our economy while advancing bilateral relations with our strongest partner in Asia as a result of the dedication of Bob Zoellick and the people at USTR.

Australia stood with us in our foreign policy challenges throughout the 20th century. In the beginning of this century, which was marked so soon after by the attacks of September 11, and our response with the global war on terror and the war to destroy the regime of Saddam Hussein, Australia has continued to stand with us. We have a history of friendship, based on shared civic values of democracy, individual freedom and free markets. We have no closer ally in Asia.

Of course this is not a sufficient reason to grant a free trade agreement, or FTA. The necessary and sufficient agreements in granting FTAs have to do with opening markets in a way that will fairly allow U.S. products to compete. I am pleased to observe that in this area, the Australia FTA does a superb job. In fact, the Australia FTA eliminates 99 percent of Australia's manufacturing tariffs immediately, giving U.S. firms an average 5 percent price advantage over international competitors in the Australian market. As well, the FTA grants tariff-free access to Australia's agricultural market for U.S. exporters, grants enhanced preferential access to U.S. services exporters to Australia, and removes foreign investment screening for several types of U.S. investment.

For my home State, this FTA gives Utah businesses a distinct advantage over their international rivals when trading with Australia. Australia's market is the 12th largest market for Utah goods, with total exports valued at over $67 million in 2003. The implementation of the Australia FTA will provide a large boost to Utah's auto parts, processed foods, sports equipment and medical equipment companies. These important and large industries within the State of Utah will now be able to export 99 percent of their goods to without facing manufacturing tariffs, this gives them, on average, a 5 percent price advantage over international competitors in the Australian market.

There are nine Australian-owned companies currently operating in Utah which insource several hundred jobs for Utahns. In all, there are over 320 jobs in Utah that are directly supported by trade with Australia, and hundreds more that are indirectly supported by Australian trade.

No agreement is perfect, whether it is with a developing economy, or a modern and developed economy, like Australia's. This FTA will provide an immediate opening to Australia's large market for agricultural products from our States. Currently, our prolific U.S. agricultural producers export more than $400 million in products to Australia.

In terms of granting access for Australian beef, the agreement allows for us to increase the beef import quota over an 18-year period. Quota increases to be granted in the first 3 years are conditional upon U.S. beef exports reaching 2003 levels, so that Australian beef exporters will not be able to exploit recent drops in U.S. beef exports caused by the mad cow scare. While quotas within tariffs will be removed, above-quota tariffs will also be phased out over time. The Congressional Research Service reports that "initial quota increases represent an estimated $50 million in additional imports—less than ¼ of 1 percent of the value of annual U.S. beef output, and 1.6 percent of the value of U.S. beef imports." In addition, the agreement provides safeguards that will protect U.S. beef producers from surges in imports from Australia. These safeguards are permanent and apply to the transition periods, as well as after the transition periods.

This agreement is going to be good for the American economy. In addition to manufacturing and agricultural products, it provides an immediate opening in Australian markets for financial services, electronic commerce and U.S. investment. In the latter category, we should appreciate the implications of allowing U.S. investment to now use Australia as a base for greater expansion into the rapidly growing Asian markets. The benefits of this FTA to the U.S. economy equate to about $500 million per year. This translates into more U.S. jobs.

And, for me, this is the bottom line. Economic policymakers both in Congress and in President Bush's administration recognize that the most fundamental goal of economic policy is to support the economy and create American jobs. American workers, farmers and cattlemen are the most industrious and productive in the world. That is why, as the U.S. has expanded trade regimes based on the principles of fairness and transparency that define our economy, the U.S. has always been a net winner. The rest of the world wants to buy our goods because they are the best quality at the most affordable prices. The rest of the world wants to sell in our markets, because to do so, they must create products that compete in the most open and efficient market in the world. Successful U.S. free trade agreements protect our principles, advance our values, and provide opportunity for all those who compete fairly. And fair competition is something the citizens of Utah support. For these reasons and more I support the swift approval of this implementing legislation.

Mr. DURBIN. Mr. President, I rise today in support of the United States-Australia Free Trade Agreement. I maintain reservations about certain sections of this agreement, but overall I believe that this free-trade agreement succeeds in lowering tariffs on American goods entering Australia and will benefit my home State of Illinois.

The United States-Australia Free Trade Agreement, FTA, includes strong and comprehensive commitments by Australia to open their goods, agricultural and services markets to U.S. producers. The agreement would reduce a number of tariffs and duties currently affecting trade between the United States and Australia, reduce barriers for services and increase protections for intellectual property.

Under the trade agreement, as ratified by the bill, more than 99 percent of U.S. exports of manufactured goods to Australia would become duty-free immediately upon entry into force of the agreement. This is good for our country because increasing exports means more jobs here at home. This is beneficial to U.S. manufacturers, who expect to realize an additional $2 billion in exports a year.

Australia is a major trade and investment partner of the U.S. and is the ninth largest market for the export of U.S. goods, with a total trade close to $28 billion last year. Australia purchases more goods from the U.S. than any other country, and the U.S. enjoys a bilateral trade surplus of $9 billion. This is quite a difference from the $130 billion dollar trade deficit we have with China.

My home State of Illinois will benefit from the U.S.-Australia FTA. In 2003, Illinois' export shipments of merchandise to Australia totaled $925 million and Australia is the sixth largest export market for Illinois in 2003. Australia is an important market for Illinois goods as Illinois exports to Australia have grown significantly during a time when Illinois exports have fallen. While exports of goods from Illinois to Australia grew 12 percent over the 1999–2003 period, exports from the States to the world declined 10 percent over the same time.

Illinois exports range from agricultural and construction machinery, to engines, turbines and power transmission equipment, to motor vehicle parts, to general purpose machinery and to agricultural products. In short, people through nearly every sector of our economy will benefit from this agreement.

Illinois has lost 140,000 manufacturing jobs since January 2001 to many countries who do not have the same labor and environmental standards as the U.S. However, labor and environment have not been a source of controversy in this FTA. The Australian and U.S. economies are both modern and industrialized, and are at similar levels of development and environmental standards. In fact, Australia has a higher minimum wage than the U.S.

This agreement also extends protections for all forms of intellectual property rights. Australia agrees to extend the longevity of copyrights in order to accord protections to existing U.S. standards. Both countries also agree to ratify two international treaties involving recorded music and copyrights.

This agreement also gives our farmers new opportunities. All U.S. agricultural exports to Australia totaling more than $400 million will receive immediate duty-free access. Key agricultural products that will benefit from immediate tariff elimination include soybeans and oilseed products, fresh and processed fruits, vegetables and nuts, and pork products.

In addition, Australia also agreed to resolve outstanding sanitary and phytosanitary, SPS, disputes, chiefly affecting U.S. pork, citrus and corn. Since conclusion of the negotiations, Australia has taken steps to lift the SPS barrier against U.S. pork. This is good news for the many pork producers in Illinois.

While some of the provisions in these FTAs could serve as a model for other agreements, a number of provisions clearly cannot be, nor should they be. I believe that each country with whom we negotiate is unique; and while the provisions contained in the Australia FTA work for Australia, they may not be appropriate for FTAs with other countries, where there may exist very different circumstances.

Concerns about labor and environmental standards, however, should receive careful scrutiny on a case-by-case basis as different circumstances and situations warrant. Use of the "enforce your own law" standard is invalid as a precedent—indeed is a contradiction to the purpose of promoting enforceable core labor standards—when a country's laws clearly do not reflect international standards and when there is a history, not only of nonenforcement, but of a hostile environment towards the rights of workers to organize and bargain collectively. Using a standard in totally different circumstances will lead to totally different results. Many of us support the Australia Free Trade Agreement not only because they have good labor laws, but because they have the ability and willingness to enforce them.

I also noted that all commodities were not included in this FTA and that sugar was excluded. This exclusion should not be a precedent for future trade agreements as this could inhibit other export-oriented industries from their opportunity to win market access in future FTAs.

Without a doubt, there are parts of this agreement that I feel are less than perfect. This agreement has one very troublesome aspect to it, which has U.S. pharmaceutical industry fingerprints all over it.

This agreement gives the exclusive right of a patent holder to prevent the importation of a patented product without the consent of the patent holder.

By including this provision in this agreement, the ban on reimportation of prescription drugs into the United States becomes more than just a U.S. law, it becomes a matter of trade law.

That means that we are giving another country the right to challenge us if we pass the important Dorgan-Snowe bill allowing Americans to reimport prescription drugs from other countries, many of which have cheaper prices than the U.S. for the same drugs.

Congress is currently considering several bills to allow Americans to safely reimport prescription drugs from other countries. In fact, there was just a hearing in the Senate Judiciary Committee about this issue and the Senate Health, Education, Labor and Pensions Committee will mark up a proposal next week.

Why then is the trade negotiator for the Bush administration negotiating an issue that is being actively debated in Congress? Allowing this language in this agreement is effectively end-running the legislative branch.

On July 23, John Veroneau, general counsel for the Office of the U.S. Trade Representative, confirmed that new legislation on drug reimportation “could give rise to an inconsistency between U.S. law and a commitment under this trade agreement.”

Once again, the Bush administration has chosen big pharmaceutical companies over the American people. Prescription drug prices are rising between 14 and 19 percent per year, making already expensive drugs unaffordable for some. As Congress searches for solutions, the Bush administration is preserving the protections from international price competition for the prescription drug industry.

Further, this agreement may jeopardize the lower prices the Veterans Administration and Medicaid are currently able to negotiate. Under Article 15.11 of the agreement, “suppliers” have the right to challenge VA procurement decisions, including listing and pricing pharmaceuticals.

I do think, because of the positive provisions in this FTA relating to manufacturing, agriculture services, that we should approve this agreement. However, my vote for the Australia FTA should not be interpreted as support for using this agreement as a model for future trade negotiations. I will evaluate all future trade agreements on their merits and their applicability to each country. We need to ensure that core international labor rights and environmental standards are addressed in a meaningful manner and the rights of American consumers are protected.

Mr. KOHL. Mr. President, the writing appears to be on the wall where the U.S. Australia Free Trade Agreement is concerned. I suspect it will pass this body by a substantial margin. Still, I want to take a few moments to reflect on this agreement and what it may mean for Wisconsin.

Wisconsin has about 16,000 dairy farms. Altogether, production and processing activities in the state generate close to $20 billion in economic activity. Dairy accounts for about 200,000 Wisconsin jobs. I could go on at length, but my colleagues already know that I care deeply about Wisconsin agriculture and the families who depend on dairy.

And that is why I will vote against the U.S.-Australia Free Trade Agreement. While the final agreement maintains over-quota tariffs on dairy products, I remain very concerned that the overall effect on dairy farmers will be negative, particularly as it affects cheese markets which are of critical importance to Wisconsin dairy.

I am also concerned that this agreement sets up roadblocks for us to pass legislation that would allow Americans to buy less expensive prescription drugs from other countries. It includes a provision that protects the current right of drug companies to prevent importation of its patented drugs by other parties, in this case, parties in Australia.

I understand that his provision will have no practical effect in Australia, since Australian law already prohibits drug exports. However, I am concerned about the dangerous precedence this sets. A bipartisan majority in Congress supports legislation to allow drug importation from other countries, and I believe that at some point, it will be the law of the land.

Even though it may not matter for Australia, the United States will likely seek trade agreements with other countries in the future that do allow exports. The pharmaceutical industry must be put on notice that this kind of end-run around the will of Congress is not acceptable. And the administration must be put on notice that future trade agreements will have a hard time getting approval if we see these kinds of provisions again.

Trade negotiations, simply put, are nothing more than an elaborate process of setting priorities and making trade offs. Where the U.S.-Australia trade agreement is concerned, it seems clear to me that U.S. negotiators were willing to trade quite a bit away in order to protect and promote the interests of pharmaceutical manufacturers.

Unfortunately, dairy interests ended up on the wrong side of that deal. And though we avoided disaster after several of us made a final push to get our negotiators to focus on the impact their deals could have on our dairy industry, avoiding disaster is not enough to recommend the final agreement. This implementing bill does not improve—and probably harms—the chances for Wisconsin dairy producers to enhance their markets. As such, I cannot support it.

I believe in free and fair trade. But this bill implements neither of those principles. The massive benefits won by the pharmaceutical industry were not free, they were bought by concessions from other industries, dairy and I am sure others of importance in my colleagues' States. And the economic balance struck by the deal—where some favored industries do well at the expense of others—is not fair. I urge my colleagues to look carefully at the trade-offs this deal represents before casting your vote.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. BAUCUS. Mr. President, I appreciate the comments by my colleagues on the importance of U.S. beef and the impact upon it by this Agreement. The U.S. cattle industry is a cornerstone of rural America. Virtually every rural community in America is supported, in some way, by domestic beef production. This is especially true in Montana, where cattle and beef account for 25 percent of our State's economy. Nearly half of our State's economy depends on agriculture, overall. Since it's pretty tough to survive on one-half of an economy, it's easy to see how important this industry is to Montana. The cattle industry creates thousands of jobs and supports thousands of families.

This is why I fought so hard to ensure that this agreement reflected the particular needs and interests of Montana and U.S. cattlemen. When the administration first indicated their intention to negotiate an agreement with Australia, I was frankly concerned.

Australia is one of the world's largest exporters of beef, offering a relatively small consumer market in exchange for access to ours.

I was faced with a choice. I could oppose the agreement from the beginning, or I could engage the process and try to forge as strong an agreement as possible. Opposing the agreement from the beginning would mean taking myself out of the process. At that point, I would be unable to best defend the interests of my constituents who had much at stake in the negotiations. Engaging the process would allow me a seat at the table, and an opportunity to insist on provisions that preserve the interests of Montana's cattlemen. Thus, engagement was the better choice.

After nearly a year and a half of tough negotiations, including countless meetings and conversations with U.S. negotiators, and Australian officials, as well, I am satisfied that we got as good a deal as we could. The agreement treats beef as a particularly sensitive product, taking into account the loss of U.S. global exports due to the discovery last year of BSE. It provides a long transition period for duty phase-out, and a slow, gradual increase in beef access to Australia. Most importantly, the agreement creates two safeguards that are triggered automatically whenever the volume or price-based conditions are met.

While the administration is given authority to waive the application of a safeguard—if certain, rare conditions are met—I also worked with Ambassador Zoellick and his staff to establish procedural requirements that must be met before a safeguard could be waived.

All in all, I am confident that the provisions in the agreement are strong and adequate. Still, our efforts illustrate the importance of these issues, not just for this FTA but for future agreements, as well. The United States traditionally exports 10 percent of its beef production, and this figure was growing until our export markets were blocked in the wake of last December's discovery of a single dairy cow infected with BSE.

Clearly, expanded trade is important to the U.S. cattle industry. Yet, extreme distortions in global beef markets pose a serious threat to the future of U.S. ranchers. All the hard work in the world won't amount to a hill of beans if we don't tackle the sources of these distortions—such as massive subsidies, high tariffs, and the like. I ask that a position paper, describing distortions in the global cattle and beef markets, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROSSLY DISTORTED GLOBAL CATTLE AND BEEF MARKETS—HARMING U.S. CATTLE AND BEEF PRODUCERS AND RURAL AMERICA: IMMEDIATE STEPS NEEDED TO LEVEL THE PLAYING FIELD

I. INTRODUCTION

The global market place for cattle and beef trade is amongst the most heavily distorted of any sector of economic activity. The distortions have seriously harmed US cattle producers by reducing prices paid for U.S. product in the U.S. and around the world and by limiting export opportunities other than the United States for other major producing nations. The domestic cattle industry suffered staggering losses since the early 1990s measured in the billions of dollars, with more than 100,000 cattle ranches and farms ceasing operation or ceasing handling cattle in that time. The decline of the cattle industry in America—the largest part of American agriculture, has decimated rural communities across the country which depend on a healthy agricultural sector for survival.

While the United States market is very open (we are the largest importing nation despite being the largest producing nation and have very low tariffs on cattle and large volumes of beef that enter duty free under a TRQ system) and is characterized by little government support and science-based sanitary and phytosanitary measures, this is not true of most of the rest of the world. Our trading partners often employ (1) high tariffs, (2) massive subsidies (for some), (3) unscientific SPS measures, (4) misuse of state trading enterprises in grains to artificially lower costs of production in certain major exporting nations and (5) failure to open markets even where FTAs have been negotiated through the exclusion of large segments of agricultural trade (including cattle and beef) in violation of WTO obligations and requirements. Such actions ensure that many markets are closed, US exports are limited and global export prices and prices in the U.S. are lower than they would be in an environment of harmonized tariff levels, elimination of export and domestic subsidies and harmonized SPS standards.

While the European Union is the worst offender with combination tariffs well north of 100% ad valorem, more than $9.5 billion in subsidies to the sector and SPS measures that have been found inconsistent with WTO obligations, they are not alone. The U.S. government has estimated that bound tariffs in the sector by our trading partners average 85%. Subsidies are provided to expand exports and build up industries in major producing nations, such as Australia, Brazil, Canada as well as the EU. Two major trading partners, Australia and Canada, have state-trading enterprises for grains which are believed to distort prices for major inputs to domestic cattle production in those countries. Indeed, the Australian Wheat Board has acknowledged publicly that they do so. Fifty-eight countries closed their markets in whole or in part to U.S. exports after a single imported cow from Canada was found in Washington state to have BSE and have maintained restrictions without risk assessments to justify such action and contrary to the international standards established by the OIE. The result is artificially high prices in major consuming markets like Europe and Japan (in 2002 the average slaughter steer price in the EU was $127.42/cwt and in Japan Holstein steers sold at $171.57/cwt while U.S. steer prices never went above $75/cwt in any month of the year) and artificially low prices in open markets like the United States. U.S. producers who are blessed with abundant land and are highly educated and entrepreneurial are being destroyed not because they are not competitive but because the global market place is stacked against them.

While tariffs and subsidies are being negotiated as part of the ongoing WTO Doha Development Round, it is critical that the United States obtain parity for U.S. producers with both developed and developing countries on these critical issues through the negotiations. Based on discussions to date, such parity is unlikely without a sectoral approach being adopted for cattle and beef within the Doha Round.

Similarly, it is critical that other distortions be eliminated through harmonization of SPS standards actually applied by major consuming nations, that state trading enterprises be eliminated (or forced to end their distortive practices) and that countries not be allowed to maintain FTAs where in fact substantially all trade is not covered.

Without such comprehensive actions, current efforts to negotiate FTAs with many countries including most of the major producing nations—but few of the major consuming nations—has the potential perverse consequence of worsening the position of U.S. cattle producers and the rural communities which depend on them by further opening the U.S. market without ensuring that U.S. producers (and other producers) can compete in a non-distorted manner globally.

Finally, Congress has recognized that perishable products like live cattle and beef need special rules included in trade agreements to facilitate trade and provide the tools necessary to address pricing or volume problems quickly when they occur. The U.S.-Australia FTA includes such a provision for beef. It is critical that every trade agreement (whether bilateral, plurilateral or multilateral) have such special rules and that they be applicable to cattle and beef and be automatic in operation.

II. GLOBAL DISTORTIONS

A. Tariffs

The United States allows various categories of beef to be imported duty-free pursuant to free trade agreements (ex. Mexico and Canada under NAFTA) and preferential treatment programs (ex. Peru under Andean Trade Preference Act). Beef from all other countries is subject to a Tariff Rate Quota system and imports within the TRQ (covering 696,621 MT) are subject to a tariff that is nearly zero. Import volume that falls outside the TRQ is subject to a 26.4% duty. In contrast, major consuming and several producing nations maintain high tariffs and/or highly restrictive tariff-rate quotas (TRQs) to limit market access, which limits both export opportunities for U.S. producers, and leads to other producing nations focusing on the same open beef markets like the United States resulting in lower prices in the United States than would otherwise be the case.

COMPARISON 2003 EFFECTIVE TARIFFS ON BEEF

Code	Description	U.S. effective rate	Japan	China	Jamaica	Korea	EU[1]	Turkey
020130	Meat of bovine animals, fresh or chilled: Boneless	.274%	50% (safeguard) (normally 38.5% of CIF)	34%	40%	40.5%	79.5%	227.5%
020230	Meat of bovine animals, frozen: Boneless	2.15%	50% (safeguard) (normally 38.5% of CIF)	34%	40%	40.5%	[2]93.1%	227.5%

[1] EU effective rate based on 2002 data.

[2] Based on tariff rates for 0202.30.10 and 0202.30.50.

B. Subsidies

Major beef producing nations have lavished billions of dollars in aid to support and expand beef productions in their respective countries. For example, the EU is largest agricultural subsidizer in the world, projected to spend over $9.5 billion for both export and domestic subsidies on their beef and cattle sectors in 2005. Likewise, Brazil has spent hundreds of millions of dollars to expand their beef sector through both domestic and export subsidies and is understood to be more than doubling the amount of subsidies to the sector in 2004 to roughly a half billion dollars. Further, both Australia and Canada are engaged in providing hundreds of millions of dollars in support to their respective cattle and beef sectors in an effort to artificially prop up those industries:

Country	*Est. Subsidy per Head*
EU	$87.94
Canada	6.12
Brazil	5.38
Australia	2.96

Conversely, outside of disaster assistance or drought relief, the cattle and beef producer in the United States receives no support from the government.

C. State Trading Enterprises

State Trading Enterprises maintained in Australia and Canada operate to distort internal prices for key feedstuffs through the use of wheat boards supporting larger herds than would otherwise be the case. The Australian Wheat Board Director has stated that: "By controlling the export of grains used as feeds—wheat, barley, and sorghum—these entities are able to influence the domestic prices of feed, and thus benefit Australian cattle producers."

D. Unjustified Sanitary and Phytosanitary Measures

Many of the major consuming countries have imposed restraints on U.S. exports of cattle and beef that are not based on risk assessments or otherwise comply with WTO SPS obligations. While all governments accept the fact that some trade restrictions may be necessary to ensure food safety and animal and plant health protection, the use of sanitary and phytosanitary restrictions to shield domestic producers from competition is unacceptable. For many years, the EU has unjustifiably banned U.S. exports of beef on the grounds of hormones despite adverse WTO panel and Appellate Body reports. Beginning in December of last year U.S. beef has been banned in fifty-eight markets around the world on the basis of BSE without adequate scientific justification or WTO notification. Such restrictive actions have largely eliminated in 2004 the export markets for U.S. beef, markets that have been built up over many years of business.

Global BSE Trade Ban in place as of Feb. 1, 2004 ([a]partially removed as of June 11, 2004; [b]country joined EU and ban lifted; [c]banned applies to Washington State only):

1. Argentina; 2. Australia; 3. Bahrain; 4. Barbados; 5. Belize; 6. Bolivia; 7. Brazil; 8. Brunei; 9. Bulgaria; 10. Canada[a].

11. Cayman Islands; 12. Chile; 13. China; 14. Colombia; 15. Costa Rica[a]; 16. Dominican Republic[a]; 17. Ecuador; 18. Egypt; 19. El Salvador; 20. Grenada.

21. Guatemala[a]; 22. Honduras; 23. Hong Kong; 24. Indonesia[a]; 25. Israel; 26. Jamaica; 27. Japan; 28. Jordan; 29. Kenya; 30. Korea.

31. Kuwait; 32. Latvia[b]; 33. Macau; 34. Malaysia; 35. Mexico[a]; 36. Nicaragua[a]; 37. Oman; 38. Panama; 39. Peru; 40. Philippines[a].

41. Poland[b]; 42. Qatar; 43. Republic of South Africa; 44. St. Kitts; 45. St. Vincent & Grenadines; 46. Saudi Arabia[c]; 47. Russia; 48. Singapore; 49. Surinam; 50. Taiwan.

51. Thailand; 52. Trinidad & Tobago[a]; 53. Turkey; 54. Ukraine; 55. United Arab Emirates; 56. Uruguay; 57. Venezuela; 58. Vietnam.

III. WTO INCONSISTENT FTAS RESULT IN LARGE VOLUMES OF BEEF COMING TO THE UNITED STATES THAN WOULD OTHERWISE BE THE CASE

Many countries have entered into free trade agreements (FTAs) where large portions of agricultural trade, including trade in cattle and beef, have been excluded from tariff concessions. Such actions raise serious questions about FTA compliance with obligations of GATT Article XXIV:8(b), which requires that FTAs eliminate duties and other restrictions on "substantially all" of the trade between parties to the FTA. Correct implementation of Article XXIV in the FTAs would result in expanded market opportunities for FTA partners and provides alternative markets to traditional export markets such as the U.S. Lack of alternative markets funnels product into the U.S. lowering prices here as well as into other markets not covered by FTAs. An examination of five of the EC's FTAs, as an example, shows the following product exclusions:

PERCENTAGE OF PRODUCTS EXCLUDED FROM TARIFF CONCESSIONS IN FIVE EC-FTAs

Country	HS 0102 Live bovine animals	HS 0201 Meat of bovine animals, fresh or chilled	HS 0202 Meat of bovine animals, frozen	Total % of agricultural products excluded
Mexico	100	100	100	35
South Africa	100	100	100	25
Tunisia	100	100	100	68
Morocco	100	100	100	67
Israel	100	100	100	87

IV. SPECIAL RULES FOR PERISHABLE AND CYCLICAL AGRICULTURAL PRODUCTS

In 2002 Congress recognized that producers of perishable, seasonal, and cyclical agricultural products, like cattle and beef, face unique challenges in the market. Some proposals have been made by the U.S. in the Doha Round in the Rules area but to date nothing has been put forward in the agriculture negotiations. In the United States-Australia Free Trade Agreement (FTA) this requirement was recognized by the Administration as it negotiated an agricultural safeguard for beef. While the terms within the U.S.-Australia FTA are discretionary and limited to beef, it is an important precedent for the type of automatic provisions that should be part of every FTA and part of the WTO.

V. THE HIGHLY DESTRUCTIVE EFFECT OF GLOBAL MARKET DISTORTIONS ON THE U.S. CATTLE AND BEEF SECTOR

Cattle and beef production comprises the single largest sector of U.S. agriculture. Cattle are raised in all fifty states and half of all U.S. farms have beef cattle as part of their operations.

Because cattle prices for U.S. producers are highly sensitive to demand movements, the combination of an open U.S. market, coupled with the global distortions outlined above, has resulted in massive dislocations to U.S. producers and the rural communities which depend on them in the last fifteen years.

BEEF CATTLE OPERATIONS, LOSSES AND 2002 CATTLE RECEIPTS

	No. of operations			Declines (% of 1993)	2002 Cash Receipts	
	1993	2002	Declines		(000s $s)	Rank
AL	32000	24000	8000	25.0	2,378,278	14
AK	90	90	0	0.0	27,906	49
AZ	2600	2100	500	19.2	1,094,056	29
AR	27000	27000	0	0.0	2,951,745	10
CA	15000	12500	2500	16.7	6,241,632	2
CO	10500	10900	0	0.0	3,501,589	9
CT	800	800	0	0.0	154,364	45
DE	230	230	0	0.0	546,329	39
FL	18000	16500	1500	8.3	1,239,225	28
GA	23000	21000	2000	8.7	2,889,736	12
HI	800	650	150	18.8	84,789	46
ID	7500	7600	0	0.0	1,998,531	17
IL	21000	15800	5200	24.8	1,562,297	22
IN	17000	12000	5000	29.4	1,551,019	23
IA	29000	26000	3000	10.3	5,074,754	5
KS	29000	28000	1000	3.4	5,325,329	4
KY	44000	40000	4000	9.1	1,960,679	18
LA	18000	13000	5000	27.8	614,049	38
ME	1400	1000	400	28.6	230,471	42
MD	3800	2700	1100	28.9	810,343	32
MA	1000	750	250	25.0	83,250	47
MI	8000	8000	0	0.0	1,259,700	27
MN	16000	15500	500	3.1	3,644,854	8
MS	27000	20000	7000	25.9	1,949,698	19
MO	62000	58000	4000	6.5	2,302,053	15
MT	11800	11400	400	3.4	985,498	30
NE	23000	21000	2000	8.7	5,824,295	3
NV	1400	1300	100	7.1	211,157	43
NH	500	530	0	0.0	56,276	48
NJ	1200	700	500	41.7	192,609	44
NM	7000	6500	500	7.1	1,382,052	26
NY	7500	6200	1300	17.3	1,870,160	20
NC	26000	21000	5000	19.2	3,944,013	6
ND	13200	11500	1700	12.9	723,656	37
OH	19000	17000	2000	10.5	1,630,227	21
OK	51000	50000	1000	2.0	2,893,460	11
OR	16000	12800	3200	20.0	808,131	33
PA	12500	12200	300	2.4	2,682,401	13
RI	160	160	0	0.0	6,300	50
SC	13000	9500	3500	26.9	760,227	35
SD	18000	16500	1500	8.3	2,059,513	16
TN	55000	45000	10000	18.2	913,073	31
TX	130000	133000	0	0.0	8,087,670	1
UT	5000	5600	0	0.0	807,752	34
VT	1100	1200	0	0.0	400,174	40
VA	24000	23000	1000	4.2	1,451,127	25
WA	14000	9700	4300	30.7	1,495,317	24
WV	15000	11000	4000	26.7	300,197	41
WI	9800	12000	0	0.0	3,768,302	7
WY	5100	5200	0	0.0	749,571	36

No. of Operations are for Beef Cattle & Calves, from USDA NASS, "Cattle Final Estimates" 1994–98 & 1998–2002. Cash receipts are for Livestock and products from USDA ERS.

For example, in a global market where there was a level playing field for U.S. cattle producers, the U.S. would have a huge and growing trade surplus as there are only a handful of countries with the capacity to supply large quantities of quality beef for export. Yet, prior to the BSE outbreak in Canada in 2003, the U.S. has been running a trade deficit in cattle and beef:

UNITED STATES BEEF AND CATTLE TRADE FLOWS, 1999–2003

[$1,000]

	1999	2000	2001	2002	2003
Cattle Imports	1,007	1,157	1,464	1,448	867
Cattle Exports	174	272	270	131	64
Total, Cattle	−833	−886	−1,194	−1,317	−803
Beef, Imports	1,904	2,205	2,514	2,513	2,364
Beef, Exports	2,655	2,909	2,548	2,489	3,036
Total, Beef	751	704	34	−24	672
Total, Cattle & Beef Trade	−82	−182	−1,160	−1,341	−130

Data Source: Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics, HS 0102 (cattle), 0201 (fresh beef), and 0202 (frozen beef).

Limited U.S. exports, significant inflows of imports and massive global distortions have led to long-term unsustainable pricing and an unprecedented seven year decline in cattle inventory in the United States. For example, during the 1992–2001 decade USDA reports that financial returns for cow/calf producers were a negative $30.40 per bred cow per year, losses aggregating to the billions of dollars. With the massive losses, cattle herds have declined.

While the partial closure of the Canadian border in 2003 because of the BSE outbreak in that country has provided a temporary respite for US producers in terms of pricing levels, only correction of the global distortions can restore pricing equilibrium.

The unsustainable prices over the last fifteen years have resulted in ranching families going bankrupt by the thousands and being forced off of their land. In 1993, there were nearly 900,000 beef operations in the United States. By 2003, this number declined to 792,100 operations. In the late 1990s, auctions of equipment from ranches and farms were a weekly event across rural America as families lost everything they owned and saw the end of what was often generations-old family businesses.

The depressed pricing in the marketplace over most of the last fifteen years has meant a hollowing out of the ranching communities across American and with it the destruction of many of the rural communities dependent on ranch and farm economic health for survival.

VI. ACTION TO REFORM DISTORTIONS IS CRITICAL

Eliminating the global distortions in cattle and beef trade is important to every state in the United States, to thousands of rural communities and to some eight hundred thousand ranching and farming families that raise cattle in America. Some distortions can be addressed through the WTO Doha Negotiations but only if the level of ambition at least for cattle and beef is substantially higher than appears to be the direction of negotiations in mid-June 2004.

What is needed from the ongoing WTO Doha Development Round:

(a) elimination of all export subsidies (developed and developing countries);

(b) elimination of all domestic subsidies (developed and developing countries);

(c) harmonization of tariffs at a level comparable to that existing in the U.S. for all major consuming and all major producing nations; and

(d) maintenance of special safeguards on beef and/or the negotiation of special rules for perishable and cyclical agricultural products.

In addition, the U.S. must obtain through negotiation, dispute resolution or otherwise:

(a) a harmonization of SPS measures as applied to cattle and beef from all major consuming and producing nations;

(b) expansion of trading partners' FTAs to cover substantially all trade in fact, including cattle and beef where not presently covered; and

(c) elimination of state trading enterprises involved in grains, cattle or beef to ensure products are traded according to market principles without distortions.

Finally, it is critical that the United States include in any future FTAs special rules for perishable and cyclical agricultural products applicable to both cattle and beef that are automatic and both price and volume triggered.

Mr. BAUCUS. Mr. President, this position paper has been prepared by R-CALF USA, an industry association representing ranchers across the country including Montana.

Future trade agreements must seek to eliminate the distortions that undermine the prosperity of U.S. producers. That means the U.S. should negotiate agreements that offer real and substantial opportunities. That also means the U.S. must take a hard-nosed approach in the Doha Round of WTO negotiations.

This matter is crucial to the future of rural America. It is worth every ounce of effort we can pour into it, and I—for one—pledge to press this fight.●

Mr. ROBERTS. Mr. President, I rise to make several important points regarding the United States-Australia Free Trade Agreement.

As chairman of the Intelligence Committee and member of the Armed Services Committee, I am well aware of the valuable friendship that our two countries share. Australia's commitment to the fight in the Global War on Terror is unwavering. Australia's support in liberating and rebuilding Iraq has been crucial there.

This agreement provides better opportunities for Kansas manufacturers, especially those in the aviation and transportation sectors to increase exports to the Australians. I understand that there is strong, bipartisan, interregional support for this agreement across industries and across the country.

However, I feel compelled to share with my colleagues several things which trouble Kansas about the way this agreement was constructed.

I must tell our colleagues that in all the years I have had the privilege to serve Kansas and agriculture in the U.S. Senate and the House of Representatives, there have been few, if any, times when there was as much open hostility to trade as I sense in some areas today.

In Dodge City terms, "The bloom is off the lily, and the lily was run over by a lawn mower."

I have had more than one producer ask me just what we are doing being involved in all these trade agreements when it seems that agriculture is under attack.

We have dealt with and continue to deal with the BSE hurdles for our beef products, our farm and export programs are under attack through the Brazilian cotton case and our food aid programs are being attacked by others in the Doha round of WTO negotiations.

We have now completed, and this body is considering a free trade agreement with Australia that exempts a single commodity—sugar—at the expense of others, particularly wheat and beef.

Kansas producers, who do pay close attention to trade matters, are taking a look at this list of issues and saying: Hold on a minute, Pat. What is going on here?

I will share with you and the rest of our colleagues what I tell the folks at the coffee klatch in Dodge.

In addition to setting a dangerous precedent for future trade agreements, exempting sugar from the Australian FTA also sets a dangerous precedence for agriculture, especially for sugar itself. In the past, whether in trade agreements or trade disputes, whether it be in farm bills or budget reconciliations, the commodity and producer groups have sank or swam together.

Sugar's insistence on not participating in this free trade agreement makes it very likely that the rest of US agriculture will opt not to participate in sugar's defense the next time that program faces a WTO challenge, budget reconciliation measure, or amendment to end sugar's support program during the next farm bill.

Simply put, if sugar falls or jumps off the ag-boat in the future, it may very well find itself treading water while watching the rest of US agriculture drift away silently. Our producers will insist that we extract real concessions on state-traded enterprises, quotas, tariffs, etc. in future trade negotiations for their support for concessions on imports of agricultural goods here at home.

Simply put, you don't bring a knife to a gun-fight and expect our producers to stand with you.

I intend to support the United States-Australia Free Trade Agreement. I believe that it is in the best interest of our relationship with our friend and ally, Australia. However, singling out individual commodities in future trade agreements is not in the best interest of our Nation and threatens agriculture's support and, therefore, my support for future trade agreements.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, I placed in the RECORD a statement addressing the United States-Australia Free Trade Agreement when the Finance Committee first passed it. Today, I want to offer some additional thoughts on two issues that have arisen since then.

As I have said, I believe the agreement will promote our economic interests and job creation here in America.

In addition, Australia is an important ally, and we must do all we can to ensure a healthy and vibrant relationship between our two nations. Overall, the agreement deserves our support.

However, I am disappointed that the administration has included provisions relating to pharmaceuticals in this agreement. It has been suggested that these provisions might block proposals to reimport drugs or undermine our Medicare and Medicaid programs. These provisions do not belong in this agreement and should not be considered as precedent for future agreements. The record should reflect that the U.S. Trade Representative has confirmed to the Congress that these provisions will not harm our domestic health programs or efforts to reimport drugs. And if the Trade Representative's claims in this matter should turn out to be wrong, I believe that a future administration and the Congress should act immediately to correct the agreement through whatever process is needed.

Second, I am disappointed that the Bush administration did not do more to ensure a level playing field for our important beef and dairy farmers. Further, the administration ignored the will of the Senate Finance Committee on this important issue. I was happy to support an amendment in the Finance Committee that helps ensure a level playing field for our domestic beef farmers. Unfortunately, the administration ignored this action and failed to include those enhanced protections in its final proposal. It would seem the administration is content with listening only to itself and a few select industries as it negotiates trade pacts for all of America. This is not consistent with our expectations under fast-track procedures.

Finally, as I have stated before, I am disappointed that the Bush administration did not build on the model of the United States-Jordan agreement by including strong and enforceable labor standards in the core of the agreement. Although Australia already has very strong labor rights and an effective enforcement regime, the agreement represents a missed opportunity to set a higher benchmark for future trade agreements by cementing the principle that labor and environmental standards are in the core of all new agreements.●

Ms. COLLINS. Mr. President, I rise in support of the Australia Free Trade Agreement. On balance, this agreement is overwhelmingly beneficial to the State of Maine, and to the country as a whole. Critical to my decision to support this agreement is the fact that it will provide new and expanded opportunities to Maine businesses that want to expand into the Australian market. This agreement will create and support good jobs in my State.

It is clear that businesses across Maine are interested in initiating or expanding trade with Australia. The Maine International Trade Center held a seminar recently on export market opportunities in Australia. Representatives from more than fifty Maine companies, including many small businesses and manufacturers, attended.

It is no wonder: the United States has a trade surplus with Australia of $9.1 billion, the second largest trade surplus of any U.S. trading partner. Australia is a net consumer of United States exports and particularly United States manufactured goods. Ninety-three percent of United States exports to Australia are manufactured goods, and 99 percent of these goods will be duty-free if the agreement is implemented. The National Association of Manufacturers predicts that the agreement could result in nearly $2 billion per year in new United States exports of manufactured goods to Australia, a boost to our hard-pressed manufacturers.

In addition, Australia is the 15th largest economy in the world and has been growing over the past few years while the rest of the world is in recession. This means more Australian buying power—and many new opportunities for Maine and United States companies to export their products to Australia.

Australia has a strong and vibrant trading relationship with Maine. Australia is Maine's 12th largest export market, and in 2003, Maine exported nearly $29 million in high-value goods, such as electrical equipment, computers, and paper products, to the country. The agreement will make these goods 99.25 percent duty free, on average, in the Australian market.

Maine's forest and paper products industry will be stronger and will be able to grow as a result of this agreement. The agreement lifts all Australian tariffs on all U.S. forest products, which currently face tariffs up to 5 percent. This is important, because the United States is Australia's second largest supplier of paper and paperboard, with exports totaling $178 million in paper products in 2003.

Expanded access to the Australian market will directly benefit Maine mills. For example, International Paper's mill in Jay ME, exports about 1,200 tons of paper to Australia every year. These exports currently face a 5 percent tariff. If the free trade agreement is implemented, the tariff will be eliminated, and International Paper will be able to fulfill its plans to increase the amount of paper it exports to Australia from Maine, preserving and even increasing the number of jobs supported by the mill.

The agreement will benefit other Maine companies as well. The elimination of tariffs will enable FMC Coporation's Rockland plant to significantly expand its export of carrageenan products to Australia. In Southern Maine, National Semiconductor and Fairchild Semiconductor will benefit from the agreement's elimination of tariffs on all U.S. high-tech manufactured goods and from expanded opportunities for U.S. suppliers to compete for a broad range of Australian government contracts.

The Maine Potato Board has endorsed the agreement because it will open and expand Australian markets for Maine potato products. The MPB notes that the long-term success of the Maine potato industry is absolutely dependent on the growth of new markets.

Despite the overwhelming benefits of this pact, I do have some concerns with this agreement. While Maine does stand to reap substantial benefits, I am disappointed that the United States Trade Representative has included language that conflicts with the goal of drug reimportation.

One of the greatest challenges facing American consumers is the high cost of prescription drugs. That is why I have long supported legislation to allow Americans to benefit from international price competition on prescription drugs by permitting FDA-approved medicines made in FDA-approved facilities to be imported into this country.

Despite the ongoing debate in Congress and the strong support for drug reimportation on the part of the American public, I am disappointed that our trade representatives have insisted on including language in this trade agreement that is contrary to these critically important efforts.

The Australian government already bans the export of drugs subsidized under the Australian Pharmaceutical Benefits Scheme. Since 90 percent of the drugs prescribed in Australia are subsidized, Australia would not be a significant source of supply of imported drugs into the United States, with or without this agreement. Drugs imported into the United States are far more likely to come from Canada and Western Europe.

I am concerned, however, that these provisions set a bad precedent. While Australia itself is not necessarily a good source for imported drugs, this language could become a template for future agreements.

I am also disappointed that this agreement provided some additional market access for Australian dairy products in the U.S. market. However, I am pleased the final version of the agreement includes marked improvements over initial drafts. For example, the agreement gradually phases in limited increases in dairy imports over an 18-year period. In addition, the agreement maintains the current U.S. above-quota tariffs on dairy products indefinitely. These improvements were included in the agreement after I joined with my colleagues in sending a letter to U.S. Trade Representative

Robert Zoellick asking that the interests of our dairy farmers be taken into account as the agreement was negotiated. The inclusion of these provisions, in addition to my consultations with Maine's agricultural leaders, has led me to conclude that this agreement will not have a significant impact on Maine's dairy industry. Moreover, Australia currently exports only a small amount of MPCs to the United States, and this agreement will not change this.

Australia is one of our oldest and most reliable partners. The country is a growing market for high-value U.S. exports from both Maine and the country. The free trade agreement we are considering today will strengthen the economic and diplomatic ties between our countries. On balance, it is good for Maine, and for both countries.

Mrs. CLINTON. Mr. President, today the Senate will vote on the Australia Free Trade Agreement. Because I believe this agreement offers greater access to Australian markets for U.S. manufacturers as well help solidify a long-term relationship with Australia, a leading ally of the United States on a whole host of international challenges, I will vote in support of this agreement.

The Australia Free Trade Agreement will offer new opportunities for U.S. manufacturers as well as granting substantial access to U.S. services suppliers, including telecoms, financial services, express delivery, and professional services providers. These sectors are a critical part of New York's economy. Furthermore, Australia has been a stalwart ally of the U.S. and this agreement is another step in cementing that relationship.

I share the concerns raised by some of my colleagues regarding the drug importation language in the agreement. Quite simply, the United States Trade Representative should not be negotiating agreements that could impact on the drug importation debate and I have grave concerns about the inclusion of this language in the agreement. Similarly, in the Chile and Singapore agreements, I raised concerns about the inclusion of immigration provisions in those agreements. The continuing practice of the United States Trade Representative of including provisions in trade agreements which are rightfully in the jurisdiction of Congress is deeply troubling.

During my tenure as a Senator, I have voted for every trade agreement that has come before the Senate. However, I will find it difficult to support future trade agreements which contain language that impedes the jurisdiction of Congress regarding drug importation or other issues.

While I wish the agreement had included provisions that provided greater market access for New York agriculture, I believe that a genuine effort was made to address the legitimate concerns of New York and other States' farmers and that, on balance, New York's economy will benefit from this agreement.

Despite my concerns over the drug importation provisions, I believe that, in the aggregate, New York will benefit more from having this agreement pass than if it failed. I also believe it sends a positive signal to Australia about the importance of the United States-Australia relationship. The Trade Representative should not make the mistake of concluding that a vote for the Australia Free Trade Agreement is a vote in support of this troubling drug importation provision.

When deciding how to vote on trade agreements, I look at each agreement in its totality and measure the impact of each agreement on the New Yorkers that I am privileged to represent. Because I believe that passage of the Australia Free Trade agreement will lead to more jobs and greater economic growth in industries that are an important part of New York's economy as well as strengthening the U.S. relationship with Australia, I will vote in support of this agreement.

Mr. LEVIN. Mr. President, article 17.9.4 of the United States-Australia Free Trade Agreement implementing legislation allowing patent holders to prevent the import of their patented products is redundant and should not have been included in the agreement. Australian law already bans the export of pharmaceuticals if such drugs are purchased under its Pharmaceutical Benefits Scheme, PBS, and PBS drugs account for over 90 percent of all drugs sold in Australia.

This language does not establish a precedent for other free trade agreements. According to the Senate Finance Committee, it is appropriate to raise objections if this language is included in a free trade agreement negotiated with a country that does not forbid the export of low cost pharmaceuticals. Therefore, I will support this agreement.

Mr. JEFFORDS. Mr. President, I firmly believe that free and fair economic relations between nations will accrue to the benefit of all parties. Our country was founded on the principle that all States would benefit from the free flow of commerce between equal parties. And our national economy has proved this to be true.

These same dynamics now operate on a global scale. Commerce can now reach around the globe with ease. Communications are instantaneous, even in the most isolated places. Our trading laws must keep pace with the emerging patterns. We must move to shape the emerging global marketplace into a productive and fair system—not sit back and condemn its advances and decry the loss of old economic structures. We can either be in the lead of this evolution, or we will be sidelined by it. I believe that America can and must exert leadership. One way we must assert leadership is by the negotiation of trade agreements that will lower the barriers to trade and level the playing fields for all players.

Trade agreements come together more naturally with developed nations that share our commitment to rule of law, strong worker protections and strict environmental controls. Australia is such a country. Even so, it has been difficult to resolve the differences in our two economies and allow protections for particularly vulnerable elements of each economy. Negotiations have taken place over a considerable length of time, and no side has gotten everything they want.

The provisions in the agreement relating to dairy, for instance, are an example of not getting all that we would like. I joined a bipartisan group of 30 Senators in a letter to the chief US trade negotiator, Ambassador Robert Zoellick, expressing our concerns for our Nation's dairy farmers and requesting favorable treatment for this struggling national industry. Under this agreement, imports may amount to two-tenths of 1 percent of U.S. dairy production. While I would have preferred no market penetration by Australian dairy imports, I am confident that our industry is strong enough to meet this competition. Additionally, this agreement will open up new markets for Vermont's dairy products. I am confident Vermont farmers will be able to take strong advantage of this opportunity.

Some concerns have been raised about provisions relating to prescription drugs. Transparency provisions in this agreement related to Government procurement decisions are designed to provide equal rights of appeal. The US Trade Representative, USTR, has indicated that these provisions will not require any changes in U.S. pharmaceutical purchasing programs. There has also been discussion about a provision in this agreement related to drug reimportation. As a strong supporter of passing drug reimportation legislation, I would not want to endorse any curtailment of future drug reimportation opportunities. In this case, however, Australian law prohibits the export of any drugs purchased through its government-subsidized program, the majority of all drugs sold in Australia. As a central part of the Australian Government's drug program, there is no reason to think that this prohibition would change. But I also warn USTR that it would be unacceptable to include language similar to article 17.9.4 in future trade agreements where reimportation might be an option in the event of a change in U.S. law. I am sure that the intense discussions around these provisions over the last few days have made this point quite clearly.

As with all significant agreements, we will find flaws and challenges with this agreement as it unfolds. But as international dispute mechanisms are perfected, we become better at settling them equitably and expeditiously. The future of our economy and the health of the global economy are dependent upon us improving our ability to devise more equitable and open trading systems.

The disparities between the economies of the developed world and the less-developed world continue to grow. This agreement comes between economies of equal strength, even though not of equal size. The experience we gain here in how to remove barriers to trade while protecting vital interests will inform us of how to more successfully tackle the difficult trade relations between our economy and those less-stable economies. Some would argue that the easiest way to relate to weaker economies is to put up greater barriers to trade—to prevent the export of any U.S. capital and prevent the entrance of any lower-priced goods into our market. I am more of an optimist than that. I believe that we can do better than lock out whole sectors of the global economy. I believe we must make efforts, learn from our mistakes, and move ahead to strengthen the flow of commerce, the equity of business and the opportunity for all people to earn a living.

Mr. KYL. Mr. President, I am pleased to join many of my colleagues in supporting this landmark United States-Australia Free Trade Agreement, FTA. I say "landmark" because it is both historic in that it underscores the invaluable relationship between the United States and Australia—a relationship that is built on friendship, loyalty, and mutual support for economic and political freedoms—but also because it breaks new ground for an FTA.

For the first time, a free trade agreement negotiated by the United States has addressed the worldwide problem of prescription drug price controls. The United States is virtually the only developed nation that does not regulate pharmaceutical prices. American consumers, who finance the bulk of research and development for the entire world, should be very pleased that the U.S. Government has begun broaching the subject with other developed countries. Because some of my colleagues have raised concerns about the pharmaceutical section, I want to briefly review what the FTA does, and what it does not do, in the area of pharmaceuticals.

First, it is important to note that Americans will only benefit from the drug provisions and, in truth, so will Australians. The FTA makes suitable progress on addressing Australia's drug price controls; the U.S. did not have to make any concessions in exchange. I say suitable progress because, while the agreement makes important progress, Australia does not embrace a free market for drug pricing with the accord.

I joined a number of my colleagues on a Congressional delegation trip to Australia at the beginning of the year. During our meetings with Australian government officials we had the opportunity to debate the Australian drug pricing system. I believe the agreement we will approve today was possible, in part, because of those discussions.

In the FTA, the U.S. and Australia state that they "recognize" the importance of innovative pharmaceuticals in delivering high-quality health care. Incorporated in this, both countries agree to set pharmaceutical prices based on the "objectively demonstrated therapeutic significance of the pharmaceutical." In practice, the U.S. Government is already in compliance with this provision because our Government does not "mandate" prices; certain Government agencies may negotiate prices with drug companies, but by and large, we allow the free market, including negotiations between drug companies, and insurance companies, to determine prices. While Australia could not take the next step and price drugs accordingly or adopt market-pricing, this is still an important first step. If the U.S. can convince our friends and trading partners to agree that innovative pharmaceuticals benefit everyone and that R&D is both costly and necessary to our health, then we can begin arguing for better burden sharing of R&D costs.

I want to talk for a moment about price controls and the effect they have on research and development. Some of my colleagues argue that the U.S. should adopt prescription drug price controls indirectly by importing price-controlled drugs from other countries as a means of reducing drug costs for American consumers. I believe this would be a terrible mistake for a number of reasons, one of which is the effect it would have on R&D. To date, the U.S. has seen private pharmaceutical research move to the U.S. from Europe specifically because of price controls. Companies are able to recoup their R&D costs in the U.S. market and are consequently more likely to develop their new, breakthrough pharmaceuticals in the U.S. Americans like having the R&D performed in our country—we like the quality jobs it brings and we like having first access to new products—but we do not like the fact that Americans pay for almost all of the R&D for the world. Americans know this is simply not fair. If the U.S. adopts price controls, we will see the development of new, innovative pharmaceuticals drop off because there will be no one left to fund R&D. Rather, we must begin persuading other developed, market economies to begin shouldering their share of the burden. That is why the fact that the agreement recognizes the importance of R&D is so critical.

The FTA also commits Australia to make both transparency and timeliness improvements to their Pharmaceutical Benefits Scheme, PBS, that are intended to make the listing process for new pharmaceuticals more open and fair. The PBS is the system by which the Australian government sets price controls and provides subsidies for nearly all drugs sold in Australia. To improve transparency, Australia agrees to establish an independent review board to hear appeals of PBS listing decisions. This will enhance transparency and accountability in the operation of the PBS. Companies will gain a better idea of how and why decisions were made regarding their drug submissions. Prior to this agreement, U.S. drug companies would submit information on a new drug for listing by the PBS, the PBS would set the price, and the company would be left with a "take it or leave it" situation.

Some of my colleagues have asked whether the U.S. will have to establish a similar independent review board, but the general counsel of the USTR clarified for the Senate Finance Committee, during the July 14, 2004 consideration of the FTA, that because our processes are already open and transparent, no independent review board is required for any U.S. Government purchases of pharmaceuticals, by the Veterans' Administration, for example).

Finally, the FTA establishes a "medicines working group" that will provide a forum for continued dialogue between the United States and Australia on pharmaceutical issues. During our meetings in Australia we suggested such a working group as a way to guarantee that, if our pricing concerns could not be resolved in the FTA, we could continue to discuss the issue. The subject matters that the group might consider are not limited by the agreement, and therefore can be expected to include the importance of market-based pricing.

Now, to address the concerns of my colleagues. First, the FTA does not ban the importation of price-controlled drugs. As my colleagues know, it is already illegal for individuals to import prescription drugs into the United States. Now, Congress may vote to amend U.S. law to allow individuals to import prescription drugs from foreign countries. I would strongly oppose this, but we may do it. This agreement would in no way prohibit Congress from changing U.S. law to allow drug importation. The new U.S. law would supercede the agreement and would take effect despite any inconsistencies with the agreement. Also as some of my colleagues know, Australian law prohibits the export from Australia of drugs that are subsidized by the Australian government. This only makes sense, from the perspective of Australian taxpayers. Australian law does allow nonsubsidized drugs to be exported; but in reality, most of the drugs marketed and sold in Australia are under the subsidized system. As a consequence, Australia is not likely to be a significant exporter of low-priced drugs to U.S. consumers, should Congress allow drug importation, regardless of what this FTA says.

Another charge raised by some of my colleagues is that the patent protections in the FTA will in some way prohibit drug importation. The patent protections included in the FTA merely state that both nations agree to protect the patent owners' rights to determine how, by contract or other means, their patent is used by a licensed third party. It is not specific to pharmaceuticals, nor is it unique to this FTA; other U.S. trade agreements include similar language that merely reiterates and is consistent with existing U.S. patent laws. That is, under U.S. law patent holders already have the right through contracts and by other means to limit the use of their products. If an unscrupulous person wanted to steal a U.S. company's drug patent, illegally make the drug, and sell it into the United States, it would be a violation of U.S. law, regardless of whether the U.S. entered into this FTA or not.

I urge all of my colleagues to review the facts if they have concerns with the drug provisions of this FTA because this agreement will not increase drug prices in the U.S., it will not increase drug prices in Australia, and it will not prevent the U.S. from changing our laws in any way. It will, however, begin an important dialogue with our Australian friends about the importance of R&D and of paying for R&D; this is an important first step. I urge all of my colleagues to support the agreement.

Mr. GRAHAM of South Carolina. Mr. President, I do not consider myself a protectionist, nor a free trader, but a balanced trader.

Having said that, I have not been a supporter of so-called free trade agreements in the past. I have been very skeptical of the free trade agreements—FTAs—our country has signed due to the detrimental impact that I believe they've had on our economy, especially the manufacturing industry. Most of the trade agreements we have signed since I have been involved in politics under both Democrat and Republican leadership have put American workers at an unfair disadvantage because they have encouraged trade with countries that have no labor standards, lack environmental and intellectual property laws, and violate agreements under the WTO.

Free trade only works when both countries play fairly. That is why I can support the U.S.-Australian Free Trade Agreement—USAFTA. Australia is a country that holds true to their word and will live up to their commitments in the agreement. Australia lives by the same rules of law that we as Americans live by. By maintaining an equivalent cost of production and standard of living to that of the United States, the USAFTA will improve the competitive advantages of both countries without encouraging the displacement of hard-working Americans.

I am extremely concerned about the negative impacts that unfair trade agreements have had on the manufacturing industry. South Carolina, particularly the textile industry, has been decimated by unfair trade, first with NAFTA and now with the People's Republic of China. We have lost thousands of jobs at home. In the last six years, nearly 230,000 U.S. textile jobs have been lost. Since 1997, the U.S. textile industry has closed more than 250 textile plants in the country. These mass layoffs and plant closings are a direct result of unfairly traded imports, especially from China. China's access to the U.S. textile and apparel market more than doubled in 2002, growing 117 percent and grew an additional 114 percent in 2003, according to the American Textile Manufacturers Institute.

During the negotiations on the Australian Free Trade Agreement, the Bush Administration negotiated a good deal for the textile industry and I appreciate their efforts in this regard. The USAFTA contains a strict yarn-forward rule of origin with no loopholes, exceptions, or carveouts. Therefore, the benefits of the USAFTA are limited to the participating countries only, effectively denying China the loophole through which they annually transship billions of dollars of manufacturing goods into this country. This is the first FTA to contain such a strict yarn-forward rule of origin and I hope that it is the first of many.

While I recognize the need to examine the problems with our current trade agreements, I support the USAFTA because I feel it has the opportunity to serve as a model for future FTAs. Furthermore, the implementation of the USAFTA will further strengthen the U.S. relationship with Australia, one of our most important and reliable strategic partners.

Mr. BURNS. Mr. President, today we are considering the United States-Australia Free Trade Agreement. There is a lot to commend in the agreement before us. This deal is expected to add over $490 million annually to the U.S. economy. The benefits of this agreement to the manufacturing sector of America are significant. Tariffs on nearly all U.S. exports of manufactured goods are immediately eliminated. Intellectual property rights protections will be expanded, as will progress towards enhanced trade through e-commerce. I commend Ambassador Zoellick for his hard work on this deal. I have been to Australia many times, and I have met with Prime Minister John Howard. The U.S. and Australia share many interests. We share similar values, similar standards of living, and similar goals. Australia is a close friend and important ally in the war on terror, and I recognize the value of our relationship. Because of the overall benefit to our economy and the close friendship the U.S. shares with Australia, I will be supporting this agreement today.

However, I have some reservations about the impact of this deal on Montana farmers, and I want to take a moment to address those.

While the beef industry has achieved a generally balanced phase-in of changes, the Australian Wheat Board remains a trade-distorting monopoly that could harm our domestic grain producers. I recognize that Australia has offered to reconsider the role of its Wheat Board in the context of the Doha negotiations, and I applaud that decision. But the Australia Free Trade Agreement provides no immediate benefit for Montana farmers.

Provisions relating to cattle are somewhat better than those for grains, but I want to take a moment and address an issue of concern for some in the beef industry. The automatic safeguards provided for in this agreement are subject to waiver, and that is troubling for some of our producers. While the Office of the U.S. Trade Representative has been clear that the waiver would be used only in extraordinary circumstances, I want to stress my belief that those safeguards are there for a reason. Should the Senate approve this agreement before us today, I expect USTR to use caution when considering waiving the safeguards. I appreciate the provisions in the implementing language that require USTR to consult with the Senate Finance Committee, the House Ways and Means Committee, and private sector advisory groups prior to taking action. Consultation requirements like these ensure that the best interests of our cattle producers will be protected. The inclusion of price and quantity safeguards represent real progress in achieving a balanced phase-in of free trade agreements, and I want to make sure they are properly used.

Despite these issues, I do believe that the Australia agreement is, in general, beneficial to the United States, and to Montana. It could certainly be improved, but Australia comes closer to a balanced deal than most FTAs have.

Again, I will vote for this agreement, but I call on Ambassador Zoellick to aggressively defend the interests of our agricultural sector in the Doha talks so that the future of free trade looks brighter for America's farmers and ranchers. Multi-lateral agreements, like the Doha talks, provide real opportunities for farmers and ranchers—and in that context, the United States and Australia will work together to liberalize trade for the benefit of all.

Mrs. LINCOLN. Mr. President, throughout my public service, I have been a supporter of free but fair trade. Trade is important to the Arkansas economy because it creates jobs by opening new foreign markets to Arkansas' largest exports. In 2003 alone, Arkansas employers and farmers benefitted from over $2.9 billion in manufacturing and agricultural exports sold around the world. From 1999 to 2003, Arkansas exports to Australia totaled some $246 million, according to data compiled by the International Trade Administration within the Department of Commerce.

With numbers like these, it is easy to recognize the benefits of freer trade. It is also easy to see that as tariffs are reduced and trade barriers are removed, these numbers can grow.

The benefits of trade don't stop there. Through trade we can improve economies throughout the world, not only making the world an even better customer to all the good products Arkansas has to offer, but improving the lives, working conditions, and environmental standards for millions of people around the globe.

However, while there are certainly benefits, there are usually other important factors that must be considered. As a supporter of freer and fairer trade, I remain passionate that our trade policies must be crafted to ensure that all U.S. industries remain competitive in a world marketplace that is not always free and, all too often, not always fair.

I remain passionate that each step towards freer trade must also be a step towards fairer trade and a more level global playing field. As a member of the Senate Finance Committee, I am pleased to have the opportunity to influence our Nation's trade agreements. In fact, jurisdiction of international trade is a large reason why I sought a seat on the committee, because while I certainly recognize the benefits that free trade creates, I also know the concerns we must address.

All too often, we are faced with the news of the loss of more manufacturing jobs. For Arkansas, the pictures of plant closings and news articles of job loss are more than just stories in the media, they are a harsh reality.

Since July 2000, my State has encountered an enormous loss of manufacturing jobs—nearly 35,000 to be exact, according to data provided by the National Association of Manufacturers.

I am deeply troubled that so many Arkansans have lost their jobs, not because they can't compete on a level playing field but because the cards have been stacked against them. That's what the jobs bill is all about—keeping jobs where they belong here at home.

Does that mean that we should shy away from a pro-trade agenda completely? The answer is no. Without a progressive agenda we are left with the status quo, which simply doesn't work.

With the status quo international labor and environmental standards remain low while tariffs and barriers for goods produced here in the United States remain unacceptably high.

Agriculture is a great example of this. When U.S. farmers look out at the world around them, they see an average bound tariff of 62 percent against their products while foreign farmers see just 12 percent imposed against their products coming into the United States. And when U.S. farmers look around the world, they see Europeans with subsidies as high as $400 per acre while our help to our farmers sit at less than $40 per acre. That is why we need a strong domestic farm policy.

The bottom line is that under the status quo jobs don't stay here in the United States where they belong. They move overseas. Throughout the negotiation of the Australia Free Trade Agreement, it became clear that this was a very unique agreement that presented both opportunities and challenges. A snapshot of Australia shows a highly developed country with comparable environmental and labor standards. Additionally, Australia is one of the few countries with which the United States enjoys a trade surplus—some $6 to 7 billion annually.

With the reduction of tariffs and the elimination of other trade barriers we can look forward to sending more U.S. manufactured and agriculture products to Australia. And that is exactly what happens in portions of this agreement.

In the Australia FTA, 99 percent of the tariffs on manufactured goods go to zero on day one. I have heard this agreement called the best agreement for manufacturers. With immediate free trade for 99 percent of U.S. manufactured goods, I would have to agree, especially when 93 percent of what we sell to that country is manufactured goods.

In addition, U.S. agricultural exports to Australia, totaling $400 million annually, would also gain immediate duty free access, benefitting Arkansas soybean farmers, for example.

However, given that total U.S. agriculture sales to Australia account for less than 1 percent of our worldwide sales, my message to United States Trade Representative Robert Zoellick has been that the United States' No. 1 responsibility to Arkansas farm families is, first do no harm.

There is a significant upside for Arkansas manufacturers and the more than 200,000 Arkansas families who make a good living because of this industry. However, there was not as much to be gained under this agreement in the area of agriculture, and there could have been some risk, particularly to my cattlemen who are very important to me and my State. Now, Arkansas cattlemen can take on any country around the world in a fair global market, but a bilateral agreement like this cannot create that kind of fairness. That is why the Doha Round of the WTO is so important.

In the meantime, as the Senior Senator from Arkansas, my priority throughout this bilateral agreement was simple—ensure protections to safeguard the interest of Arkansas cattlemen and, second, get assurances from Australian trade negotiators that they will assist the United States in our effort to reform government export programs around the world.

While I still have concerns that I intend to continue to work to address with Arkansas cattlemen, my colleagues in the Senate, and Ambassador Zoellick in addressing, the Australia FTA does work to minimize any adverse impact on U.S. agriculture, and beef in particular.

Specifically, Australian access to U.S. markets for beef is opened slowly over an 18-year transition period. Increased imports from Australia are estimated to be limited to about 0.17 percent of U.S. beef production and 1.6 percent of beef imports to the U.S.

In addition, several important safeguards are included to ensure that additional Australian beef imports will not disrupt the domestic beef industry or depress American beef prices. For example, while the proposed FTA would gradually phase up Australia's quota of duty-free beef imports over 18 years, this phase up cannot begin until American beef exports return to levels seen prior to the discovery of bovine spongiform encephalopathy, BSE in the U.S. last January.

Moreover, the first reduction in the tariff will not occur for 9 years and not reach zero for 19 years after enactment of the FTA. Our trade officials also worked to include two additional safeguards in this agreement that will further protect the domestic beef industry. The first safeguard is "volume-based" and would be in effect during the 18-year transition period. This means that Australian beef imports cannot exceed 110 percent of total imports coming in "duty-free" at any point during this time period. If this does occur, the tariff rate will automatically snap back to the higher tariff we currently impose on imports from other countries with which we do not have free trade agreements.

The second safeguard—and the most important in my view—is "price-based" and goes into effect at the end of the 18-year period. This means that a tariff is reimposed on Australian beef imports if domestic beef prices drop to a certain level after tariffs have been eliminated. Both of these safeguards are automatically enforced at our borders based on the established import volume or domestic price levels. No additional review by Congress or the Administration is required to enforce these protective safeguards.

In short, I feel that our trade officials did a fair job of accentuating the positives for Arkansas while minimizing any negatives.

I am supporting this agreement because on the whole I believe our trade team showed sensitivity to Arkansas farm families. I am supporting this agreement because I am willing to find common ground with our negotiators when I feel they have listened to my concerns and acted on them. And I am supporting this agreement with the understanding that our negotiators will now turn to the WTO and other agreements whose benefits to my cattlemen will be substantial and certain.

I have been proud to work with my Arkansas cattlemen on a wide range of issues over the years. Whether it has been on disaster assistance, animal identification, trade, conservation, food safety, taxes or regulations, we have stood shoulder to shoulder. With the passage of this agreement we must now turn our attention to these and other important issues, starting with the opening of market places around the world that will be truly beneficial to the Arkansas cattlemen.

With the passage of this agreement, I am committed to doing exactly that.

Finally, I would be remiss if I didn't briefly touch on the pharmaceutical provisions in this trade agreement and my concern for the precedent that they may set.

While I am told, and I trust, that this will have no implication on the reimportation legislation that I and many of my colleagues support; while I am told, and I trust, that this will have no implication on how our Medicare and Medicaid programs operate; while I am told, and I trust, that this agreement will have no implication on the way the Department of Veteran's Affairs purchases their prescription drugs, I must restate that I am concerned.

Nonetheless, I want to reiterate that I am fully committed to pursuing Federal policies that will make prescription medications in the United States sale and affordable through legislation and future trade agreements.

We have a crisis here in America when it comes to the price of prescription drugs and I'm looking for solutions. Furthermore, I'm putting the Administration on notice that efforts to block access to cheaper drugs for my constituents will be met with resistance by this Senator until we make some real progress of our own here in this country.

Mr. NELSON of Florida. Mr. President, I would like to speak briefly about the Australia FTA. On balance, this agreement will benefit the United States and benefit Florida, and I will vote in favor of it. This is consistent with my record of supporting fair trade, opening overseas markets to Florida exports, creating jobs and economic growth in this country.

This agreement eliminates Australia's manufacturing tariffs, giving companies access to Australian markets. Florida exports a significant amount of goods and services, such as fertilizers, high technology computer simulators and aircraft parts. Florida companies and businesses support this agreement, because exports to Australia will create jobs in across many sectors.

Now, this agreement has important provisions relating to Florida's citrus industry that merit attention and oversight. The citrus industry is Florida's second largest—90,000 jobs depend on it, and the industry has a $9 billion economic impact on the State.

First, I would like to take a moment to reiterate the importance of preserving the tariff on imported frozen concentrated orange juice in the FTAA and WTO negotiations. I have spoken often in the past about this issue and I am going to continue to fight to preserve the tariff. Senator KERRY has already acknowledged how important the tariff is to Florida. I would also like to again urge the President to state publicly, in clear language, that we will not negotiate any reduction of the tariff.

In fact, I am pleased to see that the administration worked with Australia in this agreement to address another sensitive commodity, sugar. Sugar was excluded from the agreement, because of the unique circumstance surrounding the trade of sugar. We must reform international sugar trade not on a regional, or bilateral basis, but with the WTO. I would hope that the unique circumstances surrounding Brazil's manipulation of the citrus trade will lend it similar treatment in an FTAA.

With respect to the Australia FTA, this agreement presents an opportunity to resolve an outstanding issue between the U.S. and Australia that could pave the way for increased exports of Florida citrus. For the past 13 years, Florida's Department of Agriculture has worked with Australia to develop a protocol for the export of citrus to that country. Unfortunately, we have achieved only limited progress because Australia has effectively stonewalled the process at every step. Florida's citrus industry has worked hard to meet the import protocol requirements set by Australia, only to have Australia change them.

This administration must work with Australia to resolve issues inhibiting exports of Florida grapefruit in a timely fashion. This is important to the implementation of this agreement.

Most recently, after Florida's industry addressed the concern raised by the Australians on canker, they raised the issue of "post-bloom fruit drop," PFD. This is more a weather condition anomaly, not a major disease concern that exists in a great deal of citrus production around the world, and it very difficult to transmit. And although PFD transmission to Australia is not 100 percent impossible, it is as close to impossible as anything the industry has seen. Australia must not put excessive protocols on Florida's producers because it could be a disastrous precedent for Florida's grapefruit industry, as other foreign markets could adopt this same non-tariff trade barrier.

The Australia FTA calls for the development of protocols to address many standing trade issues that have existed over the last several years—including Florida citrus. The agreement calls for negotiators to complete this process within a six month timeframe. This administration should seize this opportunity to resolve this issue in order to pave the way for increased Florida citrus exports to Australia.

The U.S. Government should remain committed to producing a reasonable, scientifically-based protocol that will not jeopardize other export markets or opportunities. Moreover, it is important that this process be completed on a timely basis to enable Florida's industry to enter the Australian market next season, which opens this November.

While I am a supporting the Australia trade agreement, I would like to take this opportunity to express my concern over other provisions included in it that could hamper congressional efforts to allow the importation of cheaper drugs from other nations.

I am a strong supporter of importation simply because I can no longer defend the exorbitant drug prices paid for by our Nation's citizens. The language in the agreement does not expressly prohibit the importation of drugs from other nations. However, because it is based on current law, any changes allowing importation would be in conflict with the terms of the agreement.

I am confident that the overall benefits of this agreement warrant my support and that should similar provisions dealing with importation be attempted in future trade agreements, enough opposition would rise to ensure that Americans do not continue to subsidize the cost of drugs for the rest of the world.

Mr. KENNEDY. Mr. President, I support the United States-Australia Free Trade Agreement. It has significant benefits to American manufacturers in all our States who have suffered too much in our troubled economy. In the past 4 years this vital sector has shed 2.5 million good jobs that may well take years to replace.

The agreement will immediately remove all Australian tariffs on virtually all goods manufactured in the United

States. In doing so, it will provide a modest competitive advantage in the Australian market for U.S. manufacturers over competing firms in Asia.

In the past 4 years, the administration has done very little to combat the unfair trade practices of other nations to open their markets to more U.S. goods, and this agreement will help at least in part to redress the balance.

Massachusetts companies exported $254 million in goods to Australia last year, much of which were products in modern high-tech fields. If this agreement had been in place then, 98 percent of those products would have been duty free.

In addition, the fact that Australia has strong labor and environmental laws mean that this agreement will not result in a "race to the bottom" that drives down wages and degrades the environment. Many of us are concerned that the administration, in negotiating the agreement, was so reluctant, because of its ideology, to try to resolve some of our differences with Australia on specific labor issues, but those differences are not sufficient to cause rejection of the agreement. Good-paying jobs in the United States will not be replaced by low-wage jobs abroad in harsh and exploitive conditions.

In other trade agreements, that problem can be extremely serious, and we must continue to be vigilant that trade agreements respect the need for strong protection for labor conditions and for the environment as well.

A more serious problem in this agreement however, is its treatment of prescription drugs. These provisions are a blatant attempt by the administration to bypass Congress and set an irresponsible precedent for blocking the reimportation of prescription drugs. They build on similar provisions in the Singapore trade agreement. They are a statement of the priorities of the Bush administration that put profits of drug companies first and affordable drugs for patients last.

The current rules on importation or reimportation of FDA-approved drugs manufactured in FDA-approved plants are indefensible. They prohibit anyone except a drug manufacturer from importing drugs into the United States. They create a shameful double standard under which Canadians, Europeans and other foreign patients can buy American drugs at affordable prices, while American drug companies charge exorbitant prices to American patients.

The central issue is fairness for millions of Americans struggling to afford the soaring cost of prescription drugs. Americans understand fairness. They know it's wrong that for the same prescription drugs, U.S. patients pay 60 percent more than the British or the Swiss, two-thirds more than Canadians, 75 percent more than Germans, and twice as much as Italians.

Prescription drugs often mean the difference between health and sickness—or even life and death—for millions of Americans. Drug companies are consistently the most profitable industry in the Nation, yet they overcharge countless families. It's wrong for patients to go without the drugs they need because the Bush administration won't stand up for patients against the price-gouging of the pharmaceutical industry.

Senator SNOWE, Senator DORGAN, Senator MCCAIN, Senator DASCHLE, and I and other colleagues have proposed legislation to give American patients a fair deal at long last. Our proposal will legalize imports of safe U.S.-approved drugs manufactured in U.S.-approved plants. U.S. consumers will be able to buy FDA-approved drugs at the same fair prices as they are sold abroad.

The drug industry and the Bush administration argue that imported drugs jeopardize the health of American consumers because of the possibility of counterfeiting or adulteration. Under our proposal, that argument can't pass the laugh test.

Our proposal sets up iron-clad safety procedures to guarantee that every drug imported legally into the United States is the same FDA-approved drug originally manufactured in an FDA-approved plant—whether the drug is manufactured abroad and shipped to the United States, or whether it is manufactured in the United States, shipped abroad and then imported back into the United States.

Compare our rigorous requirements with what happens today. Fraudulent dealers throughout the world can establish Web sites or advertise low-cost drugs in other ways and claim to be Canadian pharmacies. Individuals have no way of knowing whether they are purchasing safe or unsafe drugs or whether the seller is legitimate or not. All such sales are illegal. The only rule is let the buyer beware.

The FDA has eloquently testified about the Wild West situation that American consumers face every day under the current rules. As long as it is illegal to buy safe drugs at low prices, the trade in unsafe drugs will flourish. As long as we bury our heads in the sand and fail to guarantee the availability of safe and legal imported drugs, millions of American patients will continue to risk their health on potentially unsafe, unapproved, and counterfeit drugs. Our bipartisan proposal gives patients access to drugs at prices they can afford, and it protects them against the danger of the essentially uncontrolled and uncontrollable counterfeit drugs they face today.

It is because of the rigorous safeguards in our bill that Dr. David Kessler, who served under both Republican and Democratic Presidents as Commissioner of the FDA, has stated that our proposal "provides a sound framework for assuring that imported drugs are safe and effective."

Dr. Philip Lee, one of the Nation's leading authorities on prescription drugs, a physician who served as the Assistant Secretary of Health under two Presidents, and a former Chancellor of the University of California at San Francisco, has emphasized that our proposal "will reduce rather than increase the likelihood of counterfeit drugs entering the U.S. supply chain from abroad and that drugs imported under the program will meet FDA standards for safety and effectiveness."

On imported drugs, safety is the first responsibility—and it is a responsibility that our bipartisan proposal fulfills. But legalizing safe drug imports is only half the battle to bring fair prices to consumers. Legalization is meaningless unless it is backed by strong measures to prevent drug manufacturers from manipulating the market to subvert the law.

Already, American drug companies are retaliating against imports from Canada by limiting the amount of drugs they sell to Canada and denying drugs to pharmacies that re-sell them to American patients. A few weeks ago, a group of senior citizens was forced to cancel a bus trip to Canada because the Canadian pharmacies they relied on for affordable drugs were effectively shut down by U.S. drug companies.

Our proposal includes strict rules to close the loopholes that drug companies use to evade the law. Violations will be considered unfair trade practices, and violators will be subject to treble damages. Any proposal that does not include comparable protections is a fig leaf, not a solution.

The provisions of the Australian Free Trade Agreement, however, opens a gaping hole in these protections. One way that a drug company can circumvent an importation law is by claiming that an American importer who purchases a drug from a European wholesaler has violated the patent held by the drug company.

It has long been a settled feature of patent law that the first sale of a product in the domestic market exhausts the patent. If you buy a car and then resell it to a friend, the car manufacturer can't sue you for violating its patent. A recent court decision, however, stated that the rule of exhaustion through first sale does not apply to international sales. Therefore, a drug company can make a condition of its contract that a foreign buyer won't resell a drug to a United States importer. If the foreign buyer does so, the importer could be sued for a violation of the patent.

Broad application of this rule to drug company sales would nullify any reimportation bill that Congress passes. That is why our legislation specifically states that reimportation of a prescription drug is not a patent infringement. The Australia Trade Agreement, however, states that it is an obligation of the United States to "provide that the exclusive right of the patent owner to prevent importation of a patented product . . . without the consent of the patent owner shall not be limited by the sale or distribution of the product outside its territory." This obligation does not apply just to drugs imported from Australia, but to drugs imported from anywhere in the world. If this obligation could be enforced, it would nullify any drug importation bill passed by Congress, and guarantee that drug makers could continue gouging American consumers, no matter what the Congress does.

This prohibition was not added to the agreement because the Australians wanted it. Their domestic drug industry is small, and their own laws generally do not allow reimportation to the United States. The prohibition was added because the U.S. Trade Representative insisted on it.

It's there because the pharmaceutical industry wanted it as a model for future agreements. It's there because the Bush administration puts the interests of drug companies higher than the interests of American patients.

Fortunately, this provision has limited practical significance. The only party with standing to enforce the agreement is the Australian Government, and it is unlikely to bring any enforcement action. But it puts our country in the awkward position of endorsing a principle against the best interests of our people, and it is an ominous indication of what the Bush administration will try to do in future agreements.

I intend to vote for this agreement, because of the advantages it offers to American business and consumers. The attempts to bar drug reimportation included in the agreement are not enforceable in any meaningful way. But we must be vigilant against attempts to include any such provision in future trade agreements.

Year in and year out, drug industry profits are the highest of any industry in the United States. Yet year in and year out, patients are denied life-saving drugs because those astronomical profits are possible only with astronomical prices—prices that drug companies can't charge anywhere else in the world, because no other country in the world would let them.

A broad coalition of groups representing senior citizens and consumers have endorsed our bipartisan proposal. It's time to end the shameful price gouging. It's time for basic fairness in drug prices. It's time for this Congress to pass a genuine drug import bill. It's time for the U.S. Trade Representative to start standing up for the interests of the American people, not just the interests of the pharmaceutical industry.

Mr. BINGAMAN. Mr. President, I am of the view that a basic precondition to the U.S. trade agenda operating on the right track is having a consistent and coherent policy foundation. I have always argued that expanded trade can be a powerful tool to promote economic growth and improved standards of living in the United States and around the world. It can help countries develop, ease poverty, raise standards of living, and eliminate instability. It can encourage the high-wage job growth and technological innovation in the United States. In general, I consider myself to be someone that supports trade. In fact, my record shows that I have.

But I also believe that trade policy must shape the rules by which trade and international economic policy is conducted to maximize its benefits and minimize its liabilities, both domestically and internationally. Trade liberalization is not inevitably better for the United States. But it can be better for the United States, and frequently is better for the United States, and we should pursue it under the right conditions.

Based on the results of U.S. trade policy, I am not sure we are doing that right now. In fact, I have to wonder if we are on the wrong track completely. Here is the bottom line:

Over two million U.S. manufacturing jobs lost; record and rising U.S. trade and budget deficits, so large that the IMF has warned that they could destabilize the global economy; moving from a trade surplus to a trade deficit in one of the few areas we still have a competitive advantage—high-technology products; major cuts by the administration in the education, workforce, and science and technology programs that ensure we have a competitive edge in these products in the future; major increases in outsourcing in the services sector, with no clear indication of whether this provides net benefits for the U.S. economy; continued major barriers to American products in foreign markets—both as a result of tariff and nontariff barriers; a distinct lack of effort on the part of the administration to pursue dispute settlement at the WTO for countries in direct violation of trade laws; a one-size-fits-all approach to U.S. trade policy, where little consideration is given to the actual ability of individual countries to implement agreements or whether the agreements will actually provide long-term benefits; a knee-jerk subordination of U.S. economic security to U.S. foreign policy concerns; insufficient consultation with Congress by the administration during the fast-track process; insufficient explanation by the administration of the potential impacts of trade agreements on our own economic system, including the environment, taxation, healthcare, and so on; and insufficient attention to the impact of trade agreements on American workers, in particular the provision of trade adjustment assistance so workers can increase their skill-set and sustain U.S. competitiveness.

I would argue what we are doing in U.S. trade policy at this point in time is following a policy where trade agreements are assumed to be good, with little regard for the actual implications of the agreement for our country's overall economic security. I would not suggest that economic considerations can be the only rationale for trade agreements, but certainly it must be the primary rationale.

In my State of New Mexico, I have seen directly the unintended but very negative consequences of trade agreements in areas typically not considered to be an important part of them—things like housing, health care, the environment, immigration, and so on. These issues are what many people call the "externalities" of trade. We have not paid close enough attention to these issues in trade agreements, but from where I sit we cannot afford to do this any longer. Small provisions in trade agreements have had substantial unanticipated consequences over time. Trade agreements must look at the overall implications of trade on countries, not just trade flows.

As an example, the United States-Australia Free Trade Agreement contains language that could have a potentially negative impact on the U.S. health care industry. Although the Finance Committee leadership received assurances from the Bush administration that this language is consistent with our normal obligations under the Government Procurement Agreement, I believe the language is ambiguous at best.

To this end, at yesterday's Finance Committee executive session I requested a letter from the Department of Health and Human Services stating specifically that this program would not negatively impact our current efforts to obtain lower cost prescription drugs for Americans. I received the letter this morning, and I will include it for the RECORD.. I have received assurances from the Secretary that the provisions under Annex 2–C of the agreement related to pharmaceuticals do not require changes in any U.S. Government health care programs.

However, I requested assurances from the Secretary that Chapter 15.11 related to Domestic Review of Supplier Challenges do not require changes in any U.S. Government health care programs, nor does the Secretary intend to use the agreement—Annex 2–C or Chapter 15—to change any U.S. Government health care programs. I did not receive this assurance, but I want to make it clear that I have an expectation to do so. If the administration does not intend to use this free trade agreement, there is no real reason that they shouldn't state so explicitly. I request again at this time that they do so, and I believe that request is compatible with the statements made by my colleagues on the floor this afternoon.

There is another problem with this agreement. I am extremely disappointed that the Conrad amendment related to beef safeguards that was adopted during the markup in the Finance Committee was not included in the final language. I feel very strongly that the vote was indicative of the will of the Finance Committee on the FTA and that the revised version would have offered additional protections for American ranchers and should have been included. The fact it was not included in the final language is a violation of the spirit of the Trade Promotion Authority, or fast-track, legislation passed in 2002. Combined with the lack of attention on the pharmaceutical issue, I think this is a mistake on the part of the administration in that it makes the formation of bipartisan consensus on trade policy problematic in the future.

These specific criticisms aside, after careful consideration, I felt the benefits of this agreement outweighed its liabilities. It is my view that the FTA gives a strong boost for trade and investment between United States and Australia that will ultimately benefit the economic security interests of our country. The FTA eliminates 99 percent of Australia's manufacturing tariffs immediately, grants incremental tariff-free access to Australia's market for U.S. farmers and ranchers, provides enhanced preferential access for U.S. telecommunications and service companies, and removes existing foreign investment screening procedures that have been a market barrier for U.S. firms. Significantly, labor and environment standards in Australia are compatible with the International Labor Organization and the laws we have in the United States. I believe there is an economic complementarity between the United States and Australia that is unique, and it should be encouraged.

So while I have some concerns, I will support the United States-Australia Free Trade Agreement. I look forward to working with my colleagues in the future to ensure that the Administration and the Congress work together to establish a broad bipartisan effort to ensure we work together more effectively in the future. The goal is to bring about expanded international trade so we have economic growth and jobs for the American people. That is the bottom line.

I ask unanimous consent to print the letter to which I referred in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, July 15, 2004.

Hon. CHARLES GRASSLEY,
Chairman, Finance Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY: Thank you for your interest in federal and state health care programs, and particularly for your leadership in expanding access to affordable prescription drugs for seniors under the Medicare Modernization Act.

I understand that in yesterday's markup on the Australia free trade agreement Senator Bingaman asked whether the commitments in this agreement would affect US government health care programs. It is our belief that the provisions of Annex 2-C do not require any change in how US government health care programs are operated—either the Annex does not apply to them by its terms or the programs are operated consistently with the Annex's provisions.

I am providing a copy of this response to Senator Bingaman as well. Thank you again for your efforts.

Sincerely,

TOMMY G. THOMPSON.

Mr. DODD. Mr. President, I rise today to speak about the United States-Australia Free Trade Agreement, FTA, which is currently pending before this body. This agreement is the culmination of nearly two years of difficult negotiations and hard work by U.S. and Australian officials. Today we have the opportunity to pass the implementing legislation that would pave the way for formal adoption of this FTA, and when that vote occurs, I intend to support this agreement.

As my colleagues are aware, U.S. exports to Australia totaled over $13 billion in 2003. According to the United States Trade Representative, USTR, Australia is quickly growing as a major destination for U.S. goods. For example, over the past 5 years, the rate of growth for U.S. exports to that nation has increased more than twofold over U.S. exports to the rest of the world. And during these years, aerospace products and parts—a sector vital to U.S. manufacturing and our national security—have been the leading growth category. In 2003, the aerospace sector exported an impressive $2.4 billion in merchandise to Australia.

Since 1999, my home State of Connecticut has witnessed a 72.8 percent increase in the value of its exports to Australia. Trade with that nation directly supports more than 1,800 jobs in Connecticut. Other States have benefited similarly. Indeed, during this same time period, U.S. exports as measured by dollar increases have grown faster in only seven other nations.

But these figures and the potential impact of this agreement are even more striking when one examines the types of items that we export to Australia. I point out to my colleagues that a full 92 percent of U.S. exports to that nation are manufactured goods. I know that I don't need to remind my colleagues that over the past several years, more than two million manufacturing jobs have been lost here in the U.S. More than 30,000 people in my home State of Connecticut have lost jobs in the manufacturing sector.

In a variety of ways, we here in Congress have sought to address the domestic loss of manufacturing jobs and infrastructure. I have worked hard to affect a turnaround in the conditions of this sector—long the lynchpin of the U.S. economy. It doesn't take an economist to realize that this agreement will likely help to strengthen U.S. manufacturing.

That is not to say that a United States-Australia FTA will be a panacea for our manufacturing woes here at home. It will not. But in my view, the steady growth and large manufacturing component of United States-Australia bilateral trade suggest that it will help. For this Senator, that fact is one of the most compelling reasons to support a United States-Australia FTA.

Moreover, it should not go without mention that in 2001, 86 percent of U.S. exports to Australia were from small and medium-sized businesses. That figure—86 percent—amounted to more than 16,000 U.S. firms. If this trend continues, with the passage of this agreement, tens of thousands of small and medium-sized businesses here in the U.S. also stand to benefit.

Nearly 2 years ago, I voted against final passage of fast track authority for the President. I did so because I didn't believe that legislation included adequate language making it crystal clear that a primary negotiating objective of future trade agreements must be to ensure that our trading partners live up to internationally accepted labor and environmental standards.

In that context, I believe that Australia is a model of what we should expect from other governments with whom we craft trade agreements. Australia is more than just a staunch ally—it is also a nation that has substantial labor and environmental protections. These protections will help to safeguard the lives of workers globally and the natural resources on which we all depend. Equally as important, they will help to ensure that American workers are given a level playing field on which to compete.

Despite my overall support for this agreement, I feel that it is important to mention one item of concern. As my colleagues are aware, the United States-Australia FTA includes language that would allow prescription drug manufacturers to prevent the reimportation of their products.

We do not currently import drugs from Australia, and that is unlikely to change given that Australian law prohibits the exportation of prescription drugs. So as a practical matter, this provision of the FTA will not affect drug prices in this country. But I want to make it perfectly clear that this should not set a precedent, nor prevent us from adopting a law that would allow drug reimportation in the future. While I will live with this provision in the context of a bilateral agreement with Australia, I do not believe that it should have broader global implications.

This concern aside, I look forward to voting on the implementing legislation for the United States-Australia FTA. I intend to cast my vote in favor of this agreement, and I encourage my colleagues to do the same.

Mr. JOHNSON. Mr. President, in my home State of South Dakota and across America, hardworking producers tirelessly contribute to the production of our Nation's food supply. Our Nation's producers consistently preserve the safety and wholesomeness of the commodities they produce, ensuring America's food security and contributing to our overall well-being. It is because of our producers and ranchers that we enjoy the safest food supply in the world, and we owe them our thanks.

It is the well-being of the agricultural community which I am concerned for, and it is the well-being of our rural communities that is threatened with the possible implementation of the Australian-United States Free Trade Agreement.

It is evident that while Australia could stand to benefit substantially from a free trade agreement with the United States, limited opportunities exist for the U.S. livestock industry and agricultural sector. For example, in 2003, agricultural and food exports to Australia accounted for only $611 million. This figure accounts for only one percent of U.S. worldwide sales. The overall value of U.S. agricultural imports from Australia equaled an astounding $2.1 billion. These numbers speak loudly for the type of economic opportunity this agreement poses for Australia, at the detriment of our domestic producers.

Our South Dakotan beef producers are dedicated to producing a quality, wholesome, and nutritious product. They are successful even in the face of market concentration, packer ownership issues, and an ever-changing agricultural landscape. The FTA with Australia poses yet another burden for our agriculture producers. Phasing out U.S. above-quota duties on beef over an 18-year period and gradually increasing and lifting quota levels by the end of that period will not encourage growth in our own agriculture economy, and instead, provide a valuable market for the Australian agricultural sector.

The quota increases will take effect when U.S. beef exports return to their 2003 level, the level before the discovery of "mad cow" disease levels, or three years after the effective date of the agreement, whichever is earlier. After the transition period, a price-based safeguard should be available. Such action, even with supposed safeguards after the transition period for market disruptions, will be harmful to U.S. beef producers. I have several concerns about how these safeguards would be utilized, and the actual effect on our producers.

Along with my colleagues, I have written to President Bush, as well as United States Trade Representative Robert Zoellick, to convey my concern about this agreement. While sugar was excluded from the agreement, I, and a number of my Senate colleagues, had requested that beef and cattle be excluded from negotiations of the Australia FTA as well. This request was not heeded. Additionally, a letter was sent concerning Australian imports of dairy, yet another sensitive agriculture commodity that was included in the FTA, and the potentially significant impacts on our pricing system it will have and the inconsistencies it presents with respect to our Federal efforts to financially assist producers.

Our beef industry is a crucial component of the agricultural sector in South Dakota, and we should not enter into trade agreements with Australia, or any other country, that would further damage our agriculture industry. Given our weak economy, we cannot afford to lose more jobs, and we must guard against economic hardships in our rural communities.

Another disturbing component to the FTA with Australia is the prescription drug language. United States citizens continue to pay the highest prices in the world for prescription drugs. A study by Families USA found that for the 50 drugs most frequently used by seniors that year, prices rose 3.4 times the rate of inflation in 2002. Such statistics are staggering, and meaningful solutions are needed now.

That is why I am a cosponsor of S. 2328, the Pharmaceutical Market Access and Fair Trade Act, legislation that will provide American consumers access to affordable, life-saving medications through prescription drug reimportation.

This legislation would provide South Dakotans with access to reimported drugs through personal importation of up to a 90-day supply of a drug from Canada, and eventually, once the Food and Drug Administration puts safety protocols in place, individuals would be able to purchase drugs directly from Canadian and U.S. wholesalers and pharmacies would be able to import drugs from facilities in several countries that are registered, fully inspected and approved by FDA.

Unfortunately, the trade agreement before us today threatens to dismantle the efforts we are now taking to provide more affordable drugs in our country. The agreement includes provisions which require that the two governments ensure that brand-name drug companies have the right to prevent the importation of their products.

While supporters of the trade agreement claim that we should not be concerned about this provision because Australian law already bans the export of subsidized prescription drugs, this sets a dangerous precedent for future trade agreements, which we cannot ignore.

This seems to be yet another attempt by the Bush administration to prevent reimportation. Two-thirds of Americans support reimportation as an effective strategy to reduce the cost of prescription drugs. The President is clearly sending a signal that he cares more about the pharmaceutical industry's profits, than access to life-saving medicines for U.S. citizens.

Ms. MIKULSKI. Mr. President, I am proud to support the United States-Australia Free Trade Agreement. I have opposed some trade agreements in the past because I am not willing to put American jobs on a slow boat to China or a fast track to Mexico. However, I am ready to support free trade when it is fair trade, and that is what we are talking about today.

This agreement ensures fair trade with one of our closest allies. It will also bring an expansion of opportunities for American workers and American businesses.

America's relationship with Australia is about our shared history and shared values. Australia has been one of America's staunchest allies in times of war, sending troops to fight beside our own in both World War I and II, the Korean war, the Vietnam war, Afghanistan and now Iraq. In sending troops to fight alongside our own in Iraq, Australia was one of only three countries to fight along with America from the outset of war.

America and Australia share a common terrorist threat. Al-Qaida attacked America on September 11, and 10 Australian citizens died that day. A group linked to al-Qaida also killed almost 100 Australians in the Bali bombings. Our security relationship is strengthened by the ANZUS treaty, through which we work together for our mutual security. Now is the time to strengthen our economic partnership with a free-trade agreement.

I stand in support of this free-trade agreement because it is good for America and good for Maryland. It will protect and even create American jobs, and my first priority is fighting for jobs today and jobs tomorrow. This free-trade agreement will boost trade, increase efficiency and competitiveness, and result in additional foreign investment.

By eliminating Australian tariffs on our manufactured goods, American companies will be able to sell goods without penalty to our Australian allies. In my own State of Maryland, this means semiconductors, medical equipment, and fiber optic cable and switching equipment. This could mean as much as $2 billion for the U.S. economy in just the first year of agreement.

This free-trade agreement will also provide new opportunities for American farmers. The United States is now the second largest exporter of food to Australia, an exchange with a value of almost $400 million a year.

However, I do have concerns about the United States-Australia Free Trade Agreement. I am concerned about what this agreement might mean for America's families trying to buy prescription drugs. Instead of making America's families a priority, this agreement protects drug companies and prioritizes the rights of prescription drug patent holders.

We cannot use this as an excuse for Congress not to pass prescription drug reimportation legislation. We need a regulated framework for drug reimportation so drug reimportation can take place out in the sunshine, rather than underground. Congress must act this year to control the spiraling cost of prescription drugs for our families.

With regard to labor rights, I think free-trade agreements should always include enforceable and high labor and environmental standards. This will ensure that the workers don't miss out and the environment doesn't suffer when businesses boom.

The Australian and American systems have much in common. We share democratic processes and labor rights such as freedom of association, the right to collective bargain, and the right to strike. We could have set the bar higher for workers around the world. Instead the United States-Australia Free Trade Agreement is a missed opportunity. It contains no enforceable standards to protect labor rights or the environment.

The free-trade agreement with Jordan included a minimum standard of labor rights and environmental protection. People now talk about the "Jordan standard." We finally had an opportunity to create an even higher standard, an "Australia standard" of labor rights. We could have used this standard if we renegotiated CAFTA and for future trade agreements. While we ensured our intellectual property rights are enforceable, we did nothing about our labor rights in this trade agreement.

I am willing to support the Australia Free Trade Agreement only because Australia's own laws are so strong. When I visited Australia, I saw that Australia stands up for its families, its workers and its environment. Almost 25 percent of Australian employees are union members. That's nearly double the level of union representation here. Australian workers are paid a livable minimum wage, receive 4 weeks of annual leave and are guaranteed high standards of workplace safety. Australia's world-class health-care system offers first-rate maternity care to its new mothers, with extra time in the hospital and a public health nurse to teach first time moms how to care for their newborns.

The United States-Australia Free Trade Agreement isn't perfect. Yet I support it because it will mean jobs for America.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. BAUCUS. Mr. President, before we conclude today's debate, I just take a minute to thank some of the staff who have worked very hard on this agreement.

I first thank Ambassador Zoellick's team, particularly Ralph Ives, Matt Niemeyer, Lisa Coen, and Ted Posner. We worked closely with them for nearly 2 years, and I have appreciated their dedication to getting a good agreement.

I also thank the staff of the Senate Finance Committee. On the Republican side, Everett Eissenstat, Stephen Schaefer, and David Johanson.

And finally I thank my own staff on the Finance Committee, Russ Sullivan and Bill Dauster, who head up our Committee staff. Our trade team: Tim Punke, Shara Aranoff, Brian Pomper, and Sara Andrews. Liz Fowler, who worked on the pharmaceutical provisions. And I especially thank John Gilliland, one of our International Trade Counsels who has done a tremendous job, particularly on the difficult and sensitive agriculture issues.●

Mr. DASCHLE. Mr. President, Australia is a very important ally and trading partner. As we all know, Australia joined the U.S. in our military efforts in both Iraq and Afghanistan. This support is vital, and it is appreciated.

While it is important to continue our cooperative relations, I am extremely concerned about the negative impact the free trade agreement could have on my State of South Dakota and the rest of rural America, particularly on the agricultural sector of our economy.

For many months, I urged our negotiators to exclude beef and cattle from the agreement. I am disappointed that they have not only rejected this suggestion, but have proposed that we allow the Australians additional access to our beef markets.

The FTA would establish an 18-year phase-in of increased Australian access to American markets. While 18 years may seem like a long time to some people, I know many ranchers in South Dakota to whom it will not seem so long when the phase-in starts and depresses our beef and cattle markets.

Both beef and cattle are very sensitive sectors, and they have become even more so with the recent mad cow disease scare. Beef and cattle are more sensitively traded items because they are both perishable and have cyclical market dynamics—leaving beef and cattle off the table seemed to make a lot of sense.

The administration refused and included beef provisions in the agreement. To add insult to injury to ranchers in South Dakota and across the country, the administration ignored an amendment on the beef safeguards in the agreement that Senator CONRAD offered in the Finance Committee.

The administration's actions were wrong on process and wrong on substance, in my view.

The Congress delegates substantial constitutional authority through the fast-track procedures. It retains, however, an informal ability to recommend changes to the implementing legislation of trade agreements.

Senator CONRAD had a very simple amendment. He said if the administration was going to waive critical safeguards for ranchers, then the Senate Finance and the Ways and Means Committee must concur. This was well in the bounds of the agreement and supported by a majority of the members of the Finance Committee.

The committee then went through the contorted exercise of voting the agreement down to make it easier for the administration to ignore the Conrad amendment, which they did.

This action makes it more clear that this agreement is not good for the ranchers in South Dakota, and that is the main reason why I oppose it.

Additionally, the U.S. dairy industry should not be faced with added unfair competition by allowing the Australians increased access to our dairy markets. Dairy producers from around the Nation have expressed this concern to me.

The increased access to our U.S. dairy markets is particularly troubling for South Dakota, as we have been working aggressively to expand our dairy operations.

I am also concerned about the current U.S. tariffs on wool that our negotiators have agreed should be gradually eliminated over 4 years. We have a small, but important, wool industry in South Dakota, and anyone familiar with lamb and wool knows that it is a very import-sensitive industry. Most producers have struggled over the last decade to simply stay in business.

While it is only indirectly related to the FTA, I also want the record to reflect my continuing concern about the treatment of some contracts awarded to Australia under the Iraq Oil-for-Food Program. I know that several of my colleagues, including Senator GRAHAM of South Carolina, are reviewing contracts under the Oil-for-Food Program, and I hope that their inquiry will include a review of the wheat contracts awarded under that program.

To that end, my recent exchange of letters with Agriculture Secretary

Veneman specifically reference contracts awarded to Australian producers since the liberation of Iraq, and press reports indicate that the specifics of these contracts—in particular the price of wheat—were the same as those negotiated under the Oil-for-Food Program during Saddam's regime.

According to her letter to me, Secretary Veneman has had USDA personnel review these contracts and has assured me that she is certain that no preferential treatment was granted to Australian producers at the risk of American producers. I hope that is the case, but to ensure that it is the case, I am urging Secretary Veneman to provide all the research and analysis her staff did to Senator GRAHAM for his Oil-for-Food investigation and to Paul Voelker who is undertaking an investigation on behalf of UN Secretary General Annan.

In addition, the patent provisions in this agreement raise troubling implications. Many of us in Congress—on both sides of the aisle—have been working to legalize the safe importation of lower-cost prescription drugs from Canada and other industrialized countries.

It is no secret that the administration has opposed our efforts. And what I see in this agreement relating to patents may be of concern in how it affects drug importation.

Simply put, the administration should not use trade agreements as a back-door way to impede the safe importation of FDA-approved drugs at lower prices. The administration needs to make clear that this agreement does not do just that.

I am also concerned about other provisions in this agreement relating to pharmaceuticals and how they may impact other program, such as Medicaid, and whether the agreement may impede our ability to alter or improve the deeply flawed Medicare drug benefit enacted last year.

Finally, let me reiterate that, in my judgment, the Australia FTA goes too far and treats our farmers and ranchers unfairly.

Not only am I dissatisfied with both the treatment of our agriculture sector in the agreement, but I also have concerns about the process executed to implement our negotiated terms.

It is extremely important that we have a level playing field on which American producers can compete. Given a fair chance, American producers are among the world's finest. But the deck must not be stacked against them.

I have concluded that this FTA is not in the interests of South Dakota. Regrettably, I must oppose it.

Mr. FRIST. Mr. President, I rise to speak in support of the H.R. 4759, legislation to implement the United States-Australian Free Trade Agreement.

I am excited by the new opportunities for both the United States and Australia that will be created under this important agreement. I strongly support its passage.

I thank all my colleagues in the Senate and the other body for their hard work. In particular, I thank Chairman GRASSLEY and Senator BAUCUS and their staff for working together in a bipartisan way to get us to this moment.

I also thank the U.S. Trade Representative and his team and the Australian Embassy for bringing us to this moment.

Our two economies are closely linked. Australia is one of our most important trade partners. The facts speak for themselves.

Two-way trade between our nations in goods and services totals $28 billion annually. We have a $9 billion trade surplus with Australia, our greatest with any nation. More than 99 percent of our exports to Australia will enter duty-free once the agreement goes into effect.

According to the National Association of Manufacturers, more than 19,000 U.S. firms are already selling into the Australian market. Ninety-three percent of U.S. exports to Australia are manufactured goods. As many have pointed out, this is indeed a "Manufacturer's Free Trade Agreement."

This agreement, is expected to produce an increase in $2 billion annually in trade for both nations by 2010. That means the creation of as many as 40,000 new jobs directly related to this agreement.

In my home State of Tennessee, Australia is an important market for our goods. Tennesseans export more to Australia than to France. Last year, Tennessean companies exported $225 million to Australia, a 10-percent increase from 1999.

In turn, The United States is already Australia's largest source of imports and second-largest export destination. So this agreement will benefit both our countries.

U.S. farmers benefit from this agreement, too. The United States exports $400 million annually in agricultural goods to Australia. These exports will receive immediate duty-free access.

This agreement will offer substantial new markets for U.S. services as well. The agreement will provide new openings for telecommunications, express delivery, energy, construction, engineering, financial services, and many other sectors. And this agreement lifts restrictions on U.S. investment in Australia.

In addition to opening new markets, there are other benefits to U.S. and Australian businesses. Australia is the gateway for U.S. businesses to Asia. The Australians have close ties to their Asian neighbors.

This agreement will pave the way for new, dynamic partnerships between United States and Australian firms. And with the elimination of tariffs and lowering of trade barriers for most industrial products under the agreement, U.S. firms, partnering with Australian firms, will be able to better compete in the growing Asian markets.

But this agreement is about more than increasing business opportunities. Australia is one of our most steadfast allies and a key partner in the war on terror. Australians have fought beside Americans in every major conflict in the last 100 years. This agreement strengthens an already close bond forged between two old friends.

This agreement is strongly supported by the business community. The U.S. Chamber, the world's largest business federation, representing more than three million businesses, strongly supports this agreement. The National Association of Manufacturers, the leading voice on manufacturing in the United States, has called for its immediate passage. I am pleased that we are ready to do that today.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 16, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—80

Alexander
Allard
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Corzine
Craig
Crapo
DeWine
Dodd
Dole
Durbin
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Kennedy
Kyl
Landrieu
Lautenberg
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Warner
Wyden

NAYS—16

Akaka
Byrd
Conrad
Daschle
Dayton
Dorgan
Feingold
Inouye
Johnson
Kohl
Leahy
Reid
Rockefeller
Schumer
Snowe
Voinovich

NOT VOTING—4

Baucus
Domenici
Edwards
Kerry

The bill (H.R. 4759) was passed.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, today the Senate has passed S. 2610, the United States-Australia Free Trade Agreement Implementation Act. The U.S.-Australia Free Trade Agreement, which will be implemented by this legislation, will provide many benefits to U.S. manufacturers and agricultural producers. U.S. consumers will clearly gain from it as well. This agreement will also further cement our friendship with Australia, a long-time ally and our strong partner in the war on terrorism.

The U.S.-Australia Free Trade Agreement is an example of the importance of Trade Promotion Authority. It has been almost 2 years since Trade Promotion Authority was signed into law as part of the trade act of 2002. During this time, the United States has signed free trade agreements with Chile, Singapore, and now Australia. The implementing bills for each of these agreements passed the Congress with strong support, so Congress clearly recognizes the benefits of trade promotion authority.

Many people worked hard to see that this vote became a reality. First and foremost, this would not have happened without the leadership of President George W. Bush. President Bush is committed to building the U.S. economy by opening the world's markets to U.S. goods and services, and the U.S.-Australia Free Trade Agreement is just the latest of the trade accomplishments he has made possible.

U.S. Trade Representative Robert Zoellick deserves strong commendation for his efforts in negotiating this agreement. His commitment to expanding U.S. trade opportunities is steadfast.

I would also like to thank chief U.S. agricultural negotiator Allen Johnson for his willingness not only to listen, but also to act, upon the concerns of U.S. farmers and ranchers during the negotiations. Many others at the Office of the U.S. Trade Representative deserve my thanks as well.

I commend my colleagues on the Finance Committee for their interest in seeing that the agreement was concluded and that the implementing bill was passed. I would like to extend a special thanks to the ranking member of the Committee, Mr. BAUCUS. We have worked together over the years to expand trade to the benefit of U.S. workers, farmers, and consumers, and I am pleased with the outcome of our current efforts with the passage of this implementing bill.

My staff on the Finance Committee has worked diligently over the past weeks on the implementing bill and other materials connected with it. My goal was to have this legislation passed prior to the August recess, and they were instrumental in making this happen. Moreover, my Finance Committee staff was engaged in consultations with officials from the Office of the U.S. Trade Representative throughout the negotiations, which began way back in March 2003, so this has been a long process for them. I greatly appreciate their hard work.

My Chief Counsel and Staff Director, Kolan Davis, deserves recognition. His talent in managing many legislative issues, including trade, is readily apparent.

The Chief International Trade Counsel of the Committee, Everett Eissenstat, worked tirelessly to see that the passage of this legislation would actually occur, so today's vote is yet another testament to his skills. I would also like to thank the rest of my trade staff—David Johanson, Stephen Schaefer, Dan Shepherdson, and Zach Paulsen—for all of their hard work and dedication to the Finance Committee's work and to the people of Iowa.

Mr. BAUCUS's Finance Committee staff also deserves recognition. Russ Sullivan and Bill Dauster, respectively staff director and deputy staff director of Mr. BAUCUS's Finance Committee staff, worked well with my staff throughout the process.

I also appreciate the efforts of Tom Punke—Mr. BAUCUS's chief international trade counsel—and Sara Andrews, Shara Aranoff, John Gilliland, Pascal Niedermann, and Brian Pomper.

Finally, I would like to thank Polly Craighill of the office of the Senate Legislative Counsel for the many hours she put into drafting the implementing bill. Without her patience, hard work, and skill, today's vote would not have been possible.

I look forward to the signing of this legislation into law by President Bush.

AMERICAN JOBS CREATION ACT OF 2004—Continued

AMENDMENT NO. 3563

The PRESIDING OFFICER. Under the previous order, the question now occurs on the DeWine-Kennedy amendment. There is 4 minutes per side prior to the vote.

The Senator from Ohio.

Mr. DEWINE. Mr. President, I understand we have 4 minutes on each side.

The PRESIDING OFFICER. There is 4 minutes on each side.

The Senator from Ohio.

Mr. DEWINE. I yield to my colleague from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, very briefly, I want to make sure people understand the tobacco buyout portion of the amendment upon which we are about to vote. No. 1, to make sure there are no misunderstandings or misconceptions, this amendment will end a tobacco price support program. That will be over. Second, there were several hearings on this proposal, both in the House and a field hearing in North Carolina chaired by Senator DOLE.

I also want to make it clear how this amendment would pay for the buyout. It would be paid for by a manufacturer's fee, not by the taxpayers.

It was suggested that 85 percent of the recipients of the buyout are not farmers. In fact, every single quotaholder owns at least part of a farm. They may have leased it out, but they own at least part of a farm. So these do go to farmers.

I hope our colleagues will support the buyout. I think it is a reasonable proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I yield to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the heart of this amendment is the FDA provision which will lead to fewer children starting to smoke and fewer adults suffering tobacco-induced disease. If parents want their children to grow up and grow up smoke-free, if they want to shield them from a $9 billion campaign designed to entice children into smoking, if they want to help millions of smokers kick the habit before it kills them, they will support the DeWine-McConnell-Kennedy amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to urge my colleagues to vote against this amendment for two or three reasons. One, the bill we are voting on has never been marked up out of the Agriculture Committee. It has never been marked up in the HELP Committee. We are going to spend billions of dollars. We are rewriting the farm bill. We have a $12 billion buyout for tobacco farmers.

I heard my colleague from Kentucky say it ends the tobacco program. It does not end the tobacco program. This amendment was offered late last night, but under the bill of the Senator from Kentucky it did not eliminate the program. The House bill spends $9.6 billion and it does eliminate the program. It eliminates this quota. This bill eliminates quotas, but it does not eliminate the Secretary from having the authority to be able to restrict acreage on who grows tobacco. So we are going to spend $12 billion and not even eliminate the program, and not have any limitation on how much it is going to cost?

It is estimated the House bill would have almost 500 people make $1 million. This bill is much more generous than the House bill. There are going to be a few people who are going to become multimillionaires as a result of this bill, but yet we were not given the chance to offer any amendments. We could not say there should be a limit of $250,000 per person who is not a farmer. Incidentally, 85 percent of the people who receive money from the buyout are not farmers, are not living on a farm. So this is a buyout for a few people.

The FDA section is the biggest grant of power to the FDA, which not only gives them the power to regulate tobacco, but frankly I believe they can ban tobacco. It is a blank check to do almost anything they want—the most sweeping power they have ever been given. I think the House was wrong to add the $9.6 billion tobacco buyout in their tax bill, and two wrongs do not make a right. Now we are adding totally unrelated things, not considered by committee. It is going to cost billions of dollars, and we are going to add it to the Senate bill.

It is going to come back from conference in all likelihood with some provision. I think it jeopardizes the entire FSC bill. I do not think it should become law. Certainly, this is not the way it should become law. If it should become law, let us take it up freestanding and give Senators the right to amend and discuss it before spending billions of dollars.

The cost of this buyout is multiples of the so-called quota buyout we did for peanuts. It is going to cost billions of dollars. I urge our colleagues to vote no on the amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. How much time remains?

The PRESIDING OFFICER. There is 2 minutes.

Mr. DEWINE. Mr. President, we regulate every product that is consumed in this country today. We put the contents of that product on the label—every product except tobacco. It makes absolutely no sense. This is a very modest bill, a very modest proposal, that gives the FDA the authority to regulate tobacco. I point out to my colleague, it does not give the FDA the authority to ban tobacco. It does not give the FDA the authority to do that at all. It is a modest compromise, but it will save lives. It makes sense.

One of the biggest health problems we have in this country today is underage smoking. We know if we can get a child at 19 or 20 and he or she does not start smoking by then, they probably will never start smoking. This bill allows us to get at advertising targeted at young people, which is a major problem today.

I yield the remainder of my time to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am prepared to vote.

Mr. DEWINE. We yield back our time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Pursuant to rule XII, paragraph 3, I ask unanimous consent to be excused from voting on this question.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. NICKLES. How much time do I have remaining?

The PRESIDING OFFICER. There is 1 minute 17 seconds.

Mr. NICKLES. Mr. President, on page 45 of the bill, it says:

> The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health.

If the Secretary determines something is appropriate for the protection of the public health, they can do whatever they want, I believe, including banning tobacco. That is very broad discretion for the Secretary of Health, to do whatever they want.

Also, the program does not end the tobacco program. At least it didn't in Senator MCCONNELL's bill. We have not had a chance to really review it, but it didn't in his bill. It did in the House bill. I compliment the House. If you are going to spend $10 billion, you ought to eliminate the program. We are going to spend $12 billion and not eliminate the tobacco program.

The PRESIDING OFFICER (Mr. BENNETT). All time has expired.

The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Delaware (Mr. CARPER) votes "present."

The result was announced—yeas 78, nays 15, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—78

Akaka
Alexander
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Byrd
Campbell
Cantwell
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Ensign
Feingold
Feinstein
Frist
Graham (FL)
Graham (SC)
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchison
Inouye
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Voinovich
Warner
Wyden

NAYS—15

Allard
Burns
Enzi
Fitzgerald
Gregg
Jeffords
Kyl
Lott
Nickles
Roberts
Santorum
Sessions
Shelby
Sununu
Thomas

ANSWERED "PRESENT"—1

Carper

NOT VOTING—6

Baucus
Domenici
Edwards
Inhofe
Kerry
Nelson (FL)

The amendment (No. 3563) was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The substitute amendment, as amended, is agreed to.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. BAUCUS. Mr. President, it has taken us too long to reach this point. Frankly, we are doing today what should have been done last fall. We are finally moving forward with the Jumpstart Our Business Strength—the JOBS bill.

I commend the Majority Leader and the Democratic Leader for reaching the agreement that allows this bill to move forward. I commend, as well, the Chairman of the Finance Committee, Senator GRASSLEY, who has been so instrumental in bringing us to this point.

There is a reason why we call this bill the JOBS bill. This bill will help create and keep good, high-paying manufacturing jobs right here in America. And this bill will help remove crippling European tariffs that rob American firms of business. Every month that goes by without enactment of the JOBS bill results in more tariffs on our American companies. We need to enact this bill.

So, as we go forward to conference, it is critical that we adhere to the following 5 principles.

First, we should preserve our bipartisan support for this bill. The Senate-passed JOBS Bill had strong bipartisan support. It passed by a vote of 92 to 5 on May 11. To preserve this bipartisan support we need to ensure that any significant change from the Senate-passed bill be limited, germane, and agreed to on a broadly supported bipartisan basis.

Second, any conference agreement should be budget neutral. The government is running record budget deficits. Gone are the surpluses of just a few years ago. We should show fiscal discipline and responsibility. The conference agreement should be budget neutral. And the conference agreement should not employ budget gimmicks.

Third, we should protect our Nation's manufacturing jobs. Since January 2001, America has lost more than 2.7 million manufacturing jobs. In my home state of Montana, we have lost 2,700 jobs in that time, over 12 percent of our manufacturing jobs. Therefore, savings from repeal of the Foreign Sales Corporation/Extraterritorial Income, FSC/ETI, regime should go to domestic manufacturing. The conference agreement should devote the preponderance of its total cost to the centerpiece of this bill: a domestic manufacturing tax benefit.

Fourth, the conference agreement should incorporate the important tax shelter reforms that the Senate has repeatedly passed. It has been nearly 3 years since Enron and other corporate scandals. Yet Congress still has not enacted any meaningful tax legislation to close the corporate abuses of the tax code. The Congress should retain the package of the Senate-passed tax shelter provisions, including the provisions ensuring that business transactions are undertaken for economic, and not tax avoidance purposes, and requiring CEO signatures.

Finally, an important part of the Senate bill is its coverage of all types of businesses. The conference agreement should provide a domestic manufacturing tax benefit to all domestic manufacturers, regardless of choice of business entity. It should cover not just C corporations, but also S corporations, partnerships, and sole proprietorships.

Mr. President, I will fight to ensure the conference agreement adheres to these principles. I will fight for the Senate's position across the board, including on overtime rules and on energy tax provisions.

Here is the bottom line: The Senate passed the JOBS bill with a wide, bipartisan majority. The conferees have to work together, across political differences, to move this important bill forward. We need to continue our fight for good jobs, here in America.●

Mr. McCAIN. Mr. President, I have been very outspoken in my opposition to this bill, and was one of only five Senators to vote against its passage in May. I voted against it because it was loaded with wasteful spending and tax breaks for special interests and the super rich. With the Nation facing a half-trillion dollar deficit, now is not the time for Congress to be enacting wasteful tax credits.

The proponents of this bill are fond of pointing out that it is "revenue neutral" and that all of the tax cuts in the bill are paid for with offsets. I firmly believe that, due to our current fiscal crisis, any proposed offsets would better be used to reduce the deficit. It is incomprehensible to me, at this time of record deficits and debt, coupled with our war against terrorism and the need to secure our homeland, that we would consider risking the future of our manufacturing base and our standing in the international community by wasting time and jeopardizing corrective action while carving out sweet deals for special interests.

We missed a golden opportunity with this issue. We could have passed a good, clean bill months ago that would have brought us back into compliance with World Trade Organization, WTO, agreements and stop the burdensome tariffs now imposed on our manufactures. Unfortunately, the goal of achieving the legislation's underlying worthy purpose has been lost to a host of special interest add-ons.

> In a June 19th editorial, The Washington Times, not known for liberal propaganda, stated: The ideal solution would have been a quick, simple repeal of FSC/ETI, which is bad economic policy in any case. Unfortunately, both the House and the Senate versions of the bill became magnets for the special interests. A steady train of lobbyists tacked on $167 billion in tax breaks over the next 10 years to the Senate bill, while the House bill expanded by $143 billion in similar additions. The Senate bill, for example, includes breaks for NASCAR racetracks and foreign dog-race gamblers, while the House version lavishes its attention upon tobacco growers, timber owners and alcohol distillers. The imminent House-Senate conference, predictably, promises to be a de facto food fight between congressman, lobbyists and tax watchdogs. And so while the lobbyists duke it out, EU sanctions will continue to rise and American manufacturers and the U.S. economy will deal with the consequences.

Let me quote from some other newspapers who have editorialized about this terrible bill.

> From The New York Times: What started out as Congress's urgent obligation to resolve a trade battle with the European Union has degenerated into an embarrassment as lawmakers and business lobbyists vie in a costly frenzy of corporate handouts.
>
> From The Dallas Morning News: The United States' credibility also is at stake. As a WTO member, the United States has an obligation to follow the trade body's rulings or risk undermining the WTO's authority over global trade. . . . The simple solution would be to end the tax break. But election-year politics threaten common sense.
>
> From The St. Petersburg Times: Tax cut fever has gripped lawmakers, and they're beginning to act delusional. . . . The bill is so irresponsible it deserves to fail.
>
> From The Los Angeles Times: Further driving up the federal budget deficit with tax breaks will probably worsen U.S. sales abroad. The more money the Treasury has to borrow to cover the deficit, the more pressure there is on the Federal Reserve to raise interest rates to attract those funds, eventually driving inflation.

An article in the April 19th edition of The Washington Post exposed the Senate-passed bill for what it is and how it became such a monstrosity. The article stated the following:

> Congress's task seemed simple enough: Repeal an illegal $5 billion-a-year export subsidy and replace it with some modest tax breaks to ease the pain on U.S. exporters. But out of that imperative has emerged one of the most complex, special-interest-riddled corporate tax bills in years . . . The 930-page epic is packed with $170 billion in tax cuts aimed at cruise-ship operators, foreign dog-race gamblers, NASCAR track owners, bow and arrow makers and Oldsmobile dealers, to name a few.

The article also quoted a tax lobbyist involved in drafting the bill as saying that it "has risen to a new level of sleaze. I said a few months ago, any lobbyist worth his salt has something in this bill."

This is not the way we should be doing the people's business. Incredible deals for the special interests, big tax breaks for oil and gas companies, and other big corporations have already stalled WTO compliance for too long. The manufacturing base of our country will suffer, the economy will suffer, and jobs will suffer. Is that what we want? Is that what the American people want? The answer is no. They deserve better than this, Mr. President. We work for them—not for the big money special interests and their fat cat lobbyists.

As I have said before, we need to start making some tough decisions around here Mr. President. With little legislative time remaining this election year, the Senate would serve the American public far better if it stayed focused on accomplishing the intended purpose of legislating. Unfortunately, this FSC/ETI bill, which is a much needed bill, is being dragged down with the unnecessary weight of billions of dollars in wasteful subsidies, tax breaks, and special exemptions for the special interests.

We have got to restore some sanity to the way we do things here in Washington. The facts are clear, we simply cannot continue to spend and spend and spend while continuing to cut taxes and fund the war against terrorism. It's high time we face up to the challenge and do what's right. Passing this bill, and the others like it of which this body has become so fond, is tantamount to placing a millstone of debt around the necks of our children, grandchildren, and who knows how many future generations of Americans. It has to stop, and I hope this body can find the courage to stop it.

Ms. MIKULSKI. Mr. President, I have a few words to say about the importance of protecting overtime pay for hard-working Americans. This bill that we're about to vote on is nicknamed the JOBS bill. But the most important thing we did for American workers in this bill was to pass Senator HARKIN's amendment to protect overtime pay. I was proud to stand with Senator HARKIN and stand up for American workers. I urge the conferees on this bill to make sure the Harkin amendment stays in the final version.

Millions of Americans depend on overtime pay to pay their bills and make ends meet. Yet the Bush administration wants to strip overtime protections for hard-working men and women. I thought in this country, the best social program was a job. Yet 6 million workers would lose overtime protection under the Bush proposal. Who are these workers? They are registered nurses, police sergeants, nursery school teachers, and others. These men and women work hard to serve our communities. They protect us and they help us when we are in need. They deserve extra pay for their extra efforts.

What does the Bush proposal mean for workers? It means workers will have to work long hours for less money because they will no longer be eligible for overtime pay. They might have to find a second job because they won't be able to count on overtime pay to make ends meet. They will spend less time with their families, but they won't get compensated. I think that's outrageous.

Let me give an example. America is facing a crisis in nursing. In Maryland hospitals, 12.6 percent of nursing jobs are vacant. They desperately need over 2,000 nurses. Nationwide, we will need about 2.8 million registered nurses by the year 2020, but only about 2 million will be available. Nurses work an average of 8.5 weeks of overtime each year. Eighty-seven percent of Maryland nurses work overtime just to make up for the shortage. If the Bush proposal becomes law, it will be easier for employers to deny overtime pay to registered nurses. RNs will have to work the same long hours for no extra pay, or hospitals will have to get by without enough nurses to take care of patients. Lack of overtime pay will discourage young nurses from entering the profession and experienced nurses from staying. I worked hard to pass legislation to help eliminate the nursing shortage. Changing the overtime rules would be a huge step backwards.

The Bush plan would also deny overtime pay for police sergeants. The Bush Labor Department got a lot of criticism when the American public realized that first responders would lose overtime pay. So they revised their proposal; and now they claim that first responders won't lose overtime protections. Yet the National Association of Police Organizations, the International Union of Police Associations, and the International Brotherhood of Police Organizations say that police sergeants and other managers could still lose their overtime pay.

What a thing to say to police officers and their families. These men and women put their lives on the line to keep us safe no matter what time it is or how many hours they've worked already. Every time a police officer leaves their home, they don't know when they'll be home. They don't even know if they'll be home. And now the Bush administration is asking them to donate their overtime. That's no way to show our appreciation. We need to protect the protectors so that they can protect us. That means protecting their overtime pay.

Nurses and police sergeants are just a few examples. The Bush proposal would deny overtime pay for workers in many industries, from nursery school teachers to insurance claims adjusters. It would take money out of the pockets of hard working Americans and their families. I think the Bush administration ought to be ashamed of itself.

Families in my State of Maryland are worried. They're worried about their jobs. They're terrified of losing their healthcare, when costs keep ballooning. They don't know how they can afford to send their kids to college. Tuition at University of Maryland increased by 30 percent over the last 2 years. Our middle class families are stressed and stretched. Many are holding down more than one job or working overtime to make ends meet. They're racing from carpools to work and back again. They want to know what we in the United States Senate are doing to help them. We need to protect their jobs and protect their overtime pay.

Mrs. FEINSTEIN. Mr. President, I rise in favor of the Jumpstart Our Business Strength, JOBS, Act.

I supported this bill when first passed out of the Senate on May 11 of this year and I will support it again today. In fact, the DeWine-Kennedy amendment on FDA oversight of tobacco improved the bill.

Without this legislation, U.S. companies will face increasing tariffs as a result of a World Trade Organization ruling that determined that significant portions of our Federal Tax Code ran counter to international trade laws.

The DeWine-Kennedy amendment that we adopted will strengthen the bill by restricting advertising and promotions that appeal to children; stopping illegal sales of tobacco products to children; requiring changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful or less addictive; prohibiting unsubstantiated health claims about so-called "reduced risk" tobacco products that would have the effect of discouraging current tobacco users from quitting or encouraging new users to start; and requiring the disclosure of the contents of tobacco products and tobacco industry research about the health effects of their products.

This amendment is absolutely essential to me should a tobacco buyout be included in the conference report.

But this legislation is still far from perfect and I have growing concerns about what we may see when this bill returns to the Senate following conference. This concern has been heightened by what I see contained in the House bill.

First, the House bill contains the $9.6 billion tobacco buyout proposal that contains no provision for FDA oversight of tobacco products.

Second, the House bill is not offset by revenue raisers and would cost $35 billion through 2014, according to the official Joint Committee on Taxation estimate. Alarmingly, this cost estimate does not provide a true sense of the bill's fiscal impact because the bill employs two budget gimmicks.

The first gimmick involves phasing in tax cuts slowly over the 10-year period covered by the legislation. This "backloading" of tax cuts shaves tens of billions of dollars off the 10-year cost of the House package.

The second gimmick involves having tax cuts expire before the end of the 10-year period, even though the intention is, in many cases, for the tax cuts to be extended and to remain in effect on an ongoing basis.

The Joint Tax Committee has estimated that making permanent most of the temporary tax cuts in the House bill would add $190 billion to the cost of the bill through 2014.

In contrast, the Senate bill is fully offset and will effectively provide a 3-percent tax cut for manufacturers; give manufacturers a 50-percent tax credit for the cost of adding jobs; extend the research tax credit through 2005; protect hundreds of thousands of workers from cuts in Federal overtime protections; prevent the Federal Government from spending taxpayer dollars on contracts with companies that use foreign labor when there are domestic alternatives; provide a tax credit for companies which produce energy by using underbrush and other potentially hazardous fuels found in our forests; provide a tax credit for consumers who buy hybrid vehicles; protect the California film industry and the jobs it creates; and provide for FDA oversight of tobacco products.

I will be looking for very specific items to be included in the conference report. The final bill should be fully offset and not increase the deficit; contain strong and effective FDA oversight of tobacco products if the bill contains a tobacco buyout provision; and require that any tobacco buyout provision be funded by tobacco manufacturers, not taxpayers; contain a tax credit for the open-loop biomass industry that works to reduce fire hazards in California; and protect companies, such as the film industry, that did nothing wrong under the old law and yet face the possibility of having their tax benefits cut.

And, to the conferees, I want to stress the importance of these provisions to me. These are not ordinary times and we must protect the integrity of our tax system from those who would twist it at the cost of fiscal responsibility.

The long-term budget outlook remains grim. Although the deficit may recede somewhat over the next few years from its current historically high level, it will swell as the baby boomers retire in large numbers in the coming years and eventually reach unsustainable levels. One of the most prudent steps that we as policymakers can take in preparation for this impending challenge is to reduce the deficit today.

Moreover, corporate tax revenues are at all time low levels as a share of the economy. The Congressional Budget Office projected in March that corporate tax revenues will equal 1.4 percent of GDP in 2004—lower than the average levels seen in each decade since the 1940s.

Furthermore, CBO projects that corporate tax receipts will remain at about 1.8 percent of GDP through the end of the decade. This is lower than the average level of corporate tax receipts in each of these decades except for the 1980s, when corporate receipts plummeted from the effects of tax cuts and economic conditions.

Given the historically low corporate revenues, it does not represent sound policy to use the revenues gained from closing corporate loopholes to fund new targeted corporate tax breaks. The goal should be to restore the corporate revenue base, at least in part, in order to help reduce the deficit, not to diminish the corporate revenue base further.

So while I support the Senate version of the JOBS bill because on balance it provides important protections for California workers and businesses, I do so warily and will reserve final judgment until I see the conference report.

Mr. KENNEDY. Mr. President, a new study by the Economic Policy Institute makes clear that 6 million Americans, including teachers, nurses, cooks, clerical workers, and pharmacists, will lose their overtime protections under the Bush overtime rule. President Bush is once again putting corporate profits ahead of workers and their families. Profits are already up more than 60 percent since President Bush took office, yet workers' wages have actually declined. The last thing America's struggling workers need today is a pay cut.

The Bush overtime rule puts special interests above worker interests. An independent analysis by three former high ranking Department of Labor employees concluded: " we believe that (with the exception of the change in the salary level test) the interests of U.S. workers and their families will not be advanced—indeed will be harmed—by the implementation of these new regulations."

It is clear that the Bush administration is putting business's bottom lines first. The National Association of Manufacturing, NAM, the Chamber of Commerce, the National Restaurant Association, the funeral industry and many other groups lobbied hard for more relaxed overtime requirements. The final rule includes a broad exemption for workers in the financial service industry that helps the insurance and banking industries and for the retail and restaurant industries.

With more than 8 million Americans out of work, and with so many other families struggling to make ends meet, cutbacks on overtime are an unfair burden that America's workers should not have to bear. Overtime pay accounts for about 25 percent of the income of workers who work overtime. Workers stripped of their overtime protection would end up working longer hours for less pay.

The Fair Labor Standards Act was enacted in the 1930s to create a 40-hour workweek and requires workers to be paid fairly for any extra hours. Especially in times like these, it is an incentive for job creation, because it encourages employers to hire more workers, instead of forcing current employees to work longer hours.

The overtime protection is vital to the 40-hour workweek. If employers no longer have to pay extra for overtime, they will have an incentive to demand longer hours, and workers will have less time to spend with their families.

In 70 percent of American families all parents are working, either both parents, or the single parent, as compared to 1960 when 70 percent of all families had at least one parent at home full time. Workers are already struggling to balance their families' needs with their work responsibilities. Requiring workers to work more hours for less pay will add a greater burden to this struggle.

In May, 99 Senators voted for the Gregg amendment that said it was wrong for the Bush administration to deny overtime to millions of workers, including police sergeants, nursery school teachers, nurses, computer programmers and others in 55 different job categories. And a bipartisan majority of 52 Senators voted against taking away overtime from any worker currently entitled to it. It would be unconscionable if this bill comes out of conference without those protections.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 4520), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House. The Chair is authorized to appoint conferees on the part of the Senate at the ratio of 12 to 11.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer (Mr. BENNETT) Appointed Senators GRASSLEY, HATCH, NICKLES, LOTT, SNOWE, KYL, THOMAS, SANTORUM, SMITH, BUNNING, MCCONNELL, GREGG, BAUCUS, ROCKEFELLER, DASCHLE, BREAUX, CONRAD, GRAHAM of Florida, JEFFORDS, BINGAMAN, LINCOLN, KENNEDY, and HARKIN conferees on the part of the Senate.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRUE FRIEND OF AMERICA: C.J. CHEN

Mr. DASCHLE. Mr. President, later this month, our country will bid farewell to a good friend. Chen Chien-jen—known to all of us as C.J. Chen—first came to Washington 33 years ago and has spent over 20 years here working to promote a better relationship between the United States and Taiwan. As he retires and returns home, C.J. will leave the people of Taiwan a legacy of a strong relationship with the United States and deep support from the American people.

C.J. has strived to represent the people of Taiwan in the foreign service for 37 years, 20 of which have been spent here in Washington. He began his exemplary service in the United States in 1971 as Third Secretary in the Embassy of the Republic of China, and remained in Washington after 1979, working with Congress to draft the critical Taiwan Relations Act of 1979. From 1983 to 1989, he served as deputy representative of the Coordination Council for North

American Affairs, Taiwan's diplomatic mission to the United States. And for the last 4 years, he has admirably headed the current mission, the Taipei Economic and Cultural Representative Office.

C.J.'s leadership as Taiwan's chief diplomat to the United States has been remarkable. During his 4 years as representative, he has helped elevate the United States-Taiwan relationship to unprecedented strength. He has championed the passage of critical legislation by Congress, and he has worked with Congress and the White House to cement the United States commitment to strengthen Taiwan's self-defense. At the same time, he has educated his own leadership and people about the United States, our people, and our policies.

But for me, and for many of us in Washington, C.J. Chen will be missed not only as an outstanding diplomat, but as a close personal friend. During his time in Washington, I have had the opportunity to get to know C.J. and his wife, Yolanda Ho, very well, and I will miss them.

While C.J. will no longer serve his people in an official capacity, I know that he will continue to contribute to building United States-Taiwan relations. I wish C.J. and Yolanda a long and happy retirement, and hope they will often return to visit their friends here in the United States.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 18, 2000, a group of boys shot through the front window of a well-known lesbian bar on Capitol Hill, known as Phase I. Though witnesses identified a gang of young boys as the perpetrators, they escaped without being apprehended. Three years earlier, a canister of tear gas was tossed into a gay bar two blocks from Phase I, and police classified that crime as a hate crime.

Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

HUMAN RIGHTS IN LIBYA AND IRAQ

Mr. KENNEDY. Mr. President, I bring to my colleagues' attention a thoughtful op-ed article published in the July 13 Washington Post by Mona Eltahawy, a London-based Arab journalist.

The article raises an important question about a double standard on human rights between Libya and Iraq. The United States overthrew Saddam Hussein's regime because he was a brutal dictator, but we embrace Libya's Qadhafi despite the fact that he is a brutal dictator.

About the double standard Ms. Eltahawy wrote: "In the absence of weapons of mass destruction, and with images of Hussein on trial for war crimes, they have been pushing the "removal of a brutal dictator" excuse for the invasion. How do they square this with their astonishing rush to embrace another ruthless dictator? Qadhafi's behavior of late has been uncomfortably close to brutal."

Libya remains, according to the CIA World Factbook, "in fact, a military dictatorship" under Colonel Qadhafi. His government "continued to commit numerous, serious abuses," including arbitrary arrest and detention, and restrictions of "freedom of speech, press, assembly, association, and religion," according to the February 2004 State Department Human Rights Report. Violence and discrimination against women are serious problems as well.

A recent visit by Amnesty International to Libya found that "a pattern of human rights violations continues, often justified under the new rhetoric of the 'war on terror.'" Amnesty International's findings include "laws which criminalize the peaceful exercise of freedom of expression and association, leading to the imprisonment of prisoners of conscience; prolonged detention without access to the outside world, which facilitates torture; and unfair trials, in particular before the people's court which tries political cases. Torture and ill-treatment continues to be widely reported, its main use being to extract 'confessions.'"

The Qadhafi regime also continues to intrude in the affairs of other African nations, despite Secretary Powell's call in February 2004 that Libya "cease to be destabilizing, cease to fund despotic regimes, and cease to cause trouble." According to Assistant Secretary of State for Near Eastern Affairs Bill Burns, Libya was involved as recently as February in sowing instability throughout Africa. "There have been problems . . . in Zimbabwe. There have been problems . . . in Liberia and elsewhere," he said. "We continue to have concerns" in the Central African Republic, he also said.

In the Central African Republic, Libyan troops were reportedly directly involved in 2001 in halting an army revolt against the president. A year later, Libya and the Republic agreed on a 99-year treaty giving Libya the right to exploit the oil, uranium and other resources of the republic.

In Zimbabwe, Libya has often assisted President Robert Mugabe, including supplies of urgently needed oil. In Liberia, Libya has been a major provider of arms and supplies to Charles Taylor.

The Libyan Government is responsible for the terrorist bombing of Pan Am flight 103 over Lockerbie, Scotland. Some 270 innocent people lost their lives in the bombing, including 189 Americans. Until September 11, the Pan Am bombing killed more American civilians than any other terrorist atrocity in our history. Officially, the Libyan government has accepted responsibility for the actions of its officials in the atrocity, but Qadhafi denied his nation's involvement in the bombing, according to a CNN report on December 23, 2004 summarizing an interview by its State Department correspondent Andrea Koppel with him.

In taking steps to resume relations, the administration presumably believes that Libya has made a firm decision to abandon terrorism and become a responsible member of the international community. However, Qadhafi persists in the type of rhetoric he has displayed in the past. In Brussels, he recently threatened to return to the "days of explosive belts" if provoked by Western "evil." We've recently seen allegations of a purported assassination plot hatched by Qadhafi against the crown prince of Saudi Arabia following a dispute at the Arab League summit in March.

President Bush has spoken frequently about democracy and human rights. In November 2003, at the National Endowment for Democracy's 20th anniversary celebration, he said that "sixty years of Western nations excusing and accommodating the lack of freedom in the Middle East did nothing to make us safe—because in the long run, stability cannot be purchased at the expense of liberty. As long as the Middle East remains a place where freedom does not flourish, it will remain a place of stagnation, resentment, and violence ready for export."

It is surprising that the administration would so quickly strengthen relations with a dictator who is responsible for the mass murder of innocent Americans, opposes democracy, persecutes his own people, and continues to cause instability in Africa.

Mona Eltahawy's important op-ed article raises many of these questions, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WARMING UP TO A DICTATOR

(By Mona Eltahawy)

When the United States ended a 24-year chill and restored diplomatic relations with Libya on June 28, the first person I thought of was Baha Omary Kikhia. I interviewed her in Cairo more than 10 years ago during one of her many trips to the region to find out what happened to her husband, former Libyan foreign minister turned dissident Mansour Kikhia.

His case has too easily been lost in the lexicon of bloodier and larger crimes committed by the Libyans, such as the 1988 Pan Am bombing, which killed 270 people. But Moammar Gaddafi has been brutal to Libyans, too, and his various eccentricities should not blind us to the police state he has presided over since he assumed power in a September 1969 coup.

He may travel with Kalashnikov-armed female bodyguards, he may pitch tents at home and abroad for talks with officials, and he may pen such "classics" as the short story collection "The Village, the Village, the Earth, the Earth and the Suicide of the Astronaut," but none of these quirks should distract us from his abysmal human rights record. Arbitrary arrests, a muzzled press, a ban on political parties and the squandering of Libya's oil wealth have never been laughing matters for Libyans.

And we should not forget Mansour Kikhia, who disappeared in Cairo in December 1993 while attending a meeting of an Arab human rights organization he had helped found. Kikhia had defected to the United States in 1980 and was a U.S. resident who was four months away from receiving citizenship when he went to Egypt. A four-year CIA investigation found in 1997 that Egyptian agents turned over Kikhia—who had asked for Egyptian security protection while in Cairo—to agents of Gaddafi's regime, who spirited the dissident to Libya, where he was executed and buried in the Libyan desert.

My interview with his wife, a U.S. citizen, left me painfully saddened for her and her family and particularly distressed that someone could just disappear in the city that I called home. I could not forget her during an assignment in Tripoli in 1996, when a Libyan government minder shadowed me at every turn and an official with the ministry of information asked me why we were so critical of Libya in the copy we filed at the Reuters news agency. And I will not forget her now, or the many others who have suffered from Gaddafi's regime, just because he is able to say the things he knows the Americans and British want to hear.

Gaddafi, claiming he had seen the light, accepted responsibility last year for the Pan Am bombing, agreeing to pay compensation to the victims' families (I wonder whether he has paid compensation to Baha Omary Kikhia) and to dismantle his chemical, biological and nuclear weapons programs. If that last bit sounds familiar, it should. President Bush and British Prime Minister Tony Blair want us to think that Gaddafi's conversion on the road to Washington and London was due to the fear that he would end up in the same jail cell as Saddam Hussein. (Gaddafi's daughter Aicha, a law professor, has joined Hussein's defense team.)

With no weapons on mass destruction to justify a war against a country that never threatened them, Bush and Blair are determined to hold on to their theory that the "war on terrorism" and the invasion of Iraq would bring rogue states in line. But it's an old argument they're making. In the absence of weapons of mass destruction, and with images of Hussein on trial for war crimes, they have been pushing the "removal of a brutal dictator" excuse for the invasion of Iraq. How do they square this with their astonishing rush to embrace another ruthless dictator?

Gaddafi's behavior of late has been uncomfortably close to brutal. In May—a mere two months after a historical visit to Tripoli by Blair, who was accompanied by executives of British businesses eager to cash in—a Libyan court sentenced five Bulgarian nurses and a Palestinian doctor to death by firing squad for deliberately infecting some 400 children with HIV. The medics had always protested their innocence and said they had been tortured by the police, with daily beatings, sexual assault and electric shocks.

Expert witnesses called in for their defense included one of the team that discovered the AIDS virus, who said this was an epidemic caused by poor hygiene at the hospital, not by any international conspiracy. Isn't Bulgaria a member of the "Coalition of the Willing"?

Here's the topper. As Libya was engaged in secret negotiations to resume relations with the United States and Britain, Gaddafi tore into Saudi Crown Prince Abdullah at an emergency Arab League summit in March 2003, assailing the kingdom's close relationship with the United States. When the Saudi de facto leader insulted Gaddafi back and walked out, the Libyan leader apparently hatched a plot to assassinate him. Isn't that dangerously close to state-sponsored terrorism?

Speaking at Whitehall Palace in London last year, President Bush acknowledged that the United States and Britain had not always been on the right side of democracy when it came to the Middle East. "Your nation and mine in the past have been willing to make a bargain to tolerate oppression for the sake of stability," Bush said, addressing Blair.

It's not difficult to imagine that just such a bargain, along with some good old-fashioned military and oil contracts thrown in, is the driving force behind the resumption of ties with Libya.

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PATIENT SAFETY

Mr. ENZI. Mr. President, I rise today to talk about patient safety.

There is bipartisan legislation pending in the Senate that is absolutely critical to reducing healthcare errors and increasing healthcare quality. It is S. 720, the Patient Safety and Quality Improvement Act.

The Health, Education, Labor and Pensions Committee reported this bill to the floor in November of last year. It was approved in the committee by a unanimous voice vote, and it is past time for the Senate to vote on and pass this important legislation.

This patient safety legislation is an important step toward building a culture of safety and quality in health care.

The Patient Safety and Quality Improvement Act would create a framework through which hospitals, doctors, and other health care providers can work to improve health care quality in a protected legal environment. The bill would grant privilege and confidentiality protections to health care providers to allow them to report health care errors and "near misses" to patient safety organizations. The bill also would allow these patient safety organizations to collect and analyze the data confidentially.

After analyzing the data, patient safety organizations would report on trends in healthcare errors and offer guidance to providers on how to eliminate or minimize these errors. Some of this takes place today, but much more information could be collected and analyzed if providers felt confident that reporting these errors did not increase the likelihood that they or their colleagues would be sued for honest mistakes.

This legislation would not permit anyone to hide information about a medical mistake. Under the bill, lawyers could still access medical records and other information that would normally be discoverable in a legal proceeding. However, the bill would ensure that the analysis of that information by patient safety organizations would take place on a separate track in a protected legal environment.

Healthcare providers will be much more likely to share information about honest mistakes and how to prevent them if they have some assurance that the analysis of their information won't result in a tidy package of information that a personal injury lawyer could use against them in court.

Errors in medical treatment take place far too often today. Unfortunately, providers live in fear of our unpredictable and unfair medical litigation system, and this legal fear inhibits efforts to address the root causes of health care errors. Without appropriate protections for the collection and analysis of patient safety data, providers are unwilling to report mistakes and errors, which is one of the reasons that health care quality today is not what it could be.

Litigation does nothing to improve quality or safety. The constant threat of litigation instead stifles honest analysis of why health errors happen. This is just one more reason why we need wholesale reform of our medical litigation system. We need to foster alternatives that restore trust between patients and providers and result in fair and reliable outcomes for both parties. We need to scrap the current system, not just cap it.

But until we do so, we should take whatever steps we can to create an environment that protects the collection and analysis of patient safety data so that providers can learn from their mistakes and prevent them from happening in the future.

The Patient Safety and Quality Improvement Act is one of these steps. Yesterday, our committee chairman, Senator GREGG, asked for unanimous consent that we move to consideration of this legislation on the Senate floor. This is the third time he has done so. Each time, he has been blocked by our colleagues in the minority, even though the committee of jurisdiction was unanimous in its support for the bill.

My colleagues in the minority keep talking about problems with healthcare quality—just like they keep talking about the loss of American jobs. However, talk is cheap when their actions don't match up to their words. If they are really so concerned about improving healthcare in our Nation, why would they object to a bill that would reduce errors and improve patient safety, particularly a bipartisan bill with unanimous committee support? If they are really so concerned about American workers and jobs, why won't they let a bill improving the Nation's job-training system go to conference?

This is another example of what is happening—or not happening here in the Senate. We have a bill—a bipartisan bill—that will help workers get back to work or find better jobs. This bill will equip our workforce with the skills necessary for America to compete—and succeed—in the global economy. It reauthorizes and improves the Nation's job training and employment system created under the Workforce Investment Act.

The Workforce Investment Act provides job training and employment services to more than 900,000 unemployed workers each year. Just like the patient safety legislation, this bipartisan bill passed out of the Health, Education, Labor, and Pensions Committee unanimously. We passed it on the Senate floor by unanimous consent last November. That is as bipartisan as you can possibly get.

Where is the bill now? We can't get a conference committee appointed to resolve differences with the House. If we really want to take care of jobs and workers in this country, we should appoint conferees for the Workforce Investment Act legislation. I can only conclude that my Colleagues on the other side of the aisle are more concerned with election year politics than helping American workers, or improving patient safety.

There are differences between Republicans and Democrats on most of the big issues facing our Nation. If my colleagues in the minority want to bottle up legislation with which they disagree, that is their prerogative. But that is not what I am talking about.

What we have here are a few members of the minority party holding up bipartisan bills that receive unanimous approval in committee, and holding up conferences on bills that receive unanimous support on the Senate floor.

The only logical conclusion I can make is that these roadblocks are based on politics, not policy, and that is a shame.

Right now, the Senate floor reminds me of the airspace above a busy airport. We have got a number of bipartisan bills lined up for their final approach, but our colleagues in the minority are holding these bills up and won't allow them to land. The tactics of my colleagues in the minority give new meaning to the term "holding pattern."

It is time for our Democrat colleagues to break this holding pattern so that we can pass these bipartisan bills like the Patient Safety Act and the reauthorization of the Workforce Investment Act. These are not only bipartisan bills, but they received unanimous committee support.

Let us set election politics aside for a moment. These are bipartisan bills, so no one party can claim credit for their passage. The Patient Safety Act was introduced by the distinguished Senator from Vermont, Mr. JEFFORDS, who is the lone independent in the Senate. So this bill is more than bipartisan.

My distinguished colleague from Nevada, Senator REID, suggested yesterday that we should just approve the House-passed patient safety bill. He suggested that he should just take up the House bill, rather than pass the Senate bill, because the Members of the House are the true experts on complex legislation like this.

I wonder if my colleague's opinion would be the same on medical liability reform. After all, the expert legislators in the House have sent us some excellent legislation to reform our medical litigation system. Perhaps we should stop working on this in the Senate and just approve the House-passed bill.

Or perhaps we could take up the House-passed bill on the Workforce Investment Act. I know my Democrat colleagues with whom I have worked to craft a Senate version are confident that our version is the superior one, but if Senator REID believes that the Members of the House are superior legislators, perhaps he could convince my Democrat coauthors that we ought to just take up the House bill and pass it. Or, as I have suggested, why don't we just agree to go to conference with the House and come up with the best possible bill we can, one that reflects the expertise of Members of both the Senate and the House?

I hope our colleagues in the minority will agree to take 2 hours of their time to debate and vote on the bipartisan Patient Safety Act. Two hours is not a lot of time, and it is the least we can do on such an important piece of legislation. We have spent hours upon hours working on this bill in committee and crafting a bill that received unanimous bipartisan support. Let us spend 2 more hours on the Patient Safety Act so that we improve the quality and safety of healthcare in America.

ENERGY CRISIS

Mrs. FEINSTEIN. Mr. President, I rise today to set the record straight regarding the Western energy crisis. Ken Lay, the former CEO of Enron, appeared on CNN's Larry King Live on Monday, July 12. Larry King asked him:

> Did Enron's problems or fortunes or misfortunes have anything to do with hurting California and its energy problem? Because a lot of politicians in California blamed Enron.

Lay responded:

> Well, they do, and I still think to this day falsely, Larry. I mean, California, for the most part—I mean, California, California regulators, politicians, et cetera, caused the problem in California.

Let me set the record straight. During consideration of California's legislation that deregulated the energy market, Enron was at the center of the lobbying effort that crafted the bill.

Once the legislation was passed, Enron took full advantage of the loopholes it helped to create to manipulate and game the Western energy market. I would not argue that the system was perfect, but I would assert that Enron had a huge hand in creating such a flawed system, which it used to its benefit.

Enron, and other energy companies, created a business environment in which the bottom line mattered more than the public good.

As I have stated on this floor before, energy traders were completely unconcerned with customers having electricity as long as it meant that they got an extra bonus that day.

And the fault does not lie solely with Enron. Other companies were also involved with gaming the Western energy markets, including, but not limited to: Dynegy, Reliant, Williams, El. Paso, Duke, BP Energy, Portland General, AES, Mirant, CMS Energy, American Electric Power Company, and Sempra Energy Trading.

The recently-released Enron tapes demonstrate the callousness of these companies:

One trader complained: "They're [expletive] taking all the money back from you guys? All the money you guys stole from those poor grandmothers in California?"

A second responded: "Yeah, grandma Millie, man."

The first responded: "Yeah, now she wants her [expletive] money back for all the power you've charged right up, [expletive phrase], for [expletive] $250 a megawatt hour."

The good news is that the figures responsible for running Enron are beginning to be brought to justice. For instance, Ken Lay, along with former Enron CEO Jeffrey K. Skilling and former Enron Chief Accounting Officer Richard Causey, were indicted by the U.S. Department of Justice on charges of conspiracy, securities fraud, wire fraud, bank fraud and making false statements.

The indictment alleges that at various times between at least 1999 and 2001, Lay, Skilling, Causey and other Enron executives engaged in a wide-ranging scheme to deceive the investing public, the U.S. Securities and Exchange Commission and others about the true performance of Enron's businesses.

The alleged scheme was designed to make it appear that: Enron was growing at a healthy and predictable rate, consistent with analysts' published expectations; Enron did not have significant write-offs or debt and was worthy of investment-grade credit rating; and, Enron was comprised of a number of successful business units, and that the company had an appropriate cash flow.

These actions had the effect of inflating artificially Enron's stock price, which increased from approximately $30 per share in early 1998 to over $80 per share in January 2001, and artificially stemming the decline of the stock during the first three quarters of 2001.

The indictment also alleges that Lay had a significant profit motive for participating in the scheme.

As stated in the indictment, Lay received approximately $300 million from the sale of Enron stock options and restricted stock between 1998 and 2001, netting over $217 million in profit, and was paid more than $19 million in salary and bonuses.

Lay received a salary of over $1 million, a bonus of $7 million and $3.6 million in long term incentive payments during 2001 alone.

Additionally, Lay sold 918,104 shares of Enron stock during the period of August 21 through Oct. 26, 2001, to repay advances totaling $26,025,000 he had received from a line of credit extended to Lay by Enron.

At that same time, California was overcharged by at least $9 billion. Now we at least know where some of that money went.

Yet even if Enron is forced to pay back the almost $2 billion it overcharged California, bankruptcy will protect the company from paying back much more than 20 cents on the dollar.

It is my hope that as the evidence mounts against Ken Lay that the truth about his, and Enron's, role in the Western energy crisis will leave no doubt in anyone's mind that the crisis was manufactured by unethical, greedy corporations.

California has suffered enough as a result of the crisis—it does not need to suffer further from Ken Lay's mistruths.

Mr. President, thank you for letting me set the record straight.

25TH ANNIVERSARY OF THE WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Mr. REED. Mr. President, I rise today to recognize the 25th anniversary of both the first White House Conference on Library and Information Services and the White House Conference on Library and Information Services Taskforce, WHCLIST, as well as to applaud a booklet, "Libraries, Citizens & Advocacy: The Lasting Effects of Two White House Conferences on Library and Information Services," published by WHCLIST in honor of this occasion.

As a result of the WHCLIST conferences and efforts—which have brought together hundreds of thousands of citizen representatives and library professionals—many Americans have discovered their community libraries for the first time, hundreds of Friends of the Library groups have formed, and a cadre of committed library supporters has emerged. The conferences renewed our Nation's emphasis on libraries and have helped spur my efforts to improve libraries.

The "Libraries, Citizens & Advocacy" report, which assesses the outcomes of the 1979 and 1991 White House Conferences on Library and Information Services, concludes that the WHCLIST has effectively focused the attention of the profession, trustees and advocates, and elected local, State, and national officials on the conferences' resolutions and recommendations. In the past quarter of a century, many of these resolutions and recommendations have been realized.

For example, resolutions from the 1979 conference included urging libraries to play a greater role in literacy development; provide improved access for minority groups, individuals with disabilities, and other underserved populations; and serve as a community center that offers recreation, social interaction, and an independent learning center. Delegates to the 1991 conference voted the Omnibus Children and Youth Initiative as the recommendation of greatest priority, including recommendations for school libraries and children's services in public libraries, intergenerational programming, and family literacy partnerships between library and Head Start personnel.

We have made significant progress toward improving the quality of school libraries. Notably, the 1996 passage of the Library Services and Technology Act made school libraries eligible to receive Federal funds for training, networks, and statewide consortium activities, and the Improving Literacy through School Libraries program, which I authored and was included as part of the No Child Left Behind Act, restored categorical funding for school libraries.

I have been proud to lead the way on these pieces of legislation, which ensure access to library and information services for library patrons of all ages, support the training and recruitment of librarians, and help provide the resources libraries need to improve literacy skills and academic achievement. I am honored to continue in the spirit of Senator Claiborne Pell's strong leadership on library issues.

I also wish to acknowledge the immense contributions and passionate advocacy of two other leaders from my home State: Rose Ellen A. Reynolds, current WHCLIST chair, and Joan Ress Reeves, delegate to the 1979 and 1991 conferences and former WHCLIST chair.

Let us recognize the White House Conference on Library and Information Taskforce on this 25th anniversary and celebrate the role it has played in improving our communities' libraries and our Nation's literacy.

DO THE WRITE THING 2004

Mr. LEVIN. Mr. President, the Do the Write Thing Challenge, sponsored by the National Campaign to Stop Violence, is a national writing contest in which students express their concerns about subjects such as domestic violence, easy access to guns, and gang activity.

Do the Write Thing currently operates in 14 cities, including Detroit, MI. Over the past 9 years, more than 285,000 students from middle schools from around the country have participated in this contest. During this past school year, over 85,000 middle school students participated in youth violence discussions and roundtables sponsored by the Do the Write Thing Challenge. Some 28,000 students chose to submit contributions to their local Do the Write Thing Challenge committee.

Over 2,500 school finalists were honored at local recognition ceremonies and had their writings published and distributed locally. Next week, two national finalists from each participating jurisdiction will be honored at a national recognition ceremony in Washington, DC. Also during next week's National Recognition Week, the finalists will present their views on youth violence to such national leaders as the Secretary of Education, the Attorney General, the Administrator of the Office of Juvenile Justice and Delinquency Prevention and Members of the House and Senate. In addition, their writings will be published and placed in the Library of Congress.

The works, ranging from poems to essays to stories, all describe the impact of violence in the lives of children. I am pleased that the National Campaign to Stop Violence will honor two students from Michigan, Michael Williams and Starlyn Robinson, for their poems on youth violence. I commend these two young people for their hard work and I know my colleagues join me in celebrating the efforts of middle school students from around the country.

I ask unanimous consent that Michael and Starlyn's poems be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Starlyn Robinson, Bates Academy, Grade 8

SHADINA'S PRICE

A, loving girl,
Shadina Moss
A tragic incident
And her life was lost.
A piece of paper,
An invitation,
For a seemingly fun
Celebration.

The party was Friday
Shadina had a week to prepare,
But she started that second
Choosing what to wear.
Invitations were infrequent,
The people carefully selected.
Lots were left out
Feeling painfully neglected.
Not one of her friends
Was cool enough to get invited.
That made Shadina feel special,
And even more delighted.
Her friend reminded her
She'd need permission to go.
Sick of her bragging,
She hoped Mrs. Moss said, No.

The party was late,
After midnight
So of course her mother refused
Causing a fight.
Shadina was defiant,
Decided to rebel
Unaware of the fact
The party wouldn't end well.
Not owning a car
Shadina was stuck,
A boy offered her a ride
She thought it was good luck.
She knew the boy
Jason, from school.
He was nice, and invited
So evidently he was cool.
They talked a lot,
For a good long while.
She knew everything about him.
Even the length of his smile.
She knew his favorite color,
And that he liked to use slang,
But what she didn't know
Was that he was in a gang.

They arrived at the party
And started to have fun.
They laughed and said hi
To almost everyone.
Except for that boy
With bad intentions.
An enemy of the gang, Jason
Supposedly forgot to mention.
He wasn't invited,
And shouldn't have been there,
But be had a gun and some bullets
And didn't seem to care.
He locked and loaded,
Aimed straight for Jason's head
But Shadina was the one
That wound up dead.
With a BANG and a gasp,
Shadina took her last breath
And all those surrounding
Witnessed her death.
This story has a few morals,
Be nice to everyone;
If the boy was invited
He might not have brought a gun.

Had Jason not been in a gang
Shadina would still be alive,
But the deed is done
And she can never be revived.
Why do we need guns?
Do we have to kill each other?
My grandfather was shot
By my step-grandmother.
I'll miss the grandfather
I never got to meet.
I wish my step-grandma
Wasn't packing heat.
But like Shadina
He's gone to a better place,
Leaving this world
Without a trace.
Why would we make guns,
Then wonder about the death rate?
These are things we made
We decided to create.
When you sense hostility
On a persons face
Leave them alone,
Let them have their space.
Prevent violence:
Always be nice,
Listen to your parents,
Don't pay Shadina's price.

Starlyn Robinson

Michael Williams, Bates Academy, Grade 8

"Paying With Your Life"

"Chorus"
Stop the violence young people or you will pay the price
The only outcome is paying with your life

"Verse #1"
At my young age I have witnessed many deaths
And trust me its not the best
It's like being striped naked or undressed
Feeling confused as why a child would wear a bulletproof vest
And he hasn't even made it out of his parent's nest
Lakes full of tears from blood shed
Asking my mother why my uncle is dead
And why I always have this feeling of dread
Lying to my mother that I'm okay
While wondering if this hurt and pain will ever go away
So I'm begging you young people of today
Stop the violence so we can live to see a better day

"Chorus"
Stop the violence young people or you will pay the price
The only outcome is paying with your life

"Verse #2"
Kids calling themselves gangsters and thugs
Hanging on street corners selling drugs
Perpetrating, wonna be grown
But only trying to hide the fact they ain't getting no loving at home
No father figure
So to hide the pain, they hold a gun with the safety off the trigger
To some life is a game and they have no shame
Emotions running wild because they feel no pain
At the age of thirteen you are still a kid
But the judge still tries you as an adult for what you did

"Chorus"
Stop the violence young people or you will pay the price
The only outcome is paying with your life

"Verse #3"
Maybe we should send the kids to a jail cell for only a day
Then they would have to listen to what a real prisoner has to say
Or maybe take them to an undertaker
So they can see what violence leads to today
Hopefully they will realize lying in a coffin ain't the way
Put some positive mentors in there face
And maybe they won't think that there lives are such a disgrace
With this in place they will gain a little more hope and faith
And realize they have some good to contribute to the human race
Now all that's okay but I alone can't stop violence today
So youth of today join me and keep the faith and pray

"Chorus"
Stop the violence young people or you will pay the price
The only outcome is paying with your life

Michael Williams
Mrs. Gibson 8-4

ADDITIONAL STATEMENTS

TRIBUTE TO DR. J. DEOTHA MALONE

• Mr. ALEXANDER. Mr. President, I wish to pay tribute to an educator who has not only been an exemplary teacher, administrator, and community servant, but also has the distinguished honor of being the longest serving educator in the region we call Middle Tennessee. Dr. J. Deotha Malone will retire from the Sumner County Board of Education today. She has been dedicated to educating the students in Middle Tennessee for more than 55 years.

Dr. Malone's career in education has been filled with many achievements. She has taught students from preschool through the college levels. This Tennessean began her teaching career at Union High School in Gallatin, TN, in 1949 where she taught English and civics and was the class sponsor.

Dr. Malone did not limit her role as an educator to the classroom. She opened her home as well, holding remedial classes in reading and teaching beginners French, all free of charge. She held classes for young pregnant women in the basement of the local health department before they were enrolled in the homebound programs. She taught the fourth and sixth grades, directed the ESL programs for 12 years, was a Head Start teacher and later became the supervisor of that program.

In 1969, Dr. Malone was appointed supervisor of elementary education for Sumner County and in the same year became supervisor of adult education. In 1981, she was appointed supervisor of secondary education and she continues in that capacity today. She also remains the coordinator of district policy for Titles VI and IX.

Dr. Malone has dedicated her life to public service—and not only as an educator. In 1958, she became the first African-American female notary public in Sumner County. She was subsequently trained by H&R Block to prepare income taxes—a service she rendered free of charge to those not able to afford the fees. Dr. Malone was elected to the Gallatin City Council in 1969. Two years after her first election, she was elected as the vice mayor of Gallatin and has been serving the city in that capacity for the past 33 years. She is an active church member as a teacher of the Adult Ladies Sunday School Class, singer in the mass choir and president of the Willing Workers Club.

Dr. Malone has touched and enriched so many lives that it is impossible to measure the debt of gratitude owed her. So I take this moment to honor her and thank her for all that she has done in her life's work.●

HONORING THE CITY OF GREGORY

● Mr. JOHNSON. Mr. President, today I honor and acknowledge the town of Gregory, SD, which is celebrating its 100th anniversary this year.

Gregory was founded on August 8, 1904, and a year later had grown to over 500 residents, supported by banks, a meat market, lumber companies, hotels, and blacksmiths. The town was named for John Shaw Gregory, a councilman and representative in the Dakota Territory Legislature from 1862 until 1868. Gregory also served in the United States Navy for 12 years and was appointed "Special Agent to the Poncas" in 1859 and worked on the Ponca Indian Reservation.

Soon after the town's founding in 1908, the North Western Line Railroad brought 15 trains daily to Gregory. Today Gregory boasts more than 50 businesses and over 1,200 residents. The annual pheasant season in October attracts sportsmen from across the Nation.

To celebrate its 100th anniversary, the residents of Gregory will hold the Oscar Micheaux Film Festival, a celebration featuring the Lewis and Clark Journey and Discovery, and a Crazy Day Fire Department Film Festival and Appreciation Day. Celebrations have already begun and will continue throughout the year. It is with great honor that I advise my colleagues of the achievements made by this great community.●

HONORING THE CITY OF WATERTOWN

● Mr. JOHNSON. Mr. President, today I honor and publicly recognize the 125th anniversary of the founding of the town of Watertown, SD. The town of Watertown has a proud past and a promising future. In 1878, the Winona and St. Peter Railroad settled the area that became known as Watertown.

Previously, in 1873, the railroad company had established a settlement called Kampeska. Eventually, due to a lack of railroad construction beyond Kampeska, many of the town's residents moved to Watertown. By the end of 1878, Watertown had become the county seat of Codington County. In that same year, the town's first railroad station and post office were built. By February, the population of the town was 509.

In 1880, the U.S. Land Office opened in Watertown and subsequently opened "surplus" land on the Sisseton-Wahpeton Reservation to settlement. In that same year, the town's first bank opened.

From 1898 to 1915, Watertown grew rapidly and became the wholesale and retail trade center for much of Northeast South Dakota. By the end of World War I, four major railroad companies operated eight routes into and out of town, making the town a transportation center and facilitating its growth.

Watertown and Codington County veterans have served in all major wars and conflicts of the 20th century, with 18 dying in WWI, 57 in World War II, 2 in Korea, and 11 in Vietnam. A World War II U.S. Navy destroyer-escort was named USS *Gustafson* in honor of a young naval officer, Lt. Arthur Gustafson, a resident of Watertown who was killed when the Japanese attacked his ship in early 1942.

The loss of a large meatpacking plant and other agricultural-related concerns by the 1960s and 1970s alerted city and county officials to the necessity of diversifying the local economy. Watertown embarked on a program of industrial and economic diversification. What is today Lake Area Technical Institute began in the 1960s and has provided technical education to thousands of students since that time. Watertown became a regional medical center with the consolidation of hospital facilities into the Prairie Lakes Healthcare System in the 1980s.

In the 1990s, nationally and internationally known artist Terry Redlin, a Watertown native, came back to his home town to establish the Redlin Art Center, a gallery of more than 140 of his original oil paintings. The Center opened in 1997 and, by 2004, over 1.5 million visitors had been through its doors. A tremendous asset for Watertown, it has attracted visitors from all 50 States and over 30 foreign countries.

To celebrate the town's anniversary, Watertown hosted a Mayor's Breakfast, including recognition of the town's 125th anniversary in the 4th of July parade and hosted a "crazy days" celebration. Celebrations will continue throughout the year and include a dinner and dance on New Year's Eve. It is with great honor that I advise my colleagues of the achievements made by this great community.●

LEGISLATION AND SUPPORTING DOCUMENTS TO IMPLEMENT THE UNITED STATES-MOROCCO FREE TRADE AGREEMENT (FTA)—PM 91

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

I am pleased to transmit legislation and supporting documents prepared by my Administration to implement the United States-Morocco Free Trade Agreement (the "Agreement" or the "FTA"). This Agreement enhances our bilateral relationship with a long-standing partner in the North Africa and Middle East region. The Agreement will benefit the people of the United States and Morocco, illustrating to other developing countries the advantages of open markets.

This Agreement is a strong demonstration of my Administration's commitment to opening markets, leveling the playing field, and expanding opportunities for American workers, manufacturers, businesses, farmers, and consumers. In negotiating this Agreement, my Administration was guided by the negotiating objectives set out in the Trade Act of 2002. The Agreement will expand Morocco's market for U.S. manufactured goods, agricultural products, services, and investment. As soon as this Agreement enters into force, tariffs will be eliminated on virtually all manufactured goods traded between our countries.

The Agreement provides U.S. producers of beef, poultry, wheat, corn, soybeans, and other agriculture products with increased access to Morocco's market, while complementing Morocco's agriculture reform program. In addition, the Agreement provides the opportunity for U.S. producers to adjust to increased imports from Morocco, if necessary.

New opportunities for U.S. services firms will be opened, U.S. investment will be protected, and U.S. companies will be able to participate in government procurement opportunities on the same basis as Moroccan firms. This Agreement has some of the strongest intellectual property protections ever contained in a U.S. trade agreement with a developing country.

The United States and Morocco have agreed to cooperate on environment and labor issues and to establish mechanisms supporting those efforts. Negotiation of this Agreement has promoted adoption of a new labor law in Morocco. This Agreement has also helped lead to improved domestic environmental laws in Morocco, and a number of additional cooperative projects have been identified for future work.

The approval of this Agreement will be another important step in implementing our plan for a broader Middle East Free Trade Area. Indeed, this Agreement offers the United States an opportunity to encourage economic reform in a moderate Muslim nation, as we have done with the Jordan FTA and the recently concluded Bahrain FTA. Leaders in Morocco support a reformist and tolerant vision that includes free parliamentary elections, the sale of state-owned businesses, the encouragement of foreign investment that can be connected to broad-based development, and better protection of the rights of women and workers. It is strongly in the interests of the United States to embrace these reforms and do what we can to encourage them. Passing this Agreement is a critical step in that direction.

GEORGE W. BUSH.
THE WHITE HOUSE, *July 15, 2004.*

MESSAGES FROM THE HOUSE

At 1:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 15. An act to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

The message also announced that the House passed the following bills in which it requests the concurrence of the Senate:

H.R. 3463. An act to amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits.

H.R. 4418. An act to authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes.

The message further announced that the Speaker of the House of Representatives has signed the following enrolled bill:

S. 1167. An act to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri.

ENROLLED BILL SIGNED

At 2:50 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 15. An act to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

The enrolled bill was signed subsequently by the Vice President.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4418. An act to authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2652. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8530. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Environmental Stewardship Program (PESP) Regional Grants; Notice of Funds Availability" (FRL#7361–8) received on July 15, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8531. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Siroxamine; Pesticide Tolerance" (FRL#7367–1) received on July 15, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8532. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acequinocyl; Pesticide Tolerance" (FRL#7364–1) received on July 15, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8533. A communication from the Deputy Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report relative to chemical agent destruction operations at the Umatilla Chemical Agent Disposal Facility (MCCDF) in Hermiston, Oregon; to the Committee on Armed Services.

EC–8534. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–8535. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a transaction involving U.S. exports to Taiwan; to the Committee on Banking, Housing, and Urban Affairs.

EC–8536. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a transaction involving U.S. exports to Hungary, The Netherlands, Mexico, China, The United Arab Emirates and various other countries; to the Committee on Banking, Housing, and Urban Affairs.

EC–8537. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Covered Securities Pursuant to Section 18 of the Securities Act of 1933" (RIN3235–AJ03) received on July 15, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8538. A communication from the Legal Counsel, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revised Interim Rule, Community Development Financial Institutions Program" (RIN1505–AA92) received on July 15, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8539. A communication from the Attorney, Office of Aviation Enforcement and Proceedings, Office of the Secretary of Transportation, transmitting, pursuant to law, the report of a rule entitled "Civil Penalties" (RIN2105–AD40) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8540. A communication from the Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Dealer Notification of Defect or Noncompliance Determination" (RIN2127–AG27) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8541. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to asphalts; to the Committee on Commerce, Science, and Transportation.

EC–8542. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Office of the Secretary of the Interior, transmitting, a draft of proposed legislation entitled the "George Washington Memorial Parkway Boundary Revision Act"; to the Committee on Energy and Natural Resources.

EC–8543. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Office of the Secretary of the Interior, transmitting, a draft of proposed legislation entitled the "Jean Lafitte National Historical Park and Preserve Boundary"; to the Committee on Energy and Natural Resources.

EC–8544. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Illinois Regulatory Program" (IL–102–FOR) received on July 15, 2004; to the Committee on Energy and Natural Resources.

EC–8545. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the Commission's licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–8546. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Adequacy of Indiana Solid Waste Landfill Permit Programs Under RCRA Subtitle D" (FRL#7787–3) received on July 15, 2004; to the Committee on Environment and Public Works.

EC–8547. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the State Implementation Plan" (FRL#7788–3) received on July 15, 2004; to the Committee on Environment and Public Works.

EC–8548. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Sources and Modifications Including Incorporation of Marine Vessel Emissions in Applicability Determinations" (FRL#7788–2) received on July 15, 2004; to the Committee on Environment and Public Works.

EC–8549. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance with the Disposal Regulations; Alternative Provisions" (FRL#7787–6) received on July 15, 2004; to the Committee on Environment and Public Works.

EC–8550. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994 and Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or Before September 19, 1994" (FRL#7786–8) received on July 15, 2004; to the Committee on Environment and Public Works.

EC–8551. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks" (FRL#7786–9) received on July 15, 2004; to the Committee on Environment and Public Works.

EC–8552. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, a report relative to the United States-Morocco Free Trade Agreement; to the Committee on Finance.

EC–8553. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Corporate Distributions of Property" (Rev. Rul. 2004–79) received on July 15, 2004; to the Committee on Finance.

EC–8554. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Exchange of a Debt Security for a Debt Instrument in a Reorganization" (Rev. Rul. 2004–78) received on July 15, 2004; to the Committee on Finance.

EC–8555. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Revocation of Revenue Ruling 73–354" (Rev. Rul. 2004–76) received on July 15, 2004; to the Committee on Finance.

EC–8556. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Offsets Under 6402 and the Community Property Laws of Arizona and Wisconsin" (Rev. Rul. 2004–71) received on July 15, 2004; to the Committee on Finance.

EC–8557. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Offsets Under 6402 and the Community Property Laws of California, Idaho, and Louisiana" (Rev. Rul. 2004–72) received on July 15, 2004; to the Committee on Finance.

EC–8558. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "United States v. Roland Harry Macher (In re Macher), 91 AFTR2d 2003–2654, 2003–2 USTC 50,537" (AOD 2004–32) received on July 15, 2004; to the Committee on Finance.

EC–8559. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Offsets Under 6402 and the Community Property Laws of Nevada, New Mexico, and Washington" (Rev. Rul. 2004–73) received on July 15, 2004; to the Committee on Finance.

EC–8560. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Qualified Payment Card Agent Determination" (Rev. Proc. 2004–42) received on July 15, 2004; to the Committee on Finance.

EC–8561. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Use of Merchant Category Codes to Determine Reportable Payment for Payment Card Transactions" (Rev. Proc. 2004–43) received on July 15, 2004; to the Committee on Finance.

EC–8562. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Annual Report Concerning the Pre-Filing Agreement Program of the Large and Mid-Size Business Division for Calendar Year 2003" (Ann. 2004–59) received on July 15, 2004; to the Committee on Finance.

EC–8563. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling: Income from Sources Within the United States" (Rev. Rul. 109393–03) received on July 15, 2004; to the Committee on Finance.

EC–8564. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Information Reporting and Backup Withholding for Payment Card Transactions" (RIN1545–BA17) received on July 15, 2004; to the Committee on Finance.

EC–8565. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the manufacture of significant military equipment in France, Belgium, Germany, and the United Kingdom; to the Committee on Foreign Relations.

EC–8566. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to D.C. Act 14–106, "Closing of Portions of 2nd and N Streets, NE., and Alley System in Square 710, S.O. 00–97, Act of 2001"; to the Committee on Governmental Affairs.

EC–8567. A communication from the Assistant General Counsel for Regulatory Services, Offices of the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Direct Grant Programs" (RIN1890–AA09) received on July 15, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–8568. A communication from the Staff Director, United States Sentencing Commission, transmitting, pursuant to law, the Annual Report and Sourcebook of Federal Sentencing Statistics of the Commission; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with amendments:

S. 2436. A bill to reauthorize the Native American Programs Act of 1974 (Rept. No. 108–306).

By Mr. CAMPBELL, from the Committee on Appropriations, without amendment:

S. 2666. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–307).

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 2249. A bill to amend the Stewart. B. McKinney Homeless Assistance Act to provide for emergency food and shelter (Rept. No. 108–308).

By Mrs. HUTCHISON, from the Committee on Appropriations, without amendment:

S. 2674. An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–309).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute and with an amended preamble:

S.J. Res. 37. A bill to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian Tribes and offer an apology to all Native Peoples on behalf of the United States (Rept. No. 108–310).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Mrs. LINCOLN, Mr. BOND, Mr. FEINGOLD, Mr. THOMAS, Mr. CONRAD, and Mr. BURNS):

S. 2659. A bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area; to the Committee on Finance.

By Mrs. BOXER:

S. 2660. A bill to provide for the monitoring of the long-term medical health of firefighters who responded to emergencies in certain disaster areas; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY (for himself and Mr. CHAMBLISS):

S. 2661. A bill to clarify the effects of revocation of a visa, and for other purposes; to the Committee on the Judiciary.

By Mr. NICKLES (for himself, Mr. KENNEDY, Mr. GRASSLEY, Mr. BAUCUS, Mr. ENSIGN, Mr. LEVIN, Mrs. MURRAY, and Mr. GREGG):

S. 2662. A bill to amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits; to the Committee on Finance.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2663. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CORNYN:

S. 2664. A bill to combat terrorism, and for other purposes; to the Committee on the Judiciary.

By Mr. CORNYN:

S. 2665. A bill to strengthen and enhance the prevention and prosecution of crimes using weapons of mass destruction, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 2666. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DAYTON:

S. 2667. A bill to amend section 641 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to improve the coverage of certain prescription drugs and biologicals under the medicare replacement drug demonstration project; to the Committee on Finance.

By Mr. GRAHAM of South Carolina:

S. 2668. A bill for the relief of Griselda Lopez Negrete; to the Committee on the Judiciary.

By Mr. SUNUNU (for himself, Mr. GREGG, Mr. JEFFORDS, and Mr. LEAHY):

S. 2669. A bill to amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite providers to offer additional local broadcast services to consumers under limited circumstances, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. 2670. A bill to provide for the continued operation of the Yacht Basin Marina, Montana, to allocate recreation fees collected at the Canyon Ferry Unit of the Pick-Sloan Missouri River Basin Program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself and Mr. SMITH):

S. 2671. A bill to extend temporary State fiscal relief, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself, Mr. LOTT, Mr. GRAHAM of Florida, and Ms. SNOWE):

S. 2672. A bill to establish an Independent National Security Classification Board in the executive branch, and for other purposes; to the Select Committee on Intelligence.

By Mr. CAMPBELL:

S. 2673. A bill to designate the facility of the United States Postal Service located at 1001 Williams Street, Ignacio, Colorado, as the "Leonard C. Burch Post Office Building"; to the Committee on Governmental Affairs.

By Mrs. HUTCHISON:

S. 2674. An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Ms. SNOWE:

S. 2675. A bill to amend the Internal Revenue Code of 1986 to expand the availability of the cash method of accounting for small business, and for other purposes; to the Committee on Finance.

By Mrs. HUTCHISON (for herself and Ms. MIKULSKI):

S. 2676. A bill to amend chapter 4 of title 39, United States Code, to provide for the issuance of a semipostal stamp in order to provide funding for childhood drinking prevention and education, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. FRIST) (by request):

S. 2677. A bill to implement the United States-Morocco Free Trade Agreement; to the Committee on Finance pursuant to section 2103(b)(3) of Public Law 107-210.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MURRAY:

S. Res. 406. A resolution establishing a Select Committee on Aerospace in the United States; to the Committee on Rules and Administration.

By Mr. BIDEN (for himself, Mr. AKAKA, Mr. ALLEN, Mrs. BOXER, Mr. BREAUX, Mr. BUNNING, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TALENT, Mr. VOINOVICH, and Mr. WYDEN):

S. Res. 407. A resolution designating October 15, 2004, as "National Mammography Day"; to the Committee on the Judiciary.

By Mr. SMITH (for himself and Ms. MIKULSKI):

S. Con. Res. 125. A concurrent resolution recognizing the 60th anniversary of the Warsaw Uprising during World War II; to the Committee on the Judiciary.

By Mr. COLEMAN (for himself, Mr. LEVIN, and Mr. DODD):

S. Con. Res. 126. A concurrent resolution condemning the attack on the AMIA Jewish Community Center in Buenos Aires, Argentina, in July 1994, and expressing the concern of the United States regarding the continuing, decade-long delay in the resolution of this case; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 1068

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1068, a bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, and for other purposes.

S. 1197

At the request of Mr. ENZI, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1414

At the request of Mr. HATCH, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1414, a bill to restore second amendment rights in the District of Columbia.

S. 1925

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 2253

At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2253, a bill to permit young adults to perform projects to prevent fire and suppress fires, and provide disaster relief, on public land through a Healthy Forest Youth Conservation Corps.

S. 2352

At the request of Mr. ENSIGN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2352, a bill to prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes.

S. 2461

At the request of Mr. DEWINE, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2461, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products .

S. 2519

At the request of Ms. MIKULSKI, the names of the Senator from New Mexico

(Mr. BINGAMAN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 2519, a bill to authorize assistance for education and health care for women and children in Iraq during the reconstruction of Iraq and thereafter, to authorize assistance for the enhancement of political participation, economic empowerment, civil society, and personal security for women in Iraq, to state the sense of Congress on the preservation and protection of the human rights of women and children in Iraq, and for other purposes.

S. 2560

At the request of Mr. HATCH, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2560, a bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes.

S. 2595

At the request of Mr. GREGG, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2595, a bill to establish State grant programs related to assistive technology and protection and advocacy services, and for other purposes.

S. 2602

At the request of Mr. DODD, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2602, a bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes.

S. 2639

At the request of Mr. LIEBERMAN, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2639, a bill to reauthorize the Congressional Award Act.

S. CON. RES. 119

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Con. Res. 119, a concurrent resolution recognizing that prevention of suicide is a compelling national priority.

S. CON. RES. 124

At the request of Mr. CORZINE, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Connecticut (Mr. DODD) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Con. Res. 124, a concurrent resolution declaring genocide in Darfur, Sudan.

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. Con. Res. 124, supra.

S. RES. 162

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. Res. 162, a resolution honoring tradeswomen.

S. RES. 271

At the request of Mr. CORZINE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 271, a resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

S. RES. 389

At the request of Mr. CAMPBELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Res. 389, a resolution expressing the sense of the Senate with respect to prostate cancer information.

S. RES. 401

At the request of Mr. BIDEN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. Res. 401, a resolution designating the week of November 7 through November 13, 2004, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 404

At the request of Mr. SMITH, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. Res. 404, a resolution designating August 9, 2004, as "Smokey Bear's 60th Anniversary".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mrs. LINCOLN, Mr. BOND, Mr. FEINGOLD, Mr. THOMAS, Mr. CONRAD, and Mr. BURNS):

S. 2659. A bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area; to the Committee on Finance.

Ms. COLLINS. Madam President, I rise today to introduce the Medicare Rural Home Health Payment Fairness Act. This legislation would extend the additional payment for home health services delivered in rural areas. This additional 5 percent reimbursement is currently scheduled to sunset on April 1, 2005. This legislation would make the additional reimbursement permanent.

I note the presence of one of the strongest advocates of home health care, and that is my colleague from Missouri, Senator BOND. He has worked tirelessly to make certain that our seniors and disabled citizens are able to receive the home health care they need. I am very pleased to have him as one of the key supporters of this legislation.

Home health care has become an increasingly important part of our health care system. The kinds of highly skilled and often technically complex services that our home health caregivers provide have enabled millions of our most frail and vulnerable older and disabled citizens to avoid hospitals and nursing homes and to receive health care just where they want to be—in the comfort, privacy, and security of their own homes.

I have had the great honor of accompanying several of Maine's caring home health nurses on their visits to serve their patients. I have seen firsthand the difference that they are making for Maine's elderly. I remember visiting one elderly couple who told me that it was home health care that allowed them to stay together in their very own home, rather than being separated with one of them being forced to go into a nursing home in the remaining years of their life. Another woman told me that her late husband received home health care in the months leading up to his death. That had allowed him to be treated at home and to be with his family, which is where he very much wanted to be.

Nevertheless, surveys have shown that the delivery of home health services in rural areas can be as much as 12 to 15 percent more costly because of the extra travel time required to cover long distances between patients, the higher transportation expenses, and other factors. Because of the longer travel times, rural caregivers are unable to make as many visits in a day as their urban counterparts. The executive director of Visiting Nurses of Aroostook in northern Maine where I am from tells me that her agency covers 6,600 square miles with a population of only 73,000 people. Her costs are understandably much higher than other agencies due to the long distances her staff must drive to see their clients. Moreover, her staff is obviously not able to see as many patients in a day.

Agencies in rural areas are also frequently smaller than their urban counterparts, which means that their relative costs are higher. Smaller agencies with fewer patients and fewer visits mean that fixed costs, particularly those associated with meeting regulatory requirements, are spread over a much smaller number of patients and visits, thus increasing overall the per-patient and per-visit costs. Moreover, in many rural areas, home health agencies are the primary caregivers for homebound beneficiaries with limited access to transportation. These rural patients often require more time and care than urban patients and are understandably more expensive for home health agencies to serve. If the rural extra payment is not extended, agencies may be forced to make decisions not to accept patients living in remote areas who have greater care needs. That would translate into less access to health care for ill homebound seniors.

Failure to extend the rural add-on payment will only put more pressure on rural home health agencies that are already operating on very narrow margins. It could force some of these agencies to close their doors altogether. Many home health agencies operating in rural areas are the only home health providers in large geographic areas. If any of these agencies is forced to close, the Medicare patients in that region could lose all their access to home health care.

The bipartisan legislation I am introducing today, with Senators LINCOLN, BOND, FEINGOLD, THOMAS, CONRAD, and BURNS, will help to ensure that Medicare patients in rural areas continue to have access to the home health services they very much need. I urge all of our colleagues to join us as cosponsors. We must act to ensure that this extra payment does not expire next April 1.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I compliment my colleague from Maine for being a true champion and leader for assuring good home health care access to our seniors, disabled, and others who need specialized care. As she has done in Maine, I have done in Missouri and found that access to home health care is critically important. It is, No. 1, convenient, easier, more friendly, and more compassionate for the patients. No. 2, all of the statistics we have seen show home health care is more effective to treat people. They get well better.

Finally, it makes sense economically. When cuts in Medicare shut down a home health care agency in one rural county in northwest Missouri, 40 patients who had been treated for an average of $400,000 a year were forced to go to institutionalized care. Only 30 of them showed up. I hate to guess what happened to the other 10. Their cost for 1 year—it was $400,000—became $1.4 million. It was a terrible tragedy in human terms, in health terms, and in economic terms.

I am proud to join my colleague from Maine.

By Mrs. BOXER:

S. 2660. A bill to provide for the monitoring of the long-term medical health of firefighters who responded to emergencies in certain disaster areas; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, as we are entering the fire season in California, I am today introducing the Healthy Firefighters Act.

Last year, I offered this bill as an amendment to the Healthy Forests Restoration Act, and it passed the Senate by a vote of 94–3. Unfortunately, House Republicans insisted on dropping this important proposal in conference.

Last year my State experienced devastating wildfires. Those fires killed 24 people, including one firefighter. Over 750,000 acres burned. More than 3,700 homes were destroyed in five Southern California counties. Thousands of firefighters from local, State and Federal agencies responded to these fires.

Those firefighters—and in fact most firefighters who respond to Federal disasters—are at higher risk of long-term health problems because of exposure to several toxins, including fine particulates, carbon monoxide, sulfur, formaldehyde, mercury, heavy metals, and benzene. As a result, their long-term health should be monitored so that any consequences can be identified, leading to early detection and better treatment.

The Healthy Firefighters Act does just that. It requires long-term health monitoring of firefighters who respond to a crisis in any federally-declared disaster area. This long-term monitoring will be carried out by the U.S. Fire Administration (USFA) in consultation with the National Institute for Occupational Safety and Health (NIOSH). The USFA will work with a locally based medical research university so that local experts are involved in this important effort.

This legislation is supported by the International Association of Firefighters, the National Volunteer Fire Council, and the California State Firefighters' Association. I ask unanimous consent that support letters from these organizations be placed in the RECORD.

We owe it to our Nation's firefighters. Our Nation's firefighters put their lives on the line to protect us. The least we can do is to help them remain healthy by providing long-term health monitoring. I urge my colleagues to join me in this effort.

I ask unanimous consent that several letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS,
Washington, DC, February 2, 2004.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Nation's more than 260,000 professional fire fighters and emergency medical personnel, I wish to express our enthusiastic support for your proposal to provide medical monitoring for fire fighters who respond to nationally declared disasters.

In recent years, we have become increasingly aware that the greatest dangers fire fighters face are often not the ones that take lives on the fireground, but those that kill and disable years later. Fire fighters who respond to disasters often face prolonged exposure to unknown toxins. Medical monitoring of these fire fighters will enable early detection and treatment for the job-related illnesses that result.

Equally important, the information, gleaned from this project will enable us to develop better protective clothing and equipment in the future. Thus, this program has the potential to both save the lives of fire fighters who have been exposed to dangerous substances and prevent harmful exposures in the future.

The Nation's fire fighters thank you for your extraordinary efforts championing this legislation, and we stand ready to assist you in moving this important initiative forward

Sincerely,
HAROLD A. SCHAITBERGER,
General President.

NATIONAL VOLUNTEER FIRE COUNCIL,
Washington, DC, January 30, 2004.

Hon. BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER: The National Volunteer Fire Council (NVFC) is a nonprofit membership association representing the more than 800,000 members of America's volunteer fire, EMS, and rescue services. Organized in 1976, the NVFC serves as the voice of America's volunteer fire personnel in over 28,000 departments across the country. On behalf of our membership, I would like to express our support for your proposed legislation, the Healthy Firefighters Act, which would provide for the monitoring of the long-term medical health of firefighters who respond to emergencies in any area which is declared a disaster area by the Federal Government.

As you know, firefighters, 75 percent of which are volunteers, respond to a wide array of emergencies—including structure and wildland fires, medical calls, motor vehicle accidents, natural disasters and acts of terrorism. Very often, the severe toll that is taken on their health is traceable to these events; though not always quickly recognizable.

More specifically, your legislation would direct the U.S. Fire Administration, in conjunction with the National Institute for Occupational Safety and Health, to contract with appropriate medical research universities to conduct long-term medical health monitoring of those firefighters who responded to Federally-declared emergencies. This monitoring includes pulmonary illness, neurological damage, and cardiovascular damage.

Once again, the NVFC commends your efforts to ensure that firefighters are properly monitored to guarantee that they don't encounter long-term health problems due to responding to national emergencies. If you or your staff have any questions or comments feel free to contact Craig Sharman, NVFC Director of Government Relations at (202) 887–5700 ext. 12.

Sincerely,
PHILIP C. STITTLEBURG,
Chairman.

CALIFORNIA STATE
FIREFIGHTERS' ASSOCIATION, INC.
Sacramento, CA, February 20, 2004.

Re Support Healthy Firefighters Act.

Senator BARBARA BOXER,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BOXER, the California State Firefighters' Association (CSFA), the oldest and largest firefighter association in the state of California, representing over 29,000 firefighters and EMS personnel strongly supports your legislation to provide for the monitoring of the long-term medical health of firefighters who responded to emergencies recently in certain disaster areas.

This important legislation will require that the United States Fire Administration, in conjunction with the National Institute for Occupational Safety and Health, shall contract with an appropriate, locally based medical research university to conduct long-term medical health monitoring of those firefighters who responded to emergencies in any areas referred to in subsection (b).

(b) Affected Firefighters.—An area referred to in this subsection is any area which is declared a disaster area by the Federal Government.

(c) Health Monitoring.—The long-term health monitoring referred to in subsection (a) shall include pulmonary illness, neurological damage, and cardiovascular damage.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, an as-yet-to-be announced sum of money for each of fiscal years 2005 through 2009.

Thank you for authoring this important piece of legislation. Please feel free to forward and use our endorsement of your bill in any way. We look forward to working with you to ensure passage of this measure.

Respectfully,

AFRACK VARGAS,
Legislative Advocate.

By Mr. GRASSLEY (for himself and Mr. CHAMBLISS):

S. 2661. A bill to clarify the effects of revocation of a visa, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce legislation to fix a loophole in our visa policies that has and could continue to have detrimental consequences on our national security. I have been pressing the Departments of State and Homeland Security for the last year to make changes to visa revocation certificates so that we can question, detain, or deport foreigners who were not supposed to be granted a visa. It was one year ago today that the Senate Judiciary Committee held a hearing on this problem.

For example, it is extremely difficult to detain and deport suspected terrorists whose visas have been revoked on terrorism grounds after those persons have set foot on U.S. soil. The difficulty stems from the wording on the revocation certificates, which are issued by the State Department. However, by law, the Department of Homeland Security has policy authority over visa issuance.

On June 17, 2003, a GAO report revealed that suspected terrorists can stay in the country after their visas have been revoked on terrorism grounds because of a legal loophole in the wording of revocation papers. This loophole came to light after the GAO found that more than 100 persons were granted visas that were later revoked because there was evidence the persons had terrorism links and associations. I wrote a letter to the Department of State on June 23, 2003, and both the House and Senate Judiciary Committees held hearings on the matter last year.

Some of us in Congress expected the government to fix this problem immediately, especially after GAO brought it to the attention of your department and other agencies. Perhaps this expectation was naive. More than a month after the GAO report and the hearings on the matter, I pressed the issue further with Under Secretary Hutchinson during a July 23, 2003 Senate Judiciary Committee hearing.

We all recognized that a simple administrative fix, such as re-writing the revocation certificate, would solve the problem. In fact, Assistant Secretary Hutchinson personally pledged to me in July of last year that the Department of Homeland Security would issue regulations to fix it as soon as the Memo of Understanding with the Department of State was finalized. The Memo was signed on September 29, 2003.

On May 20 of this year, a member of the Department of Homeland Security confirmed that a regulation was written and being circulated internally.

But, here we are—more than a year after the GAO first revealed the loophole—and it appears that the problem still has not been solved.

This week, the GAO issued a report that said "additional actions are needed to eliminate weaknesses in the visa revocation process." The GAO recommends that the Secretaries of Homeland Security and State jointly develop a written governmentwide policy that clearly defines roles and responsibilities and sets performance standards for the agencies involved in the visa revocation process.

Frankly, I think these Departments have had enough time to consult with each other. Today, I offer a legislative fix.

It is amazing to me that such a simple and straightforward solution to such a dangerous and well-known problem continues to languish in the slow-moving bureaucracy. Promises were made, but the promises have not been kept. The visa revocation loophole needs to be fixed.

Mr. CHAMBLISS. Mr. President, I rise in support of legislation that Senator GRASSLEY and I are introducing that will finally close a loophole in our Nation's homeland security. Exactly one year ago today, I held a hearing in the Immigration and Border Security Subcommittee to question why visa revocation is not effective to remove a suspected terrorist from the United States. This issue was highlighted in a June 2003 General Accounting Office report titled, "New Policies and Procedures Needed to Fill Gaps in the Visa Revocation Process." Subsequently, I held another hearing in the Subcommittee last fall in which the Departments of State and Homeland Security assured me and my colleagues that the problem would be sufficiently addressed through a cooperative agreement.

Now a year later, we still don't have this problem fully fixed, and earlier this month the GAO issued a second report titled, "Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process." The legislation we introduce today will make the needed, common sense change to empower the visa revocation process as an anti-terrorism tool.

One problem we have realized after September 11 was the lack of information sharing across Federal agencies. It is not just keeping bad guys out of the United States that is important, but if someone comes into this country who has a suspicious background, everyone needs to be on the same wavelength with respect to sharing of information on individuals in an effective manner. Information sharing and coordination between the State Department and the Department of Homeland Security is crucial today more than ever. We must continue to reshape the government culture, away from old bureaucratic habits, toward strong interagency cooperation in order to safeguard our Nation.

The GAO report exposes how suspected terrorists may remain at large even after their visas have been revoked. Last summer, the GAO found 30 persons whose visas were revoked on terrorism grounds; however, revocation gives no legal authority for law enforcement officials to remove them. In hearings before Congress, the State Department and Homeland Security Department maintained that they were implementing methods to resolve the problem by tracking visa revocations more precisely, sharing information more efficiently, and hopefully removing such suspected terrorists.

In a report released this month, the GAO found that, although the two Departments made some changes, the visa revocation process still lacks a timely transmission of information between agencies—not to mention the absence of legal authority to remove these suspected terrorists. After two GAO reports and two Senate hearings, the Departments still don't have their act together.

Our bill empowers visa revocation as an anti-terrorism tool. First, it makes revocation a ground of inadmissibility for a person's immigration status. This will give the Department of Homeland Security the authority to remove a suspected terrorist from the U.S. Second, the legislation forecloses the judicial review process on inadmissibility based on a revoked visa, which is consistent with how the U.S. handles other visa-related matters.

With visa revocation, it is difficult to understand why, after a year now, State Department action to nullify the visa of a suspected terrorist does not translate into the authority for the Homeland Security to remove that person. The point is that in a post- 9-11 world, visa issuance—and revocation—is a homeland security job and we must get it right. I encourage the Departments to move forward on this issue as we've addressed it in the bill we introduce today.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2663. A bill to amend the Wild and Scenic Rivers Act to designate a segment to the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DODD. Mr. President, today I join with my colleague Senator LIEBERMAN in introducing the Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2004. I am pleased that Representative JOHNSON of Connecticut introduced companion legislation in the House of Representatives.

The Lower Farmington River is a 40-mile stretch between the Collinsville Dam in Burlington and the Rainbow Dam in Windsor. The flood plains on either side of the river support large amphibian, bird, insect, and reptile populations, with many species that are on the State of Connecticut's list of endangered, threatened and special concern species. Biologists have stated that sections of this stretch of river have regionally and possibly globally significant plant communities, making the river one of the most thriving and diverse ecosystems in Connecticut.

The river is also significant for its cultural heritage. Numerous Tunxis and River Indian tribe archaeological sites are located throughout the flood plain. During the 18th and 19th centuries the river was used extensively as a conduit for commerce and many towns along the river flourished due to complex mill and canal systems associated with the river.

Besides environmental and historical benefits, the Lower Farmington River provides excellent opportunities for recreation including canoeing, kayaking, and rowing. The river also passes through the Tariffville Gorge, which is unique in Southern New England, in that it supports Class II-IV whitewater kayaking twelve months a year and has hosted the Olympic trials.

However, the Farmington River is beginning to show evidence of declining water quality. Designation as a Wild and Scenic River would ensure that the river and surrounding watershed are protected under a locally controlled river management plan, which works to preserve a river's natural and significant resources.

I am confident of the Lower Farmington River and Salmon Brook's significance and community support. The Connecticut towns of Farmington, Simsbury, Bloomfield, Burlington, Canton, Avon, East Granby, and Windsor have joined with the Farmington River Watershed Association in requesting designation as a Wild and Scenic River. Property owners along the river support designation in order to preserve this natural resource that flows by and near their property. Connecticut is a small state, at just over 5,500 square miles, and is densely populated. Our citizens are committed to balancing conservation and growth. That is why this designation is so important. While the state and local groups have done exceptional work so far, this designation would bring in Federal technical assistance and foster coordination among the many concerned groups.

In 1994, a 14-mile stretch of the Upper Farmington River was designated as a Wild and Scenic River and it has been a remarkable success story. Representatives of the five affected towns meet regularly with Federal, State and local organizations to implement a river management plan that all parties adopted. Our legislation proposes to study the feasibility of designating the lower section of the Farmington River and the Salmon Brook as part of the Act. The Wild and Scenic River Program has been a successful public and private partnership to preserve certain select rivers in a free flowing state and the Lower Farmington River and the Salmon Brook are significant natural resources.

I urge my colleagues to support this worthy legislation and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2004".

SEC. 2. DESIGNATION OF ADDITIONAL SEGMENT OF FARMINGTON RIVER AND SALMON BROOK IN CONNECTICUT FOR STUDY FOR POTENTIAL ADDITION TO NATIONAL WILD AND SCENIC RIVERS SYSTEM.

(a) DESIGNATION.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

"( ) LOWER FARMINGTON RIVER AND SALMON BROOK, CONNECTICUT.—The segment of the Farmington River downstream from the segment designated as a recreational river by section 3(a)(156) to its confluence with the Connecticut River, and the segment of the Salmon Brook including its mainstream and east and west branches.".

(b) TIME FOR SUBMISSION.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report containing the results of the study required by the amendment made by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. ROCKEFELLER (for himself and Mr. SMITH):

S. 2671. A bill to extend temporary State fiscal relief, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with my friend and colleague from Oregon, Mr. SMITH, to introduce the State Fiscal Relief Act of 2004. This legislation will extend the Federal fiscal relief enacted last year in order to give states a much needed boost as they continue to struggle to recover from the persisting economic downturn.

Over the last three years, states have experienced the worst fiscal crisis since World War II. The loss of state tax revenue has caused substantial state budget deficits, which totaled over $250 billion in fiscal years 2002, 2003 and 2004. These shortfalls forced states to consider raising taxes or making substantial cuts to critical programs such as public education, health care, and public safety. As my colleagues know, Federal efforts to stimulate economic growth can be futile if states are forced to cut spending and increase taxes. We recognized this last year, and we did something about it. We enacted legislation that provided $20 billion in federal assistance to the states—$10 billion for Medicaid and $10 billion for general revenue grants.

Some of my colleagues have since questioned the benefit of this type of federal assistance to the States. They have charged that the relief was not stimulative and that states did not use the additional resources appropriately. Well, I encourage my colleagues to take a very careful look at the facts. When you analyze all the available data on the $20 billion fiscal relief package enacted last year, only one logical conclusion can be reached—during the worst stages of the economic downturn, when many Americans lost their jobs, states were able to step up and fill major gaps in programs and services because they had the benefit of federal fiscal relief. My home state of West Virginia used the $125 million it received in federal assistance to resolve budget shortfalls and prevent cuts in Medicaid. That was the goal of our efforts all along—to reduce state budget deficits and prevent cuts to critical programs and services—and states used this temporary assistance as it was intended.

In West Virginia and States across the country, fiscal relief strengthened state economies and protected our most vulnerable citizens by helping to reduce the massive spending cuts and tax increases states would otherwise have had to make. The Medicaid portion of fiscal relief was particularly important in helping to stabilize State budgets. As many of my colleagues are aware, Medicaid spending provides a critical form of economic stimulus in addition to delivering essential health services to our most vulnerable citizens. The Medicaid program supports jobs in every state. It helps keep hospitals and nursing homes operating in our communities. Every dollar invested in Medicaid results in an almost threefold return in state economic benefit.

In January, the Kaiser Commission on Medicaid and the Uninsured released a study which confirms that, because of the timeliness of the Medicaid assistance, all fifty states were able to maintain their Medicaid eligibility levels. This means that access to critical health services and programs for pregnant women, children, the elderly, and workers who lost their jobs and employer-sponsored health coverage was preserved. Without these increased Medicaid payments to States, the number of uninsured Americans would have been far greater over the past several years.

Unfortunately, when we passed fiscal relief last year, we did not include appropriate safeguards to make sure this Federal assistance would remain available to States if the economic downturn lasted longer than anticipated. Many who supported the $20 billion fiscal relief package hoped the economy would rebound quickly and that federal assistance to the States would not be necessary beyond fiscal year 2004. Well, the fact of the matter is that the economy remains weak, and fiscal relief is still necessary.

While states are beginning to report stronger revenue growth, it is clear they are not out of the woods yet. State revenues are still far below prerecession levels and are growing at a sluggish pace. In April, the National Conference of State Legislatures reported that states are struggling with an aggregate budget deficit of $36 billion going into fiscal year 2005. Eliminating fiscal relief now will deal a serious blow to the states as they struggle to climb out of the economic downturn.

To remedy this problem, the bill we are introducing today provides $4.8 billion over 15 months to help states maintain the coverage they are currently providing through Medicaid. This additional funding, which is still temporary, will finish the job we started last year. It will help states weather the entirety of the economic downturn without having to cut vital programs and services for low-income women, children, and seniors. While I would have liked to have incorporated even more money for enhanced Medicaid payments to states, I recognize the federal budget realities currently before us. The $4.8 billion included in our bill represents a workable phase-down transition from the $10 billion states received last year, and I know it will go a long way to preserve health care coverage for Medicaid beneficiaries during this ongoing recession.

In addition to providing $4.8 billion for Medicaid, our bill also reimburses states for the $1.2 billion in net costs they will incur in fiscal years 2004, 2005, and 2006 as a result of the Medicare Prescription Drug, Improvement, and Modernization Act. As I stated when I voted against this bill, the Medicare Modernization Act has several major flaws that must be addressed. One such flaw is the fact that the new law undermines state revenues in the midst of their efforts to rebuild their economies. The State Fiscal Relief Act will correct that mistake.

I urge my colleagues to support this important legislation and to stand up for the millions of Americans who are working at low-wage jobs, who benefit from the numerous public programs and services that fiscal relief has helped to maintain, and who are in the process of reinvigorating our economy.

Mr. SMITH. Mr. President, I am pleased to join my colleague from West Virginia, Senator ROCKEFELLER, in offering such an essential piece of legislative. This bill will extend a portion of the short-term assistance package that Congress provided to States and territories last May, because as most of our constituents realize, our economy may have rebounded, but prosperity has not reached all Americans. This proposal will continue to help States fund Medicaid, one of their most critical and also most expensive programs. The bill also provides funding necessary to ensure that Congress meets its commitment to help states transition seniors into the new Medicare prescription drug benefit program.

I am quite certain this proposal will be controversial. On the one hand, many people who represent seniors and other vulnerable populations that receive their health care through the Medicaid and Medicare programs will argue that this bill does not provide enough help to states to prevent programs and benefit cuts. On the other hand, many of my colleagues will complain that the federal government already provided $20 billion in fiscal assistance last year through the economic stimulus package. In developing this bill, I tried to take an approach that balanced the concerns expressed by both sides.

I agree that state economies are recovering and that they do not need an additional $20 billion in federal assistance. In my home State of Oregon, unemployment is dropping and State income tax receipts are higher than projected a few short months ago. However, that doesn't mean Oregon's economy is out of the woods yet. Oregon's 6.8 percent unemployment rate continues to be significantly higher than that of the national average of 5.6 percent. And that gets to the heart of why I have introduced this bill providing a second, though significantly reduced, round of State fiscal relief.

It is clear to me that States still need help. They need help meeting the increased obligations that come during economic downturns and recoveries. And while our nation's economy is improving, which is due in large part to the President's leadership last year when he challenged Congress to pass an economic stimulus package, it has not yet fully recovered. So more must be done to protect the programs that people turn to when they are in need, programs like Medicaid.

Now I know some will argue that last year's money was wasted, that it didn't do anything to boost the nation's economy. They might even cite a recent report released by the General Accounting Office that said as much. Well, I have to question how $10 billion in funding that went to the nation's largest health care program didn't result in a positive outcome. Health care is approximately a $1.6 trillion industry in the United States and in 2003 it was the second largest employment sector in the country—the fourth largest in Oregon. When you consider the significance of this industry on our nation's economy it seems unlikely that the government's effort to forestall program cuts in Medicaid, the largest health care program, would not have a positive effect on our economy.

Certainly, if you think about large corporations that have millions, even billions, of dollars in revenue each year this money may not mean much. But I can tell you, to the beneficiaries and small providers in Oregon, like the Community Health Centers, this infusion of federal funding prevented significant cuts to their Medicaid benefits and reimbursement rates.

Now States, just as they are starting to see their economies recover and are realizing increased income tax revenue, are faced with the prospect of losing all of this Federal assistance. That is why I have introduced this bill, because I understand the benefit to state economies that results from an extension of this temporary financial assistance. We are almost there, but I believe more assistance is needed and I look forward to working with my colleagues to pass this bill and help our states weather this economic storm.

By Mr. WYDEN (for himself, Mr. LOTT, Mr. GRAHAM of Florida, and Ms. SNOWE):

S. 2672. A bill to establish an Independent National Security Classification Board in the executive branch, and for other purposes; to the Select Committee on Intelligence.

Mr. WYDEN. Mr. President, I am pleased to be joined today by Senators LOTT, GRAHAM of Florida, and SNOWE in introducing legislation to create an independent National Security Classification Board. We believe it is time to clear the fog of secrecy by creating an independent board to review current and make recommendations for new standards and procedures for the classification of information for national security purposes.

Our Founding Fathers believed in the idea that democracy works best with the full disclosure of accurate information. Today, some might find that notion quaint. But it is one that bears consideration—because the principle of open government so dear to America's founders is being tested today as never before. The culture of secrecy that grew out of the Cold War has now become woven into the very fabric of our daily lives.

Information that the American people have a right to know—indeed, information that the American people need to know to make informed decisions about the kind of government they want and the kind of country this should be—is being withheld by the Federal government. It is being buried in a virtual bunker marked "do not enter," sealed off from public view with a big red stamp—marked "Classified." And too often that big red stamp is used not to hide state secrets, but to protect political backsides at great cost to our open and democratic society.

A very revealing speech was delivered three weeks ago by the head of the Information Security Office, which oversees classification and declassification policies, Mr. William Leonard. Known sometimes as the "secrecy czar," he complained that the classification system for national security has lost touch with the basics; that some agencies don't know how much information they classify, or whether they are classifying more or less than they once did; whether they are classifying too much or too little. He called today's classification system "a patchwork quilt" that is the result of a hodgepodge of laws, regulations and directives. "In reality," he said "the Federal Government has so many varieties of classification that it can make Heinz look modest . . ."

Two important reports confirm Mr. Leonard's argument that the classification system is out of control. The reports, the forthcoming 9-11 Commission report and last week's Senate Intelligence Committee on Iraq, show the Administration's determination to blanket the Federal government in secrecy. Even more important than the information that is published in these reports is the information withheld from the public and redacted from the reports.

These reports demonstrate a serious imbalance of power between the public and the officials who wield the "top secret" stamp. They raise troubling questions about whether those who control the classification of information for national security purposes have misused this authority to shield officials from the glare of public accountability and to stifle public debate about politically sensitive parts of the war on terrorism.

This is not the first time our country has grappled with the trade-offs between the need to protect the public and the public's need to know. But the automatic default to secrecy rather than public accountability is not part of our history. Scholarly studies about which material should be classified and at what level fill libraries. According to the late Senator Daniel Patrick Moynihan, an expert on secrecy in government, the first real Congressional debate about protecting national secrets occurred during consideration of the Alien and Sedition Acts of 1798, passed to silence opposition to war with France. "It was," as Senator Moynihan wrote in Secrecy, "our nation's first experience with how war or the threat of war changed the balance between private liberty versus public order, an instability that was eerily reenacted 119 years later." "Indeed, much of the structure of secrecy now in place in the U.S. government took shape in just under eleven weeks in the spring of 1917, while the Espionage Act was debated and signed into law." Eighty years later, Senator Moynihan would note that 6,610,154 million secrets were created in one year alone. In fact, only a small portion, or 1.4 percent, were created pursuant to statutory authority, the Atomic Energy Act; Senator Moynihan labeled the other 98.6 percent "pure creatures of bureaucracy," created via Executive Orders.

One of the "creatures" in the classification menagerie was set free to roam through the work of the 9-11 Commission and the Senate Intelligence Committee's report. The American people should not be fooled—pure bureaucracy refused to allow full public disclosure of the decisions and materials used by the 9-11 Commission to prepare its report. Pure bureaucracy also redacted nearly half of the Senate Intelligence Committee's review of Intelligence on Iraq. The "creature" has overreached.

Since President Roosevelt issued the first national security classification directive in 1940, the American people have often demonstrated a high tolerance for secrecy in military and foreign affairs, even in some cases where it has been abused. However, the rising tide of secrecy has reached the point where it threatens to drown our system of checks and balances, and calls out for a complete rethinking of the system used to classify information for national security purposes.

Today the Executive Branch exerts almost total control over what should or should not be classified. Congress has no ability to declassify material. There is no self-correcting mechanism in the system. Even if Members of Congress wanted to share information with their constituents, it's so complicated for Congress to release information to the public that nobody's ever tried to use the convoluted processes. The Executive Branch has a little known group that can review classification issues, but it is seldom used and open only to Executive Branch employees, not to Members of Congress or the public.

What does all of this mean in practice? It means that with the thump of a stamp marked "secret," some bureaucrat in the belly of a federal building has prevented the families of the victims of 9-11 from knowing exactly what happened to their loved ones. It means the American people may never know who gave the orders dictating how prisoners at Abu Ghraib could be treated. It means these decisions cannot be appealed, even by Congress. It means there is no independent review of the classification decisions by the Executive Branch.

With no chance of unbiased review, classification decisions are ready and ripe for abuse. Agencies wishing to hide their flaws and politicians of both parties wishing to make political points can abuse the existing classification guidelines to their advantage. I want to change that.

President Kennedy said the time to repair the roof is when the sun is shining. In the realm of secrecy, storm clouds are approaching. The bureaucracies in our government that deal with secrets are by nature cautious when it comes to protecting information pertinent to our nation's security. They err on the side of caution and they are very territorial about it, treating secrets as if they are assets to be traded. This is an understandable impulse. But erring too far and too often on the side of caution keeps a lot of information hidden that could safely enlighten public debate. Even worse, overclassification of information is dangerous. If agencies and bureaucracies aren't sharing information among themselves, important clues can be missed. Their mission to keep citizens safe can be jeopardized by classification itself.

The tragedy of 9-11, the war on terrorism and the United States' invasion of Iraq have offered ample opportunity to argue for classification of just about any document on the grounds of national security. Additionally, there are those who feel that the current Administration took office with an unhealthy penchant for secrecy already firmly in place. In its first two years, Bush Administration officials made 44.5 million decisions to classify records and related documents, according to the Information Security Oversight office, part of the National Archives and Records Administration. This is about the same number of classification decisions made during the last four years of the Clinton Administration.

The Atlanta Journal reported recently that "federal, state and local governments are shutting down access to public records in what some experts say is the most expansive assault on open government in the nation's history." The Bush Administration has even expanded the number of officials with the power to classify documents for purposes of national security beyond the 13 agencies that operated under the national security classification system to include the secretaries of agriculture, health and human services and the EPA Administrator.

I for one do not subscribe to the view that there is an inherent conflict between the Executive Branch's accountability to Congress and the American people on the one hand, and the Constitutional role of the President as Commander in Chief on the other.

I believe a balance can and must be struck between the public's need for sound, cleareyed analysis and the Executive's desire to protect the nation's legitimate security interests. I believe we can fight terrorism ferociously without sacrificing personal privacy. There is no room in this equation for the use of classification to insulate officials and agencies from political pressure. As a member of the Senate Intelligence Committee I have had lengthy discussions with my colleagues about how to achieve such a balance.

In my view this balance can be achieved only through a broad overhaul of the national security classification system. Legislation that I will be introducing shortly will accomplish this through the establishment of an Independent National Security Classification Board. The Board would be made up of three individuals, knowledgeable in national security classification, appointed by the President with the advice and consent of the Senate.

The task of the Independent Board would be to review and make recommendations on overhauling the standards and process used in the classification system for national security information. The Board would submit proposed new standards and processes to both Congress and the Executive Branch for comment and revision, and then implement the new standards and process once they have had the opportunity to comment. The Board would then begin to implement the new system, reviewing and making recommendations on current and new national security classifications, subject to Executive Branch veto that must be accompanied by a public, written explanation.

The balance in this proposal assures that the public and Congress have access to an independent Board for national security classification matters while leaving undisturbed the Commander in Chief's constitutional prerogative in military and foreign policy matters through the power to appoint the Board and to veto the Board's classification decisions.

The Founding Fathers conceived of the Federal government to serve the American people. Sometimes that is done by keeping secrets, by securing information that could put Americans in harm's way if it became public. Information should be classified to protect the homeland. But when information is withheld to protect political careers and entrenched bureaucracies, that's not a service to the American people. It's a perversion of a policy intended to save lives, a perversion that weakens our democracy and could even endanger our people. It's time to throw open the curtains and let the sun shine in on American democracy and on the governmental process much brighter than it does today. That's what I intend to do with my legislation. The American people deserve no less.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2672

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent National Security Classification Board Act of 2004".

SEC. 2. PURPOSE.

The purpose of this Act is to establish in the executive branch an Independent National Security Classification Board—

(1) to review the standards and procedures used in the classification system for national security information;

(2) to propose and submit to Congress and the President for comment new standards and procedures to be used in the classification system for such information;

(3) to establish the new standards and procedures after Congress and the President have had the opportunity to comment; and

(4) to review, and make recommendations with respect to, classifications of current and new information made under the applicable classification system.

SEC. 3. INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.

(a) ESTABLISHMENT.—The Independent National Security Classification Board (in this Act referred to as the "Board") is established as an independent agency in the executive branch.

(b) COMPOSITION.—The Board shall be composed of one member appointed by the President, one member jointly recommended by the Majority Leader and the Minority Leader of the Senate and appointed by the President, and one member jointly recommended by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives and appointed by the President, each by and with the advice and consent of the Senate. Each member shall be knowledgeable on classification matters.

(c) TERM OF MEMBERS.—Each member of the Board shall be appointed for a term of 5 years. A member may be reappointed for one additional 5-year term. A member whose term has expired shall continue to serve on the Board until a replacement has been appointed.

(d) VACANCIES.—Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) SEPARATE OFFICE.—The Board shall have its own office for carrying out its activities, and shall not share office space with any element of the intelligence community or with any other department or agency of the Federal Government.

(f) CHAIRMAN.—The Board shall select a Chairman from among its members.

(g) MEETINGS.—The Board shall meet at the call of the Chairman.

(h) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(i) AVAILABILITY OF INFORMATION.—The decision-making process of the Board may be classified, but the final decisions of the Board and the reports submitted under this Act shall be made available to the public.

(j) INITIAL APPOINTMENTS AND MEETING.—

(1) INITIAL APPOINTMENTS.—Initial appointments of members of the Board shall be made not later than 90 days after the date of the enactment of this Act.

(2) INITIAL MEETING.—The Board shall hold its first meeting not later than 30 days after the date on which all members of the Board have been appointed.

(k) WEBSITE.—The Board shall establish a website not later than 90 days after the date on which all members of the Board have been appointed.

SEC. 4. DUTIES OF BOARD.

(a) REVIEW OF CLASSIFICATION SYSTEM.—

(1) IN GENERAL.—The Board shall conduct a thorough review of the classification system for national security information, including the policy, procedures, and practices of the system. The Board shall recommend reforms of such system to ensure—

(A) the protection of the national security of the United States;

(B) the sharing of information among Government agencies; and

(C) an open and informed public discussion of national security issues.

(2) SCOPE OF REVIEW.—

(A) CONSULTATION.—The Board shall consult with the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives in determining the scope of its review of the classification system.

(B) REVIEW.—The Board shall submit a report describing the proposed scope of review to the President and the committees of Congress referred to in subparagraph (A) for comment.

(C) REVISIONS.—Not later than 30 days after receiving the report under subparagraph (B)—

(i) the President shall notify the Board in writing of any revisions to such scope of review; and

(ii) each committee of Congress referred to in subparagraph (A) may submit to the Board, in writing, any comments of the committee on the proposed scope of review.

(b) ADOPTION OF NATIONAL SECURITY INFORMATION CLASSIFICATION SYSTEM.—

(1) AUTHORITY.—The Board shall prescribe the classification system for national security information, which shall apply to all departments and agencies of the United States.

(2) FINDINGS AND RECOMMENDATIONS.—The Board shall, in accordance with the scope of review developed under subsection (a)(2), review the classification system for national security information and submit to the President and Congress its findings and recommendations for new procedures and standards to be used in such classification system.

(3) CLASSIFICATION SYSTEM.—Not later than 180 days after the date on which all members of the Board have been confirmed by the Senate, the Board shall adopt a classification system for national security information, incorporating any comments received from the President and considering any comments received from Congress. Upon the adoption of the classification system, the system shall be used for the classification of all national security information.

(c) REVIEW OF CLASSIFICATION DECISIONS.—

(1) IN GENERAL.—The Board shall, upon its own initiative or pursuant to a request under paragraph (3), review any classification decision made by an Executive agency with respect to national security information.

(2) ACCESS.—The Board shall have access to all documents or other materials that are classified on the basis of containing national security information.

(3) REQUESTS FOR REVIEW.—The Board shall review in a timely manner the existing or proposed classification of any document or other material the review of which is requested by—

(A) the head or Inspector General of an Executive agency who is an authorized holder of such document or material; or

(B) the chairman or ranking member of—

(i) the Committee on Armed Services, the Committee on Foreign Relations, or the Select Committee on Intelligence of the Senate; or

(ii) the Committee on Armed Services, the Committee on International Relations, or the Permanent Select Committee on Intelligence of the House of Representatives.

(4) RECOMMENDATIONS.—

(A) IN GENERAL.—The Board may make recommendations to the President regarding decisions to classify all or portions of documents or other material for national security purposes or to declassify all or portions of documents or other material classified for such purposes.

(B) IMPLEMENTATION.—Upon receiving a recommendation from the Board under subparagraph (A), the President shall either—

(i) accept and implement such recommendation; or

(ii) not later than 60 days after receiving the recommendation if the President does not accept and implement such recommendation, transmit in writing to Congress and have posted on the Board's website a notification in unclassified form of the justification for the President's decision not to implement such recommendation.

(5) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—The Board shall not be required to make documents or materials reviewed under this subsection available to the public under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

(6) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection.

(7) EXECUTIVE AGENCY DEFINED.—In this section, the term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

SEC. 5. POWERS OF BOARD.

(a) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Board may secure directly from any Federal department or agency such information as the Board considers necessary to carry out this Act. Upon request of the Chairman of the Board, the head of such department or agency shall furnish such information to the Board.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon request of the Board, the Administrator of General Services shall provide to the Board, on a reimbursable basis, the administrative support necessary for the Board to carry out its duties under this Act.

(d) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) GIFTS.—The Board may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. BOARD PERSONNEL MATTERS.

(a) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Members, Independent National Security Classification Board.".

(b) STAFF.—

(1) IN GENERAL.—The Chairman of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties under this Act. The employment of an executive director shall be subject to confirmation by the Board.

(2) COMPENSATION.—The Chairman of the Board may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any employee of the Federal Government may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Board $2,000,000 for fiscal year 2005, and such sums as may be necessary thereafter.

By Mr. CAMPBELL:

S. 2673. A bill to designate the facility of the United States Postal Service located at 1001 Williams Street, Ignacio, Colorado, as the "Leonard C. Burch Post Office Building"; to the Committee on Governmental Affairs.

Mr. CAMPBELL. Mr. President, I send to the desk legislation to designate the U.S. Post Office located at 1001 Williams Street in Ignacio, CO, as the Leonard C. Burch Post Office Building.

Anyone who ever met the man knew they were in the presence of someone special. Leonard Burch had a vision. He had the imagination to look beyond a destitute tribe with little hope, and see a people with resources, and determination, and a real opportunity to build a better future if they would only grasp it. Many people have dreams, but Leonard had that rare ability to make other people catch his vision, believe in it, and work just as hard for it as he did.

Leonard C. Burch died August 1, 2003. He was 69 years old. Leonard was chairman of the Tribal Council for more than 32 years. Under his leadership, the Southern Utes became an economic force in and beyond the Four Corners and the largest employer in La Plata County. Those thirty-seven years have seen the transformation of a people, the transformation of a region, and all of it largely due to his extraordinary leadership.

Burch was credited with bringing his tribe out of poverty. Through his efforts, the tribe became a major player in the energy development market with assets of $1.5 billion. As part of the Council for Energy Resource Tribes, Burch was instrumental in improving energy development throughout Indian Country. He advocated for greater tribal control over tribal resources.

Burch's leadership went beyond the tribe. He set an example for young people. Burch was invited by five separate U.S. Presidents to conferences on American Indian policies at the White House and received numerous awards for his commitment to regional water resource development.

We will all miss Leonard's wisdom and inspiration. It is a fitting tribute that the postal facility in Ignacio be named after a true warrior. I invite anyone who believes that one man can't make a difference, to take a drive southeast of Durango, and witness what one Leonard Burch can do.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2673

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEONARD C. BURCH POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1001 Williams Street, Ignacio, Colorado, shall be known and designated as the "Leonard C. Burch Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Leonard C. Burch Post Office Building".

By Ms. SNOWE:

S. 2675. A bill to amend the Internal Revenue Code of 1986 to expand the availability of the cash method of accounting for small business, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce a bill I hope will be the first in a series of proposals to simplify the tax code for small business owners. Once enacted, these provisions will reduce not only the amount of taxes that small businesses pay, but that they also will reduce the administrative burden that saddles small companies in trying to meet this obligation.

The proposal that I am introducing today, will simplify the tax code by permitting small business owners to use the cash method of accounting for reporting their income if they generally earn less than $10 million during the tax year. Currently, only those taxpayers that earn less than $5 million per year are able to use the cash method. By increasing this threshold to $10 million, more small businesses will be relieved of the burdensome record keeping requirements that currently require them to use a different accounting method to report their income.

Before I talk about the specifics of this particular provision, let me first explain why it is so critical to begin considering ways to simplify the tax code. As you know, small businesses are the backbone of our Nation's economy. According to the Small Business Administration, small businesses represent 99 percent of all employers, employ 51 percent of the private-sector workforce, and contribute 51 percent of the private-sector output.

Yet, the despite the fact that small businesses are the real job-creators for our Nation's economy, the current tax system imposes an unreasonable burden on small businesses attempting to comply with the current tax code. This code imposes a large, and expensive, burden on all taxpayers in terms of satisfying reporting and record-keeping obligations, but small businesses are disadvantaged most, even more than large companies, in terms of money and time spent satisfying their tax obligations.

For example, according to the Small Business Administration's Office of Advocacy, small businesses spend more than 8 billion hours each year filing-out government reports, and they spend more than 80 percent of this time on completing tax forms. What's even more troubling is that companies that employ fewer than 20 employees spend nearly $6,975 per employee in tax compliance costs—nearly 60 percent more than companies with more than 500 employees spend.

These statistics are disconcerting for several reasons. First, the fact that small businesses are required to spend so much money on compliance costs means they have less earnings to reinvest into their business. This, in turn, means that they have less money to spend on new equipment or on worker training, which, unfortunately, has an adverse effect on their overall production and the economy as a whole.

Second, the inordinate amount of time small business owners are forced to devote to the completion of paperwork means they have less time to spend doing what they do best-namely running their business and creating jobs.

I do not mean to suggest that the challenges small business confront in regard to tax reporting and compliance are unique to this group, or that these companies should receive a free pass. In order to benefit from the freedoms and protections that our great country provides, individuals and businesses alike are required to pay taxes, and this duty carries with it certain administrative and opportunity costs. What I am asking for is a fairer, simpler tax code that allows small companies to satisfy their obligation without having to expend the amount of resources that they do currently, resources that might be invested in more productive ways.

For that reason, the package of proposals that I will be introducing will provide not only targeted, affordable tax relief to small business owners, it will also seek to simplify existing rules under the tax code. By simplifying the tax code, small business owners will be able to satisfy their tax obligation in a less costly, more efficient manner, allowing them to devote more time and resources to their primary business goals.

As I mentioned earlier, the provision that I am introducing today will permit more taxpayers to use the cash method of accounting, as opposed to depending on accrual or other hybrid method. The same law I referenced earlier which currently permits only those taxpayers earning less than $5 million in gross receipts during the tax year to use the cash method in reporting their income also precludes taxpayers in possession of inventory from using the simpler cash method. As a result, thousands of small businesses which possess inventories, but which might otherwise be entitled to report their income and expenses under the cash method of accounting are also required to follow the accrual or some sort of hybrid accounting method. The result, once more, is the imposition of undue financial hardship and unreasonable administrative burdens.

My bill changes these existing rules, increasing the gross receipts test under current law to $10 million for small businesses and indexing this higher threshold to account for inflation. Given that the current $5 million threshold, it makes little sense to preserve an outdated benchmark in this most important provision when the sensible adjustment that I propose will allow thousands of small businesses presently hobbled by unnecessary paperwork to use the cash method of accounting.

My bill also changes current law to permit even those taxpayers with inventory to qualify for the cash method of accounting. It is important to note, however, that my bill will not simply give these taxpayers an opportunity to recover costs associated with these otherwise inventoriable assets in the year of purchase, but that the bill will require these taxpayers to account for such costs as if they were a material or supply that is not incidental. This standard already exists under current law, and it is one with which most small businesses are already familiar. As such, this less-burdensome standard should ease the existing compliance burden for eligible taxpayers and allow them to devote more time and resources to their business.

Very importantly, these changes will not reduce the amount of taxes a small business pays by even one dollar. Indeed, the overall amount of taxes a qualifying small business pays will remain the same. Rather, this bill simply permits more taxpayers to report income and account for costs in the year of the receipt or expenditure. Clearly, this method makes compliance easier and simpler for small taxpayers, and it will reduce both the time and monetary expenditures spent today to comply with the current tax code.

Finally, this proposal is revenue neutral. In addition to the provision that modifies the income tax rules, my bill would enact Federal legislation to stop an abusive tax shelter that exists currently whereby taxpayers avoid State unemployment taxes. Specifically, States would be required to enact laws that prevent the avoidance of State unemployment tax and that also impose penalties on taxpayers and their advisors who engage in these scams. Consequently, my bill provides a revenue-neutral proposal that simplifies the tax code for small business owners by cracking down on taxpayers who otherwise try to avoid their State unemployment tax obligations.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

(a) Cash Accounting Permitted.—

(1) In general.—Section 446 of the Internal Revenue Code of 1986 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

"(g) Certain Small Business Taxpayers Permitted To Use Cash Accounting Method Without Limitation.—

“(1) In general.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

“(2) Eligible taxpayer.—For purposes of this subsection, a taxpayer is an eligible taxpayer with respect to any taxable year if—

“(A) for all prior taxable years beginning after December 31, 2003, the taxpayer (or any predecessor) met the gross receipts test of section 448(c), and

“(B) the taxpayer is not subject to section 447 or 448.”.

(2) Expansion of gross receipts test.—

(A) In general.—Paragraph (3) of section 448(b) of such Code (relating to entities with gross receipts of not more than $5,000,000) is amended by striking “$5,000,000” in the text and in the heading and inserting “$10,000,000”.

(B) Conforming Amendments.—Section 448(c) of such Code is amended—

(i) by striking “$5,000,000” each place it appears in the text and in the heading of paragraph (1) and inserting “$10,000,000”, and

(ii) by adding at the end the following new paragraph:

“(4) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 2005, the dollar amount contained in subsection (b)(3) and paragraph (1) of this subsection shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 2004’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.”.

(b) Clarification of Inventory Rules for Small Business.—

(1) In general.—Section 471 of the Internal Revenue Code of 1986 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) Small Business Taxpayers Not Required To Use Inventories.—

“(1) In general.—A qualified taxpayer shall not be required to use inventories under this section for a taxable year.

“(2) Treatment of taxpayers not using inventories.—If a qualified taxpayer does not use inventories with respect to any property for any taxable year beginning after December 31, 2003, such property shall be treated as a material or supply which is not incidental.

“(3) Qualified taxpayer.—For purposes of this subsection, the term ‘qualified taxpayer’ means—

“(A) any eligible taxpayer (as defined in section 446(g)(2)), and

“(B) any taxpayer described in section 448(b)(3).”.

(2) Conforming amendments.—

(A) Subpart D of part II of subchapter E of chapter 1 of such Code is amended by striking section 474.

(B) The table of sections for subpart D of part II of subchapter E of chapter 1 of such Code is amended by striking the item relating to section 474.

(c) Effective Date and Special Rules.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) Change in method of accounting.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

SEC. 2. TRANSFER OF UNEMPLOYMENT EXPERIENCE UPON TRANSFER OR ACQUISITION OF A BUSINESS.

(a) In General.—Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following:

“(k)(1) For purposes of subsection (a), the unemployment compensation law of a State must provide—

“(A) that if an employer transfers its business to another employer, and both employers are (at the time of transfer) under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to (and combined with the unemployment experience attributable to) the employer to whom such business is so transferred,

“(B) that unemployment experience shall not, by virtue of the transfer of a business, be transferred to the person acquiring such business if—

“(i) such person is not otherwise an employer at the time of such acquisition, and

“(ii) the State agency finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions,

“(C) that unemployment experience shall (or shall not) be transferred in accordance with such regulations as the Secretary of Labor may prescribe to ensure that higher rates of contributions are not avoided through the transfer or acquisition of a business,

“(D) that meaningful civil and criminal penalties are imposed with respect to—

“(i) persons that knowingly violate or attempt to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

“(ii) persons that knowingly advise another person to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

“(E) for the establishment of procedures to identify the transfer or acquisition of a business for purposes of this subsection.

“(2) For purposes of this subsection—

“(A) the term ‘unemployment experience’, with respect to any person, refers to such person's experience with respect to unemployment or other factors bearing a direct relation to such person's unemployment risk;

“(B) the term ‘employer’ means an employer as defined under the State law;

“(C) the term ‘business’ means a trade or business (or an identifiable and segregable part thereof);

“(D) the term ‘contributions’ has the meaning given such term by section 3306(g) of the Internal Revenue Code of 1986;

“(E) the term ‘knowingly’ means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

“(F) the term ‘person’ has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986.”.

(b) Study and Reporting Requirements.—

(1) Study.—The Secretary of Labor shall conduct a study of the implementation of the provisions of section 303(k) of the Social Security Act (as added by subsection (a)) to assess the status and appropriateness of State actions to meet the requirements of such provisions.

(2) Report.—Not later than July 15, 2006, the Secretary of Labor shall submit to the Congress a report that contains the findings of the study required by paragraph (1) and recommendations for any Congressional action that the Secretary considers necessary to improve the effectiveness of section 303(k) of the Social Security Act.

(c) Effective Date.—The amendment made by subsection (a) shall, with respect to a State, apply to certifications for payments (under section 302(a) of the Social Security Act) in rate years beginning after the end of the 26-week period beginning on the first day of the first regularly scheduled session of the State legislature beginning on or after the date of the enactment of this Act.

(d) Definitions.—For purposes of this section—

(1) the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(2) the term “rate year” means the rate year as defined in the applicable State law; and

(3) the term “State law” means the unemployment compensation law of the State, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

SEC. 3. USE OF NEW HIRE INFORMATION TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS.

Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following:

“(7) Information comparisons and disclosure to assist in administration of unemployment compensation programs.—

“(A) In general.—If, for purposes of administering an unemployment compensation program under Federal or State law, a State agency responsible for the administration of such program transmits to the Secretary the names and social security account numbers of individuals, the Secretary shall disclose to such State agency information on such individuals and their employers maintained in the National Directory of New Hires, subject to this paragraph.

“(B) Condition on disclosure by the Secretary.—The Secretary shall make a disclosure under subparagraph (A) only to the extent that the Secretary determines that the disclosure would not interfere with the effective operation of the program under this part.

“(C) Use and disclosure of information by State agencies.—

“(i) In general.—A State agency may not use or disclose information provided under this paragraph except for purposes of administering a program referred to in subparagraph (A).

“(ii) Information security.—The State agency shall have in effect data security and control policies that the Secretary finds adequate to ensure the security of information obtained under this paragraph and to ensure that access to such information is restricted to authorized persons for purposes of authorized uses and disclosures.

"(iii) Penalty for misuse of information.—An officer or employee of the State agency who fails to comply with this subparagraph shall be subject to the sanctions under subsection (l)(2) to the same extent as if such officer or employee was an officer or employee of the United States.

"(D) Procedural requirements.—State agencies requesting information under this paragraph shall adhere to uniform procedures established by the Secretary governing information requests and data matching under this paragraph.

"(E) Reimbursement of costs.—The State agency shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.".

By Mrs. HUTCHISON (for herself and Ms. Mikulski):

S. 2676. A bill to amend chapter 4 of title 39, United States Code, to provide for the issuance of a semipostal stamp in order to provide funding for childhood drinking prevention and education, and for other purposes; to the Committee on Governmental Affairs.

Mrs. HUTCHISON. Mr. President, today I am pleased to introduce legislation creating the childhood drinking prevention semi-postal stamp.

Alcohol is the number one substance used and abused by America's children. Nearly a third of children begin drinking before the age of 13, and forty percent of children who begin drinking by age 15 will develop alcohol abuse or dependence later in life.

I do not believe most parents or adults intentionally ignore this issue, however many Americans do not realize the prevalence and seriousness of childhood drinking. Several national surveys, including those conducted by the Center for Disease Control and Prevention and the Substance Abuse and Mental Health Services Administration, demonstrate the serious consequences associated with early alcohol use.

For example, in 2002, 1.5 million youths between the ages of 12 to 17 needed treatment for alcohol abuse. Early alcohol use is more likely to kill or injure young people than all illegal drugs combined.

If the onset of drinking is delayed, a child's risk of serious alcohol problems could be decreased or even prevented. That is why I am pleased to propose the passage of a semi-postal stamp on childhood drinking prevention. A semi-postal stamp will publicize this important children's health issue in every home, school, and community across the nation.

Profits from the childhood drinking prevention stamp would be dedicated to support education and prevention efforts. I would also provide a further platform for millions of Americans to raise awareness about the importance of keeping children alcohol free.

I urge my colleagues to join me in enacting this important legislation. Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SEMIPOSTAL STAMP TO BENEFIT CHILDHOOD DRINKING PREVENTION AND EDUCATION.

(a) In General.—Chapter 4 of title 39, United States Code, is amended by inserting after section 414 the following:

"§ 414a. Special postage stamps to benefit childhood drinking prevention and education

"(a) In this section the term 'childhood drinking' means the consumption of alcoholic beverages by children who are between 9 and 15 years of age.

"(b) In order to afford the public a convenient way to contribute to funding for childhood drinking prevention and education, the Postal Service shall establish a special rate of postage for first-class mail under this section.

"(c)(1) The rate of postage established under this section—

"(A) shall be equal to the regular first-class rate of postage, plus a differential of not to exceed 25 percent;

"(B) shall be set by the Governors in accordance with such procedures as the Governors shall by regulation prescribe (in lieu of the procedures under chapter 36); and

"(C) shall be offered as an alternative to the regular first-class rate of postage.

"(2) The use of the special rate of postage established under this section shall be voluntary on the part of postal patrons.

"(d)(1) Amounts becoming available for childhood drinking prevention and education under this section shall be paid to the Department of Health and Human Services. Payments under this section shall be made under such arrangements as the Postal Service shall by mutual agreement with the Department of Health and Human Services establish in order to carry out the purposes of this section, except that, under those arrangements, payments to the Department of Health and Human Services shall be made at least twice a year.

"(2) In this subsection, the term 'amounts becoming available for childhood drinking prevention and education under this section' means—

"(A) the total amounts received by the Postal Service that it would not have received but for the enactment of this section, reduced by

"(B) an amount sufficient to cover full costs incurred by the Postal Service in carrying out this section, including those attributable to the printing, sale, and distribution of stamps under this section,

as determined by the Postal Service under regulations that it shall prescribe.

"(e) It is the sense of the Congress that nothing in this section should—

"(1) directly or indirectly cause a net decrease in total Federal funding for childhood drinking prevention and education below the level that would otherwise have been received but for the enactment of this section; or

"(2) affect regular first-class rates of postage or any other regular rates of postage.

"(f) Special postage stamps under this section shall be made available to the public beginning on such date as the Postal Service shall by regulation prescribe, but in no event later than 1 year after the date of the enactment of this section.

"(g) The Postmaster General shall include in each report rendered under section 2402 with respect to any period during any portion of which this section is in effect information concerning the operation of this section, except that, at a minimum, each shall include—

"(1) the total amount described in subsection (d)(2)(A) which was received by the Postal Service during the period covered by such report; and

"(2) of the amount under paragraph (1), how much (in the aggregate and by category) was required for the purposes described in subsection (d)(2)(B).

"(h) Section 416 shall not apply to this section. For purposes of section 416 (including any regulation prescribed under subsection (e)(1)(C) of that section), the special postage stamp issued under this section shall not apply to any limitation relating to whether more than 1 semipostal may be offered for sale at the same time.

"(i) This section shall cease to be effective 2 years after the date of enactment of this section.".

(b) Technical and Conforming Amendments.—

(1) Table of sections.—The table of sections for chapter 4 of title 39, United States Code, is amended by striking the item relating to section 414 and inserting the following:

"414. Special postage stamps to benefit breast cancer research.
"414a. Special postage stamps to benefit childhood drinking prevention and education.".

(2) Amendment to heading.—The heading for section 414 of title 39, United States Code, is amended to read as follows:

"§414. Special postage stamps to benefit breast cancer research".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 406—ESTABLISHING A SELECT COMMITTEE ON AEROSPACE IN THE UNITED STATES

Mrs. MURRAY submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. Res. 406

Whereas the aerospace sector of the United States economy generates economic activity equal to 15 percent of the Nation's Gross Domestic Product and supports approximately 11,000,000 American jobs;

Whereas the United States aerospace industry directly employs 574,600 people of the United States, the lowest employment level of United States workers since World War II;

Whereas employment in the United States aerospace industry is down 57 percent, as more than 750,000 jobs have been lost since 1989;

Whereas the United States share of the global aerospace market fell from 72 percent in 1985 to less than 52 percent today;

Whereas according to the Commission on the Future of the United States Aerospace Industry, "Foreign government subsidies directly affect the competitiveness of our companies. Subsidized prime manufacturers as well as suppliers are able to undercut prices offered by their U.S. competitors, and are better able to weather market downturns. Subsidized companies are able to secure cheaper commercial financing since their governments share the risk associated with bringing new products to market. Subsidized production skews the market itself by flooding it with products that are not commercially viable. Governments providing the subsidies also apply political pressure on customers in an effort to facilitate a positive return on the governments' investments. In many cases, these government subsidies stifle competition and often slow the introduction of new technology into the market. European funding has had the most dramatic impact on U.S. competitiveness because European products directly compete with United States products in most sectors....if we maintain the status quo, U.S. industry will be left to compete against companies that don't play by the same rules.";

Whereas the aerospace industry is globally competitive with established nations like the United States and the members of the European Union and faces growing competition from numerous nations, including China, Russia, Brazil, Canada, Japan, and others; and

Whereas numerous public policy issues important to the future of aerospace are now before Congress, including the United States air traffic control system, export controls, the aerospace workforce, homeland security, national security, foreign competition, research and development, mathematics and science education, corporate tax and export promotion, and others: Now, therefore, be it

Resolved,

SECTION 1. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT.—There is established a temporary Select Committee on Aerospace in the United States (hereinafter referred to as the "Committee").

(b) COMPOSITION OF THE COMMITTEE.—

(1) VOTING MEMBERS.—The Committee shall be composed of 11 Senators, 6 to be appointed by the majority leader of the Senate and 5 to be appointed by the minority leader of the Senate.

(2) EX OFFICIO MEMBERS.—Ex officio members of the Committee shall include—

(A) the majority leader of the Senate;

(B) the minority leader of the Senate; and

(C) the chairman and ranking member of each of the following committees:

(i) The Committee on Commerce, Science, and Transportation of the Senate.

(ii) The Committee on Finance of the Senate.

(iii) The Committee on Armed Services of the Senate.

(iv) The Committee on Appropriations of the Senate.

(3) LIMITATIONS ON EX OFFICIO MEMBERS.—An ex officio member—

(A) shall not be counted for the purpose of ascertaining the presence of a quorum of the Committee; and

(B) shall be a nonvoting member of the Committee.

(c) ORGANIZATION OF COMMITTEE.—

(1) CHAIRPERSON.—The majority leader of the Senate shall select the chairperson of the Committee from the members of the Committee.

(2) RANKING MEMBER.—The minority leader of the Senate shall designate a ranking member from the members of the Committee.

(3) VACANCIES.—A vacancy on the Committee shall not affect the power of the remaining members to execute the functions of the Committee, and shall be filled in the same manner as the original appointment.

(d) COMMENCEMENT OF STUDY.—The Committee shall commence its study of the aerospace industry under section 2 on January 3, 2005, or upon the date of appointment of the members of the Committee under subsection (b)(1).

(e) TERMINATION.—The Committee shall cease to exist on December 31, 2006.

SEC. 2. OPERATION OF THE COMMITTEE.

(a) IN GENERAL.—The Committee shall—

(1) make a full and complete study of the United States aerospace industry, including its present and future competitiveness and its importance to the United States and to the global economy; and

(2) recommend legislative, administrative, and regulatory remedies, as approved by a majority of the committee members.

(b) FOCUS OF STUDY.—The study shall include an examination of—

(1) the role of the Federal Government in the aerospace industry;

(2) the importance of the aerospace industry to the United States economy;

(3) global competition and its impact on the aerospace industry of the United States;

(4) technological challenges before the aerospace industry in commercial aircraft and aviation, national security, and space exploration; and

(5) workforce development issues in the aerospace industry.

SEC. 3. AUTHORITY AND EMPLOYMENT AND COMPENSATION OF STAFF.

(a) AUTHORITY OF COMMITTEE.—The Committee is authorized to—

(1) sit and act, at any time, during the sessions, recesses, and adjourned periods of Congress;

(2) require as the Committee considers necessary, by subpoena or otherwise, the attendance of witnesses and the production of books, papers, and documents;

(3) administer oaths and take testimony; and

(4) procure necessary printing and binding.

(b) APPOINTMENT AND COMPENSATION OF STAFF.—The Committee—

(1) shall utilize existing staff to the extent possible;

(2) may appoint and fix the compensation of such staff as it considers necessary;

(3) may utilize such voluntary and uncompensated services as it considers necessary; and

(4) may utilize the services, information, facilities, and personnel of the General Accounting Office, the Congressional Budget Office, the Congressional Research Service of the Library of Congress, and other agencies of the legislative branch.

(c) ADDITIONAL STAFF.—Upon the request of the chairman or ranking member of the Committee, the head of any Federal agency, or of any office in the legislative branch, is authorized to detail, without reimbursement, any of the personnel of such agency or office to the Committee to assist in carrying out its duties.

(d) TRAVEL EXPENSES.—The members and staff of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Committee, other than expenses in connection with meetings of the Committee held in the District of Columbia.

SEC. 4. COMMITTEE REPORT.

The Committee—

(1) may make such interim reports as it considers necessary; and

(2) prior to ceasing operations in accordance with section 1(e), shall submit a final report, to the Senate and to the appropriate Committees of the Senate, which shall contain the results of its study and its recommendations.

SENATE RESOLUTION 407—DESIGNATING OCTOBER 15, 2004, AS "NATIONAL MAMMOGRAPHY DAY"

Mr. BIDEN (for himself, Mr. AKAKA, Mr. ALLEN, Mrs. BOXER, Mr. BREAUX, Mr. BUNNING, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TALENT, Mr. VOINOVICH, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 407

Whereas according to the American Cancer Society, in 2004, 215,990 women will be diagnosed with breast cancer and 40,110 women will die from this disease;

Whereas it is estimated that about 2,000,000 women were diagnosed with breast cancer in the 1990s, and that in nearly 500,000 of those cases, the cancer resulted in death;

Whereas African-American women suffer a 30 percent greater mortality from breast cancer than White women and more than a 100 percent greater mortality from breast cancer than women from Hispanic, Asian, and American Indian populations;

Whereas the risk of breast cancer increases with age, with a woman at age 70 having twice as much of a chance of developing the disease as a woman at age 50;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide safe screening and early detection of breast cancer in many women;

Whereas mammography is an excellent method for early detection of localized breast cancer, which has a 5-year survival rate of more than 97 percent;

Whereas the National Cancer Institute and the American Cancer Society continue to recommend periodic mammograms; and

Whereas the National Breast Cancer Coalition recommends that each woman and her health care provider make an individual decision about mammography: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 15, 2004, as "National Mammography Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the day with appropriate programs and activities.

Mr. BIDEN. Mr. President, today I am submitting a resolution designating

October 15, 2004, as "National Mammography Day." I am pleased that 51 of my colleagues have endorsed this proposal by agreeing to be original cosponsors. I might note that I have submitted a similar resolution each year since 1993, and on each occasion the Senate has shown its support for the fight against breast cancer by approving the resolution.

Each year, as I prepare to submit this resolution, I review the latest information from the American Cancer Society about breast cancer. For the year 2004, it is estimated that nearly 216,000 women will be diagnosed with breast cancer and slightly more than 40,000 women will die of this disease.

In past years, I have often commented on how gloomy these statistics were. But as I review how these numbers are changing over time, I have come to the realization that it is really more appropriate to be optimistic. The number of deaths from breast cancer is actually stable or falling from year to year. Early detection of breast cancer continues to result in extremely favorable outcomes: 97 percent of women with localized breast cancer will survive 5 years or longer. New digital techniques make the process of mammography much more rapid and precise than before. Government programs will provide free mammograms to those who can't afford them, as well as Medicaid eligibility for treatment if breast cancer is diagnosed. Information about treatment of breast cancer with surgery, chemotherapy, and radiation therapy has exploded, reflecting enormous research advances in this disease. So I am feeling quite positive about our battle against breast cancer. A diagnosis of breast cancer is not a death sentence, and I encounter long-term survivors of breast cancer nearly daily.

In recent times, the newspapers have been filled with discussion over whether the scientific evidence actually supports the conclusion that periodic screening mammography saves lives. It seems that much of this controversy relates to new interpretations of old studies, and the relatively few recent studies of this matter have not clarified this issue. Most sources seem to agree that all of the existing scientific studies have some weaknesses, but it is far from clear whether the very large and truly unambiguous study needed to settle this matter definitively can ever be done.

So what is a woman to do? I do not claim any expertise in this highly technical area, so I rely on the experts. The American Cancer Society, the National Cancer Institute, and the U.S. Preventive Services Task Force all continue to recommend periodic screening mammography, and I endorse the statements of these distinguished bodies.

On the other hand, I recognize that some women who examine these research studies are unconvinced of the need for periodic screening mammography. However, even those scientists who do not support periodic mammography for all women believe that it is appropriate for some groups of women with particular risk factors. In agreement with these experts, I encourage all women who have doubts about the usefulness of screening mammography in general to discuss with their individual physicians whether this test is appropriate in their specific situations.

So my message to women is: have a periodic mammogram, or at the very least discuss this option with your own physician.

I know that some women don't have annual mammograms because of either fear or forgetfulness. It is only human nature for some women to avoid mammograms because they are afraid of what they will find. To those who are fearful, I would say that if you have periodic routine mammograms, and the latest one comes out positive, even before you have any symptoms or have found a lump on self-examination, you have reason to be optimistic, not pessimistic. Such early-detected breast cancers are highly treatable.

Then there is forgetfulness. I certainly understand how difficult it is to remember to do something that only comes around once each year. I would suggest that this is where "National Mammography Day" comes in. On that day, let's make sure that each woman we know picks a specific date on which to get a mammogram each year, a date that she won't forget: a child's birthday, an anniversary, perhaps even the day her taxes are due. On National Mammography Day, let's ask our loved ones: pick one of these dates, fix it in your mind along with a picture of your child, your wedding, or another symbol of that date, and promise yourself to get a mammogram on that date every year. Do it for yourself and for the others that love you and want you to be part of their lives for as long as possible.

And to those women who are reluctant to have a mammogram, I say let National Mammography Day serve as a reminder to discuss this question each year with your physician. New scientific studies that are published and new mammography techniques that are developed may affect your decision on this matter from one year to the next. I encourage you to keep an open mind and not to feel that a decision at one point in time commits you irrevocably to a particular course of action for the indefinite future.

I urge my colleagues to join me in the ongoing fight against breast cancer by cosponsoring and voting for this resolution to designate October 15, 2004, as "National Mammography Day."

SENATE CONCURRENT RESOLUTION 125—RECOGNIZING THE 60TH ANNIVERSARY OF THE WARSAW UPRISING DURING WORLD WAR II

Mr. SMITH (for himself and Ms. MIKULSKI) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 125

Whereas August 1, 2004, marks the 60th anniversary of the Warsaw Uprising, when against seemingly insurmountable odds and extreme hardships, Polish citizens revolted against the Nazi occupiers in Warsaw, Poland, in one of the most heroic battles during World War II;

Whereas the Warsaw Uprising was a part of a nationwide resistance against the Nazi occupation, was started by the underground Home Army, and lasted 63 days;

Whereas the Polish resistance, many of them teenagers, while heavily outnumbered and armed with mostly homemade weapons, fought bravely against the German soldiers and lost approximately 250,000 civilians and troops;

Whereas, to punish Poland for the uprising, the Nazis systematically razed 70 percent of Warsaw, including monuments, cultural treasures, and historical buildings;

Whereas the heroism and spirit of the Polish resistance are an inspiration to all peoples in their pursuit of liberty and democracy and are evident today in Polish contributions to the global war against terrorism and the more than 2,300 Polish troops currently deployed in Operation Iraqi Freedom; and

Whereas the heroic undertaking of the Polish underground represents one of the most important contributions to the Allied war effort during World War II and remains venerated in the Polish consciousness, even for the generations born after it ended: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the 60th anniversary of the Warsaw Uprising during World War II which will forever serve as a symbol of heroism in the face of great adversity and the pursuit of freedom.

Mr. SMITH. Mr. President, today I am submitting a resolution to commemorate the 60th anniversary of the Warsaw Uprising. For those who are not familiar with the details of this remarkable event, this anniversary provides an opportunity to recognize the bravery and heroism of those Polish citizens who revolted against their brutal Nazi occupiers.

The Warsaw uprising began on August 1, 1944, when the Polish Home Army launched an attack on the German forces occupying Poland. At the time, the German army was retreating from the Soviets after its defeat on the eastern front, and the Poles recognized that the presence of the Soviet army on the outskirts of Warsaw represented a grave threat to the country's future. If they could liberate the city from the Germans and establish an independent government before the Red Army's entry, they felt their freedom might be preserved.

Although the Home Army took control of most of the city within a few days, the Germans were determined to defend Warsaw and sent in massive reinforcements to crush the uprising. The fighting raged for 63 days, despite the fact that the Polish contingent had limited weapons and were facing German tanks, planes, and artillery.

Additionally, the Soviet Union refused to allow American or British planes access to the airfields it controlled. Thus, ammunition and relief supplies could not be flown to the Polish resistance. In Stalin's view, allowing the Germans to suppress the uprising would result in the destruction of the anti-Soviet leadership of Poland, therefore paving the way for eventual Soviet control.

Germany's superior firepower eventually prevailed, as we all know. The Germans crushed the Polish forces and leveled the city as an example to the rest of Europe. Eighty-five percent of the city was razed, the Polish Home Army was annihilated and approximately 250,000 people, including tens of thousands of civilians, were summarily executed.

Had events turned the other way, Warsaw would have been the first European capital liberated from the Nazi regime. Instead, Poland suffered under nearly fifty years of communist domination.

Senator MIKULSKI joins me in submitting this resolution today in an effort to honor those brave Polish citizens who fought so valiantly for their freedom. Considering the conflict between the United States and the Soviets over assisting the Polish resistance, the Warsaw Uprising can fairly be considered as one of the first battles of the Cold War.

Ms. MIKULSKI. Mr. President, I am proud to join with Senator SMITH in submitting this resolution to commemorate the 1944 Warsaw Uprising against the Nazi German occupation.

The Polish and American people have stood up against oppression and fought for liberty through the centuries. During our Revolutionary War, Polish patriots fought alongside American patriots to help secure our independence. During the Second World War, Polish mathematicians helped us break the enigma codes and American troops and the Polish Army in exile fought side by side to liberate Europe.

Within Poland, the Polish people fought for their own freedom against the occupying armies of Nazi Germany. Two of the most dramatic battles took place in Poland's capital: the Warsaw Ghetto Uprising by Jews in 1943, and the Warsaw Uprising in 1944.

In the summer of 1944, the German army was in retreat and the Red Army of the Soviet Union was approaching Warsaw. The Poles knew from the Katyn Forest Massacre what brutal treatment they could expect under Soviet occupation. So they took charge of their own liberation, hoping to allow the Polish government in exile to return to Warsaw.

On August 1, 1944, the Polish home army rose up against the Nazi Germany occupation. They took control of most of Warsaw within days. But the Germany army was determined to crush the resistance, and the Soviet Union hampered U.S. and British efforts to support the Warsaw Uprising from the air. The Poles fought bravely to liberate and protect their capitol and their nation. But after 63 days of bitter fighting, Germany tanks, planes and artillery overcame the valiant but poorly-armed Polish resistance.

Nazi Germany was not satisfied with mere victory. Heinrich Himmler ordered the people of Warsaw killed and the city razed to the ground as an example for all of Europe. Eighty-five percent of Warsaw was leveled by German forces and hundreds of thousands of Poles were killed.

The Poles were right to fight for their freedom in 1944, because Soviet domination lasted for nearly half a Century. The Solidarity Movement later took up the banner of Polish freedom, and we are now proud to have Poland as a friend and NATO ally.

This year, as we mark the 60th anniversary of the Warsaw Uprising, we should remember and honor the Poles who fought so bravely, against such heavy odds, for freedom. This is what the resolution Senator SMITH and I are offering today, and a companion resolution introduced in the House by Representatives EMANUEL and HYDE, will do. I urge my colleagues to join us in commemorating the Warsaw Uprising.

SENATE CONCURRENT RESOLUTION 126—CONDEMNING THE ATTACK ON THE AMIA JEWISH COMMUNITY CENTER IN BUENOS AIRES, ARGENTINA, IN JULY 1994, AND EXPRESSING THE CONCERN OF THE UNITED STATES REGARDING THE CONTINUING, DECADE-LONG DELAY IN THE RESOLUTION OF THIS CASE

Mr. COLEMAN (for himself, Mr. LEVIN, and Mr. DODD) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 126

Whereas on July 18, 1994, 85 innocent people were killed and 300 were wounded when the Argentine Jewish Mutual Association (referred to in this resolution as the "AMIA") was bombed in Buenos Aires, Argentina;

Whereas that attack showed the same cowardice and utter disregard for human life as the attacks on the United States on September 11, 2001;

Whereas the United States welcomes Argentine President Nestor Kirchner's political will to pursue the investigation of the AMIA bombing, as demonstrated by his Executive order opening the archives of Argentina's Secretariat for State Intelligence (referred to in this resolution as "SIDE") and by his decisions to raise the AMIA cause to national status, and to emphasize that there is no statute of limitations for those responsible for this attack;

Whereas it is reported that considerable evidence links the attack to the terrorist group Hizballah, which is based in Lebanon, supported by the Government of the Syrian Arab Republic, and sponsored by the Government of the Islamic Republic of Iran;

Whereas the decade since the bombing has been marked by efforts to minimize the international connection to this terrorist attack;

Whereas in March 2003, an Argentine judge issued arrest warrants for 4 officials of the Government of the Islamic Republic of Iran who are believed to have been involved in planning or carrying out the attack against AMIA and requested that the International Criminal Police Organization apprehend them;

Whereas the 4 indicted Iranians are Ali Fallahian, a former minister of security and intelligence; Mohsen Rabbani, a former cultural attache at the Iranian Embassy in Buenos Aires; Ali Balesh-Abadi, an Iranian diplomat; and Ali Akbar Parvaresh, a former minister of education;

Whereas Hadi Soleimanpour, Iran's Ambassador to Argentina in the 1990s, also has an international arrest warrant pending against him by Argentine authorities for his suspected primary role in the AMIA bombing;

Whereas it is reported that suicide bomber Ibrahim Hussein Berro, a Lebanese citizen, carried out the attack on AMIA;

Whereas it has been reported that contact was made by the Iranian embassy in Buenos Aires to Ibrahim Hussein Berro, who lived in a mosque in Canuelas, Argentina, in the days before the AMIA bombing;

Whereas Argentine officials have acknowledged that there was negligence in the initial phases of the investigation into the 1994 bombing, including the destruction or disappearance of material evidence;

Whereas the first major criminal trial regarding the bombing did not begin until September 2001, and those who are currently on trial are former policemen and civilians who are accused of playing roles only in the procurement and delivery of the vehicle that was used in the bombing;

Whereas the judge who had presided since 2001 over the investigation and trial related to the AMIA bombing was removed in December 2003 due to charges that he bribed a key witness in the AMIA case;

Whereas the new trial judge, Rodolfo Canicoba Corral, deals with many other important cases and has few supporting staff;

Whereas on March 17, 1992, terrorists bombed the Embassy of Israel in Buenos Aires, Argentina, killing 29 people and injuring more than 200, and the perpetrators of the attack also remain at large;

Whereas an inability to extradite suspected Islamic militants and Iranian officials has debilitated the efforts of the Government of Argentina to prosecute masterminds and planners of the 1994 AMIA bombing;

Whereas evidence indicates that the triborder area where the borders of Argentina, Paraguay, and Brazil meet is suspected of harboring organizations that support terrorism and engage in drug and arms smuggling and an assorted array of other illicit, revenue-raising activities;

Whereas the Government of Argentina supports the 1996 Declaration of Lima to Prevent, Combat and Eliminate Terrorism, which refers to terrorism as a "serious form of organized and systematic violence that is intended to generate chaos and fear among the population, results in death and destruction, and is a reprehensible criminal activity";

Whereas the Government of Argentina supports the 1998 Commitment of Mar del Plata, which calls terrorist acts "serious common crimes that erode peaceful and civilized coexistence, affect the rule of law and the exercise of democracy, and endanger the stability of democratically elected constitutional governments and their socioeconomic development of our countries";

Whereas the Government of Argentina actively supports the development of the Three Plus One Counterterrorism Dialogue with Brazil, Paraguay, and the United States;

Whereas the Government of Argentina was successful in enacting a law on cooperation from defendants in terrorist matters, a law that will be helpful in pursuing full prosecution in the 1994 AMIA bombing and other terrorist cases; and

Whereas the Second Specialized Conference on Terrorism held in Mar del Plata, Argentina on November 23 and November 24, 1998, concluded with the adoption of the Commitment of Mar del Plata, calling for the establishment within the Organization of American States (referred to in this resolution as "OAS") of an Inter-American Committee Against Terrorism (referred to in this resolution as "CICTE"): Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) reiterates its strongest condemnation of the 1994 attack on the AMIA Jewish Community Center in Buenos Aires, Argentina, and honors the victims of this heinous act;

(2) expresses its sympathy to the relatives of the victims, who have waited 10 years without justice for the loss of their loved ones, and may have to wait even longer for justice to be served;

(3) underscores the concern of the United States regarding the continuing, decade-long delay in the proper resolution of this case;

(4) strongly urges the Government of Argentina to continue to dedicate and provide the resources necessary for its judicial system and intelligence agencies to investigate all areas of the AMIA case, including by implementing Argentine President Nestor Kirchner's Executive order mandating the opening of the archives of the SIDE of Argentina, and to prosecute with due haste those who are responsible for the bombing;

(5) calls upon the international community to cooperate fully with the investigation, including by making information, witnesses, and suspects available for review and questioning by the appropriate Argentine authorities;

(6) encourages the President to direct United States law enforcement agencies to provide support and cooperation, if requested, to the Government of Argentina, for the purposes of deepening and expanding the investigation into this bombing and suspected activities in support of terrorism in the tri-border area where the borders of Argentina, Paraguay, and Brazil meet;

(7) encourages the President to direct the United States Representative to the OAS to—

(A) seek support from OAS member countries for the creation of a special task force of the CICTE to assist, as requested by the Government of Argentina, in the investigation of all aspects of the 1994 AMIA terrorist attack; and

(B) urge OAS member countries to designate Hizballah as a terrorist organization if they have not already done so;

(8) stresses the need for international pressure on the Government of the Islamic Republic of Iran and the Government of the Syrian Arab Republic to extradite for trial individuals and government officials who are accused of planning or perpetrating the AMIA attack, and to immediately, unconditionally, and permanently cease any and all assistance to terrorists; and

(9) desires a lasting, warm relationship between the United States and Argentina that is built, in part, on mutual abhorrence of terrorism and commitments to peace, stability, and democracy in the Western Hemisphere.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3562. Mr. MCCONNELL (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 4520, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

SA 3563. Mr. DEWINE (for himself, Mr. KENNEDY, Mr. MCCONNELL, Mr. HOLLINGS, Ms. COLLINS, Mrs. MURRAY, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. JEFFORDS, Mr. REED, Mr. LAUTENBERG, and Mr. SCHUMER) proposed an amendment to amendment SA 3562 proposed by Mr. MCCONNELL (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4520, supra.

SA 3564. Mr. ROBERTS (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 2386, to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3562. Mr. MCCONNELL (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 4520, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad; as follows:

(a) SHORT TTILE.—This Act may be cited as the "Jumpstart Our Business Strength (JOBS) Act".

The text of Amendment S.A. 3562 was printed in the CONGRESSIONAL RECORD on May 18, 2004, as the text of S. 1637 which was passed by the Senate on May 11, 2004.

SA 3563. Mr. DEWINE (for himself, Mr. KENNEDY, Mr. MCCONNELL, Mr. HOLLINGS, Ms. COLLINS, Mrs. MURRAY, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. JEFFORDS, Mr. REED, Mr. LAUTENBERG, and Mr. SCHUMER) proposed an amendment to amendment SA 3562 proposed by Mr. MCCONNELL (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4520, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad; as follows:

At the appropriate place, insert the following:

TITLE ___—PROVISIONS RELATING TO TOBACCO

Subtitle A—Family Smoking Prevention and Tobacco Control

SEC. ___01. SHORT TITLE.

This subtitle may be cited as the "Family Smoking Prevention and Tobacco Control Act".,

SEC. ___02. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United

States each year and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 6,500,000 of today's children from becoming regular, daily smokers, saving over 2,000,000 of them from premature death due to tobacco induced disease. Such a reduction in youth smoking would also result in approximately $75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2001, the tobacco industry spent more than $11,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price-sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the First Amendment to the United States Constitution and with the standards set forth in the amendments made by this subtitle for the regulation of tobacco products by the Food and Drug Administration and the restriction on the sale and distribution, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this subtitle.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion plays a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.

(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe that "low tar" and "light" cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking "low tar" and "light" cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from "low tar" and "light" cigarettes and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in insuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be approved in advance of marketing, and to require that the evidence relied on to support approval of these products is rigorous.

SEC. 03. PURPOSE.

The purposes of this subtitle are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products

and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

SEC. ____04. SCOPE AND EFFECT.

(a) Intended Effect.—Nothing in this subtitle (or an amendment made by this subtitle) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(b) Agricultural Activities.—The provisions of this subtitle (or an amendment made by this subtitle) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

SEC. ____05. SEVERABILITY.

If any provision of this subtitle, the amendments made by this subtitle, or the application of any provision of this subtitle to any person or circumstance is held to be invalid, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of this subtitle to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

CHAPTER 1—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

SEC. ____11. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) Definition of Tobacco Products.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(nn)(1) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

"(2) The term 'tobacco product' does not mean—

"(A) a product in the form of conventional food (including water and chewing gum), a product represented for use as or for use in a conventional food, or a product that is intended for ingestion in capsule, tablet, softgel, or liquid form; or

"(B) an article that is approved or is regulated as a drug by the Food and Drug Administration.

"(3) The products described in paragraph (2)(A) shall be subject to chapter IV or chapter V of this Act and the articles described in paragraph (2)(B) shall be subject to chapter V of this Act.

"(4) A tobacco product may not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetics, medical device, or a dietary supplement).".

(b) FDA Authority Over Tobacco Products.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 900. DEFINITIONS.

"In this chapter:

"(1) Additive.—The term 'additive' means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring, coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

"(2) Brand.—The term 'brand' means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

"(3) Cigarette.—The term 'cigarette' has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

"(4) Cigarette tobacco.—The term 'cigarette tobacco' means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

"(5) Commerce.—The term 'commerce' has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

"(6) Counterfeit tobacco product.—The term 'counterfeit tobacco product' means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

"(7) Distributor.—The term 'distributor' as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

"(8) Illicit trade.—The term 'illicit trade' means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

"(9) Indian tribe.—The term 'Indian tribe' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(10) Little cigar.—The term 'little cigar' has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

"(11) Nicotine.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

"(12) Package.—The term 'package' means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

"(13) Retailer.—The term 'retailer' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

"(14) Roll-your-own tobacco.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

"(15) Smoke constituent.—The term 'smoke constituent' means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

"(16) Smokeless tobacco.—The term 'smokeless tobacco' means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

"(17) State.—The term 'State' means any State of the United States and, for purposes of this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

"(18) Tobacco product manufacturer.—Term 'tobacco product manufacturer' means any person, including any repacker or relabeler, who—

"(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

"(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

"(19) United states.—The term 'United States' means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

"(a) In General.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a claim is made for such products under section 201(g)(1)(C) or 201(h)(3);

other than modified risk tobacco products approved in accordance with section 911.

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the regulations referred to in section 12 of the Family Smoking Prevention and Tobacco Control Act, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

"(2) LIMITATION OF AUTHORITY.—

"(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

"(B) EXCEPTION.—Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer.

"(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5)(A) it is required by section 910(a) to have premarket approval and does not have an approved application in effect;

"(B) it is in violation of the order approving such an application; or

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is in violation of section 911.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

"(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

"(D) the statement required under section 921(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908; or

"(B) to furnish any material or information required under section 909.

"(b) PRIOR APPROVAL OF LABEL STATEMENTS.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(a)(4) of the Federal Cigarette Labeling and Advertising Act.

"(3) A listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 2 years after the date of enactment of this chapter, the manufacturer, importer, or agent shall comply with regulations promulgated under section 915 in reporting information under this paragraph, where applicable.

"(4) All documents developed after the date of enactment of the Family Smoking Prevention and Tobacco Control Act that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

"(b) DATA SUBMISSION.—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

"(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

“(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

“(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

“(c) TIME FOR SUBMISSION.—

“(1) IN GENERAL.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such product shall provide the information required under subsection (a).

“(2) DISCLOSURE OF ADDITIVE.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

“(3) DISCLOSURE OF OTHER ACTIONS.—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

“(d) DATA LIST.—

“(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

“(2) CONSUMER RESEARCH.—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

“(e) DATA COLLECTION.—Not later than 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

“SEC. 905. ANNUAL REGISTRATION.

“(a) DEFINITIONS.—In this section:

“(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term ‘manufacture, preparation, compounding, or processing’ shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

“(2) NAME.—The term ‘name’ shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

“(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

“(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person’s name, place of business, and such establishment.

“(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

“(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

“(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

“(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

“(h) FOREIGN ESTABLISHMENTS SHALL REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

“(i) REGISTRATION INFORMATION.—

“(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

“(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

“(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

“(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

“(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

“(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

“(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

“(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

“(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

“(j) Report Preceding Introduction of Certain Substantially-Equivalent Products Into Interstate Commerce.—

“(1) In general.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of June 1, 2003, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

“(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003, that is in compliance with the requirements of this Act; and

“(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

“(2) Application to certain post June 1, 2003 products.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 15 months after such date of enactment.

“(3) Exemptions.—

“(A) In general.—The Secretary may by regulation, exempt from the requirements of this subsection tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

“(i) such modification would be a minor modification of a tobacco product authorized for sale under this Act;

“(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

“(iii) an exemption is otherwise appropriate.

“(B) Regulations.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

“SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

“(a) In General.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911, or subsection (d) of this section shall not apply to such tobacco product.

“(b) Information on Public Access and Comment.—Each notice of proposed rulemaking under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

“(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

“(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

“(c) Limited Confidentiality of Information.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904, 907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

“(d) Restrictions.—

“(1) In general.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

“(2) Label statements.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

“(3) Limitations.—

“(A) In general.—No restrictions under paragraph (1) may—

“(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

“(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

“(B) Matchbooks.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products shall be considered as adult written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult written publications.

“(e) Good Manufacturing Practice Requirements.—

“(1) Methods, facilities, and controls to conform.—

“(A) In general.—The Secretary may, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Good manufacturing practices may include the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

“(B) Requirements.—The Secretary shall—

“(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

“(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

“(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

“(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

“(2) Exemptions; variances.—

“(A) Petition.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

“(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

“(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

“(iii) contain such other information as the Secretary shall prescribe.

“(B) Referral to the Tobacco Products Scientific Advisory Committee.—The Secretary may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

“(i) the date the petition was submitted to the Secretary under subparagraph (A); or

“(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

“(C) Approval.—The Secretary may approve—

“(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

“(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

“(D) Conditions.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

“(E) Hearing.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

“(3) Compliance.—Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

“(f) Research and Development.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

“SEC. 907. TOBACCO PRODUCT STANDARDS.

“(a) In General.—

“(1) Special rule for cigarettes.—A cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this paragraph.

“(2) Revision of tobacco product standards.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (b).

“(3) Tobacco product standards.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(4) Content of tobacco product standards.—A tobacco product standard established under this section for a tobacco product—

“(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

“(i) for the reduction of nicotine yields of the product;

“(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

“(iii) relating to any other requirement under (B);

“(B) shall, where appropriate for the protection of the public health, include—

“(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

“(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

“(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

“(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

“(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

“(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

“(5) Periodic re-evaluation of tobacco product standards.—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

“(6) Involvement of other agencies; informed persons.—In carrying out duties under this section, the Secretary shall endeavor to—

“(A) use personnel, facilities, and other technical support available in other Federal agencies;

“(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

“(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

“(b) Establishment of Standards.—

“(1) Notice.—

“(A) In general.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

“(B) Requirements of notice.—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

“(i) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

“(ii) set forth proposed findings with respect to the risk of illness or injury that the tobacco product standard is intended to reduce or eliminate; and

“(iii) invite interested persons to submit an existing tobacco product standard for the tobacco product, including a draft or proposed tobacco product standard, for consideration by the Secretary.

“(C) Standard.—Upon a determination by the Secretary that an additive, constituent (including smoke constituent), or other component of the product that is the subject of the proposed tobacco product standard is harmful, it shall be the burden of any party challenging the proposed standard to prove that the proposed standard will not reduce or eliminate the risk of illness or injury.

“(D) Finding.—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

“(E) Consideration by Secretary.—The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

“(F) Comment.—The Secretary shall provide for a comment period of not less than 60 days.

“(2) Promulgation.—

“(A) In general.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a tobacco product standard and after consideration of such comments and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

“(i) promulgate a regulation establishing a tobacco product standard and publish in the

Federal Register findings on the matters referred to in paragraph (1); or

“(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

“(B) Effective date.—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

“(3) Power reserved to congress.—Because of the importance of a decision of the Secretary to issue a regulation establishing a tobacco product standard—

“(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll your own tobacco products; or

“(B) requiring the reduction of nicotine yields of a tobacco product to zero,

Congress expressly reserves to itself such power.

“(4) Amendment; revocation.—

“(A) Authority.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B), amend or revoke a tobacco product standard.

“(B) Effective date.—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

“(5) Reference to advisory committee.—The Secretary may—

“(A) on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard; or

“(B) upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to the Tobacco Products Scientific Advisory Committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

“SEC. 908. NOTIFICATION AND OTHER REMEDIES.

“(a) Notification.—If the Secretary determines that—

“(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

“(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

“(b) No Exemption From Other Liability.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

“(c) Recall Authority.—

“(1) In general.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

“(2) Amendment of order to require recall.—

“(A) In general.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

“(B) Notice.—An amended order under subparagraph (A)—

“(i) shall not include recall of a tobacco product from individuals; and

“(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

“(3) Remedy not exclusive.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

“SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

“(a) In General.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

“(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

“(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

“(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

“(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

“(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

“(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

“(b) Reports of Removals and Corrections.—

“(1) In general.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

“(A) to reduce a risk to health posed by the tobacco product; or

“(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

"SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) NEW TOBACCO PRODUCT DEFINED.—For purposes of this section the term 'new tobacco product' means—

"(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of June 1, 2003; or

"(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after June 1, 2003.

"(2) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any new tobacco product is required unless—

"(i) the manufacturer has submitted a report under section 905(j); and

"(ii) the Secretary has issued an order that the tobacco product—

"(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003; and

"(II)(aa) is in compliance with the requirements of this Act; or

"(bb) is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

"(B) APPLICATION TO CERTAIN POST JUNE 1, 2003 PRODUCTS.—Subparagraph (A) shall not apply to a tobacco product—

"(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

"(ii) for which a report was submitted under section 905(j) within such 15-month period, until the Secretary issues an order that the tobacco product is not substantially equivalent.

"(3) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) IN GENERAL.—In this section and section 905(j), the terms 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) CHARACTERISTICS.—In subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(4) HEALTH INFORMATION.—

"(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) may, upon the request of an applicant,

refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) IN GENERAL.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) RESTRICTIONS ON SALE AND DISTRIBUTION.—An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) INVESTIGATIONS.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) OTHER EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

“(d) Withdrawal and Temporary Suspension.—

“(1) In general.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

“(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

“(B) that the application contained or was accompanied by an untrue statement of a material fact;

“(C) that the applicant—

“(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

“(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

“(iii) has not complied with the requirements of section 905;

“(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

“(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

“(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

“(2) Appeal.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with subsection (e).

“(3) Temporary suspension.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

“(e) Service of Order.—An order issued by the Secretary under this section shall be served—

“(1) in person by any officer or employee of the department designated by the Secretary; or

“(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

“(f) Records.—

“(1) Additional information.—In the case of any tobacco product for which an approval of an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such approval.

“(2) Access to records.—Each person required under this section to maintain records, and each person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

“(g) Investigational Tobacco Product Exemption for Investigational Use.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

“SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.

“(a) In General.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless approval of an application filed pursuant to subsection (d) is effective with respect to such product.

“(b) Definitions.—In this section:

“(1) Modified risk tobacco product.—The term ‘modified risk tobacco product’ means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

“(2) Sold or distributed.—

“(A) In general.—With respect to a tobacco product, the term ‘sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products’ means a tobacco product—

“(A) the label, labeling, or advertising of which represents explicitly or implicitly that—

“(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

“(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

“(III) the tobacco product or its smoke does not contain or is free of a substance;

“(ii) the label, labeling, or advertising of which uses the descriptors ‘light’, ‘mild’, or ‘low’ or similar descriptors; or

“(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to or does not contain or is free of, a substance or substances.

“(B) Limitation.—No tobacco product shall be considered to be ‘sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products’, except as described in subparagraph (A).

“(c) Tobacco Dependence Products.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section and is subject to the requirements of chapter V.

“(d) Filing.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

“(1) a description of the proposed product and any proposed advertising and labeling;

“(2) the conditions for using the product;

“(3) the formulation of the product;

“(4) sample product labels and labeling;

“(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

“(6) data and information on how consumers actually use the tobacco product; and

“(7) such other information as the Secretary may require.

“(e) Public Availability.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

“(f) Advisory Committee.—

“(1) In general.—The Secretary shall refer to an advisory committee any application submitted under this subsection.

“(2) Recommendations.—Not later than 60 days after the date an application is referred to an advisory committee under paragraph (1), the advisory committee shall report its recommendations on the application to the Secretary.

“(g) Approval.—

“(1) Modified risk products.—Except as provided in paragraph (2), the Secretary shall approve an application for a modified risk tobacco product filed under this section only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

“(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

“(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(2) Special rule for certain products.—

“(A) In general.—The Secretary may approve an application for a tobacco product that has not been approved as a modified risk tobacco product pursuant to paragraph

(1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

"(i) the approval of the application would be appropriate to promote the public health;

"(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b)(2) is limited to an explicit or implicit representation that such tobacco product or its smoke contains or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke.

"(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

"(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is anticipated in subsequent studies.

"(B) ADDITIONAL FINDINGS REQUIRED.—In order to approve an application under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

"(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

"(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the anticipated overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

"(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

"(I) is or has been demonstrated to be less harmful; or

"(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

"(iv) approval of the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

"(C) CONDITIONS OF APPROVAL.—

"(i) IN GENERAL.—Applications approved under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

"(ii) AGREEMENTS BY APPLICANT.—Applications approved under this paragraph shall be conditioned on the applicant's agreement to conduct post-market surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the application approval on consumer perception, behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the approval was based in accordance with a protocol approved by the Secretary.

"(iii) ANNUAL SUBMISSION.—The results of such post-market surveillance and studies described in clause (ii) shall be submitted annually.

"(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

"(A) the scientific evidence submitted by the applicant; and

"(B) scientific evidence and other information that is available to the Secretary.

"(4) BENEFIT TO HEALTH OF INDIVIDUALS AND OF POPULATION AS A WHOLE.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

"(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

"(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

"(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

"(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

"(E) comments, data, and information submitted by interested persons.

"(h) ADDITIONAL CONDITIONS FOR APPROVAL.—

"(1) MODIFIED RISK PRODUCTS.—The Secretary shall require for the approval of an application under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

"(2) COMPARATIVE CLAIMS.—

"(A) IN GENERAL.—The Secretary may require for the approval of an application under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

"(B) QUANTITATIVE COMPARISONS.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

"(3) LABEL DISCLOSURE.—

"(A) IN GENERAL.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

"(B) CONDITIONS OF USE.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

"(4) TIME.—The Secretary shall limit an approval under subsection (g)(1) for a specified period of time.

"(5) ADVERTISING.—The Secretary may require that an applicant, whose application has been approved under this subsection, comply with requirements relating to advertising and promotion of the tobacco product.

"(i) POSTMARKET SURVEILLANCE AND STUDIES.—

"(1) IN GENERAL.—The Secretary shall require that an applicant under subsection (g)(1) conduct post market surveillance and studies for a tobacco product for which an application has been approved to determine the impact of the application approval on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the approval was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of post-market surveillance and studies shall be submitted to the Secretary on an annual basis.

"(2) SURVEILLANCE PROTOCOL.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

"(j) WITHDRAWAL OF APPROVAL.—The Secretary, after an opportunity for an informal hearing, shall withdraw the approval of an application under this section if the Secretary determines that—

"(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

"(2) the application failed to include material information or included any untrue statement of material fact;

"(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

"(A) a tobacco product standard is established pursuant to section 907;

"(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

"(C) any postmarket surveillance or studies reveal that the approval of the application is no longer consistent with the protection of the public health;

"(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or (i); or

"(5) the applicant failed to meet a condition imposed under subsection (h).

"(k) CHAPTER IV OR V.—A product approved in accordance with this section shall not be subject to chapter IV or V.

"(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

"(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

"(A) establish minimum standards for scientific studies needed prior to approval to show that a substantial reduction in morbidity or mortality among individual tobacco users is likely;

"(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

"(C) establish minimum standards for post market studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

"(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception; and

"(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product.

"(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

"(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

"(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and for which the applicant seeks approval as a modified risk tobacco product under this section.

"(m) DISTRIBUTORS.—No distributor may take any action, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

"SEC. 912. JUDICIAL REVIEW.

"(a) RIGHT TO REVIEW.—

"(1) IN GENERAL.—Not later than 30 days after—

"(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

"(B) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

"(2) REQUIREMENTS.—

"(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

"(B) RECORD OF PROCEEDINGS.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

"(i) the record of the proceedings on which the regulation or order was based; and

"(ii) a statement of the reasons for the issuance of such a regulation or order.

"(C) DEFINITION OF RECORD.—In this section, the term 'record' means—

"(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

"(ii) all information submitted to the Secretary with respect to such regulation or order;

"(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

"(iv) any hearing held with respect to such regulation or order; and

"(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

"(b) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

"(c) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(d) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"(e) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

"SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

"SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

"(a) JURISDICTION.—

"(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

"(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 12 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

"(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402)—

"(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

"(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

"SEC. 915. CONGRESSIONAL REVIEW PROVISIONS.

"In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule under this chapter that is subject to section 801. This section and section 801 do not apply to the regulations referred to in section 12 of the Family Smoking Prevention and Tobacco Control Act.

"SEC. 916. REGULATION REQUIREMENT.

"(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary, acting through the Commissioner of the Food and Drug Administration, shall promulgate regulations under this Act that meet the requirements of subsection (b).

"(b) CONTENTS OF RULES.—The regulations promulgated under subsection (a) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and sub-brand that the Secretary determines should be tested to protect the public health. The regulations may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco related disease.

"(c) AUTHORITY.—The Food and Drug Administration shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

"SEC. 917. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) IN GENERAL.—

"(1) PRESERVATION.—Nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

“(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in paragraph (1) and subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket approval, adulteration, misbranding, labeling, registration, good manufacturing standards, or reduced risk products.

“(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 554(b)(4) of title 5, United States Code, shall be treated as trade secret and confidential information by the State.

“(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“SEC. 918. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

“(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 11-member advisory committee, to be known as the ‘Tobacco Products Scientific Advisory Committee’.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—

“(A) MEMBERS.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in the medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

“(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

“(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

“(iii) 1 individual as a representative of the general public;

“(iv) 1 individual as a representative of the interests in the tobacco manufacturing industry; and

“(v) 1 individual as a representative of the interests of the tobacco growers.

“(B) NONVOTING MEMBERS.—The members of the committee appointed under clauses (iv) and (v) of subparagraph (A) shall serve as consultants to those described in clauses (i) through (iii) of subparagraph (A) and shall be nonvoting representatives.

“(2) LIMITATION.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

“(3) CHAIRPERSON.—The Secretary shall designate 1 of the members of the Advisory Committee to serve as chairperson.

“(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

“(1) as provided in this chapter;

“(2) on the effects of the alteration of the nicotine yields from tobacco products;

“(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

“(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

“(d) COMPENSATION; SUPPORT; FACA.—

“(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

“(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

“(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Advisory Committee.

“(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

“SEC. 919. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

The Secretary shall consider—

“(1) at the request of the applicant, designating nicotine replacement products as fast track research and approval products within the meaning of section 506;

“(2) direct the Commissioner to consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence;

“(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention; and

“(4) consider—

“(A) relieving companies of premarket burdens under section 505 if the requirement is redundant considering other nicotine replacement therapies already on the market; and

“(B) time and extent applications for nicotine replacement therapies that have been approved by a regulatory body in a foreign country and have marketing experience in such country.

“SEC. 920. USER FEE.

“(a) ESTABLISHMENT OF QUARTERLY USER FEE.—The Secretary shall assess a quarterly user fee with respect to every quarter of each fiscal year commencing fiscal year 2004, calculated in accordance with this section, upon each manufacturer and importer of tobacco products subject to this chapter.

“(b) FUNDING OF FDA REGULATION OF TOBACCO PRODUCTS.—The Secretary shall make user fees collected pursuant to this section available to pay, in each fiscal year, for the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter.

“(c) ASSESSMENT OF USER FEE.—

“(1) AMOUNT OF ASSESSMENT.—Except as provided in paragraph (4), the total user fees assessed each year pursuant to this section shall be sufficient, and shall not exceed what is necessary, to pay for the costs of the activities described in subsection (b) for each fiscal year.

“(2) ALLOCATION OF ASSESSMENT BY CLASS OF TOBACCO PRODUCTS.—

“(A) IN GENERAL.—Subject to paragraph (3), the total user fees assessed each fiscal year with respect to each class of importers and manufacturers shall be equal to an amount that is the applicable percentage of the total costs of activities of the Food and Drug Administration described in subsection (b).

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A) the applicable percentage for a fiscal year shall be the following:

“(i) 92.07 percent shall be assessed on manufacturers and importers of cigarettes;

“(ii) 0.05 percent shall be assessed on manufacturers and importers of little cigars;

“(iii) 7.15 percent shall be assessed on manufacturers and importers of cigars other than little cigars;

“(iv) 0.43 percent shall be assessed on manufacturers and importers of snuff;

“(v) 0.10 percent shall be assessed on manufacturers and importers of chewing tobacco;

“(vi) 0.06 percent shall be assessed on manufacturers and importers of pipe tobacco; and

“(vii) 0.14 percent shall be assessed on manufacturers and importers of roll-your-own tobacco.

“(3) DISTRIBUTION OF FEE SHARES OF MANUFACTURERS AND IMPORTERS EXEMPT FROM USER FEE.—Where a class of tobacco products is not subject to a user fee under this section, the portion of the user fee assigned to such class under subsection (d)(2) shall be allocated by the Secretary on a pro rata basis among the classes of tobacco products that are subject to a user fee under this section. Such pro rata allocation for each class of tobacco products that are subject to a user fee under this section shall be the quotient of—

“(A) the sum of the percentages assigned to all classes of tobacco products subject to this section; divided by

“(B) the percentage assigned to such class under paragraph (2).

“(4) ANNUAL LIMIT ON ASSESSMENT.—The total assessment under this section—

“(A) for fiscal year 2004 shall be $85,000,000;

“(B) for fiscal year 2005 shall be $175,000,000;

“(C) for fiscal year 2006 shall be $300,000,000; and

“(D) for each subsequent fiscal year, shall not exceed the limit on the assessment imposed during the previous fiscal year, as adjusted by the Secretary (after notice, published in the Federal Register) to reflect the greater of—

“(i) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending on June 30 of the preceding fiscal year for which fees are being established; or

“(ii) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section

5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

"(5) Timing of user fee assessment.—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under subsection (f) during each quarter of each fiscal year. Such notifications shall occur not earlier than 3 months prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made not later than 60 days after each such notification.

"(d) Determination of User Fee by Company Market Share.—

"(1) In general.—The user fee to be paid by each manufacturer or importer of a given class of tobacco products shall be determined in each quarter by multiplying—

"(A) such manufacturer's or importer's market share of such class of tobacco products; by

"(B) the portion of the user fee amount for the current quarter to be assessed on manufacturers and importers of such class of tobacco products as determined under subsection (e).

"(2) No fee in excess of market share.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the market share of such manufacturer or importer.

"(e) Determination of Volume of Domestic Sales.—

"(1) In general.—The calculation of gross domestic volume of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary using information provided by manufacturers and importers pursuant to subsection (f), as well as any other relevant information provided to or obtained by the Secretary.

"(2) Measurement.—For purposes of the calculations under this subsection and the information provided under subsection (f) by the Secretary, gross domestic volume shall be measured by—

"(A) in the case of cigarettes, the number of cigarettes sold;

"(B) in the case of little cigars, the number of little cigars sold;

"(C) in the case of large cigars, the number of cigars weighing more than 3 pounds per thousand sold; and

"(D) in the case of other classes of tobacco products, in terms of number of pounds, or fraction thereof, of these products sold.

"(f) Measurement of Gross Domestic Volume.—

"(1) In general.—Each manufacturer and importer of tobacco products shall submit to the Secretary a certified copy of each of the returns or forms described by this paragraph that are required to be filed with a Government agency on the same date that those returns or forms are filed, or required to be filed, with such agency. The returns and forms described by this paragraph are those returns and forms related to the release of tobacco products into domestic commerce, as defined by section 5702(k) of the Internal Revenue Code of 1986, and the repayment of the taxes imposed under chapter 52 of such Code (ATF Form 500.24 and United States Customs Form 7501 under currently applicable regulations).

"(2) Penalties.—Any person that knowingly fails to provide information required under this subsection or that provides false information under this subsection shall be subject to the penalties described in section 1003 of title 18, United States Code. In addition, such person may be subject to a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco products manufactured or imported by such person during the applicable quarter, as determined by the Secretary.

"(h) Effective Date.—The user fees prescribed by this section shall be assessed in fiscal year 2004, based on domestic sales of tobacco products during fiscal year 2003 and shall be assessed in each fiscal year thereafter.".

SEC. 12. INTERIM FINAL RULE.

(a) Cigarettes and Smokeless Tobacco.—

(1) In general.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register an interim final rule regarding cigarettes and smokeless tobacco, which is hereby deemed to be in compliance with the Administrative Procedures Act and other applicable law.

(2) Contents of rule.—Except as provided in this subsection, the interim final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg., 44615–44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection;

(B) strike Subpart C—Labeling and section 897.32(c); and

(C) become effective not later than 1 year after the date of enactment of this Act.

(3) Amendments to rule.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promulgate a proposed rule in accordance with the Administrative Procedures Act.

(4) Rule of construction.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with the Administrative Procedures Act, the regulation promulgated pursuant to this section.

(b) Limitation on Advisory Opinions.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act" (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination" (61 Fed. Reg. 44619–45318 (August 28, 1996)).

SEC. 13. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) Amendment of Federal Food, Drug, and Cosmetic Act.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) Section 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting "tobacco product," after "device,";

(2) in subsection (b), by inserting "tobacco product," after "device,";

(3) in subsection (c), by inserting "tobacco product," after "device,";

(4) in subsection (e), by striking "515(f), or 519" and inserting "515(f), 519, or 909";

(5) in subsection (g), by inserting "tobacco product," after "device,";

(6) in subsection (h), by inserting "tobacco product," after "device,";

(7) in subsection (j), by striking "708, or 721" and inserting "708, 721, 904, 905, 906, 907, 908, 909, or section 921(b)";

(8) in subsection (k), by inserting "tobacco product," after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 903(b)(8), or 908, or condition prescribed under section 903(b)(6)(B)(ii)(II);

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or section 921; or

"(C) to comply with a requirement under section 522 or 913.";

(11) in subsection (q)(2), by striking "device," and inserting "device or tobacco product,";

(12) in subsection (r), by inserting "or tobacco product" after "device" each time that it appears; and

(13) by adding at the end the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

"(bb) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

"(cc)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

"(dd) The charitable distribution of tobacco products.

"(ee) The failure of a manufacturer or distributor to notify the Attorney General of their knowledge of tobacco products used in illicit trade.".

(c) Section 303.—Section 303 (21 U.S.C. 333(f)) is amended in subsection (f)—

(1) by striking the subsection heading and inserting the following:

"(f) Civil Penalties; No-Tobacco-Sale Orders.—";

(2) in paragraph (1)(A), by inserting "or tobacco products" after "devices";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) in paragraph (4) as so redesignated—

(A) in subparagraph (A)—

(i) by striking "assessed" the first time it appears and inserting "assessed, or a no-tobacco-sale order may be imposed,"; and

(ii) by striking "penalty" and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(B) in subparagraph (B)—

(i) by inserting after "penalty," the following: "or the period to be covered by a no-tobacco-sale order,"; and

(ii) by adding at the end the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order."; and

(C) by adding at the end, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(5) in paragraph (5) as so redesignated—

(A) by striking "(3)(A)" as redesignated, and inserting "(4)(A)";

(B) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears; and

(C) by striking "issued." and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(6) in paragraph (6), as so redesignated, by striking "paragraph (4)" each place it appears and inserting "paragraph (5)".

(d) Section 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" before "(D)"; and

(B) by striking "device." and inserting the following: ", (E) Any adulterated or misbranded tobacco product.";

(2) in subsection (d)(1), by inserting "tobacco product," after "device,";

(3) in subsection (g)(1), by inserting "or tobacco product" after "device" each place it appears; and

(4) in subsection (g)(2)(A), by inserting "or tobacco product" after "device" each place it appears.

(e) Section 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) Section 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) Section 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)(A), by inserting "tobacco products," after "devices," each place it appears;

(2) in subsection (a)(1)(B), by inserting "or tobacco product" after "restricted devices" each place it appears; and

(3) in subsection (b), by inserting "tobacco product," after "device,".

(h) Section 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) Section 709.—Section 709 (21 U.S.C. 379) is amended by inserting "or tobacco product" after "device".

(j) Section 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting "tobacco products," after "devices," the first time it appears;

(B) by inserting "or section 905(j)" after "section 510"; and

(C) by striking "drugs or devices" each time it appears and inserting "drugs, devices, or tobacco products";

(2) in subsection (e)(1), by inserting "tobacco product," after "device,"; and

(3) by adding at the end the following:

"(p)(1) Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

"(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

"(B) the public health implications of such exports, including any evidence of a negative public health impact; and

"(C) recommendations or assessments of policy alternatives available to Congress and the Executive Branch to reduce any negative public health impact caused by such exports.

"(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection.".

(k) Section 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(l) Effective Date for No-Tobacco-Sale Order Amendments.—The amendments made by subsection (c), other than the amendment made by paragraph (2) of such subsection, shall take effect upon the issuance of guidance by the Secretary of Health and Human Services—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time at a particular retail outlet that constitute a repeated violation;

(2) providing for timely and effective notice to the retailer of each alleged violation at a particular retail outlet and an expedited procedure for the administrative appeal of an alleged violation;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not be considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on the presentation of a false government issued photographic identification that contains the bearer's date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(A) adopting and enforcing a written policy against sales to minors;

(B) informing its employees of all applicable laws;

(C) establishing disciplinary sanctions for employee noncompliance; and

(D) requiring its employees to verify age by way of photographic identification or electronic scanning device.

CHAPTER 2—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

SEC. 21. CIGARETTE LABEL AND ADVERTISING WARNINGS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) Label Requirements.—

"(1) In general.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

'WARNING: Cigarettes are addictive'.
'WARNING: Tobacco smoke can harm your children'.
'WARNING: Cigarettes cause fatal lung disease'.
'WARNING: Cigarettes cause cancer'.
'WARNING: Cigarettes cause strokes and heart disease'.
'WARNING: Smoking during pregnancy can harm your baby'.
'WARNING: Smoking can kill you'.
'WARNING: Tobacco smoke causes fatal lung disease in non-smokers'.
'WARNING: Quitting smoking now greatly reduces serious risks to your health'.

"(2) Placement; typography; etc.—

"(A) In general.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 30 percent of the front and rear panels of the package. The word 'WARNING' shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

“(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

“(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

“(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco product manufacturer, importer, or distributor and is not altered by the retailer in a way that is material to the requirements of this subsection except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with this subsection.

“(b) ADVERTISING REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

“(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

“(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3) MATCHBOOKS.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

“(4) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

“(5) MARKETING REQUIREMENTS.—

“(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(6) APPLICABILITY TO RETAILERS.—This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.”.

SEC. 22. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 21, is further amended by adding at the end the following:

“(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.”.

SEC. 23. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding at the end the following:

“(c) EXCEPTION.—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.”.

SEC. 24. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

“SEC. 3. SMOKELESS TOBACCO WARNING.

“(a) GENERAL RULE.—

“(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

‘WARNING: This product can cause mouth cancer’.

‘WARNING: This product can cause gum disease and tooth loss’.

‘WARNING: This product is not a safe alternative to cigarettes’.

‘WARNING: Smokeless tobacco is addictive’.

“(2) Each label statement required by paragraph (1) shall be—

“(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

“(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

“(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

“(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco products manufacturer, importer, or distributor and that is not altered by the retailer unless the retailer offers for sale, sells, or distributes a smokeless tobacco product that is not labeled in accordance with this subsection.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word 'WARNING' shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. ___25. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section ___23, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. ___26. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section ___21, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

"(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements required under this section, except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with the requirements of this subsection.".

CHAPTER 3—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

SEC. ___31. LABELING, RECORDKEEPING, RECORDS INSPECTION.

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section ___11, is further amended by adding at the end the following:

"SEC. 921. LABELING, RECORDKEEPING, RECORDS INSPECTION.

"(a) ORIGIN LABELING.—The label, packaging, and shipping containers of tobacco products for introduction or delivery for introduction into interstate commerce shall bear the statement 'sale only allowed in the United States.'

"(b) REGULATIONS CONCERNING RECORDKEEPING FOR TRACKING AND TRACING.—

"(1) IN GENERAL.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

"(2) INSPECTION.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

"(3) CODES.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

"(4) SIZE OF BUSINESS.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

"(5) RECORDKEEPING BY RETAILERS.—The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

"(c) RECORDS INSPECTION.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

"(d) KNOWLEDGE OF ILLEGAL TRANSACTION.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

"(A) imported, exported, distributed or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

"(B) imported, exported, distributed or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General of such knowledge.

"(2) Knowledge defined.—For purposes of this subsection, the term 'knowledge' as applied to a manufacturer or distributor means—

"(A) the actual knowledge that the manufacturer or distributor had; or

"(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

SEC. 32. STUDY AND REPORT.

(a) Study.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising.

(b) Report.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

Subtitle B—Tobacco Market Transition

SEC. 40. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Tobacco Market Transition Act of 2004".

CHAPTER 1—TERMINATION OF CURRENT TOBACCO PROGRAMS

SEC. 41. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) Tobacco Statistics.—The Act of January 14, 1929 (45 Stat. 1079; 7 U.S.C. 501 et seq.) is repealed.

(b) Tobacco Standards.—The Tobacco Inspection Act (7 U.S.C. 511 et seq.) is repealed.

(c) Tobacco Inspections.—Section 213 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) is repealed.

(d) Tobacco Control.—The Act of April 25, 1936 (commonly known as the Tobacco Control Act; 7 U.S.C. 515 et seq.), is repealed.

(e) Commodity Handling Orders.—Section 8c(2)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(2)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "tobacco,".

(f) Processing Tax.—Section 9(b) of the Agricultural Adjustment Act (7 U.S.C. 609(b)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (2), by striking "tobacco,"; and

(2) in paragraph (6)B)(i), by striking ", or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum,".

(g) Burley Tobacco Import Review.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(h) Declaration of Policy.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,".

(i) Definitions.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking "tobacco,";

(3) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(4) in paragraph (11)(B), by striking "and tobacco";

(5) in paragraph (12), by striking "tobacco,";

(6) in paragraph (14)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraphs (B), (C), and (D);

(7) by striking paragraph (15);

(8) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(9) by striking paragraph (17); and

(10) by redesignating paragraph (16) as paragraph (15).

(j) Parity Payments.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking "rice, or tobacco," and inserting "or rice,".

(k) Marketing Quotas.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(l) Administrative Provisions.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "tobacco,".

(m) Adjustment of Quotas.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking "rice, or tobacco" and inserting "or rice"; and

(2) in the first sentence of subsection (b), by striking "rice, or tobacco" and inserting "or rice".

(n) Reports and Records.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking "rice, or tobacco" each place it appears in subsections (a) and (b) and inserting "or rice"; and

(2) in subsection (a)—

(A) in the first sentence, by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,"; and

(B) in the last sentence, by striking "$500;" and all that follows through the period at the end of the sentence and inserting "$500.".

(o) Regulations.—Section 375 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375) is amended—

(1) in subsection (a), by striking "peanuts, or tobacco" and inserting "or peanuts"; and

(2) by striking subsection (c).

(p) Eminent Domain.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking "cotton, and tobacco" and inserting "and cotton"; and

(2) by striking subsections (d), (e), and (f).

(q) Burley Tobacco Farm Reconstitution.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) in paragraph (6), by striking ", but this clause (6) shall not be applicable in the case of burley tobacco"; and

(2) by striking subsections (b) and (c).

(r) Acreage-Poundage Quotas.—Section 4 of the Act of April 16, 1955 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(s) Burley Tobacco Acreage Allotments.—The Act of July 12, 1952 (7 U.S.C. 1315), is repealed.

(t) Transfer of Allotments.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(u) Advance Recourse Loans.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking "tobacco and".

(v) Tobacco Field Measurement.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

SEC. 42. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) Parity Price Support.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking "tobacco (except as otherwise provided herein), corn," and inserting "corn";

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking ", except tobacco,"; and

(B) by striking "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;"; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) Termination of Tobacco Price Support and No Net Cost Provisions.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) Definition of Basic Agricultural Commodity.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking "tobacco,".

(d) Review of Burley Tobacco Imports.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) Powers of Commodity Credit Corporation.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting "(other than tobacco)" after "agricultural commodities" each place it appears.

SEC. 43. LIABILITY.

This title and the amendments made by this title shall not affect the liability of any person under any provision of law with respect to any crop of tobacco planted before the effective date prescribed in section 62.

CHAPTER 2—TOBACCO ASSISTANCE

SEC. 51. TOBACCO ASSISTANCE.

Title III of the Agricultural Adjustment Act of 1938 is amended by inserting after subtitle D (7 U.S.C. 1379a et seq.) the following:

"Subtitle E—Tobacco Assistance

"SEC. 380A. DEFINITIONS.

"In this subtitle:

"(1) Active producer of tobacco.—The term 'active producer of tobacco' means a person that—

"(A) is actively engaged in the production of tobacco marketed or considered planted; and

"(B) shares in the risk of producing the tobacco.

"(2) Applicable fiscal year.—The term 'applicable fiscal year' means each of fiscal years 2004 through 2013.

"(3) Base Period.—The term 'base period' means the 1-year period ending the June 30 preceding each applicable fiscal year.

"(4) Considered planted.—The term 'considered planted' means tobacco planted but failed to be produced as a result of a natural disaster, as determined by the Secretary.

"(5) DEPARTMENT.—The term 'Department' means the Department of Agriculture.

"(6) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) in the case of section 380O, each of the States of Maryland, Pennsylvania, South Carolina, and North Carolina; and

"(B) in the case of section 380Q, each of the States of Alabama, Arkansas, Florida, Georgia, Indiana, Kansas, Kentucky, Minnesota, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

"(7) IMPACTED COMMUNITY.—The term 'impacted community' means a community in an eligible State that is adversely affected by a reduction in gross receipts from the sale of tobacco.

"(8) MARKET SHARE.—The term 'market share' means the share of each manufacturer or importer of a class of tobacco product (expressed as a decimal to the fourth place) of the total volume of domestic sales of the class of tobacco product during the base period for the applicable fiscal year for an assessment under section 380T.

"(9) PRODUCTION BOARD.—The term 'Production Board' means a Production Board established for a kind of tobacco under section 380H.

"(10) QUOTA TOBACCO.—The term 'quota tobacco' means a kind of tobacco that is subject to a farm marketing quota or farm acreage allotment for the 2002 tobacco marketing years under a marketing quota or allotment program established under part I of subtitle B (as in effect before the effective date of this subtitle).

"(11) TOBACCO.—The term 'tobacco' means each of the following kinds of tobacco:

"(A) Flue-cured tobacco, comprising types 11, 12, 13, and 14.

"(B) Fire-cured tobacco, comprising types 22 and 23.

"(C) Dark air-cured tobacco, comprising types 35 and 36.

"(D) Virginia sun-cured tobacco, comprising type 37.

"(E) Virginia fire-cured tobacco, comprising type 21.

"(F) Burley tobacco, comprising type 31.

"(G) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 53, 54, and 55.

"(12) TOBACCO QUALITY BOARD.—The term 'Tobacco Quality Board' means the Tobacco Quality Board established under section 380G.

"(13) TOBACCO QUOTA HOLDER.—The term 'tobacco quota holder' means a person that is considered an tobacco quota holder under section 380B(b).

"(14) TOBACCO TRUST FUND.—The term 'Tobacco Trust Fund' means the Tobacco Trust Fund established under section 380S.

"(15) TRADITIONAL PRODUCER OF TOBACCO.—The term 'traditional producer of tobacco' means a person that, for at least 1 of the 2000, 2001, or 2002 tobacco marketing years—

"(A) was actively engaged in the production of tobacco marketed, or considered planted, under a marketing quota established under part I of subtitle B (as in effect before the effective date of this subtitle); and

"(B) shared in the risk of producing the tobacco.

"(16) TRADITIONAL TOBACCO COUNTY.—

"(A) IN GENERAL.—The term 'traditional tobacco county' means a county in the United States that had 1 or more farms operated by traditional producers of tobacco under a marketing quota for at least 1 of the marketing years described in paragraph (15).

"(B) INCLUSION.—For the purpose of determining the crop acreage base of an active producer of tobacco for a kind of tobacco produced in the State of Georgia under section 380I(c)(3), the term 'traditional tobacco county' includes a county that is contiguous to a county described in subparagraph (A).

"CHAPTER 1—PAYMENTS TO TOBACCO QUOTA HOLDERS AND TRADITIONAL PRODUCERS

"SEC. 380B. TRANSITION PAYMENTS TO TOBACCO QUOTA HOLDERS.

"(a) IN GENERAL.—The Secretary shall make transition payments to each tobacco quota holder.

"(b) TOBACCO QUOTA HOLDER.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall consider a person to be a tobacco quota holder under this section if the person held, as of July 1, 2002, a basic quota or farm acreage allotment (as applicable) for quota tobacco established for the 2002 tobacco marketing year under a marketing quota program established under part I of subtitle B (as in effect before the effective date of this subtitle).

"(2) EFFECT OF PURCHASE CONTRACT.—If there was an agreement for the purchase of all or part of a farm described in paragraph (1) as of July 1, 2002, and the parties to the sale are unable to agree to the disposition of eligibility for payments under this section, the Secretary, taking into account any transfer of quota that has been agreed to, shall provide for the equitable division of the payments among the parties by adjusting the determination of who is the tobacco quota holder with respect to particular pounds of the quota.

"(3) EFFECT OF AGREEMENT FOR PERMANENT QUOTA TRANSFER.—If the Secretary determines that there was in existence, as of July 1, 2002, an agreement for the permanent transfer of quota, but that the transfer was not completed by that date, the Secretary shall consider the tobacco quota holder to be the party to the agreement that, as of that date, was the owner of the farm to which the quota was to be transferred.

"(4) PROTECTED BASES.—A person that owns a farm with a tobacco poundage quota that is protected under a conservation reserve program contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) shall be considered to be a tobacco quota holder with respect to the protected poundage.

"(5) QUANTITY OF QUOTA HELD.—

"(A) IN GENERAL.—A person shall be considered a tobacco quota holder for purposes of this section only with respect to that quantity of quota that qualifies the person as a tobacco quota holder.

"(B) INCLUDED QUOTA.—The determination of the tobacco poundage amount for which the person qualifies shall—

"(i) be based on the quantity of quota held by person on January 1, 2004;

"(ii) subject to clause (iii), not be greater than the quantity of quota held by the person for the 2002 crop; and

"(iii) take into account—

"(I) sales of quota that occurred during the period beginning July 1, 2002, and ending December 31, 2004; and

"(II) any transfers of quota that took place after July 1, 2002.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is a tobacco quota holder.

"(2) ADMINISTRATION.—The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

"(d) BASE QUOTA LEVEL.—

"(1) IN GENERAL.—The Secretary shall establish a base quota level applicable to each tobacco quota holder, as determined under this subsection.

"(2) LEVEL.—The base quota level for each tobacco quota holder shall be equal to the quantity of quota that qualifies a person as the tobacco quota holder under subsection (b)(5).

"(e) PAYMENT.—The Secretary shall make payments to each tobacco quota holder under subsection (b) in an amount obtained by multiplying—

"(1) 80 cents per pound for each of fiscal years 2004 through 2013; by

"(2) the base quota level established for the quota holder under subsection (d).

"(f) TIME FOR PAYMENT.—Subject to section 380D(c), the payments to tobacco quota holders required under this section shall be made by, to the maximum extent practicable, the date that is 180 days after the date of enactment of this subtitle and each November 1 thereafter.

"SEC. 380C. DIRECT PAYMENTS TO TRADITIONAL PRODUCERS OF TOBACCO.

"(a) IN GENERAL.—The Secretary shall make direct payments under this section to traditional producers of tobacco.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—To be eligible to receive a payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is a traditional producer of tobacco.

"(2) ADMINISTRATION.—The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

"(c) BASE QUOTA LEVEL.—

"(1) IN GENERAL.—The Secretary shall establish a base quota level applicable to each traditional producer of tobacco, as determined under this subsection.

"(2) FLUE-CURED AND BURLEY TOBACCO.—In the case of Flue-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), the base quota level for each tobacco quota holder shall be equal to the effective tobacco marketing quota (irrespective of disaster lease and transfers) under part I of subtitle B (as in effect before the effective date of this subtitle) for the 2002 marketing year for quota tobacco produced on the farm.

"(3) OTHER KINDS OF TOBACCO.—In the case of each kind of tobacco other than Flue-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), for the purpose of calculating a payment to a traditional producer of tobacco, the base quota level for the traditional producer of tobacco shall be the quantity obtained by multiplying—

"(A) the basic tobacco farm acreage allotment for the 2002 marketing year established by the Secretary for quota tobacco produced on the farm; by

"(B) the actual yield of the crop of quota tobacco produced on the farm.

"(d) PAYMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make payments to each traditional producer of tobacco, as determined under subsection (b), in an amount obtained by multiplying—

"(A) 40 cents per pound for each of fiscal years 2004 through 2013; by

"(B) the base quota level established for the traditional producer of tobacco under subsection (c).

"(2) Payment rate.—The rate for payments to a traditional producer of quota tobacco under paragraph (1)(A) shall be equal to—

"(A) in the case of a person that produced quota tobacco marketed, or considered planted, under a marketing quota for all 3 of the 2000, 2001, and 2002 tobacco marketing years, the rate prescribed under paragraph (1)(A) for the applicable fiscal year;

"(B) in the case of a person that produced quota tobacco marketed, or considered planted, under a marketing quota for not more than 2 of the 2000, 2001, and 2002 tobacco marketing years, ⅔ of the rate prescribed under paragraph (1)(A) for the applicable fiscal year; and

"(C) in the case of a person that produced quota tobacco marketed, or considered planted, under a marketing quota for not more than 1 of the 2000, 2001, and 2002 tobacco marketing years, ⅓ of the rate prescribed under paragraph (1)(A) for the applicable fiscal year.

"(e) Time for Payment.—Subject to section 380D(c), the payments to traditional producers of tobacco required under this section shall be made by, to the maximum extent practicable, the date that is 180 days after the date of enactment of this subtitle and each November 1 thereafter.

"SEC. 380D. ADMINISTRATION.

"(a) Resolution of Disputes.—

"(1) In general.—Any dispute regarding the eligibility of a person to receive a payment under this subtitle, or the amount of the payment, may be appealed to the county committee established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) for the county or other area in which the farming operation of the person is located.

"(2) National appeals division.—Any adverse determination of a county committee under subsection (a) may be appealed to the National Appeals Division established under subtitle H of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6991 et seq.).

"(b) Use of Qualified Financial Institutions.—The Secretary may use qualified financial institutions to manage assets, make payments, and otherwise carry out this subtitle.

"(c) Advanced Payments.—

"(1) In general.—The Secretary shall permit a tobacco quota holder and a traditional producer of tobacco to elect to receive advanced payments for 2 or more fiscal years under this chapter by selecting 1 of 4 advance payment options established by the Secretary, including a lump sum payment option.

"(2) Risk.—A tobacco quota holder or traditional producer of tobacco that elects to receive accelerated payments shall bear the expense of the discount in value for acceleration of the payments.

"(3) Qualified financial institutions.—

"(A) In general.—The Secretary shall provide advanced payments under this subsection through 1 or more qualified financial institutions designated by the Secretary.

"(B) Administration.—In providing advanced payments under this subsection, a qualified financial institution shall (in accordance with guidance issued by the Secretary)—

"(i) offer the advanced payments regardless of the location or size of the payments;

"(ii) apply updated discount rates that vary only by payment term; and

"(iii) distribute the advanced payments in accordance with the option elected by the tobacco quota holder or traditional producer of tobacco.

"(4) County offices.—A county office of the Department may receive applications and other documentation necessary to receive advanced payments under this subsection, on behalf of the Secretary and qualified financial institutions.

"(d) Treatment of Payments.—Payments received by a tobacco quota holder or traditional producer of tobacco under this chapter shall be considered received not earlier than the date the tobacco quota holder or traditional producer of tobacco first receives the payments.

"CHAPTER 2—TOBACCO QUALITY AND QUANTITY

"SEC. 380G. TOBACCO QUALITY BOARD.

"(a) In General.—The Secretary shall establish a permanent advisory board within the Department, to be known as the 'Tobacco Quality Board'.

"(b) Membership.—

"(1) In general.—The Tobacco Quality Board shall consist of 13 members, of which—

"(A) 5 members shall be appointed by the Secretary from nominations submitted by representatives of tobacco producers in the United States, including at least—

"(i) 1 representative of Flue-cured tobacco producers;

"(ii) 1 representative of Burley tobacco producers; and

"(iii) 1 representative of dark fire-cured tobacco producers;

"(B) 5 members shall be appointed by the Secretary from nominations submitted by representatives of tobacco product manufacturers in the United States, including at least—

"(i) 1 representative of smokeless tobacco product manufacturers; and

"(ii) 1 representative of export dealers of tobacco; and

"(C) 3 at-large members shall be appointed by the Secretary, including at least 1 officer or employee of the Department.

"(2) Chairperson.—The Secretary shall appoint the chairperson of the Tobacco Quality Board, with a different member serving as chairperson of the Tobacco Quality Board each term.

"(3) Terms.—Each member of the Tobacco Quality Board shall serve for 2-year terms, except that the terms of the members first appointed to the Tobacco Quality Board shall be staggered so as to establish a rotating membership of the Tobacco Quality Board, as determined by the Secretary.

"(c) Duties.—The Tobacco Quality Board shall—

"(1) determine and describe the physical characteristics of tobacco produced in the United States and unmanufactured tobacco imported into the United States;

"(2) assemble and evaluate, in a systematic manner, concerns and problems with the quality of tobacco produced in the United States, expressed by domestic and foreign buyers and manufacturers of tobacco products;

"(3) review data collected by Federal agencies on the physical and chemical integrity of tobacco produced in the United States and unmanufactured tobacco imported into the United States, to ensure that tobacco being used in domestically-manufactured tobacco products is of the highest quality and is free from prohibited physical and chemical agents;

"(4) investigate and communicate to the Secretary—

"(A) conditions with respect to the production of tobacco that discourage improvements in the quality of tobacco produced in the United States; and

"(B) recommendations for regulatory changes that would address tobacco quality issues;

"(5) conduct oversight regarding tobacco marketing issues (such as opening sales dates and marketing regulations) applicable to auction markets;

"(6) provide assistance to Federal agencies on actions taken by the Federal agencies that affect the quality or quantity of tobacco produced in the United States;

"(7) not later than a date determined by the Secretary, make recommendations to the Secretary, and the applicable Production Board established for the kind of tobacco, on the range of base years for the maximum crop acreage base under section 380I(c)(3)(B), and for the maximum crop poundage base under section 380I(d)(3)(B), for each crop of each kind of tobacco, except that the range of base years shall be the crop years for the 1998 through 2002 crops unless otherwise determined by the Tobacco Quality Board; and

"(8) carry out such other related activities as are assigned to the Tobacco Quality Board by the Secretary.

"(d) Administration.—The Secretary shall provide the Tobacco Quality Board with (as determined by the Secretary)—

"(1) a staff that is—

"(A) experienced in the sampling and analysis of unmanufactured tobacco; and

"(B) capable of collecting data and monitoring tobacco production information; and

"(2) other resources and information necessary for the Tobacco Quality Board to perform the duties of the Tobacco Quality Board under this subtitle, including—

"(A) information concerning acreage devoted to the production of each kind of tobacco; and

"(B) international information from the Foreign Agricultural Service.

"(e) Applicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Tobacco Quality Board.

"SEC. 380H. PRODUCTION BOARDS.

"(a) In General.—The Secretary shall establish a permanent advisory board for each kind of tobacco, to be known as a 'Production Board'.

"(b) Membership.—

"(1) In general.—Subject to paragraph (2), a Production Board for a kind of tobacco shall consist of—

"(A) not more than 10 members appointed by the Secretary from nominations submitted by representatives of producers of that kind of tobacco in the United States; and

"(B) 1 officer or employee of the Department appointed by the Secretary.

"(2) Allocation of membership.—In appointing members to a Production Board established for a kind of tobacco, the number of members appointed by the Secretary to represent each State shall, to the maximum extent practicable, bear the same ratio to the total number of members of the Production Board as—

"(A) the total volume of domestic sales of the kind of tobacco produced in the State during the most recent period for which data is available; bears to

"(B) the total volume of domestic sales of the kind of tobacco produced in all States during the most recent period for which data is available.

"(3) Chairperson.—The Secretary shall appoint the chairperson of a Production Board, with a different member serving as chairperson of the Production Board each term.

"(4) TERMS.—Each member of a Production Board shall serve for 2-year terms, except that the terms of the members first appointed to the Production Board shall be staggered so as to establish a rotating membership of the Production Board, as determined by the Secretary.

"(c) DUTIES.—A Production Board established for a kind of tobacco shall—

"(1) not later than a date determined by the Secretary, make recommendations to the Secretary on the base year, within the range of base years recommended by the Tobacco Quality Board under section 380G(c)(7), for the maximum crop acreage base under section 380I(c)(3)(B) for each crop of each kind of tobacco; and

"(2) carry out such other related activities as are assigned to the Production Board by the Secretary.

"(d) ADMINISTRATION.—The Secretary shall provide each Production Board established for a kind of tobacco with (as determined by the Secretary)—

"(1) a staff that is knowledgeable about production and marketing of that kind of tobacco; and

"(2) other resources and information necessary for the Production Board to perform the duties of the Production Board under this subtitle, including information concerning acreage devoted to the production of each kind of tobacco.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a Production Board.

"SEC. 380I. TOBACCO PRODUCTION LIMITATION PROGRAMS.

"(a) DEFINITIONS.—In this section:

"(1) CROP ACREAGE BASE.—The term 'crop acreage base' means the crop acreage base for a kind of tobacco for a crop for an active producer of tobacco, as determined by the Secretary.

"(2) CROP POUNDAGE BASE.—The term 'crop poundage base' means the crop poundage base for a kind of tobacco for a crop for an active producer of tobacco, as determined by the Secretary.

"(3) PERMITTED ACREAGE.—The term 'permitted acreage' means the number of acres that may be devoted to the production of a kind of tobacco by an active producer of tobacco, consistent with the annual acreage limitation program, as determined by the Secretary.

"(4) PERMITTED POUNDAGE.—The term 'permitted poundage' means the number of pounds of a kind of tobacco for a crop may be produced by an active tobacco producer, consistent with the annual poundage limitation program, as determined by the Secretary.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish for each crop of each kind of tobacco—

"(A) an acreage limitation program in accordance with subsection (c); or

"(B) a poundage limitation in accordance with subsection (d).

"(2) CONSULTATION.—The Secretary shall carry out the acreage limitation program and the poundage limitation program for a kind of tobacco in consultation with the Tobacco Advisory Board and the applicable Production Board established for that kind of tobacco.

"(3) SUPPLY.—In carrying out an acreage limitation program or a poundage limitation program for a crop of a kind of tobacco, the Secretary shall determine whether the total supply of that kind of tobacco, in the absence of the respective production limitation program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices.

"(4) ANNOUNCEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall announce an acreage limitation program or poundage limitation program for each kind of tobacco not later than December 15 of the calendar year preceding the year in which the crop is harvested.

"(B) SPECIAL RULE FOR 2004 CROP.—In the case of the 2004 crop for a kind of tobacco, the Secretary shall announce an acreage limitation program or poundage limitation for each kind of tobacco as soon as practicable after the date of the enactment of the Tobacco Market Transition Act of 2004.

"(c) ACREAGE LIMITATION PROGRAM.—

"(1) IN GENERAL.—Under an acreage limitation program for a crop of a kind of tobacco announced under subsection (b), the limitation shall be achieved by applying a uniform percentage reduction to the crop acreage base for the kind of tobacco for the crop for active producers of that kind of tobacco in each traditional tobacco county, as determined by the Secretary.

"(2) CROP ACREAGE BASES.—

"(A) IN GENERAL.—The crop acreage base for an active producer of tobacco for a crop of each kind of tobacco shall equal the number of acres that is equal to—

"(i) in the case of the 2004 crop year, the average of the acreage planted and considered planted by the active producer of tobacco to the kind of tobacco for harvest in a traditional tobacco county in each of the 5 crop years preceding the crop year, as determined and adjusted by the Secretary (in consultation with the Tobacco Quality Board and the applicable Production Board); and

"(ii) in the case of each subsequent crop year, the number of acres planted and considered planted by the active producer of tobacco to the kind of tobacco for harvest in a traditional tobacco county in the preceding crop year, as determined and adjusted by the Secretary (in consultation with the Tobacco Quality Board and the applicable Production Board).

"(B) MAXIMUM CROP ACREAGE BASES.—

"(i) IN GENERAL.—The total quantity of acreage devoted to a kind of tobacco by active producers of tobacco during a crop year shall not exceed the total quantity of acreage devoted to the kind of tobacco by active producers during a crop year determined by the Secretary.

"(ii) ADJUSTMENT.—If the active producers of a kind of tobacco demonstrate to the Secretary that the application of clause (i) to a crop of a kind of tobacco will result in unbalanced supply and demand conditions, the Secretary may adjust the total quantity of acreage that may be devoted to the kind of tobacco by active producers during the crop year.

"(C) SALE, LEASE, OR TRANSFER OF CROP ACREAGE BASES.—An active producer of tobacco shall not sell, lease, or transfer to another person a crop acreage base established for the active producer of tobacco under this paragraph.

"(D) REALLOCATION OF UNUSED CROP ACREAGE BASES.—

"(i) COUNTY POOL.—If an active producer of tobacco with a crop acreage base for a kind of tobacco elects not to use all or part of the crop acreage base to continue to produce that kind of tobacco, the unused crop acreage base shall be placed in a pool established for the traditional tobacco county for reallocation by the Secretary to other producers of that kind of tobacco in the traditional tobacco county that request the crop acreage base.

"(ii) STATE POOL.—If any crop acreage base for a kind of tobacco remains after the crop acreage base is made available to producers of that kind of tobacco in the traditional tobacco county in a State, the unused crop acreage base shall be placed in a pool established for the State for reallocation by the Secretary to other producers of that kind of tobacco in a traditional tobacco county.

"(iii) NEW PRODUCERS.—In reallocating unused crop acreage bases for a kind of tobacco in a traditional tobacco county made available under each of clauses (i) and (ii), the Secretary shall make available to any new producers of that kind of tobacco in the traditional tobacco county up to 10 percent of the crop acreage bases available for reallocation for the kind of tobacco in the traditional tobacco county.

"(d) POUNDAGE LIMITATION PROGRAM.—

"(1) IN GENERAL.—Under a poundage limitation program for a crop of a kind of tobacco, the Secretary shall achieve the limitation by applying a uniform percentage adjustment to the crop poundage base of an active producer of tobacco for the kind of tobacco in each traditional tobacco county, as determined by the Secretary.

"(2) DETERMINATION OF CROP POUNDAGE BASES.—

"(A) 2004 CROP YEAR.—The crop poundage base for an active tobacco producer for the 2004 crop of a kind of tobacco shall equal the average of the number of pounds of that kind of tobacco harvested by the active tobacco producer in a traditional tobacco county and marketed in each of the 5 crop years preceding the crop year, as determined by the Secretary.

"(B) SUBSEQUENT CROP YEARS.—In the case of the 2005 and subsequent crops of each kind of tobacco, the crop poundage base for an active tobacco producer of a kind of tobacco shall equal the number of pounds of that kind of tobacco harvested by the active tobacco producer in a traditional tobacco county and marketed in the preceding crop year, as determined and adjusted by the Secretary.

"(3) MAXIMUM CROP POUNDAGE BASES.—

"(A) IN GENERAL.—The total number of pounds devoted to a kind of tobacco by active tobacco producers during a crop year shall not exceed the total number of pounds devoted to the kind of tobacco by active tobacco producers during a crop year determined by the Secretary.

"(B) ADJUSTMENT.—If the active tobacco producers of a kind of tobacco demonstrate to the Secretary that the application of paragraph (1) to a crop of a kind of tobacco will result in unbalanced supply and demand conditions, the Secretary may adjust the total number of pounds that may be devoted to the kind of tobacco by active tobacco producers during the crop year.

"(4) SALE, LEASE, OR TRANSFER OF CROP POUNDAGE BASES.—

"(A) PROHIBITION.—An active producer of tobacco shall not directly or indirectly sell, lease, or transfer to another person or other legal entity a crop poundage base established for an active tobacco producer under this subsection.

"(B) EXCEPTION.—If the crop poundage base of an active producer of tobacco for a type of tobacco covers tobacco that was produced by the producer in more than 1 traditional tobacco county, the producer may elect to consolidate the base in a single traditional tobacco county in which the producer bore or shared in the risk of producing a crop of that kind of tobacco for the 2002 crop year.

"(5) REALLOCATION OF UNUSED CROP POUNDAGE BASES.—

"(A) COUNTY POOL.—If an active producer of tobacco with a crop poundage base for a kind of tobacco elects not to use all or part of the crop poundage base, the unused crop poundage base shall be placed in a pool established for the traditional tobacco county where the unused crop poundage base was originally located for reallocation by the Secretary to other active producers of tobacco of that kind of tobacco in the traditional tobacco county, in a manner determined by the Secretary.

"(B) STATE POOL.—If any crop poundage base for a kind of tobacco remains after the crop poundage base is made available to producers of that kind of tobacco in the traditional tobacco county in a State under subparagraph (A), the unused crop poundage base shall be placed in a pool established for the State for reallocation by the Secretary to other producers of that kind of tobacco in traditional tobacco counties, in a manner determined by the Secretary.

"(C) TRADITIONAL GROWING AREA POOL.—If any crop poundage base for a kind of tobacco remains after the crop poundage base is made available to producers of that kind of tobacco under subparagraphs (A) and (B), the unused crop poundage base shall be placed in a pool established for reallocation by the Secretary to other producers of that kind of tobacco in a traditional tobacco county for that kind of tobacco.

"(D) NEW PRODUCERS.—In reallocating unused crop poundage bases for a kind of tobacco in a traditional tobacco county made available under any of subparagraphs (A) through (C), the Secretary shall make available to any new producers of that kind of tobacco in the traditional tobacco county up to 10 percent of the crop poundage bases available for reallocation for the kind of tobacco in the traditional tobacco county.

"(e) COMPLIANCE.—

"(1) LOANS, PURCHASES, OR PAYMENTS.—An active producer of tobacco that knowingly produces a kind of tobacco in excess of the permitted acreage or permitted poundage, as applicable, for the kind of tobacco, or violates any lease or transfer requirements of this section, shall be ineligible for any loans, purchases, or payments for that crop of the kind of tobacco.

"(2) NO CARRYOVER.—An active producer of tobacco may not carry over permitted poundage or permitted acreage, as applicable, for a crop of a kind of tobacco, that is not produced by the producer, for production in a subsequent crop year.

"(3) PENALTIES.—

"(A) CRIMINAL PENALTY.—An active producer of tobacco that violates paragraph (1) shall be fined not more than $100,000 or imprisoned not more than 2 years, or both.

"(B) CIVIL PENALTY.—An active producer of tobacco that violates paragraph (2) shall be subject to a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco produced by the producer during the applicable crop year, as determined by the Secretary.

"(C) ADDITIONAL PENALTIES.—A civil penalty under subparagraph (B) for a violation shall be in addition to any criminal penalty under subparagraph (A) for the violation.

"(D) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—A United States district court shall have jurisdiction to prevent and restrain an active producer of tobacco from producing a kind of tobacco in excess of the permitted acreage for the kind of tobacco.

"(4) COMPLIANCE WITH CONSERVATION AND AGRICULTURAL REQUIREMENTS.—As a condition of the establishment of a crop acreage base or crop poundage base, as applicable, for active producers of tobacco for a crop of a kind of tobacco, the active producers of tobacco shall agree, during the crop year for which the crop acreage base or crop poundage base is established—

"(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

"(B) to comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

"(C) to use the land of the active producer of tobacco, in a quantity equal to the crop acreage base for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

"(D) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (C).

"CHAPTER 3—TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS

"SEC. 380O. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

"(a) IN GENERAL.—The Secretary shall make grants to eligible States in accordance with this section to pay the cost of carrying out economic development initiatives in impacted communities.

"(b) APPLICATION.—To be eligible to receive payments under this section, an eligible State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a description of the activities that the eligible State will carry out using amounts received under the grant; and

"(2) a description of the State department of agriculture that will administer amounts received under the grant.

"(c) AMOUNT OF GRANT.—From the amounts available to carry out this section, the Secretary shall allot—

"(1) $20,000,000 to the State of Maryland;

"(2) $14,000,000 to the State of Pennsylvania; and

"(3) $50,000,000 to the State of South Carolina; and

"(4) 50,000,000 to the State of North Carolina.

"(d) PAYMENTS.—An eligible State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section, in 5 equal installments, in an amount that is equal to its allotment under subsection (c).

"(e) USE OF FUNDS.—Amounts received by an eligible State under this section shall be used to carry out economic development activities in impacted communities of the eligible State, as determined by the eligible State.

"(f) TERMINATION DATE.—The authority provided by this section terminates on September 30, 2008.

"CHAPTER 4—COMPETITIVE GRANTS FOR TOBACCO RESEARCH

"SEC. 380Q. COMPETITIVE GRANTS FOR TOBACCO RESEARCH.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall make competitive grants under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626) to colleges and universities located in eligible States to conduct research—

"(1) to assist tobacco producers to diversify crops or implement other means to reduce or eliminate the reliance of the producers on the production of tobacco or to promote alternative uses of tobacco or enhance the quality of tobacco produced in the United States; and

"(2) to foster and facilitate development, evaluation, and implementation of economically viable new agricultural technologies and enterprises for rural communities.

"(b) GRANT DISTRIBUTION.—In making grants under this section, the Secretary shall provide for an equitable distribution of the grants based on the volume of each kind of tobacco that is produced in each eligible State, as determined by the Secretary

"(c) TERMINATION DATE.—The authority provided by this section terminates on September 30, 2008.

"CHAPTER 5—FUNDING

"SEC. 380S. TOBACCO TRUST FUND.

"(a) ESTABLISHMENT.—There is established in the Commodity Credit Corporation a revolving trust fund to be used in carrying out this subtitle (referred to in this section as the 'Fund'), consisting of—

"(1) such amounts as are deposited in the Fund under subsection (b);

"(2) such amounts as are necessary from the Commodity Credit Corporation; and

"(3) any interest earned on investment of amounts in the Fund under subsection (d).

"(b) DEPOSITS.—Revenues from assessments collected under section 380T shall be deposited in the Fund.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3) and notwithstanding any other provision of law, in addition to any other funds that may be available, the Secretary may use from the Fund such amounts as the Secretary determines are necessary—

"(A) to make payments to tobacco quota holders and traditional producers under chapter 1;

"(B) to pay necessary expenses of the Tobacco Quality Board and Production Boards and to carry out the acreage limitation program under chapter 2;

"(C) to make tobacco community economic development grants under chapter 3, in an amount equal to $16,800,000 for each of fiscal years 2004 through 2008;

"(D) to make competitive grants for tobacco research under chapter 4, in an amount equal to $12,000,000 for each of fiscal years 2004 through 2008;

"(E) to make grants to each association that has entered into a loan agreement with the Commodity Credit Corporation under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2) (as in effect before the effective date of this subtitle) to assist the association to transition to alternative methods of marketing tobacco in accordance with a plan approved by the Secretary, with the grants allocated on the basis of the proportion of tobacco marketed by each association, in an amount not to exceed $1,000,000 for each association for each kind of tobacco for each of fiscal years 2004 through 2008;

"(F) to make payments to appropriate tobacco warehouse associations, as determined by the Secretary, in an amount not to exceed $500,000 for each of fiscal years 2004 through 2008;

"(G) to pay administrative costs incurred by the Secretary in carrying out this subtitle; and

"(H) to reimburse the Commodity Credit Corporation for costs incurred by the Commodity Credit Corporation under paragraph (2).

"(2) Expenditures by commodity credit corporation.—

"(A) In general.—Subject to subparagraph (B) and notwithstanding any other provision of law, the Secretary shall use funds of the Commodity Credit Corporation to make payments under paragraph (1).

"(B) Reimbursement to commodity credit corporation.—Not later than January 1, 2013, the Commodity Credit Corporation shall be reimbursed in full, with interest, for all funds of the Commodity Credit Corporation expended under subparagraph (A).

"(3) Administrative expenses.—

"(A) In general.—An amount not to exceed $20,000,000 for each fiscal year of the amounts in the Fund shall be available to pay the administrative expenses necessary to carry out this subtitle.

"(B) Termination date.—The authority provided by this paragraph terminates on September 30, 2013.

"(d) Investment of Amounts.—

"(1) In general.—The Commodity Credit Corporation shall invest such portion of the Fund as is not, in the judgment of the Commodity Credit Corporation, required to meet current withdrawals.

"(2) Interest-bearing obligations.—Investments may be made only in interest-bearing obligations of the United States.

"(3) Acquisition of obligations.—For the purpose of investments under paragraph (1), obligations may be acquired—

"(A) on original issue at the issue price; or

"(B) by purchase of outstanding obligations at the market price.

"(4) Sale of obligations.—Any obligation acquired by the Fund may be sold by the Commodity Credit Corporation at the market price.

"(5) Credits to fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

"(e) Administration.—In administering the Fund, the Secretary shall make payments, reimburse agencies of the Department, and accept deposits without regard to limitations on total amounts of allotments and fund transfers under section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i).

"SEC. 380T. ASSESSMENTS.

"(a) Definition of Gross Domestic Volume.—In this section, the term 'gross domestic volume' means the volume of tobacco products—

"(1) removed (as defined by section 5702 of the Internal Revenue Code of 1986); and

"(2) not exempt from tax under chapter 52 of the Internal Revenue Code of 1986 at the time of their removal under that chapter or the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

"(b) Assessments.—The Secretary, acting through the Commodity Credit Corporation, shall impose quarterly assessments, calculated in accordance with this section, on each tobacco product manufacturer and tobacco product importer that sells tobacco products in domestic commerce in the United States.

"(c) Tobacco Trust Fund.—Assessments collected under this section shall be deposited in the Tobacco Trust Fund.

"(d) Assessment for Each Class of Tobacco Product.—

"(1) Allocation by class of tobacco products.—The percentage of the total amount to be assessed against, and paid by, the manufacturers and importers of each class of tobacco product in each applicable fiscal year shall be—

"(A) for cigarette manufacturers and importers, 99.409 percent;

"(B) for snuff manufacturers and importers, 0.428 percent;

"(C) for chewing tobacco manufacturers and importers, 0.098 percent;

"(D) for pipe tobacco manufacturers and importers, 0.021 percent; and

"(E) for roll-your-own tobacco manufacturers and importers, 0.044 percent.

"(2) Adjustment.—The Secretary shall adjust the percentage of the total amount to be assessed against, as determined under paragraph (1), and paid by, the manufacturers and importers of each class of tobacco product in each applicable fiscal year by multiplying the percentage of the total amount to be assessed, as determined under paragraph (1), by a fraction—

"(A) the numerator of which is the total volume of domestic sales of that class of tobacco product during the preceding applicable fiscal year; and

"(B) the denominator of which is the total volume of domestic sales of that class of tobacco product during fiscal year 2003.

"(3) Total assessment.—

"(A) In general.—The total amount to be assessed against all manufacturers and importers of all classes of tobacco product in each applicable fiscal year shall be equal to the amount required to carry out this subtitle during the applicable fiscal year, as determined by the Secretary.

"(B) Additional amount.—

"(i) In general.—If the amount to be assessed after the application of paragraphs (1) and (2) is insufficient to carry out this subtitle during the applicable fiscal year, the Secretary may assess such additional amount as the Secretary determines to be necessary to carry out this subtitle during the applicable fiscal year.

"(ii) Allocation.—The additional amount shall be allocated to the manufacturers and importers of each class of tobacco product in the same manner and based on the same percentages applied in determining the total amount to be assessed under paragraph (1), as adjusted under paragraph (2) during the applicable fiscal year.

"(4) Notification of assessments.—

"(A) In general.—The Secretary shall notify all manufacturers and importers of tobacco products of the amount of the assessment for each quarterly payment period.

"(B) Contents.—The notice for a quarterly payment period shall describe gross domestic sales and market shares for the quarterly payment period and conform with the requirements of subsection (i).

"(5) Timing of assessment payments.—

"(A) In general.—Assessments shall be collected at the end of each calendar year quarter.

"(B) Base period quarter.—The assessment for a calendar year quarter shall correspond to the base period quarter that ended at the end of the preceding calendar year quarter.

"(C) Amounts.—Subject to subparagraph (D), beginning with the calendar quarter ending on December 31 of each applicable fiscal year, the payments over 4 calendar quarters shall be sufficient to cover—

"(i) the payments required under chapter 1 on November 1 of that same applicable fiscal year; and

"(ii) other expenditures from the Tobacco Trust Fund required under section 380S during the base quarter periods corresponding to those 4 calendar quarters.

"(D) Special rule.—In the case of payments required under chapter 1 that are due on September 30, 2004, the assessments shall be paid on that same date and correspond to the first base period of 6 months.

"(e) Allocation of Assessment Within Each Class of Tobacco Product.—

"(1) In general.—The assessment for each class of tobacco product shall be allocated on a pro rata basis among manufacturers and importers based on each manufacturer's or importer's share of gross domestic volume.

"(2) Limitation.—No manufacturer or importer shall be required to pay an assessment that is based on a share that is in excess of the manufacturer's or importer's share of domestic volume.

"(f) Allocation of Total Assessments by Market Share.—The amount of the assessment for each class of tobacco product to be paid by each manufacturer or importer of the class of tobacco product under subsection (b) shall be determined for each quarterly payment period by multiplying—

"(1) the market share of the manufacturer or importer, as calculated with respect to that payment period, of the class of tobacco product; by

"(2) the total amount of the assessment for that quarterly payment period under subsection (d), for the class of tobacco product.

"(g) Determination of Volume of Domestic Sales.—

"(1) In general.—The calculation of the volume of domestic sales of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary based on information provided by the manufacturers and importers pursuant to subsection (h), as well as any other relevant information provided to or obtained by the Secretary.

"(2) Gross domestic volume.—The volume of domestic sales shall be calculated based on gross domestic volume.

"(3) Measurement.—For purposes of the calculations under this subsection and the certifications under subsection (h) by the Secretary, the volumes of domestic sales shall be measured by—

"(A) in the case of cigarettes, the numbers of cigarettes; and

"(B) in the case of other classes of tobacco products, in terms of number of pounds, or fraction thereof, of those products.

"(h) Measurement of Volume of Domestic Sales.—

"(1) In general.—Each manufacturer and importer of tobacco products shall submit to the Secretary a certified copy of each of the returns or forms described by paragraph (2) that are required to be filed with a Federal Government agency on the same date that those returns or forms are filed, or required to be filed, with the agency.

"(2) Returns and forms.—The returns and forms described by this paragraph are those returns and forms that relate to—

"(A) the removal of tobacco products into domestic commerce (as defined by section 5702 of the Internal Revenue Code of 1986); and

"(B) the payment of the taxes imposed under charter 52 of the Internal Revenue

Code of 1986, including AFT Form 5000.24 and United States Customs Form 7501 under currently applicable regulations.

“(3) Penalties.—

“(A) In general.—Any person that knowingly fails to provide information required under this subsection or that provides false information under this subsection shall be subject to the penalties described in section 1003 of title 18, United States Code.

“(B) Additional civil penalty.—In addition, the Secretary may assess against the person a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco products manufactured or imported by the person during the applicable fiscal year, as determined by the Secretary.

“(i) Assessment Notification; Content.—

“(1) In general.—The Secretary shall provide each manufacturer or importer subject to an assessment under subsection (b) with written notice setting forth the amount to be assessed against the manufacturer or importer for the applicable quarterly period.

“(2) Deadline.—The notice for a quarterly period shall be provided not later than 30 days before the date payment is due under subsection (d)(5).

“(3) Contents.—The notice shall include the following information with respect to the quarterly period used by the Secretary in calculating the amount:

“(A) The total combined assessment for all manufacturers and importers of tobacco products.

“(B) The total assessment with respect to the class of tobacco products manufactured or imported by the manufacturer or importer.

“(C) Any adjustments to the percentage allocations among the classes of tobacco products made pursuant to subsection (d)(2).

“(D) The volume of gross sales of the applicable class of tobacco product treated as made by the manufacturer or importer for purposes of calculating the manufacturer's or importer's market share under subsection (f).

“(E) The total volume of gross sales of the applicable class of tobacco product that the Secretary treated as made by all manufacturers and importers for purposes of calculating the manufacturer's or importer's market share under subsection (f).

“(F) The manufacturer's or importer's market share of the applicable class of tobacco product as determined by the Secretary under subsection (f).

“(G) The market share, as determined by the Secretary under subsection (f), of each other manufacturer and importer, for each applicable class of tobacco product.

“(j) Challenge to Assessment.—

“(1) Appeal to secretary.—A manufacturer or importer subject to this section may contest an assessment imposed on the person under this section by notifying the Secretary not later than 10 business days after receiving the assessment notification required by subsection (i).

“(2) Escrow.—The manufacturer and importer may place into escrow, in accordance with rules promulgated by the Secretary, only the portion of the assessment being challenged in good faith pending final determination of the assessment under this subsection.

“(3) Information.—The Secretary shall by regulation establish a procedure under which a person contesting an assessment under this subsection may present information to the Secretary to demonstrate that the assessment is incorrect, including information to demonstrate the following:

“(A) The total combined assessment imposed by the Secretary on all manufacturers and importers is excessive.

“(B) The Secretary's allocation of the total assessment among the classes of tobacco products is incorrect.

“(C) The total volume of gross domestic sales of all manufacturers and importers of the relevant class of tobacco product calculated by the Secretary under subsection (f) is incorrect.

“(D) The level of gross domestic sales attributed to the person by the Secretary for purposes of calculating the person's market share under subsection (f) exceeds the person's actual domestic sales of that class of tobacco product.

“(E) The amount of the assessment attributed to the person by the Secretary exceeds the person's pro rata share based on the person's share of gross domestic sales.

“(4) Challenge.—

“(A) In general.—In challenging an assessment under this subsection, the manufacturer or importer may use any information that is available, including third party data on industry or individual company sales volumes.

“(B) Incorrect determination.—The information may constitute evidence sufficient to establish that the Secretary's initial determination was incorrect, in which event the assessment shall be revised so that the manufacturer or importer is required only to pay the amount correctly determined.

“(5) Time for review.—Not later than 30 days after receiving notice from a manufacturer or importer under paragraph (2), the Secretary shall—

“(A) decide whether the information provided to the Secretary pursuant to that paragraph, and any other information that the Secretary determines, is appropriate is sufficient to establish that the original assessment was incorrect; and

“(B) make any revisions necessary to ensure that each manufacturer and importer pays only its correct pro rata share of total gross domestic volume from all sources.

“(6) Immediate payment of undisputed amounts.—The regulations promulgated by the Secretary under paragraph (2) shall provide for the immediate payment by a manufacturer or importer challenging an assessment of that portion of the assessment that is not in dispute.

“(7) Judicial review.—

“(A) In general.—Any manufacturer or importer aggrieved by a determination of the Secretary with respect to the amount of any assessment may seek review of the determination in the United States District Court for the District of Columbia or for the district in which the manufacturer or importer resides or has its principal place of business at any time following exhaustion of the administrative remedies under this subsection.

“(B) Time limits.—Administrative remedies shall be deemed exhausted if no decision by the Secretary is made within the time limits established under paragraph (5).

“(C) Excessive assessments.—The court shall restrain collection of the excessive portion of any assessment or order a refund of excessive assessments already paid, along with interest calculated at the rate prescribed in section 3717 of title 31, United States Code, if it finds that the Secretary's determination is not supported by a preponderance of the information available to the Secretary.

“(8) Regulations.—Not later than 180 days after the date of enactment of this subtitle, the Secretary shall promulgate regulations to implement this subsection (in accordance with section 301 of the Tobacco Market Transition Act of 2004).

“(k) Use of Qualified Financial Institutions.—The Secretary may use qualified financial institutions to manage assets, make payments, and otherwise carry out this subtitle.

“(l) Termination Date.—The authority provided by this section terminates on September 30, 2013.

“SEC. 380U. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle, to remain available until expended.

“SEC. 380V. TRANSITION PROVISIONS.

“(a) Tobacco Stocks.—

“(1) In general.—To provide for the orderly disposition of quota tobacco held by an association that has entered into a loan agreement with the Commodity Credit Corporation under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2) (referred to in this section as an ‘association’), loan pool stocks for each kind of tobacco held by the association shall be disposed of in accordance with this subsection.

“(2) Associations.—For each kind of tobacco held by an association, the proportion of loan pool stocks for each kind of tobacco held by the association that shall be transferred to the association shall be equal to—

“(A) the amount of funds held by the association in the No Net Cost Tobacco Fund and the No Net Cost Tobacco Account established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, for the kind of tobacco; divided by

“(B) the average list price per pound for the kind of tobacco, as determined by the Secretary.

“(3) Commodity credit corporation.—Any loan pool stocks of a kind of tobacco of an association that are not disposed of in accordance with paragraph (2) shall be—

“(A) transferred by the association to the Commodity Credit Corporation; and

“(B) disposed of in a manner determined by the Secretary.

“(b) No Net Cost Funds.—

“(1) In general.—Any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, that remain after the application of subsection (a) and sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1) (as in effect before the effective date of this subtitle) shall be transferred to the association for distribution to traditional producers of tobacco in accordance with a plan approved by the Secretary.

“(2) Associations with no loan pool stocks.—In the case of an association that does not hold any loan pool stocks that are covered by subsection (a)(2), any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of the association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, shall be transferred to the association for distribution to traditional producers of tobacco in accordance with a plan approved by the Secretary.

“(c) Reimbursement to Commodity Credit Corporation.—There shall be transferred from the Tobacco Trust Fund to each No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, such amounts as the Secretary determines will be adequate to reimburse the Commodity Credit Corporation for any net losses that the Corporation may sustain under its loan agreements with the association.".

SEC. 52. TOBACCO INSURANCE RESEARCH AND DEVELOPMENT.

(a) In General.—Section 522(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting appropriately;

(2) by striking "The Corporation" and inserting the following—

"(A) In general.—The"; and

(3) by adding at the end the following:

"(B) Tobacco research and development.—Subject to the availability of funds under subsection (e)(5), the Corporation shall provide a payment to reimburse an applicant for research and development costs directly related to a policy that is—

"(i) submitted to the Board and approved by the Board under section 508(h) for reinsurance;

"(ii) if applicable, offered for sale to producers; and

"(iii) addresses risk in the production of tobacco.".

(b) Assessments.—Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended by adding at the end the following:

"(5) Tobacco assessment.—

"(A) In general.—Effective for each marketing year for a kind of tobacco for which a commodity-specific plan of insurance is offered under this Act, subject to subparagraphs (B) through (D), each producer and purchaser of that kind of tobacco shall remit to the Insurance Fund established under section 516(c) a nonrefundable marketing assessment in an amount determined by the Secretary pursuant to subparagraphs (B) and (C).

"(B) Total amount.—The total amount of producer and purchaser assessments for a kind of tobacco collected under this paragraph shall be equal to the amount that is necessary to carry out subsection (b)(1)(B).

"(C) Administration.—Producer and purchaser assessments for a kind of tobacco under this paragraph—

"(ii) shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in paying assessments required under this paragraph; and

"(ii) shall not exceed 5 cents per pound.

"(D) Termination.—Effective beginning with the 2010 crop of each kind of tobacco, the Secretary may terminate the collection of assessments for that kind of tobacco if the Secretary determines that further research and development under subsection (b)(1)(B) would not be productive.".

(c) Insurance Fund.—Section 516(c)(1) of the Federal Crop Insurance Act (7 U.S.C. 1516(c)(1)) is amended by inserting "assessments for tobacco research made available under section 522(e)(5)," after "under subsection (a)(2),".

SEC. 53. CONFORMING AMENDMENTS.

Section 320B(c)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h(c)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking "by" at the end and inserting "or"; and

(3) by adding at the end the following:

"(B) in the case of the 2003 marketing year, the price support rate for the kind of tobacco involved in effect under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) at the time of the violation; by".

CHAPTER 3—IMPLEMENTATION

SEC. 61. REGULATIONS.

(a) In General.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this subtitle and the amendments made by this subtitle.

(b) Procedure.—The promulgation of the regulations and administration of this subtitle and the amendments made by this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) Congressional Review of Agency Rulemaking.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 62. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall apply to the 2004 and subsequent crops of each kind of tobacco.

SA 3564. Mr. ROBERTS (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 2386, to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 16, add at the end the following: "Such funds shall remain available until September 30, 2005.".

On page 19, strike lines 7 through 15 and insert the following:

"(1) In general.—The Director may establish and administer a nonofficial cover employee retirement system for designated employees (and the spouse, former spouses, and survivors of such designated employees). A des-

On page 21, strike line 18 and all that follows through page 22, line 1, and insert the following:

"(iii) in the case of a designated employee who participated in an employee investment retirement system established under paragraph (1) and is converted to coverage under subchapter III of chapter 84 of title 5, United States Code, the Director may transmit any or all amounts of that designated employee in that employee investment retirement system (or similar

On page 22, strike line 24 and all that follows through page 23, line 5, and insert the following:

"(1) In general.—The Director may establish and administer a nonofficial cover employee health insurance program for designated employees (and the family of such designated employees). A designated employee

On page 25, strike lines 6 through 12 and insert the following:

"(1) In general.—The Director may establish and administer a nonofficial cover employee life insurance program for designated employees (and the family of such designated employees). A designated employee may not

On page 27, line 8, strike "(B)(iii)" and insert "(B)(iv)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 15, 2004, at 9:30 a.m., in closed session to receive a briefing regarding ICRC reports on U.S. military detainee operations in Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, July 15, 2004, at 10 a.m., to conduct a hearing on "Regulation of the Hedge Fund Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, July 15, 2004, at 2:30 p.m., to conduct a hearing on the nominations of Mr. Stuart Levey, of Maryland, to be Under Secretary of the Treasury for Enforcement; Mr. Juan Carlos Zarate, of California, to be Assistant Secretary of the Treasury for Terrorist Financing and Financial Crimes; and Ms. Carin M. Barth, of Texas, to be the Chief Financial Officer, Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 15, 2004, at 9:30 a.m., to hold a hearing on North Korea.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 15, 2004, at 1 p.m., to hold a hearing on the Gulf of Guinea and U.S. Strategic Energy Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 15, 2004, at 3 p.m., to hold a Members Briefing on Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Thursday, July 15, 2004, at 9 a.m., for a hearing entitled "Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DEWINE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 15, 2004, at 2:30 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. DEWINE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, July 15, 2004, from 2 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet for a hearing on Pell Grants for Kids: It Worked for Colleges, Why Not K–12? during the session of the Senate on Thursday, July 15, 2004, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Subcommittee on Communications be authorized to meet on Thursday, July 15, 2004, at 9:30 a.m. on Implementation of Nielsen Local People Meter TV Rating System.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 15, at 2:30 p.m.

The purpose of the hearings is to receive testimony on S. 1852, to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, PA, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin; S. 2142, to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes; S. 2181, to adjust the boundary of Rocky Mountain National Park in the State of Colorado; S. 2374, to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, OK, and for other purposes; S. 2397 and H.R. 3706, to adjust the boundary of the John Muir National Historic Site, and for other purposes; S. 2432, to expand the boundaries of Wilson's Creek Battlefield National Park, and for other purposes; S. 2567, to adjust the boundary of Redwood National Park in the State of California; and H.R. 1113, to authorize an exchange of land at Fort Frederica National Monument, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. DEWINE. Mr. President, I ask unanimous consent that privilege of the floor be granted to my assistant Dara Pittard for the duration of the debate of the Family Smoking Prevention and Tobacco Control Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that Julie Huen of my staff be granted floor privileges during the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Stephen Kosack, a fellow in my office, be granted the privilege of the floor for the remainder of the debate on the FSC/ETI JOBS bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on behalf of Senator LIEBERMAN, I ask unanimous consent that the privilege of the floor be granted to Sara Hagigh during the consideration of the Australia Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on behalf of Senator BAUCUS, I ask unanimous consent that the privilege of the floor be granted to the following fellows and interns during consideration of the Australia Free Trade Agreement:

Molly Bell, Tony Cerise, Jessica Cronnelly, and Ashley Griffith.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Dan Shepherdson, Nic Prenger, Julia Ehrgood, Casey August, and Peter Jordan be granted the privilege of the floor for the duration of the debate on S. 2610, the United States-Australia Free Trade Agreement Implementation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the following fellows and interns, Ade Ifelayo, Kellen Moriarty, Scott Richardson, Alex Robles, and Ben Gather, during consideration of the Australia Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that my staff member, Nancy Mitchell, be granted floor privileges during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 70–770, appoints the Senator from Arkansas, Mrs. LINCOLN, to the Migratory Bird Conservation Commission, vice the Senator from Louisiana, Mr. BREAUX.

AMENDING THE E-GOVERNMENT ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 1303, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 1303) to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1303) was read the third time and passed.

REQUESTING RETURN OF PAPERS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate request the House to return the papers with respect to S. 2589.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 2652

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2652) to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare program.

Mr. FRIST. I object to further proceedings on the measure at this time in order to place the bill on the calendar under the provisions of rule XIV.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

ORDERS FOR FRIDAY, JULY 16, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Friday, July 16. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for statements only with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will be in a period of morning business throughout the day. There will be no rollcall votes during tomorrow's session. During tomorrow's session, I will have more to say about next week's schedule. However, there will be no votes during Monday's session as well. Senators can expect the next vote at approximately 2:15 on Tuesday.

We had a productive day today. We will be closing in just a few moments. I just had the opportunity a few moments ago to talk to the Prime Minister of Australia, who expressed his gratitude to the American people and to this body for the vote we took about an hour ago with regard to the Australia trade bill. We expedited consideration of that bill, brought it to the floor in a very quick fashion, but had a very good debate over the course of the day. There was broad support for that bill as reflected in the vote, with 80 people voting for that piece of legislation.

In addition, we made real progress considering an amendment with regard to tobacco and the FDA. Unusual in the fact that those two bills were put together in one bill, but by considering that bill with an overwhelming vote, we are able to go to conference on the FSC/ETI bill, an important bill to jobs and manufacturing in this country.

ADJOURNMENT UNTIL 10:00 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:49 p.m., adjourned until Friday, July 16, 2004, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, July 15, 2004*

The House met at 10 a.m.

The Reverend Jean Burch, Senior Pastor, Community Baptist Church, Pasadena, California, offered the following prayer:

This is the day that the Lord has made, let us be glad and rejoice in it. Dear Lord, as we begin this day, we can rejoice because You are our hope. And as we pray, may we be reminded that our hope is not based on optimism but a blessed assurance that this Nation under God will find her destiny in God's love.

I pray that the trust we have placed in the men and women of this House will prevail in the decisions that they make for this Nation. Speak to their hearts, Lord, through Your spirit that they may know Your will for Your people and our land. I pray that each man and woman in this room will not only know Your will, but that they may know You and the power of Your might.

For Lord, it is You who is the God of our hope, the rope we take hold of in times of turmoil, the anchor that holds us steady in the time of storm; and You are our refuge when all else has failed. Now, today, and in the days to come, may the God of hope fill each of you with all joy and peace as you put your trust in Him. In the name of our Lord, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina (Mr. McINTYRE) come forward and lead the House in the Pledge of Allegiance.

Mr. McINTYRE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4363. An Act to facilitate self-help housing homeownership opportunities.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 2589. An act to clarify the status of certain retirement plans and the organizations which maintain the plans.

The message also announced that pursuant to Public Law 99-498, the chair, on behalf of the President pro tempore appoints the following individual, to serve as a member of the Advisory Committee on Student Financial Assistance.

Clara M. Cotton of Massachusetts.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain five 1-minutes on each side.

AMBASSADOR JOE WILSON

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, Ambassador Joe Wilson's cover has been blown. He has proclaimed to be a truth-teller, but he has been thoroughly discredited. You may recall, Mr. Speaker, that Ambassador Wilson said President Bush was lying when in the State of the Union address he said the British Government learned that Saddam Hussein sought significant quantities of uranium from Africa. Last week's bipartisan Senate Select Intelligence Committee report concluded that it actually is Wilson who has been telling us lies.

We now know for certain that Wilson was wrong and that Bush's statement was entirely accurate. In September 2003, an independent British parliamentary committee looked into the matter and determined that the claim made by the British intelligence was in fact reasonable.

In recent days, the Financial Times has reported that illicit sales of uranium from Niger were indeed being negotiated with Iraq as well as four other states. According to the Financial Times, human and electronic intelligence sources from a number of countries picked up repeated discussions of an illicit trade in uranium from Niger. One of the customers discussed by the traders was Iraq.

There is more. The Senate report says fairly bluntly that Wilson lied to the media. The panel found that Wilson provided misleading information to The Washington Post last June, which has created more suspicion around him.

Mr. Speaker, I rise today to bring these developments to my colleagues in the House because they will not read this in the New York Times.

VICE PRESIDENTIAL CANDIDATE JOHN EDWARDS OF NORTH CAROLINA

(Mr. McINTYRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, Vice Presidential candidate JOHN EDWARDS of North Carolina is a man who cares for people, who has a passion for a brighter America, and who will work in partnership with the U.S. Congress to improve our communities and to help lift all of our citizens up. Senator EDWARDS has always put people first. He understands the challenges that face our Nation in rural areas, suburban and urban America.

Second, he has a passion to make life better for all Americans. From education to energy, from factories to the farms, from health care to housing, Senator EDWARDS has a real desire to make improvements in these and so many other areas.

Third, JOHN has seen firsthand the challenges that citizens from all walks of life face, and he knows that we must work together in a bipartisan manner to move forward and to help our Nation. Senator EDWARDS has a vision for a better, stronger, and brighter America. With his focus on people, his passion for moving forward, and his commitment to partnership, he, indeed, will make an exceptional Vice President.

A STORY WE WILL NOT READ IN THE NEW YORK TIMES

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, the gentleman from Florida talked about stories we will not read in the New York Times. Let me talk about another one.

Today, Mr. Speaker, 20, 25 women from the country of Iraq are here on the Hill talking with various Members of the House of Representatives, and their stories are so very poignant.

I just left a meeting with them, and I needed to share some of their words with my colleagues. To the question:

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

What about the fact that America might have gone to war with Iraq under false pretenses? The first woman who raised her hand said, "What took you so long?" A woman who is a city leader in Karbala said 48 people in her family have been executed, and to this day they do not know where most of those family members are buried. She said to us, "Why would you even ask this question?" Another woman said, "Chemical warfare has been used on my family. So many have been lost. We don't know where they have gone. You should have been here in 1991. Liberation was late. We were left to be tortured."

On the subject of Fallujah, one woman stood up and very powerfully said, "Please finish the job." I could not agree more.

SUPPORT FUNDING FOR UNFPA

(Mrs. MALONEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, today we consider appropriating $25 million that would reassure the world about the U.S. commitment to saving women's lives.

The Bush administration has systematically undermined that commitment in its continued assault on UNFPA, the U.N. Population Fund. Our allies watch in horror as the world's enormous need for family planning goes unmet; and meanwhile our government allies itself with Iran, Syria, and Afghanistan in opposing voluntary international family planning programs.

Today, we can help to right that wrong by approving a measure that would direct $25 million to UNFPA programs to prevent and treat obstetric fistula, a devastating condition that afflicts 2 million women worldwide. No other agency works in this vital area.

Let us send a message to the Bush administration that this Congress listens to the American people even if it does not. The world is waiting for us to act. UNFPA saves women's and children's lives.

WE HAVE MADE PROGRESS IN THE WAR ON TERROR

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, we have made great progress in the war on terror. Three years ago, in Afghanistan, al Qaeda was training and sending out thousands of terrorists. Pakistan had a significant al Qaeda presence. Saudi Arabia was a major area of support for al Qaeda. In Iraq, a sworn enemy of America was in power. Nuclear weapons technology was being sold to countries like Iran, North Korea, and Libya. For years, terrorists attacked the U.S. with relative impunity.

Three years later, because of the leadership of George Bush, in Afghanistan the terror camps are closed, Osama bin Laden is hiding in caves. Pakistani forces are rounding up terrorists on their border. Saudi Arabia is working closely with the U.S. to root out al Qaeda. In Iraq, our coalition removed a declared enemy of the United States. And we have ended one of the most dangerous sources of nuclear proliferation.

Today, because America has acted and we have led, the forces of terror and tyranny have suffered defeat after defeat, and America and the world are safer.

PRESIDENT'S VISIT TO MICHIGAN NOTHING MORE THAN A PEP RALLY

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, this week the President visited Michigan's Upper Peninsula. Too bad his visit was a pep rally. Instead, he owed the people of Northern Michigan some answers about his failed policies that have taken this Nation backwards in so many ways.

This is what the President should have talked about: how we would address the infinite list of problems and confusion with the sham Medicare prescription drug law; why we created new mandates for Northern Michigan schoolteachers and students through No Child Left Behind, but then failed to provide the needed financial resources to meet them; how he will restore the 397,000 jobs in Michigan we have lost, and more than 2 million nationwide. Many of these jobs have been shipped overseas.

The deficit: why the country has gone from record surpluses to a record $521 billion deficit. Why did the President choose tax cuts for the wealthy at the expense of putting the Nation's checkbook deep in the red?

Homeland security: Why has the President repeatedly cut needed funding for homeland security grants to local and State agencies. The Great Lakes: How will he restore the Great Lakes? His current proposal is a study of studies that will only keep us treading water.

Instead of real answers, all this President can give the American people is a pep rally. The American people deserve better.

PRAISING THE INDIAN AMERICAN REPUBLICAN COUNCIL

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I want to commend the impressive gains made by the Indian American Republican Council since its founding 2 years ago. Under the outstanding leadership of Chairman Dr. Raghavendra Vijayanagar, there are 11 independent IARC state affiliates, eight Indian Americans are delegates at the Republican National Convention, and President George W. Bush has appointed 14 Indian Americans to his administration, more than any other President.

In particular, I commend the delegates attending the Republican National Convention: from Florida, Dr. Vijay, Dr. Zach Zachariah, Dr. George Thomas, and Dr. Akshay Desai; from Georgia, Mr. Narender Reddy; from Mississippi, Dr. Sampat Shivangi; from Maryland, Dr. Shambu Banik; and from Virginia, Shayam Menon, a prominent graduate of Washington and Lee University.

The IARC has become a nationally respected organization due to the energy, commitment, and dedication shown by its board of directors lead by Dr. Vijay. I look forward to working with the IARC to further the growing ties between Indian Americans and the Republican Party based on the shared values of promoting families and limited government.

In conclusion, God bless our troops, and we will never forget September 11.

☐ 1015

YUCCA MOUNTAIN COURT RULING

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, last week the second highest court in the United States ruled that the proposed radiation standard for the Yucca Mountain project is inadequate to protect the health and safety of the American public and that the EPA knowingly ignored scientists' recommendations when formulating the standard. The Federal Court of Appeals found that the EPA blatantly disregarded the findings of the National Academy of Sciences that radiation levels will reach their peak in 300,000 years, and instead set a 10,000-year radiation standard. The gap between the science and the standard, a mere 290,000 years.

This ruling is the latest proof that the Yucca Mountain project is not based on sound science. When recommending the site to Congress, President Bush knew this radiation standard was not in keeping with scientific findings. Candidate Bush promised that he would not send nuclear waste to any proposed site unless it was based on sound science. President Bush reneged on his promise, ignored sound science, misled the people of the State of Nevada and approved the Yucca Mountain project. Thankfully, the court ruled in favor of science and the people of the great State of Nevada.

HONORING ROLLIE BOREHAM FOR HIS GRACIOUS CONTRIBUTIONS TO OUR COMMUNITIES

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor Rollie Boreham for his gracious contributions to the Third District of Arkansas. Rollie will be stepping down at the end of the year from his current role as chairman of the board of Baldor, a Fort Smith-based manufacturer. Rollie helped build Baldor into a leader in their field. In doing so, he also generously devoted his time and resources to countless projects in the community.

Before the year is over, the people of Arkansas will see yet another example of Rollie's generosity when the M&N Foundation dedicates their new office. The M&N Foundation is a Fayetteville charity that helps individuals in need. Merlin Augustine, the head of the Foundation, has needed to be very creative to accomplish what he has in their current facilities. Without Rollie's donation for a new building, they would still be working out of that old basement room.

Mr. Speaker, Merlin Augustine and the M&N Foundation can now do their wonderful work from brand-new facilities thanks to Rollie. Rollie's philanthropy has changed the lives of many Arkansans, and for that he deserves our praise.

SAME-SEX MARRIAGE

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, after the debacle in the other body over the same-sex marriage amendment which would have been the first time in American history the Constitution would have been used to deny people's rights, there are rumors that the House Republican leadership would like to bring this doomed proposal to our Chamber in an effort to keep us away from issues that we could actually do something about.

One would hope that the Republican leadership would learn from watching the President and the leadership of the Republicans in the other body as they tied up the Senate for days, only to shoot themselves in the foot. Republicans in the other body could not agree amongst themselves, and the Vice President could not agree with his wife. In fact, the Vice President could not even agree with his own position on this issue from a few years ago.

For a President who claimed to come to Washington, DC, as a uniter, this represents another spectacular failure. Efforts to use sexual orientation as a political tool to divide this country for political advantage are shameful and will ultimately fail. One only hopes the voters will hold people who use this tool accountable sooner rather than later.

RECESS

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 10:45 a.m. today.

Accordingly (at 10 o'clock and 19 minutes a.m.), the House stood in recess until approximately 10:45 a.m.

□ 1045

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 10 o'clock and 45 minutes a.m.

PROVIDING FOR CONSIDERATION OF H.R. 4818, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 715 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 715

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except: beginning with the semicolon in section 565(a)(2) through "501)" in section 565(a)(3). Where points of order are waived against part of a section, points of order against a provision in another part of such section may be made only against such provision and not against the entire section. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART of Florida) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. LINCOLN DIAZ-BALART asked and was given permission to revise and extend his remarks.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, H.R. 715 is an open rule that provides for the consideration of H.R. 4818, the Fiscal Year 2005 Foreign Operations, Export Financing, and Related Programs Appropriations bill. The rule provides 1 hour of general debate, evenly divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule also provides one motion to recommit, with or without instructions.

I would like to take a moment to reiterate that we bring this rule forward in totally open fashion. Historically, appropriations legislation has come to the House governed by an open rule, and we continue to do so in order to allow each and every Member of this House the opportunity to submit amendments for consideration, obviously as long as they are germane under the rules of the House.

This legislation before us appropriates over $19 billion for operations across the globe. This bill is fiscally sound, while at the same time compassionate and responsive to needs of millions of people plagued by disease, famine and disaster.

H.R. 4818 bolsters the President's Millennium Challenge Corporation to $1.25 billion, nearly a quarter of a billion dollars more than in fiscal year 2004. This expansion of foreign assistance is meant to help bring economic security, basic tenets of democracy and the rule of law to some of the world's poorest.

In May of this year, the Corporation began the first round of funding assistance by extending aid to 16 developing countries chosen from a total of 63 eligible nations. Each country that will receive this new funding is obligated to meet benchmarks for political, economic and social development, especially in transparency and anti-corruption efforts. Never before has the

United States concentrated aid grants to countries that have the capability for reform in this fashion. This program is really, I think, the future of U.S. foreign assistance and a most effective means to responsibly disseminate U.S. taxpayer money in the foreign area.

The underlying legislation provides $2.2 billion to combat HIV/AIDS, tuberculosis and malaria. Combined with anticipated funding in the Labor-HHS bill, Congress will commit to fulfill President Bush's commitment to 14 countries on the African continent and the Caribbean by appropriating $2.8 billion. This continues the important mission to provide the training and technical assistance to private and voluntary organizations that work to eradicate that nightmarish disease.

The United States already has a proven record on HIV/AIDS assistance, but this year's funding will go far beyond previous obligations. In a speech given yesterday, U.S. AIDS Coordinator Randall Tobias remarked on the $2.4 billion that this Congress provided in fiscal year 2004. He said, "This year, America is spending nearly twice as much to fight global AIDS as the rest of the world's donor governments combined."

Our resolve to help all those across the globe who fight this disease is strong and serious. In addition to funding, the Federal Government enlists the expertise of various agencies, including the Food and Drug Administration, which assures that the medicines we send to Africa and the Caribbean are safe and effective to help those with HIV/AIDS.

Mr. Speaker, the underlying legislation also provides $2.2 billion for military and economic assistance to Israel. I think we have to continue to ensure that our friends and allies remain secure. A strong Israel is necessary, not only for the region, but obviously we are committed to do everything we can to see that Israel is safe and secure within its boundaries.

I would like to thank the gentleman from Florida (Chairman YOUNG) and the gentleman from Arizona (Chairman KOLBE) for their leadership on this important issue. I urge all of my colleagues to support both this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for yielding me the customary 30 minutes.

Mr. Speaker, the United States has always fought for a peaceful, democratic and stable world, and now, more than ever, such a world is in our highest national interest. While the United States and her allies are making progress in the war on terror, Congress must remain committed to the ideals of peace and democracy and must do whatever it takes to maintain security here at home and elsewhere.

That is why today, Mr. Speaker, I have come to the floor in support of H.R. 4818, the Foreign Operations Appropriations Act. Along with defense and diplomacy, foreign assistance remains one of the strongest tools we have to ensure that the world is safe for peace and democracy.

The bill before us today helps ensure that the United States is successful in this mission by providing $19.4 billion for our foreign policy priorities. Among its major provisions, the bill contains significant funding for pressing needs in the war on terror, such as the reconstruction of Afghanistan, and significantly increases funding for HIV/AIDS programs in the Millennium Challenge Corporation.

The bill also provides significant aid to Israel. Specifically, the bill provides Israel with $360 million in economic assistance and $2.2 billion in military assistance. Israel has always been a good friend and strong ally of the United States. She shares our common values of peace and democracy, and she continues to struggle to win the war against terror for the protection of her own people, as we do. America's friendship with Israel has never been more important, and I am pleased we can provide our friend and ally with this aid as we continue the joint struggle to achieve peace and freedom in the Middle East.

Today we will consider the foreign operations bill under an open rule, which I support. However, four Members came to the Committee on Rules yesterday with important amendments that required waivers in order to be considered today and which I believe deserve serious consideration by this House. Unfortunately, not one of these four amendments was granted waivers. Each was defeated on a party line vote.

The gentlewoman from New York (Mrs. LOWEY) and the gentlewoman from New York (Mrs. MALONEY) brought important amendments dealing with women's health; the gentlewoman from California (Ms. LEE) brought an amendment designating an additional $800 million in emergency aid for the global fund to fight AIDS, tuberculosis and malaria; and the gentleman from California (Mr. LANTOS) brought an amendment to help secure peace in the Middle East by transferring $325 million in aid for the Egyptian military into economic assistance that will improve the quality of life for the Egyptian people. The Lantos amendment, which we attempted to protect from a point of order, was not given an order.

In recent months, Egypt has embarked on a major military buildup that may disrupt our efforts to bring peace to the region. It is my understanding that the gentleman from California (Mr. LANTOS) may offer a modified version of his amendment which will not need a waiver today during debate on the bill.

Although I am disappointed that four amendments were not protected, I am pleased that this bill is being considered under an open rule, and I plan on voting in its favor, as I do the bill. I urge my colleagues to do the same.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), a member of the Committee on Rules.

Mr. MCGOVERN. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I would first like to express my appreciation to the gentleman from Arizona (Chairman KOLBE) and the ranking member, the gentlewoman from New York (Mrs. LOWEY), for crafting a foreign aid bill that attempts to balance competing priorities for economic development and security funding. In particular, I would like to express my support for the $400 million provided for basic education.

Over the past 3 years, increased funding levels for basic education has made it possible for USAID to expand its education programs from 20 to 43 countries. These increases have also had positive effects on other U.S. development priorities, such as preventing HIV/AIDS and promoting agricultural development and maternal and child health. It is my hope that over the next couple of years Congress will increase funding for basic education to $1 billion annually. I believe this is the kind of leadership and funding America must demonstrate to achieve universal education by the year 2015. I look forward to working with the gentleman from Arizona (Chairman KOLBE) and the ranking member, the gentlewoman from New York (Mrs. LOWEY), in achieving this goal.

I would also like to touch upon one other priority in this bill that continues to trouble me deeply, U.S. policy and aid for Columbia. Yesterday, a representative from the United Nations High Commissioner for Refugees described the dire situation of the internally displaced inside Colombia and the increasing number of Colombian refugees fleeing to neighboring Ecuador, Venezuela and Panama.

I have traveled to Colombia on three occasions over the past 4 years, and each time I have visited communities of the displaced. By most estimates, there are around 3 million internally displaced Colombians, mainly women, children and elderly. This bill makes $5 million available to help displaced Colombians, or approximately $1.66 for each displaced person. This hardly seems adequate to me.

Mr. Speaker, I have traveled to nearly every region in Colombia, and everywhere I go, Colombians of all political viewpoints, including mayors and governors, plead for funds to support community-based programs to generate income, provide basic healthcare, education and nutrition, and to bring some measure of economic stability and security to their towns and villages.

Now, I do not mean to imply that none of these funds in this bill will serve these purposes, but we all know that precious little of U.S. aid is allocated for these types of programs in Colombia, especially when weighed against the need. The simple fact remains that the majority of U.S. funding for Colombia is military and security assistance for counterinsurgency and counternarcotics programs.

Over the past 3 years, along with my distinguished colleague, the ranking member of the Committee on Armed Services, the gentleman from Missouri (Mr. SKELTON), I have offered amendments to cut military aid for Colombia, but the Committee on Rules refuses to consider amendments on their merit and grant some waivers for amendments to appropriations bills so that key foreign policy issues can be more fully explored and debated.

For example, the gentleman from Missouri (Mr. SKELTON) and I have never been able to offer an amendment to the foreign operations bill that reflects what many of my House colleagues believe would be a better set of priorities for the hundreds of millions of dollars we send down to Colombia each year; or an amendment that would condition U.S. funding for Colombia's agreement with the paramilitaries to an assurance that paramilitaries with outstanding U.S. extradition warrants will serve prison time in the U.S. or Colombia.

I cannot offer an amendment conditioning U.S. funding to ensure that the land paramilitaries took by violence be restored to the original inhabitants, who are now destitute and desperate displaced people or refugees.

So I sympathize with my colleague, the gentleman from California (Mr. LANTOS), and the gentlewoman from New York (Mrs. LOWEY), each of whom went before the Committee on Rules the other evening and were denied waivers to debate their important amendments.

□ 1100

We all know that foreign aid authorizing bills come out very rarely and, frankly, the aid for Colombia has never been authorized. It has always been presented to Congress in supplemental spending bills and the Foreign Operations and Defense appropriations bills and hardly ever has a designated line item in the bill. Over $3 billion has gone to Colombia since Plan Colombia was launched, all with very little debate and, in some instances, no debate.

Mr. Speaker, in the future, I hope that the leadership of this House will allow Members to have a more comprehensive debate on whether and how to shape our new and different priorities for the military, security, and economic assistance we are sending to Colombia. I, for one, look forward to that day.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, before yielding to the distinguished chairman of the subcommittee, I yield myself such time as I may consume to say that with regard to the issue of the displaced people in Colombia, it is an extraordinary human tragedy, and the reason that there are displaced people in Colombia is because of the terrorists. What this bill is trying to do, and it does in a very important way, is to help the democratically elected government of Colombia fight the terrorists.

Also, there is aid for refugees in this legislation. I know the people of Colombia are very grateful for it. I had the privilege of visiting them some months back. But obviously, it is not only in the interest of Colombia, but of the United States, to defeat the terrorists, the cause of the displacement of hundreds of thousands of innocent people in Colombia; and we do not lose sight of that. Neither does, obviously, the government of Colombia, because the people there are suffering at the hands of those brutal murderers that are being fought day in and day out by the Colombian people; and, obviously, the American people, through this Congress, are helping the Colombian people fight those terrorists.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arizona (Mr. KOLBE), the chairman of the subcommittee.

Mr. KOLBE. Mr. Speaker, I rise to say that I think this is a good rule, it is an open rule, it is a fair rule. I think it is one in which we can carry on a good, healthy debate about foreign policy and our foreign assistance programs, and I hope this body will support it and we can do it quickly and hopefully get on to consideration of the bill very soon.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise to support the rule, but I rise to express my disappointment with this rule.

On a party-line vote, the Committee on Rules refused to make my amendment in order to provide funding on a limited basis to the United Nations Population Fund. I requested that it be made in order so that the full House would have the opportunity to discuss this matter of grave importance, not only to the poorest women and their families, but also to United States national security. Unfortunately, we are being denied the opportunity to debate this issue.

Many of my colleagues think they have voted on this issue before. However, the debate we could have had today would have been different from those of the last 3 years.

To begin with, this amendment would have maintained the Kemp-Kasten restrictions in the bill in their original form. As many of my colleagues know, these restrictions prohibit funding to any organization that supports coercive abortion and sterilization.

The amendment would have provided funding for UNFPA in only six countries, all of which are strategically important to United States national security: Iraq, Afghanistan, Jordan, Pakistan, Kenya, and Tanzania. If UNFPA is found to be supporting coercive practices in any of these countries, the amendment would have prohibited funding for the UNFPA program in that country.

The amendment would have maintained prohibitions on funding for the UNFPA in China and would have restored a prohibition included in previous Foreign Operations bills that requires a reduction in U.S. funds to UNFPA programs for every dollar spent by UNFPA in a country which is alleged to support coercive practices. Currently, China is the only such country.

Essentially, my amendment would have asked a very simple question: Should we let concerns about UNFPA's programs in one country, China, stop the United States from investing in a proven, multilateral program that could, in fact, reap benefits for United States national security?

By improving the health of women and their children, reducing the rate of maternal deaths, and preventing the transmission of HIV/AIDS, UNFPA chips away at the demographic trends and public health disasters that threaten the stability of the world's poorest nations. As we all know, achieving global stability is a primary United States foreign policy goal. I am really disappointed that we will not have the opportunity to debate it today.

I am also displeased that the rule did not grant waivers to other Democratic amendments. One such amendment proposed by the gentlewoman from California (Ms. LEE) would have provided an additional $800 million in emergency funding to the Global Fund to fight AIDS, TB, and malaria. While we have provided $400 million in the bill for the Global Fund, an amendment equal to last year's bill and $300 million above the President's request, the Global Fund will require much more in order to meet current and future commitments. It is unfortunate, I say to my colleagues, that we will not be able to vote on this sound policy initiative today.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule. It is, as the distinguished chairman of the Subcommittee on Foreign Operations stated, an open rule, which allows for any germane amendment to be considered.

I see my friend, the gentleman from California (Mr. LANTOS) here, and I would like to say that he knows very well that we tried very much to work with him to accommodate his desire to have an amendment as it relates to our policy towards Egypt; and I know that under this open amendment process, he is going to be able to offer an amendment that is different than the one he had intended to offer. But, as has traditionally been the case, we have provided protection for the bill as it has been reported out of the Committee on Appropriations, and then provided for an open amendment process not moving into this extra area of providing waivers for the amendments that the distinguished ranking minority member of the subcommittee mentioned.

So I believe that the opportunity for a very fair and open and rigorous, and I know it will be a somewhat lengthy, debate, to the consternation of a few of my colleagues here, it will take place; and I think it is very important.

Mr. Speaker, I remember very vividly when the President of the United States stood in his State of the Union message and talked about the need for us to ensure very important support for a number of initiatives. HIV/AIDS and tuberculosis, malaria, all very important programs that are funded in this appropriations bill.

I had the privilege of going last year to Africa and I met with leaders in west and north Africa; and the Millennium Challenge Account is a very important thing, providing an incentive for those nations as they move and take bolder steps towards political pluralism and the rule of law and free and fair elections, and all of the structures that follow that. And the Millennium Challenge Account, I believe, is a very important tool as we continue to encourage that kind of development and growth on the very important continent of Africa.

I also want to say that as we focus on HIV/AIDS, tuberculosis and malaria and the issue of the Millennium Challenge Account, to me, Mr. Speaker, there is nothing more important in this bill than the important items that focus on the global war on terror.

There are many people who are often hypercritical of the foreign assistance packages that come out of the United States Congress. We all know that it is a fraction of the overall Federal expenditures. But now it is, in many ways, even more important for us to focus on important foreign assistance. Why? Because since September 11 of 2001, we all know that our world here as Americans changed. The rest of the world dealt with terrorist attacks on a regular basis, but we know that September 11 clearly changed our world here. And that is why I believe it very important that we do everything that we possibly can to continue to provide strong assistance to our allies and those who are standing up to the global war on terror. And we know that there are many people who are part of that, many nations are part of that, the coalition is strong and growing; and I believe that this legislation that we are going to consider will go a long way towards building that very important support.

So I congratulate both the gentleman from Arizona (Mr. KOLBE) and the gentlewoman from New York (Mrs. LOWEY) for the hard work that they have put into this important legislation; and I thank my colleague, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) who, as a Cuban American, understands how important it is for us as a Nation to do what we can to encourage political pluralism, democratization, free and fair elections, the rule of law, and all of those institutions which we all hope one day the people of Cuba will be able to enjoy.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Speaker, I want to thank my friend, the gentleman from Texas, for yielding me this time.

First, I want to pay tribute to the bipartisan leadership of this very important subcommittee of the Congress. They have done a great job, and I want to commend them. I also want to thank the scores of my colleagues on the Republican and Democratic sides who have seen the wisdom of an amendment I will propose which will represent a fundamental change in U.S. foreign policy with respect to the Middle East. It is an amendment, the prime beneficiaries of which are the Egyptian people. I will explain.

I am proposing to shift one-quarter of the military aid we are providing on automatic pilot to Egypt and shift that dollar-for-dollar for economic aid, for education, health programs, democracy-building, free media.

Egypt is fortunate enough to have no military threat aimed at it. There are three neighbors Egypt has: the Sudan, which certainly is no military threat to Egypt; Israel, which has peace with Egypt; and Libya, which has just surrendered to the United States all of its weapons of mass destruction. Egypt is one of the most fortunate nations on the face of this planet in terms of its security situation. It has no threat against it.

Yet, year after year, as if we were on automatic pilot, we are providing the Egyptian military with high-tech equipment amounting to $1.3 billion. It is one of the worst expenditures of our foreign aid program.

My measure will shift one-quarter of that military aid to economic and social aid. Egypt will lose not one thin dime, but the Egyptian people will gain an enormous amount in their effort to enter the 21st century.

I would like to suggest that this amendment, $325 million in military aid, traded for $325 million in economic aid, may be subject to a point of order. It is the absurdity of our system that if that point of order is sustained, I will be forced to offer an amendment shifting a larger amount, which will not be subject to a point of order.

So I want all of my colleagues to clearly understand that my initial intent is to propose a shift of $325 million. That is all I wish to achieve. However, if I am blocked by parliamentary maneuvers from accomplishing this, I will be compelled to shift a larger amount, which I am sure the vast majority of my colleagues on the Republican and the Democratic side will support.

Egypt desperately needs economic assistance. Per capita income in Egypt is less than $1,000. The majority of Egyptian women over the age of 15 are illiterate. The last thing this society needs is the ultimate in high-tech weapons in a security situation which is safe, which is unassailable. There is no threat to Egypt.

□ 1115

It would be the ultimate of irresponsibility for us to continue following the path of recent years and automatically appropriate $1.3 billion in military assistance to Egypt.

I will urge at the appropriate time all of my colleagues to support my amendment. This amendment has the support of civil society in Egypt. High-ranking members of the Egyptian parliament have advised me that they are hoping and praying that this amendment will pass because it will provide a major boost to economic and social development by the Egyptian people.

I want to thank my colleague for yielding me time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, we reserve the balance of our time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership on so many issues.

Mr. Speaker, I am disappointed that the Committee on Rules did not accept an extremely important amendment that I had hoped to offer today. I went to the committee because the issue of funding the United Nations Population Fund is essential to the health and well-being of millions of women around the world. Women are dying, and the U.S. has turned its back on them.

I offered an amendment that would have ensured that the money in this bill will go to UNFPA and go to help young women and girls who are suffering from obstetric fistula, a terrible condition that occurs during prolonged labor and leaves the women leaking urine for life.

Unfortunately, on a party line vote, the Committee on Rules voted not to protect my amendment.

I assure my colleagues that I have made every effort to compromise on this issue and to break this logjam.

In April of this year, I wrote a letter to the President, signed by many of my colleagues, asking him to put aside our differences and reach a compromise that would help millions of women and girls around the world by funding UNFPA's work on obstetric fistula. Sadly, I received a response ignoring the facts.

Mr. Speaker, women are dying around the world, and this body can do something about it. It is time that we did.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I first want to commend the gentleman from Arizona (Mr. KOLBE), my chairman, and the gentlewoman from New York (Mrs. LOWEY), our ranking member, for the fine job they have done on this bill. It is not a perfect bill, but it is a bill that we can live with and work for. There is much distress around the world, and this bill begins to address some of that.

I, too, am a little upset about a part of the rule that did not allow for some very serious debate, as well as some help, for the children and the women who live around this world who need attention that this bill, unfortunately, because of our limited means, is unable to address.

I do commend the rule for continuing the process and that we fund Haiti and begin to help that Western hemisphere's poorest country to begin to get back to normal.

Also, the Sudan, as my colleagues know now, in the Darfur region of the Sudan, genocide is taking place, and this bill begins to address that, but I wish and hope that we will withhold our money to Sudan until they, the leadership in Khartoum, addresses the Darfur problem. It is unfortunate, and I hope that we move forward in that regard.

HIV/AIDS is a pandemic in the world. In just completing the World Conference in Thailand, we heard many, many stories about it and what is happening in the world. Africa, Asia, the former Soviet Union, India, it is a pandemic that must be addressed. This bill offers $2.5 billion for that, the largest we have ever appropriated. We wish we could do more. It is unfortunate that one of the amendments offering $800 million more is not going to be able to be offered today, but overall, it is a good bill, not a perfect bill. We must do more to help our neighbors around the world.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise today to commend the Subcommittee on Foreign Operations, Export Financing and Related Programs, the gentleman from Arizona (Mr. KOLBE), the chairman, and the gentlewoman from New York (Mrs. LOWEY), the ranking member for their support and leadership in ensuring funding for Armenia and Nagorno-Karabakh. I want to particularly thank the gentleman from Michigan (Mr. KNOLLENBERG), my co-chair of the Armenia Caucus, for all that he did in the subcommittee.

Through their support, $65 million was allocated to Armenia in economic assistance, and an additional $5 million was allocated in military assistance and $5 million was secured for assistance to Nagorno-Karabakh. I am pleased with these levels of aid, and I would like to reiterate my steadfast support for maintaining these levels as we go to conference.

I am particularly pleased with the fact that parity was restored in the levels of military aid given to Azerbaijan and Armenia. When the Bush administration's budget was released, I was quite troubled that the FMF request for Azerbaijan was four times as high as the request for Armenia. This imbalance simply could not be allowed. When the President waived section 907 of the Freedom Support Act in the aftermath of 9/11, a commitment was made by the Bush administration of parity in any military aid to Armenia and Azerbaijan. Because Azerbaijan continues to blockade Armenia and also has threatened Armenia militarily, it is more important than ever to maintain parity in military aid between the two Nations.

Additionally, it is essential that the people of Nagorno-Karabakh receive the aid and assistance that they need.

I support the language directing the USAID to spend $5 million in fiscal year 2005 for programs in Nagorno-Karabakh. This support is in our country's interests and will help alleviate the conditions of the people there.

Lastly, I would like to thank again the subcommittee for maintaining a high level of economic assistance to Armenia in order for the country to overcome the dual blockade by Azerbaijan and Turkey, which continues to impede Armenia's economic well-being. Despite the dual blockades by Azerbaijan and Turkey, Armenia continues to implement economic and democratic reforms, which have met with considerable success. While Armenia continues to make important reforms, as long as Armenia suffers from blockades on its east and west borders, continued and robust U.S. assistance is necessary to help minimize their impact.

I want to thank the subcommittee again.

Mr. FROST. Mr. Speaker, I would advise the gentleman from Florida that we have no further requests for time, and I yield back the balance of our time and urge adoption of the rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

I thank all of our colleagues who have come to the floor to debate this important rule. This measure before us that we bring to the floor is extraordinarily important and should be supported by the overwhelming majority of our colleagues today.

I particularly am proud of the leadership that the President has provided and really the congressional leadership has also joined in to create an unprecedented assistance program to fight HIV/AIDS in the world. I think we all have to be very proud of that, and it is a very significant part of the legislation that we bring forward with this rule today.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, proceedings will resume on three motions to suspend the rules postponed yesterday in the following order:

H. Res. 615, by the yeas and nays;

H. Res. 713, by the yeas and nays; and

H. Con. Res. 462, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES IN SUPPORT OF FULL MEMBERSHIP OF ISRAEL IN THE WEOG

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 615, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 615, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 418, nays 0, answered "present" 1, not voting 14, as follows:

[Roll No. 377]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

ANSWERED "PRESENT"—1

Becerra

NOT VOTING—14

Carson (IN)
Collins
Conyers
Deutsch
Franks (AZ)
Greenwood
Hoeffel
Holden
Isakson
Kilpatrick
Majette
Reyes
Thompson (MS)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Two minutes remain in this vote.

☐ 1147

Mr. BECERRA changed his vote from "nay" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Resolution expressing the sense of the House of Representatives in support of full membership of Israel in the Western European and Others Group at the United Nations.".

A motion to reconsider was laid on the table.

Stated for:

Mr. FRANKS of Arizona. Mr. Speaker, on rollcall No. 377, had I been present, I would have voted "yes."

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 713, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. PENCE) that the House suspend the rules and agree to the resolution, H. Res. 713, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 361, nays 45, answered "present" 13, not voting 14, as follows:

[Roll No. 378]

YEAS—361

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Israel
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Lampson
Langevin
Lantos
Larsen (WA)

Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)

NAYS—45

Abercrombie
Baird
Becerra
Capps
Clay
Conyers
Davis (IL)
DeGette
Dingell
Farr
Fattah
Filner
Grijalva
Hinchey
Inslee
Issa
Jackson (IL)
Kanjorski
Kaptur
Kilpatrick
Kleczka
Kucinich
LaHood
Lee
Lewis (GA)
Lofgren
McDermott
Miller, George
Mollohan
Moran (VA)
Obey
Pastor
Paul
Payne
Price (NC)
Rahall
Rohrabacher
Rush
Ryan (OH)
Sanders
Solis
Stark
Waters
Watt
Wynn

ANSWERED "PRESENT"—13

Bereuter
Blumenauer
Capuano
Case
Cunningham
DeFazio
Doggett
Holt
Jefferson
Leach
Petri
Sabo
Velázquez

NOT VOTING—14

Carson (IN)
Collins
Delahunt
Deutsch
Franks (AZ)
Greenwood
Hoeffel
Holden
Isakson
Majette
Pomeroy
Thompson (MS)
Watson
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1156

Ms. KILPATRICK and Mr. RYAN of Ohio changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Deploring the misuse of the International Court of Justice by a plurality of the United Nations General Assembly for a narrow political purpose.".

A motion to reconsider was laid on the table.

Mr. FRANKS of Arizona. Mr. Speaker, on roll call No. 378, had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. FRANKS of Arizona. Mr. Speaker, I deeply and sincerely regret that I was not able to be present for Rolled Suspension on H. Res. 615, expressing the sense of the House of Representatives in support of full membership of Israel in the Western European and Others Group (WEOG) at the United Nations, and Rolled Suspension on H. Res. 713, deploring the misuse of the International Court of Justice by a majority of the United Nations General Assembly for a narrow political purpose. I hereby submit for the record my statement that had I been present for H. Res. 615 and H. Res. 713, I would have voted "aye" to both measures.

REAFFIRMING UNWAVERING COMMITMENT TO TAIWAN RELATIONS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 462.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 462, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 400, nays 18, answered "present" 4, not voting 11, as follows:

[Roll No. 379]

YEAS—400

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi

Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—18

Abercrombie
Filner
Grijalva
Kucinich
Lee
Lofgren
McCollum
McDermott
Miller, George
Moran (VA)
Oberstar
Obey
Otter
Paul
Rahall
Stark
Turner (TX)
Waters

ANSWERED "PRESENT"—4

Becerra
Israel
Sabo
Watt

NOT VOTING—11

Carson (IN)
Collins
Deutsch
Greenwood
Hoeffel
Holden
Isakson
Jones (NC)
Majette
Thompson (MS)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

☐ 1203

Mr. OBEY changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

Mr. KNOLLENBERG, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108–607) on the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4818 and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 715 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4818.

The Chair designates the gentleman from Texas (Mr. THORNBERRY) as chairman of the Committee of the Whole, and requests the gentleman from Nebraska (Mr. TERRY) to assume the chair temporarily.

☐ 1203

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, with Mr. TERRY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Arizona (Mr. KOLBE) and the gentlewoman from New York (Mrs. LOWEY) each will control 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to present to the House today the funding recommendations of the Committee on Appropriations for fiscal year 2005 for foreign operations, export financing, and related programs. The bill provides important funding for programs designed to support the global war on terrorism, the battle against HIV/AIDS and other infectious diseases, and to support the national interests of the United States. In the wake of September 11, 2001, such funding for our critical friends and allies is more important than ever.

The committee recommends a total of $19,385,645,000 in new discretionary budget authority for fiscal year 2005. This represents a reduction of $1.932 billion from the President's budget request. On the other hand, the bill before us is $1.905 billion above the fiscal year 2004 enacted level when we exclude the supplemental appropriations. If supplemental appropriations are included, the recommendation represents a decrease of $19.287 billion over the 2004 level.

Having gotten those numbers out of the way, let me just say it is important that we know that this bill was developed in a bipartisan way, and I want to pay special tribute and give credit to the gentlewoman from New York (Mrs. LOWEY), my ranking minority member, for the fine work that she has done on this bill and for engaging in a process that resulted in basic agreement on the components of this package, even if funding compromises happen to be found on both sides. Mr. Chairman, I believe this is the way the House of Representatives ought to work, and I think the gentlewoman from New York (Mrs. LOWEY) and I have worked in a bipartisan fashion.

In preparing this legislation, we have three overriding priorities: first, supporting our allies on the war on terrorism; second, responding to the global HIV/AIDS pandemic; and, third, supporting innovative approaches to foreign assistance through the Millennium Challenge Corporation.

Let me summarize how this recommendation responds to those challenges. First, the President's budget request included important military assistance and counternarcotics increases for our allies in the global war on terrorism. That includes an increase of $350 million to equip the new Afghan National Army; an increase of $90 million for law enforcement and counternarcotics programs in Afghanistan; a new base program of $300 million for military assistance for Pakistan as they assist us in hunting terrorists along the Afghan border; an increase of $46 million for a total of $66 million for Poland, a major ally in Operation Iraqi Freedom; and an increase of $73 million, for a total of $2.22 billion for the State of Israel, which is our closest ally in the Middle East.

The committee recommendation includes full funding for these increases both through new budget authority and, in the case of Pakistan, use of $150 million of transfer authority.

The second priority in the President's budget request is one that we also met with an increase of $593 million to combat HIV/AIDS and related diseases, for a total of $2.2 billion. The committee recommendation fully meets that funding level. It includes a grant of $400 million for the Global Fund to fight AIDS, tuberculosis, and malaria, subject to conditions that improve the fund's accountability and efficiency. Together with the money that we expect that the House Labor Health and Human Services, Education and Related Agencies Subcommittee will include, that will mean over $2.8 billion will be available for HIV/AIDS programs around the world in fiscal year 2005.

The Global AIDS Initiative is making treatment and care available to a record number of people affected by the disease. In 2003, only 50,000 people in the developing world had access to the drugs that dramatically reduced the impact of AIDS and extend life for years. By next summer, 200,000 people will have access to these drugs; and over the next several years, millions of infected people will be treated through the use of the Nevirapine for pregnant women.

The third priority, of course, in the President's budget was a request for a $1.5 billion increase for the Millennium Challenge Corporation, for a total of $2.5 billion. Mr. Chairman, given our allocation, we could not recommend full funding for this initiative, important though it is and though I am very personally committed to it. However, to demonstrate our commitment to this important foreign assistance reform effort and to respond positively to the President's proposal, the recommendation does include $1.250 billion for the Millennium Challenge Corporation. That is an increase of $256 million over last year.

As chairman, I have made the MCC a priority in this bill. I believe in the President's vision of a new form of development assistance where a country's commitment to fighting corruption, its commitment to reform, and its commitment to investing in its people is complemented by an assistance package from the United States, negotiated by the country in the form of a signed compact. We included the authorization that created the MCC in last year's appropriation bill, and the President can continue to count on me as a strong supporter.

In preparing this bill, we were also faced with decreases in some areas of the budget, including some key non-HIV/AIDS health programs, and in the development assistance account. We have restored those reductions and, in the case of development assistance, added funds for basic education. I believe our development assistance program is a key component of our national security strategy, and it is critical to a positive U.S. image in foreign countries.

Including funding for HIV/AIDS, this bill makes available $3.079 billion for health programs overall, and that is an increase of $600 million over last year's House-passed bill. Of this total, over $332 million will be made available to fight TB and malaria. These funds help to continue the global fight against malaria, which kills one person every 30 seconds, most of them African children. USAID implements a comprehensive approach against this disease supporting the purchase and distribution of malaria medicines, a search for a vaccine, and strong prevention efforts.

Basic education has become a signature issue for the gentlewoman from New York (Mrs. LOWEY); so I will let her describe the details of our recommendation in that regard. Suffice it to say that I fully support her efforts to provide more educational opportunities to the impoverished youth of the world, especially women and children. This bill recommends $400 million for basic education activities. That is an increase from $326 million in fiscal year 2004. Report language accompanying the bill requires the Secretary of State to articulate an interagency strategy on the use of those funds so that we have a coherent, coordinated effort that can produce meaningful results in reducing illiteracy.

The bill also supports USAID's work to support microenterprise lending. Report language accompanying the bill references the fiscal year 2004 authorization ceiling of $200 million as the program level the committee expects in fiscal year 2005. It is also important that USAID continue to use the traditional providers of microenterprise lending and not rely excessively on contractors for implementing this program.

We continue an emphasis in our bill on helping developing countries build their capacity to participate in the international trading system. We have $517 million in the bill for trade capacity building, and that is the same amount as the House passed version last year.

Fiscal year 2005 is the final year of the President's Water for the Poor Initiative, announced in August, 2002, in Johannesburg, South Africa. In all likelihood, we will exceed the 3-year goal of spending $970 million on water projects. Report language urges the President to direct $50 million to water programs in Africa with $9 million targeted to programs in East Africa.

The committee continues its strong support for women's programs, provides that not less than $15 million in development assistance shall be made available to improve women's leadership capacity in recipient countries. This is an increase from the $11 million that we provided last year. In addition, from our Afghanistan assistance program, we set a goal of $60 million in fiscal year 2005 for programs for women and girls.

The committee recommendation also responds to emerging needs, such as the provision of an additional $50 million for assistance for Haiti. Following up on my amendment to the Defense appropriation bill that included $95 million in supplemental assistance for the victims of the violence in the Darfur region of Sudan, we recommend $311 million in this bill for humanitarian assistance for Sudan and for the refugees affected by that conflict.

Although there are no funds for Iraq in this bill, we continue our oversight responsibilities by mandating the continuation of an independent inspector general to audit the Iraq Reconstruction program. Without new authority, the inspector general will go out of business on December 28 of this year, 6 months after the Coalition Provisional Authority was disbanded. Section 573 of the bill provides for continued operations of the CPA Inspector General's Office operating under the supervision of the Secretary of State and providing that the $75 million previously appropriated for the IG is to be made available only to the IG for his continued audit and investigative work in Iraq.

We also provide the administration the authority they need to reduce Iraq's debt to our government so that the United States can negotiate an international debt reduction for Iraq. The sooner Iraq has financial stability, the sooner the government of Iraq can fund its own security and reconstruction needs. No new funds are provided for this purpose. Any funding for debt relief will come from previously appropriated funds.

The bill fully funds the President's request for export finance agencies to promote U.S. investment overseas and create jobs in United States export sectors. The bill provides $317 million for those agencies, which include the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency. About $311 million of that $317 million is offset by collections.

Mr. Chairman, the United States leads the international fight against coca and poppy cultivation overseas. The narcotics industry has become a source of funding for terrorists, as well as, of course, a source of drugs worldwide. As part of the war on terror, the committee fully funds the President's request for the Andean Counterdrug Initiative at a level of $731 million for antinarcotics, interdiction, for development programs, and rule-of-law and institution-building programs in Colombia, Bolivia, Peru, and Ecuador.

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Under the general anti-narcotics account, the bill fully funds anti-narcotics and law enforcement programs in Afghanistan at a level of $90 million, in Mexico at $40 million, and supports an existing program in Pakistan at $32 million.

To support continuing United States leadership in the world for humanitarian responses to refugee crises, we include $776 million for refugee programs, and that is $26 million more than the President requested.

We have $19 million, $1.5 million more than the request, for the Department of Treasury, to provide technical advisors to developing countries throughout the world.

The committee includes full funding of $20 million for the President's request for debt relief for countries who qualify under the Tropical Forestry Conservation Act and $75 million for multilateral debt relief for the poorest nations that receive assistance from the Heavily Indebted Poor Countries, or the HIPC, trust fund.

The committee supports contributions to the Multilateral Development Bank and includes $1.3 billion for such contributions. While the committee was not able to fund the World Bank incentive fund or all the arrears requested by the budget because of the budgetary restraints I mentioned earlier, we have provided full funding of the regularly scheduled contributions to these banks.

Finally, the committee has provided $323 million for voluntary contributions to international organizations and programs, a level $19 million more than the request. It includes $125 million to the United Nations Childrens Fund, or UNICEF, an increase of $5 million for this important organization.

We also have $107 million for the United Nations Development Program, or UNDP, and $7 million for the Fund for Victims of Torture. A total of $25 million is available through the United Nations Population Fund, or UNFPA, under the same "Kemp-Kasten" restrictions as exist in current law.

We have had to reduce this bill by $1.9 billion from the President's request, as I mentioned, Mr. Chairman. Therefore, we did not or could not provide funding for a number of new and expanded initiatives requested by the President or brought to the committee's attention by committee members, other Members of Congress and outside groups.

The major reductions to the President's budget include, as I have already mentioned, a cut of $1.25 billion to the request for the Millennium Challenge Corporation; a reduction of $224 million for the World Bank Group, including the International Development Association; and a cut of $95 million in debt relief. There are other reductions to the President's request, but we tried to retain the base funding for most of the programs.

I believe this balanced bill provides important support for our most critical national security needs, while substantially increasing funding to respond to the global HIV/AIDS pandemic. It enhances our support for overseas development assistance and humanitarian assistance. It meets the high priorities of the President in these areas and accommodates congressional concerns as well.

As I have said, this bill was developed in a very bipartisan manner and should have broad support in the House. I urge a yes vote on this bill.

Before I yield the floor, I want to call the attention of the House to two matters that were inadvertently left out of the committee report. One matter involves the Surgical Implant Generation Network, based in Richland, Washington, which is the only organization in the world that provides, free of charge, an ongoing supply of training and orthopedic materials to surgeons in developing countries who repair fractures of the very poor.

The second matter involves the Vishnevskaya Rostropovich Foundation, a charitable organization based in Washington, D.C., that conducts a mass children's vaccination initiative in the Russian Federation.

I would urge the United States Agency for International Development to give strong consideration to funding proposals for these funding organizations.

Mr. Chairman, I include the following charts for the RECORD.

FOREIGN OPERATIONS- EXPORT FINANCING- AND RELATED PROGRAMS APPROPRIATIONS- 2005 (H.R. 4818)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - EXPORT AND INVESTMENT ASSISTANCE					
EXPORT-IMPORT BANK OF THE UNITED STATES					
Subsidy appropriation	---	125,700	125,700	+125,700	---
Administrative expenses	72,465	73,200	73,200	+735	---
Inspector General	---	1,140	---	---	-1,140
Negative subsidy	-34,000	-33,000	-33,000	+1,000	---
Total, Export-Import Bank of the United States	38,465	167,040	165,900	+127,435	-1,140
OVERSEAS PRIVATE INVESTMENT CORPORATION					
Noncredit account:					
Administrative expenses	41,141	42,885	42,885	+1,744	---
Insurance fees and other offsetting collections	-272,000	-278,000	-278,000	-6,000	---
Subsidy appropriation	23,858	24,000	24,000	+142	---
Total, Overseas Private Investment Corporation	-207,001	-211,115	-211,115	-4,114	---
FUNDS APPROPRIATED TO THE PRESIDENT					
Trade and development agency	49,705	50,000	51,500	+1,795	+1,500
Total, title I, Export and investment assistance	-118,831	5,925	6,285	+125,116	+360
TITLE II - BILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
United States Agency for International Development					
Child survival and health programs fund	1,824,174	1,420,000	1,648,500	-175,674	+228,500
(Transfer out)	(-6,000)	---	(-6,000)	---	(-6,000)
Development assistance	1,376,829	1,329,000	1,429,000	+52,171	+100,000
(Transfer out)	(-21,000)	(-21,000)	(-21,000)	---	---
International disaster assistance	253,993	385,500	355,500	+101,507	-30,000
Emergency supplemental (P.L. 108-106)	110,000	---	---	-110,000	---
(By transfer) (P.L. 108-106)	(110,000)	---	---	(-110,000)	---
Subtotal, Disaster assistance	363,993	385,500	355,500	-8,493	-30,000
Transition Initiatives	54,676	62,800	47,500	-7,176	-15,300
Development Credit Authority:					
(By transfer)	(21,000)	(21,000)	(21,000)	---	---
Administrative expenses	7,953	8,000	8,000	+47	---
Subtotal, Development assistance	3,627,625	3,205,300	3,488,500	-139,125	+283,200
Payment to the Foreign Service Retirement and Disability Fund	43,859	42,500	42,500	-1,359	---
Operating expenses of the U.S. Agency for International Development	600,536	623,400	618,000	+17,464	-5,400
Emergency supplemental (P.L. 108-106)	40,000	---	---	-40,000	---
(By transfer)	(6,000)	---	(6,000)	---	(+6,000)
Emergency supplemental (P.L. 108-106) (Transfer to U.S. AID Office of Inspector General)	(-1,900)	---	---	(+1,900)	---
Subtotal, USAID	640,536	623,400	618,000	-22,536	-5,400

FOREIGN OPERATIONS- EXPORT FINANCING- AND RELATED PROGRAMS APPROPRIATIONS- 2005 (H.R. 4818)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
Capital Investment Fund	81,715	64,800	64,800	-16,915	---
Emergency supplemental (P.L. 108-106)	16,600	---	---	-16,600	---
Subtotal, Capital investment fund	98,315	64,800	64,800	-33,515	---
Operating expenses of the U.S. Agency for International Development Office of Inspector General	34,794	35,000	35,000	+206	---
Emergency supplemental (P.L. 108-106)(By transfer)	(1,900)	---	---	(-1,900)	---
Subtotal, Operating expenses	34,794	35,000	35,000	+206	---
Total, USAID	4,445,129	3,971,000	4,248,800	-196,329	+277,800
Other Bilateral Economic Assistance					
Economic support fund:					
Israel	477,168	360,000	360,000	-117,168	---
Egypt	571,608	535,000	535,000	-36,608	---
Other	1,071,143	1,616,500	1,555,000	+483,857	-61,500
Economic support fund (P.L. 108-106)	872,000	---	---	-872,000	---
(By transfer emergency)	(100,000)	---	---	(-100,000)	---
(By transfer)	---	---	(-150,000)	(-150,000)	(-150,000)
Subtotal, Economic support fund	2,991,919	2,511,500	2,450,000	-541,919	-61,500
International Fund for Ireland	18,391	8,500	18,500	+109	+10,000
Assistance for Eastern Europe and the Baltic States	442,375	410,000	375,000	-67,375	-35,000
Assistance for the Independent States of the former Soviet Union	584,531	550,000	550,000	-34,531	---
US emergency fund for complex international crises	---	100,000	---	---	-100,000
Iraq relief and reconstruction fund (P.L. 108-106)	18,649,000	---	---	-18,649,000	---
(Transfer out) (P.L. 108-106)	(-210,000)	---	---	(+210,000)	---
Debt relief (P.L. 108-106)	---	---	---	---	---
CPA operating expenses (P.L. 108-106)	983,000	---	---	-983,000	---
Total, Other Bilateral Economic Assistance	23,669,216	3,580,000	3,393,500	-20,275,716	-186,500
INDEPENDENT AGENCIES					
Inter-American Foundation					
Appropriation	16,238	15,185	16,238	---	+1,053
African Development Foundation					
Appropriation	18,579	17,000	18,579	---	+1,579
Peace Corps					
Appropriation	308,171	401,000	330,000	+21,829	-71,000
(By transfer)	(15,000)	---	---	(-15,000)	---
Millenium Challenge Corporation					
Appropriation	994,100	2,500,000	1,250,000	+255,900	-1,250,000
Department of State					
Global HIV/AIDS initiative	488,103	1,450,000	1,260,000	+771,897	-190,000
(Transfer out)	(-15,000)	---	---	(+15,000)	---
International narcotics control and law enforcement	240,274	358,820	328,820	+88,546	-30,000
Emergency supplemental (P.L. 108-106)	170,000	---	---	-170,000	---
Subtotal, Narcotics control	410,274	358,820	328,820	-81,454	-30,000

FOREIGN OPERATIONS- EXPORT FINANCING- AND RELATED PROGRAMS APPROPRIATIONS- 2005 (H.R. 4818)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
Andean Counterdrug Initiative	726,687	731,000	731,000	+4,313	---
(By transfer)	(17,000)	---	---	(-17,000)	---
Migration and refugee assistance	755,712	729,789	756,000	+288	+26,211
United States Emergency Refugee and Migration Assistance Fund	29,823	20,000	20,000	-9,823	---
Nonproliferation, anti-terrorism, demining and related programs	351,414	415,200	382,000	+30,586	-33,200
Emergency supplemental (P.L. 108-106)	35,000	---	---	-35,000	---
Subtotal, Nonproliferation	386,414	415,200	382,000	-4,414	-33,200
Subtotal, Department of State	2,797,013	3,704,809	3,477,820	+680,807	-226,989
Department of the Treasury					
International Affairs Technical Assistance	18,888	17,500	19,000	+112	+1,500
Debt restructuring	94,440	200,000	105,000	+10,560	-95,000
Subtotal, Department of the Treasury	113,328	217,500	124,000	+10,672	-93,500
Total, title II, Bilateral economic assistance	32,361,774	14,406,494	12,858,937	-19,502,837	-1,547,557
Appropriations	(11,486,174)	(14,406,494)	(12,858,937)	(+1,372,763)	(-1,547,557)
Emergency appropriations	(20,875,600)	---	---	(-20,875,600)	---
(By transfer)	(59,000)	(21,000)	(-123,000)	(-182,000)	(-144,000)
(Transfer out)	(-42,000)	(-21,000)	(-27,000)	(+15,000)	(-6,000)

FOREIGN OPERATIONS- EXPORT FINANCING- AND RELATED PROGRAMS APPROPRIATIONS- 2005 (H.R. 4818)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE III - MILITARY ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
International Military Education and Training	91,159	89,730	89,730	-1,429	---
Foreign Military Financing Program:					
Grants:					
Israel	2,147,256	2,220,000	2,220,000	+72,744	---
Egypt	1,292,330	1,300,000	1,300,000	+7,670	---
Other	829,079	1,437,500	1,257,500	+428,421	-180,000
Emergency supplemental (P.L. 108-106)	287,000	---	---	-287,000	---
(By transfer)	---	---	(150,000)	(+150,000)	(+150,000)
(Transfer out)	(-17,000)	---	---	(+17,000)	---
Subtotal, Grants	4,555,665	4,957,500	4,777,500	+221,835	-180,000
(Limitation on administrative expenses)	(40,500)	(40,500)	(40,500)	---	---
Total, Foreign Military Financing	4,555,665	4,957,500	4,777,500	+221,835	-180,000
Peacekeeping operations	74,458	104,000	104,000	+29,542	---
Emergency supplemental (P.L. 108-106)	50,000	---	---	-50,000	---
Subtotal, Peacekeeping operations	124,458	104,000	104,000	-20,458	---
Total, title III, Military assistance	4,771,282	5,151,230	4,971,230	+199,948	-180,000
Appropriations	(4,434,282)	(5,151,230)	(4,971,230)	(+536,948)	(-180,000)
Emergency appropriations	(337,000)	---	---	(-337,000)	---
(Transfer out)	(-17,000)	---	---	(+17,000)	---
(Limitation on administrative expenses)	(40,500)	(40,500)	(40,500)	---	---

FOREIGN OPERATIONS- EXPORT FINANCING- AND RELATED PROGRAMS APPROPRIATIONS- 2005 (H.R. 4818)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE IV - MULTILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
International Financial Institutions					
World Bank Group					
Contribution to the International Bank for Reconstruction and Development:					
Global Environment Facility	138,418	120,678	107,500	-30,918	-13,178
Contribution to the International Development Association	907,812	1,061,310	850,000	-57,812	-211,310
Contribution to Multilateral Investment Guarantee Agency	1,117	---	---	-1,117	---
(Limitation on callable capital subscriptions)	(4,475)	---	---	(-4,475)	---
Total, World Bank Group	1,047,347	1,181,988	957,500	-89,847	-224,488
Contribution to the Inter-American Development Bank:					
Contribution to the Enterprise for the Americas Multilateral Investment Fund	24,853	25,000	25,000	+147	---
Contribution to the Asian Development Bank:					
Contribution to the Asian Development Fund	143,569	112,212	112,212	-31,357	---
Contribution to the African Development Bank:					
Paid-in capital	5,075	5,100	5,100	+25	---
(Limitation on callable capital subscriptions)	(79,610)	(79,533)	(79,533)	(-77)	---
Contribution to the African Development Fund	112,060	118,000	118,000	+5,940	---
Total, African Development Bank	117,135	123,100	123,100	+5,965	---
Contribution to the European Bank for Reconstruction and Development:					
Paid-in capital	35,222	35,431	35,431	+209	---
(Limitation on callable capital subscriptions)	(122,085)	(121,997)	(121,997)	(-88)	---
Contribution to the International Fund for Agricultural Development	14,915	15,000	15,000	+85	---
Total, International Financial Institutions	1,383,041	1,492,731	1,268,243	-114,798	-224,488
International Organizations and Programs					
Appropriation	319,752	304,450	323,450	+3,698	+19,000
Total, title IV, Multilateral economic assistance	1,702,793	1,797,181	1,591,693	-111,100	-205,488
(Limitation on callable capital subscript)	(206,170)	(201,530)	(201,530)	(-4,640)	---
Grand total:					
New budget (obligational) authority	38,717,018	21,360,830	19,428,145	-19,288,873	-1,932,685
(By transfer)	(59,000)	(21,000)	(27,000)	(-32,000)	(+6,000)
(Transfer out)	(-59,000)	(-21,000)	(-27,000)	(+32,000)	(-6,000)
(Limitation on administrative expenses)	(40,500)	(40,500)	(40,500)	---	---
(Limitation on callable capital subscript)	(206,170)	(201,530)	(201,530)	(-4,640)	---
(Emergency Supplemental (P.L. 108-106))	(21,212,600)	---	---	(-21,212,600)	---

FOREIGN OPERATIONS- EXPORT FINANCING- AND RELATED PROGRAMS APPROPRIATIONS- 2005 (H.R. 4818)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
CONGRESSIONAL BUDGET RECAP					
Scorekeeping adjustments:					
Czech loans	20,000	---	---	-20,000	---
Emergency supplemental (P.L. 108-106)	-21,212,600	---	---	+21,212,600	---
Emergency appropriations	---	---	---	---	---
Total, adjustments	-21,192,600	---	---	+21,192,600	---
Total (including adjustments)	17,524,418	21,360,830	19,428,145	+1,903,727	-1,932,685
Amounts in this bill	(38,717,018)	(21,360,830)	(19,428,145)	(-19,288,873)	(-1,932,685)
Scorekeeping adjustments	(-21,192,600)	---	---	(+21,192,600)	---
Prior year outlays	---	---	---	---	---
Total mandatory and discretionary	17,524,418	21,360,830	19,428,145	+1,903,727	-1,932,685
Mandatory	(43,859)	(42,500)	(42,500)	(-1,359)	---
Discretionary	(17,463,959)	(21,318,330)	(19,385,645)	(+1,921,686)	(-1,932,685)

FOREIGN OPERATIONS- EXPORT FINANCING- AND RELATED PROGRAMS APPROPRIATIONS- 2005 (H.R. 4818)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
RECAP BY FUNCTION					
Mandatory	43,859	42,500	42,500	-1,359	---
Prior year outlays	---	---	---	---	---
Total, Mandatory	43,859	42,500	42,500	-1,359	---
Discretionary	17,480,559	21,318,330	19,385,645	+1,905,086	-1,932,685
Prior year outlays	---	---	---	---	---
Total, Discretionary	17,480,559	21,318,330	19,385,645	+1,905,086	-1,932,685
Grand total, Mandatory and Discretionary	17,524,418	21,360,830	19,428,145	+1,903,727	-1,932,685
DISCRETIONARY 302(b) ALLOCATION					
302(b) allocation	---	---	19,386,000	+19,386,000	+19,386,000
Over/under allocation	17,480,559	21,318,330	-355	-17,480,914	-21,318,685

Mr. Chairman, I reserve the balance of my time.

Mrs. LOWEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this bill. I want to begin by thanking the gentleman from Arizona (Chairman KOLBE) for the close working relationship we enjoy. The bill we consider today is the result of our close collaboration and represents the bipartisan commitment of the Subcommittee on Foreign Operations to bring a bill to the House floor that accurately reflects United States foreign policy priorities.

As in the past, the gentleman from Arizona (Chairman KOLBE) has been a gracious colleague, and I am proud of the product of our cooperation. I believe this bill successfully maintains our commitment to ensure that foreign aid remains one of the three pillars of the United States national security policy, along with defense and diplomacy.

The bill provides nearly $19.4 billion in new discretionary budget authority, which is over $1.9 billion below the President's request. It contains substantial funding for pressing needs in support of the war on terror, such as the reconstruction of Afghanistan, and significantly increases funding for HIV/AIDS programs and the Millennium Challenge Corporation.

The bill fully funds and even slightly increases the President's request for the Emergency HIV/AIDS Initiative. Since the very beginning of our effort to fight HIV, the subcommittee has led the charge to increase funding for this key priority. While I would have preferred to have included even more funding, our limited 302(b) allocation precluded us from doing so. However, within the context of our allocation, the bill does provide $400 million for the Global AIDS Fund, the same as last year's bill, and $300 million above the President's request. It also provides $30 million for microbicides research and development and a similar amount for HIV vaccine research and will allow for substantial program increases for all countries where the United States now conducts HIV programs, even those not among the 15 "focus" countries of the President's Emergency AIDS Initiative.

I am particularly pleased that we were able to preserve funding for other vital child survival programs, instead of cutting these as the President requested.

As we continue to ramp up funding for HIV programs and respond to the many administration initiatives requested, most notably the Millennium Challenge Account, we cannot retreat from our child and maternal health commitments in the developing world. The progress we have made on the prevention and treatment of HIV/AIDS will be lost if the United States does not maintain its leadership role in meeting the basic health needs of women and children in poor countries.

The bill provides $400 million for basic education, which is an increase of $75 million over last year. Increasing this commitment to basic education has been one of my top priorities as ranking member of the Subcommittee on Foreign Operations, and I am proud that funding for basic education has increased from $98 million in fiscal year 2000 to a total of $400 million for fiscal year 2005. For the first time, we have included funding specifically to address the issue of school fees in a comprehensive manner in the form of a pilot project to be undertaken by USAID.

As we are all aware, crises in Haiti and Sudan have required us to reevaluate our funding priorities to ensure that the United States is leading the way to alleviate the horrible situation in these two countries. The bill earmarks an additional $50 million above the President's request for Haiti and provides a total of $311 million, $25 million above the request, for urgent humanitarian needs in Sudan.

Congress has already responded to the evolving humanitarian crisis in the Darfur region of Sudan by adding $95 million in emergency funding to the DOD bill. There may be additional funds needed, as we intend to simultaneously fund the rebuilding of southern Sudan if and when a peace treaty is completed. The bill does prohibit assistance to the government of Sudan until it has disarmed and disbanded government-supported militia groups and allows full and unconditional access to the Darfur region to the UN and other humanitarian organizations. The government of Sudan should get the clear and unambiguous message from this bill that we will not tolerate continued brutality and cover-ups.

I am particularly pleased that the bill provides funding to combat terrorist financing in three different accounts, along with report language requiring the administration to analyze the total level and distribution of funding for this priority across all government agencies. This analysis will be a critical tool in ensuring that our efforts are coordinated and efficient.

I am very pleased that this aid bill once again demonstrates our strong commitment to maintaining Israel's economic health and its qualitative edge in the region. The bill also provides increased funding for conflict resolution programs in the Middle East and elsewhere and increased funding for UNICEF, UNDP and UNIFEM's program to prevent violence against women.

While the gentleman from Arizona (Chairman KOLBE) and I are in agreement on the vast majority of issues, and, as I did say, we worked so well together, there are a few areas where we may disagree.

Once again, the bill fails to include language that will restore funding for the life-saving activities of the United Nations Population Fund. I had hoped to offer an amendment today to restore funding to UNFPA on a limited basis to countries of clear strategic importance to the United States foreign policy.

Because I discussed this amendment in depth during debate on the rule, I will not repeat the discussion again during the general debate, but I want to make it clear that I think it was a grave error not to include this funding for UNFPA for the six countries strategically placed who have clear laws against abortion and the other provisions of that bill which I believe make a great deal of sense and are very important to the entire world.

I also want to say a few words about our overall allocation, to ensure that the funding levels in this bill are put into context. As my colleagues are surely aware, the Subcommittee on Foreign Operations was asked this year to make room for new administration initiatives alongside the core development, export financing and military assistance accounts usually included in the bill. The largest of these initiatives, the Millennium Challenge Account, was initially conceived of by the President 2 years ago, at which time he assured the American people that any funds devoted to it would be in addition to, rather than in place of, existing development funds.

With an allocation nearly $2 billion below the President's request, however, we were hard-pressed to provide significant increases for priorities such as non-AIDS child survival and health, development assistance and refugees and migration assistance.

While we significantly cut MCA funding from the requested level, it is clear that, unless the President increases his request and the committee decides to grant us an adequate allocation, we will continue to have to scrape together the money to level fund or slightly increase our core development priorities. This is a real concern to me. I am sure many of my colleagues share it. I am sure my committee chairman shares it as well.

However, in conclusion, the bill we are recommending to the committee today represents a true bipartisan effort and funds accounts as equitably as possible in the context of the deep cut from the President's request. I support the bill enthusiastically. I hope my colleagues will do the same.

In closing, I would like to thank the gentleman from Arizona (Chairman KOLBE) again, as well as all the members of the subcommittee and the associate staff. The majority staff, John, Alice, Rodney, Rob, Lori and Sean, and the minority staff, Mark and Beth, have been extraordinarily helpful in working with the chairman and me in crafting the bill, and I do thank them for their efforts.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), one of the very distinguished members of the subcommittee who has made some very significant contributions to this bill and has been one of our most valuable members through the years.

Mr. KNOLLENBERG. Mr. Chairman, I rise in strong support of this bill and encourage all of my colleagues to vote in favor of it today.

I want to thank the gentleman from Arizona (Chairman KOLBE) and the gentlewoman from New York (Mrs. LOWEY) for their working together to produce a very, very good bill. Let me also commend the staff for the work that they have contributed. They have addressed the chairman's, ranking member's and as many of the other Members' problems and interests as possible and done a very good job in producing an effective bill. I hope and expect it will receive broad bipartisan support today.

Mr. Chairman, the foreign operations bill is arguably the most important contribution to America's foreign policy that the House of Representatives makes. Let me briefly highlight a few areas.

Assistance to the Middle East is always a central part of this bill.

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For fiscal year 2005, Israel will receive $2.2 billion in military assistance, $360 million in economic assistance, and $50 billion to resettle Jewish refugees in Israel. I strongly support all of that funding.

The U.S.-Israel relationship is a cornerstone of our overall foreign policy, and Israel is our critical ally in the Middle East. We do disagree from time to time, but the U.S.-Israel relationship is incredibly strong.

I also support the military and economic assistance to Egypt in this bill. Because of the level of cooperation we are receiving from Egypt in the war on terrorism and the peace process, I believe the bill contains the right balance of military and economic assistance for each at this time.

I understand that an amendment will likely be offered today to change the balance of assistance to Egypt. I will strongly oppose that amendment, and I urge my colleagues to join me in opposing it as well.

I am also very pleased this bill contains $35 million in economic support funds for Lebanon, including $4 million for the American educational institutions that are there. Lebanon has great potential, and USAID's Village Cluster Program has played an important role in the development of villages throughout Lebanon. I know many Members agree with me on that and that the continuation of this program of $35 million is critical.

Let me just highlight what this bill provides for Armenia. Unfortunately, Armenia is a landlocked country surrounded by nations on both sides that are hostile to it. Because transportation routes into Armenia are sealed, the Armenian economy is being strangled. Therefore, it is appropriate for the U.S. to provide substantial economic assistance. This bill provides $65 million in economic assistance to Armenia, which is an increase above the administration's request.

We also must be very careful with the military assistance we provide in the Caucasus, in the South Caucasus. I believe it is absolutely critical to maintain complete parity in military assistance to Armenia and Azerbaijan. I am pleased that this bill does exactly that.

The State Department's Middle East Partnership Initiative is becoming one of the most progressive reform programs in the Middle East. I am pleased that this bill continues to provide funding for this important initiative.

There are many more valuable programs in this bill, including the Millennium Challenge Corporation, IMET to Greece, microcredit, and, of course, funding to fight the scourge of HIV/AIDS.

Mr. Chairman, in closing, let me once again urge everybody on this floor, all Members on both sides, to support this bill, a good bill.

Mrs. LOWEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), an outstanding, effective member of the committee.

Ms. KILPATRICK. Mr. Chairman, to my ranking member, I thank her for yielding me this time.

I first want to commend the gentleman from Arizona (Chairman KOLBE) for running and steering the committee in such a way that we all have input and are able to offer our deals and suggestions, and that he incorporates them in this bill.

I rise to support the Foreign Operations bill that is before us this afternoon. It is a good bill. If we had more money, of course we could do better and do more things; but the bill before us is a good bill, and I would urge all of our colleagues to support it.

The funding that is included for Haiti is to be commended, $50 million more than was asked for; and, as my colleagues know, they have been under floods and other kinds of problems, and people are dying daily. Children are dying daily. In the Sudan as well. I call upon the United Nations to get involved, Security Council. We have $311 million in this bill, and I as one Member would ask that we not move forward until the Sudanese government works for all of its people to protect all of the women and children and the people of the Sudan.

I want to thank the chairman for accepting the amendment that we offered for our small businesses here in America. Already, small businesses can contract with our government and get contracts after they go through a procurement process. This Foreign Operations bill under my leadership also now allows our American businesses to contract and do business abroad under the same provisions that we have for our domestic businesses. So it is another opportunity for businesses to grow their bottom line and to employ more people.

I too rise against the amendment that will be offered later that will take money out of Egypt's foreign military assistance and put it in another part of the Egypt budget. I am told from my staff and others and the Egypt embassy that they do not want that money moved at this time, and they work well with Israel to keep that money in their foreign military assistance account.

UNICEF, United Nations Children's Education Fund, we have upped the number in this bill, so there are many good provisions in this bill. I urge my colleagues to support it. I commend the gentleman from Arizona (Chairman KOLBE), and our ranking member, the gentlewoman from New York (Mrs. LOWEY) and all our committee for working together in a bipartisan way to bring a good Foreign Ops bill to the floor. I urge the acceptance of my colleagues.

Mr. KOLBE. Mr. Chairman, I yield 4 minutes to the very distinguished vice chairman of the committee, the gentleman from Mississippi (Mr. WICKER), who has also been a great member of this committee. I have had the opportunity to travel with him on a number of occasions and he has contributed greatly to the drafting of this bill.

Mr. WICKER. Mr. Chairman, I thank Mr. KOLBE for those words. I want to begin by agreeing with the gentlewoman from Michigan who just spoke about the bipartisan nature of this subcommittee and the product that we have come up with. Sometimes we are accused of partisan bickering on the House floor, and from time to time it is necessary to air our differences and raise our voices to bring attention to those differences in philosophy. But I just wish that the American people had an opportunity to watch my distinguished chairman and my distinguished ranking member, the gentlewoman from New York (Mrs. LOWEY), and the way they work together on this very important aspect of our national security program. I want to commend them both and the full committee for the bipartisan nature of the bill.

A couple of things that I would mention about it. This bill addresses the AIDS pandemic by providing a total of

$2.2 billion in global assistance to combat HIV/AIDS, as well as other very serious diseases. I think President Bush deserves to be commended for his world leadership in fighting HIV and AIDS.

Mr. Chairman, in the year 2000, Mr. Bush ran as a compassionate conservative, and some people smiled about that and doubted that. I think President Bush has shown his leadership and strength in the things that he has done with regard to Afghanistan and Iraq. But when it comes to HIV and AIDS, President George W. Bush has shown the world the level of his compassion in bringing people from the conservative side of the spectrum to support his worldwide effort to combat HIV and AIDS. This is the highest level of AIDS funding in the history of our Republic, and so I want to commend the subcommittee, but also the President of the United States for his compassionate leadership in this matter.

The bill provides an increase in foreign assistance for Israel. As we move toward a peaceful resolution to the Middle East issue, it is important for us in America to remember that Israel is our steadfast friend and ally, that they are one of the few democracies in the region, and that they are surrounded by sworn enemies. So as we try to bring the Palestinians in and we try to make everyone a little more friendly in that area, we do not need to forget the fact that Israel is our faithful ally.

The chairman mentioned that he and I have traveled together, and sometimes we do not like to talk about travel when we go back to our constituents. But I have had an opportunity as vice chairman of this committee to visit in Asia and Iraq and in Afghanistan, and, with the ranking member, in some of the poorest areas of Africa; and it is heartening, Mr. Chairman, to see the level of involvement of so many Americans. Certainly we are proud of our troops. It just takes your breath away to see the young men and women of America who volunteer to support our country in uniform. But also, when you go to Africa and you see the Peace Corps volunteers, highly educated graduates of universities who are willing to serve for very, very little pay; when you see the personnel of the USAID agency and realize the fact that they are willing to go in harm's way, though not in a military capacity, but to risk their lives in very, very hostile environments to advance the cause of the United States, and also to do some good in an altruistic way, it is absolutely astonishing. It renews my faith in the American people and in our spirit of volunteerism.

This is a balanced bill. I commend both the ranking member and the subcommittee chairman.

Mrs. LOWEY. Mr. Chairman, I am very pleased to yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS), our distinguished colleague who happens to have his daughter in the audience with her really distinguished road show for the show "Oliver." So we are very happy to yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank my very gracious friend, the gentlewoman from New York (Mrs. LOWEY), for yielding me this time.

Mr. Chairman, the story of boys and girls living on the street and starving to death in our culture is a matter of fiction. It is the story of Oliver Twist. But for huge numbers of people in the world today, it is not a matter of fiction; it is a matter of fact. Seventy percent of the world's population lives in countries where the per capita income in 1 year is equal to what Americans make in a month. Seventy percent of the people live in desperate poverty, and many of those people live in countries where the debt owed by those countries to Western lending institutions is huge.

I commend the chairman and the ranking member for their initiative in the Millennium Challenge Account. By putting $1.25 billion into debt relief for these struggling countries, this is not only an act of human mercy; it is an act of economic intelligence that will benefit our own country as well as the people living in these very troubled and destitute countries.

So I thank the gentleman from Arizona (Mr. KOLBE) in the majority. I thank my dear friend, the gentlewoman from New York (Mrs. LOWEY), in the minority. I urge a "yes" vote on the bill.

The Chairman pro tempore (Mr. TERRY). The Chair would announce that the gentleman from Mississippi (Mr. WICKER) has 7 minutes remaining; the gentlewoman from New York (Mrs. LOWEY) has 16½ minutes remaining.

Mrs. LOWEY. Mr. Chairman, I am very pleased to yield 3 minutes to the gentleman from New York (Mr. WEINER), a distinguished New Yorker who happens to represent my former district in Queens.

Mr. WEINER. Mr. Chairman, I thank the chairman and the ranking member for their fine work on this bill. This is an extraordinarily important bill each year. It is very easy to demagogue that we should provide the funding that we do; but, in fact, for relative pennies on the dollar, we get an enormous amount of benefit for our country.

I rise to engage the chairman of the subcommittee in a colloquy to discuss the continuing humanitarian crisis in the Dominican Republic.

This last May, as many as 2,000 Dominicans and Haitians were killed during flooding in the region surrounding the Haitian-Dominican border. In what was perhaps the worst natural disaster ever to hit the Caribbean, there are over 660 dead in the Dominican Republic alone, and tens of thousands lost their homes as entire towns were washed away.

The flooding was a result of a confluence of two unfortunate circumstances. The first is obvious. It was hurricane season in the Caribbean and there were heavy rains. But the second, as the chairman knows, was that poverty in the Dominican Republic and Haiti has forced Haitians and Dominicans to raze entire forests. The wood they harvest allows them to just barely scrape by. Without trees to hold the soil firm, the beautiful hills of the Dominican Republic and Haiti were laid bare, and those living in the valleys below were made susceptible to the mudslides which have wreaked so much devastation.

Mr. Chairman, the chairman of the subcommittee, the gentleman from Arizona (Mr. KOLBE), and the ranking member have worked hard to provide assistance for both the Dominican Republic and Haiti in this bill, and they deserve to be commended for their efforts. Haiti, torn apart recently by a political crisis, has been provided an additional $50 million in an effort to jump-start their economy and stabilize the new government.

The Dominicans are suffering as well. In the late 1990s, the Dominican economy was growing by 8 percent a year, a remarkable achievement. Last year, the economy shrunk and is expected to shrink another 1 percent this year. Inflation is near 30 percent, and unemployment is at 16 percent.

Mr. Chairman, I thank the chairman of the subcommittee for his continuing interest in helping the people of the Dominican Republic. I hope he will work in conference to provide additional aid to them.

Before the chairman has an opportunity to respond, I will yield to the gentlewoman from California (Ms. SOLIS) to add her words.

Ms. SOLIS. Mr. Chairman, I thank the gentleman from New York, and I also thank the ranking member on this committee, the gentlewoman from New York (Mrs. LOWEY), and I also want to congratulate the chairman of this subcommittee as well.

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I rise today to speak about the Dominican Republic as well. I have some deep concerns regarding the lack of emphasis to provide sufficient funding to allow for people there to gather their lives again. We lost 414 people there, 274 missing, 1,600 families displaced, 3,000 homes destroyed.

We need infrastructure funding. We need homes. We need to bring some social awareness and hopefully infrastructure dollars there to put back the lives of the people that live in the Dominican Republic. Many of their family members live in the States. They do send remittances, not nearly enough as what I think should be required or given and would ask that in your discussions that we can include them further in detail.

Mr. WICKER. Mr. Chairman, I yield myself 15 seconds to respond to the previous speakers on behalf of the gentleman from Arizona (Chairman KOLBE). Between now and conference the gentleman from Arizona (Chairman KOLBE) will work with USAID to determine the needs of the government of the Dominican Republic with regard to this issue and to ensure the U.S. is being as responsive as possible.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. KIRK), a valuable member of our subcommittee.

Mr. KIRK. Mr. Chairman, I rise in very strong support of this bill and the work of the gentleman from Arizona (Mr. KOLBE) and the gentlewoman from New York (Mrs. LOWEY), our chair and ranking minority member.

Mr. Chairman, many have said that the United States in this current campaign should build allies, that we should strengthen our ties with other governments, that we should back peace treaties and agreements that make war much less likely. This bill does that.

In 1917, the U.S. went to war in Europe and lost hundreds of thousands of young men. In the following years, our government took the easy way out. We demobilized. We saddled allies with debt. We focused resources at home. It was a very popular set of decisions but also laid the foundation for World War II.

One man who understood this well as a mistake was Harry Truman, a veteran of World War I. He saw the waste of a Second World War and knew that he had to do everything to prevent another conflict.

We had to keep an army overseas. We had to lead international organizations. We had to help allies. These were not popular decisions, and Truman made these tough decisions that started this appropriations bill when he stood at 32 percent in the polls.

The lessons he learned were well applied to the world after September 11. This bill backs our allies, especially in the Middle East. It also provides debt relief and reduces the growth of population in countries that can barely create jobs for the people they already have. We have learned that we must be engaged and aggressive with aid and provide leadership in conflict regions.

One institution Truman created was the World Bank, officially titled the International Bank for Reconstruction and Development. The bank moved quickly into occupied Japan and Germany to rebuild those countries. We fulfilled our obligations and built not just security relationships but allies.

Years after the Bank moved in, we finally created new governments in Germany and Japan. The Bank has a proud tradition of moving quickly and keenly in new states emerging from civil war. I am the only Member of Congress that is an alumni of the Bank, and during my time we opened offices in zones of conflict in quasi states and Eastern Europe and the former Soviet Union.

The Bank also provided aid to Croatia and Bosnia and Haiti. It had a proud staff that knew their work was dangerous but important. Given this, it is surprising the World Bank is now so slow to help the people of Iraq. Iraq is a founding member of the World Bank. After the coalition moved into Baghdad, the Bank launched a timely study of Iraq's needs, but then most action stopped.

After the U.N. Baghdad bombing, the Bank lost a staff member and withdrew all of its international staff from Iraq. No one has returned, and the Bank has no plans to put international staff in Iraq.

Worse, the Bank staff spent from May, 2003, until 2004 debating whether to recognize a new government. I think this is a call to action to Secretary Snow to rectify the situation and hope that we can act.

Mrs. LOWEY. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. ROTHMAN), a good friend and distinguished, effective member of the committee.

Mr. ROTHMAN. Mr. Chairman, I thank the gentlewoman from New York for yielding me the time.

Allow me, Mr. Chairman, to first thank the gentleman from Arizona (Mr. WICKER) for all of his cooperation and that of his staff in taking into consideration all of our concerns, including those in the minority. It is greatly appreciated, and the spirit of bipartisan that you bring to the committee is very welcome and I believe has produced a very fine bill overall.

Of course, my ranking member, the gentlewoman from New York (Mrs. LOWEY), has done a magnificent job in leading us in so many ways to improve the condition of peoples around the world.

A lot of Americans wonder why we spend any money on foreign aid at all. Well, it is really very simple. Of course, we have a humanitarian interest in making sure that people do not suffer, and we help our neighbors, not just those next door but across the border.

But if one were to look at it purely selfishly, in America's national interest, we do not want people to go hungry. We do not want them to be brutalized by dictatorships. We do not want them to become resentful and frustrated and angry, and we do not want them to lash out at all of the powers in the world who live in a democracy and live in freedom, which is what we are facing now, people who have been deprived or who feel deprived, who have nothing to lose by giving up their lives, so they think, to destroy a world order that has ignored them.

Mr. Chairman, I am so delighted that this bill provides money, for example, for microloan projects, where $100 literally given to a small village in Africa or in Latin America or even in Eastern Europe can change the whole town's economy. Buy a sewing machine and create garments, sell those garments and buy another sewing machine.

Along with our aid to our allies such as the state of Israel, to Jordan in the Middle East, our assistance to Egypt, which hopefully will continue to help the situation in Gaza, number one, by preventing smuggling of arms from Egypt to the Palestinians that are being used against Israeli civilians but also to help train a security force in Gaza so that when Israel pulls out of Gaza, as they have announced their intention to do, there will be a civil order in Gaza and the Palestinians can control Gaza themselves and hopefully develop a moderate leadership that is interested in living in peace next to its neighbor, our number one ally and friend for 55 years, the state of Israel.

I am also delighted that we have provided sufficient money for Armenia and Azerbaijan, money for Cyprus for bicommunal activities, because these are ways that areas, countries where there was traditionally tension between the two countries or the two entities within one country can find common ground, get over their historical differences and work together. Hopefully, that is an example for the whole world.

Of course, in Haiti and the Sudan there is much to do. There is so much suffering in Haiti, and that is why I am proud that $75 million in humanitarian aid for Haiti's recovery is in the bill, and that $310 million is in the bill for the Sudan, where there have been and are presently ongoing horrors, murders and rapes and slavery, literally slavery of men, women and children in that region. So that $310 million will be very well spent.

Again, this foreign aid bill not only is in our humanitarian interest to do to make the world a better place and to help our neighbors live a better life, we want to make sure that the people of the world are well fed, have a job, have a chance to be free, have a chance to take care of their families.

This is so important and especially now when, regardless of the cause, and we can debate the cause, I think it is fair to say, and most Americans believe, that many people in the world wonder about America's character. They wonder about that great Nation, shining Nation on a Hill, if we still have the kind of values that they thought we had.

Well, this foreign aid bill should let them know that the people of the

United States of America are as generous as always and interested in their well-being.

Mr. Chairman, I ask for the support of this bill.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes and 10 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, there is no doubt that this must be the most popular appropriations subcommittee, because so many of us have come to the chairman and the ranking member on many of our issues. Really, it deals with world harmony and world peace and the United States largesse or generosity to the world.

It also has its criticisms; and I might say that, along with my appreciation for the gentlewoman from New York (Mrs. LOWEY) and the gentleman from Arizona (Chairman KOLBE), I do want to acknowledge some concerns as I give applause.

First of all, I want to acknowledge the strong statement that was made as it regards to Sudan. So many of us have lent our voices to this issue. I know many have traveled, and many will travel, to Sudan to look at the heinous and horrific acts occurring in Darfur, where Muslim is killing Muslim, where Arab Muslim is killing black Muslim, where women are being pillaged and killed. And we know for sure that there needs to be definitive peacekeeping.

We also know that the governor of Khartoum needs to act, and I would hope when we finish this bill we will have strong, pointed language that the killing must stop and that we will not allow this to be another Rwanda.

I also hope that we will strengthen the peace effort in Haiti, recognize that some of us are still concerned about the deposing of a democratically elected leader, but we want most of all for Haiti to be able to rebuild itself, and we look for those resources in this legislation.

I add my voice to the concern of the Dominican Republic and Haiti in terms of dollars to help reconstruct.

I also support amendments that are adding to the HIV/AIDS killer. As we know, the efforts in Thailand suggest that HIV/AIDS is still killing around the world, but I offer an amendment as well to recognize that it is important to provide U.S. aid to the starving countries around the world.

But, Mr. Chairman, I want to add, if you will, something to sustainable development, to provide resources so that farmers can be shown how to work in droughts in Arab communities so that they can provide for themselves around the world. This is an important step.

And lastly, Mr. Chairman, I hope that we will not underfund Pakistan when they are helping us in the war on terror. We should not vote against any amendment that cuts the resources for Pakistan.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. CRENSHAW), another distinguished member of our subcommittee.

Mr. CRENSHAW. Mr. Chairman, there are a lot of good reasons to support this legislation, but let me just touch on one, the Millennium Challenge Account. It is a new way to deal with foreign aid and foreign assistance.

The old way has run its course. We would appropriate money, hold our breath and hope the countries might reallow some of the things that we wanted to happen. And, yet, now we have a results-oriented approach. Because built in to these Millennium Challenge Accounts are incentives for countries to adopt new policies, to provide for economic and personal freedom, and that is a giant step forward.

If you stop and think about it, our threats to this country in terms of terrorism are not going to come from rival global powers. They are going to come from the smaller emerging countries, smaller failing countries. Those are countries where they lack education, they lack the rule of law, they lack personal freedom; and those are countries where terrorism can flourish, where terrorism can fester, where terrorists can find sanctuary. If we want to deal with those kinds of threats, it seems to me we can prevent that from happening through this new approach where we encourage policies like the rule of law, encourage human rights, civil liberties, and we can build the kind of countries through our foreign aid that will prevent this from happening in the future.

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Mr. Chairman, I encourage all of my colleagues to support this legislation for these and other good reasons.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Mr. KOLBE. Mr. Chairman, I yield 30 seconds to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, let me thank the gentlewoman from New York (Ms. LOWEY) for her ongoing strong leadership. She has been upfront on this issue since I have been in Congress and even before that.

I would like to take this opportunity to engage in a colloquy with the distinguished chairman, the gentleman from Arizona (Mr. KOLBE), regarding pediatric HIV/AIDS treatment and care. I would also like to thank him for his strong leadership on this issue and his ongoing commitment to this cause.

As the chairman knows, I have worked consistently for global HIV/AIDS treatment and prevention programs, particularly for children and orphans in Africa. Currently, over 14 million children have been orphaned by HIV/AIDS, 95 percent of them in sub-Saharan Africa. And while Africa is the epicenter of the pandemic, the next wave is projected to include China and India with between 1 to 15 million and 20 to 25 million infected people, respectively, by 2010.

Mr. Chairman, there is a shortage of trained health care providers who understand and are knowledgeable of the special needs that children with HIV/AIDS have.

I have introduced H.R. 4191 that calls for establishing pediatric HIV/AIDS centers in 10 countries, seven in Africa and the rest in India and China and Guyana. These are countries with epidemic rates of HIV/AIDS resulting in children and orphans with no social support system. These centers would not only provide treatment but also critical training and research, and they are essential.

I hope that the chairman and the ranking member would bring forth their leadership in providing some assistance here.

Mr. KOLBE. Mr. Chairman, will the gentlewoman yield?

Ms. MILLENDER-MCDONALD. I yield to the gentleman from Arizona.

Mr. KOLBE. I thank the gentlewoman for her attention to this important issue. Children that are affected by HIV/AIDS are a group that tugs at the heart strings of all people. I have worked closely with USAID and the Global AIDS coordinator to develop an integrated, comprehensive approach to fighting this disease, and pediatric AIDS is a core component of that approach.

While I applaud the gentlewoman's intentions, I believe that in some circumstances, integrated treatment and care centers where both adults and children can receive attention would be more appropriate. However, I will be happy to work with the gentlewoman, the Global AIDS coordinator, USAID, and other concerned parties to ensure that orphans and vulnerable children receive proper treatment, care and support, as part of a comprehensive approach to fighting this disease.

Ms. MILLENDER-MCDONALD. I thank the distinguished chairman and the gentlewoman.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I thank the gentlewoman for yielding me time.

I would join in the praise that I think is well deserved, commending the committee for what it has accomplished within a 302(b) allocation that is far too small, given the immense task that they have been assigned.

There is truly no money that is more important for humanitarian and national security purposes than the money that is spent under this bill. For example, 10,000 people per day needlessly die from waterborne diseases. That is why I am pleased that the chairman mentioned the funding for Water For the Poor, the $970 million 3-year program to finish our commitment that was launched at the United Nations Environmental Summit in Johannesburg.

I note the report language on Urban Programs that is to be found on page 21 where it is pointed out that massive urbanization occurring throughout the developing world is a significant problem. It has been identified by the CIA as one of the seven top threats to American security. The committee is suggesting the USAID focus on urban issues appears to be diminishing as the urban-specific problems are accelerating and seeks to have a report on this issue.

This is critically important, and very necessary at this point.

I would also urge continued oversight on the part of this subcommittee about the balance of aid between Iraq and Afghanistan. We have already spent 10 times as much on development assistance for Iraq, a smaller, richer and less seriously damaged country than Afghanistan, where, after all, the 9/11 attacks were launched and where we are now seeing over two-thirds of the global illicit heroine production.

I am hopeful that the subcommittee can use its oversight power to deal with the correction of that imbalance toward this needy country.

The CHAIRMAN. The gentlewoman from New York (Mrs. LOWEY) has 2¼ minutes remaining. The gentleman from Arizona (Mr. KOLBE) has 1½ minutes remaining.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentleman from Providence, Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentlewoman from New York (Mrs. LOWEY) and the chairman for their work on this legislation.

I too want to join any colleagues in saying how important a bill like this is, and I only hope this Congress recognizes how critical the kind of aid that is provided through legislation like this is in a time where we are trying to combat international terrorism.

Terrorism feeds on instability. Terrorism feeds on poverty. Terrorism feeds on the loss of hope. And unless we build these economies, unless we provide stability to these countries, such as Sudan, which is obviously such a great tragedy, and I am pleased to see this committee work to try to address the needs of the Sudanese who are starving and dying every day. But in addition to that, Liberia; and I wanted to make a special note. Liberia has been racked with a civil war for over 10 years or more. A third of their population has been driven from their country.

We need to continue to support the effort to connect and build Liberia so that the refugees that have been scattered all around the world can come home and help make that country a country that can move into the future.

The United States has a very close relationship with Liberia. Liberia was founded for former American slaves, hence the name Liberia. Its capital city was named after the President who did that, President Monroe, Monrovia. And I know that within the bill also there are funds for the John F. Kennedy Hospital which is the primary health care facility in Monrovia. And I am pleased to see that the committee has acknowledged that in the efforts to help rebuild Liberia and make it so that those people can move forward in their country.

I thank the gentlewoman for the time.

Mrs. LOWEY. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentlewoman from New York (Mrs. LOWEY) has 15 seconds remaining.

Mrs. LOWEY. Mr. Chairman, I yield 15 seconds to the gentlewoman from Texas (Ms. GRANGER).

Mr. KOLBE. Mr. Chairman, I yield the balance of my time to the gentlewoman from Texas (Ms. GRANGER).

The CHAIRMAN. The gentlewoman from Texas (Ms. GRANGER) is recognized for 1¾ minutes.

Ms. GRANGER. Mr. Chairman, I thank the gentleman from Arizona (Mr. KOLBE) and ranking member, the gentlewoman from New York (Ms. Lowey), for their hard work on this bill.

This is a tough appropriations year. The chairman, the ranking member and the entire subcommittee staff worked very diligently to create a good bill. It addresses some of the pressing issues: education, narcotics abuse, and worldwide terrorism.

Earlier this week I had the opportunity to meet with some of the most well-educated Iraqi women, many with Ph.D.s and layered graduate degrees. Now that Saddam Hussein's oppressive regime has been removed, these women are socially active and involved in Iraqi politics. This bill recognizes that education increases awareness and activism in developing countries.

The bill supports the war on terrorism by training international forces in hunting down al Qaeda. It increases funding to train and equip the new Afghan National Army. It provides money for Pakistan's military efforts.

I want to thank the chairman for helping to look into the issue of pay for Afghanistan police recruits and instructors, a concern that I had and that I learned primarily of from my district. I look forward to working with the chairman to find a solution.

The bill also funds programs that alleviate the international narcotics program. I am a member of the Speaker's Drug Task Force and know that narcotics control is a pressing international issue, especially for Afghanistan. This bill provides $329 billion to international narcotics control. In doing this we are showing our commitment to root out the main source of terrorism funds.

I thank the chairman, the ranking member, and the subcommittee staff for their help on this bill.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I rise today to speak out against H.R. 4818, this year's Foreign Operations Appropriation Bill. I want to state my apprehension about what has been this Nation's philosophy toward international aid. Perhaps I should say, I rise today to restate my concerns, as much of what troubles me about our foreign aid philosophy is unchanged from year to year. In fact, Mr. Speaker, none of my worries have been reconciled. In some cases, my fear has grown.

A year ago I found myself in exactly the same position. I expressed grave reservations regarding the way the American taxpayers' money was squandered abroad. I had reservations about sending so much of our money away when we have dire needs and deficits here at home. I had serious reluctance about giving money to the UN, an institution that is grossly inefficient, fosters anti-American sentiment, attacks our values and, I believe, furthers anti-Semitism. I had grave reservations that our money was spent to prop up regimes that oppose the war on terror and, in some cases, even help terrorists.

It is often said that the definition of insanity is doing the same thing over and over again, expecting a different result. After voicing my concerns, I waited and have yet to see a significant change. I am someone who is accustomed to results. Because I haven't seen any, I am going to change my vote. Last year, I voted for the Foreign Operations Appropriation Bill. This year I am voting against.

I am voting against the Foreign Operations Appropriation because I do not believe America should be sending money to nations that have turned their backs on our efforts in fighting the War on Terror when our young men and women are sacrificing on foreign soil. I do not believe we should be sending money to the UN until we can be sure that it was not propping up Saddam's regime through the oil for food program. We should not send money to the World Bank when so many of its loans have been failures; and I do not believe we should be sending money to fight AIDS in Africa when we have Americans who need healthcare here at home.

While I am voting against the Foreign Operations Appropriation Bill, I know there are worthwhile causes in the bill. I am torn about my vote. I have always been such a strong and staunch supporter of Israel. As the only established democracy in the Middle East, I have always wholeheartedly supported aid for Israel. As one of our strongest and unflagging allies in the region, Israel indeed deserves our support. Israel has been on the frontlines in the war on terror. The Israeli people understand America's need to take the battle to our enemies, unless we want to be fighting it on the streets of New York. Our support for this nation is fully justified and I just wish there was more we could do.

I would like to point out that there is hope. We have learned some of the lessons of our foreign aid insanity. I have much admiration for the President's Millennium Challenge Accounts. The Millennium Challenge Corporation changes the direction of our foreign aid. This assistance is based on criteria that reflects our values. In order to receive aid through Millennium Challenge Accounts countries must sign compacts that they pledge to govern justly, invest in their people, promote economic freedom and fight corruption. In addition to acknowledging to these principles in advance, these countries also agree to be monitored and will forfeit future aid if they don't make regular progress towards meeting these goals. There are 16 criteria by which countries agree to be judged and I am hopeful this results based approach will promote greater responsibility in our foreign aid programs.

Mr. Chairman, I am voting against the foreign aid bill because too much of our taxpayer's dollars are wasted on misguided and misdirected programs. It is my hope that in the future we will hold international institutions to higher standards of accountability and promoting freedom.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to the amendment that was to be offered by Congressman RON PAUL, which seeks to strip Pakistan of necessary resources.

H.R. 4818, without the Paul amendment, allocates up to $200,000,000 to Pakistan in the form of direct loans and guarantees; enables unused funds (up to $150,000,000) appropriated under the "Economic Support Fund" and "Foreign Military Financing Program" to provide assistance for Pakistan; makes funds appropriated in title I and II of this bill available to Pakistan, as well as victims of war, displaced children and victims of trafficking; and finally, it allows funds allocated to Department of Defense to be expanded for crafting, packing, handling and transportation of excess defense articles to various countries, including Pakistan.

The funding provided in the bill, without the Paul amendment, will act as a tool in the global war against terrorism, as Pakistan has been our partner in this effort. This assistance will create programs combating the spread of disease such as HIV/AIDS, and will continue to foster a much needed trusted relationship in that region of the world. Finally, our assistance will help educate the children of Pakistan, who will be the leaders of tomorrow. As chair of the Congressional Children's Caucus, I have witnessed how often we forget to provide for our children, who lose international attention and priority during times of active military engagement.

With our assistance, we have been able to witness Pakistan's economic trade and investment improvements, health care improvement, the promotion of democracy and human rights, increased education provision, and the further development of science and technology in Pakistan. By continuing to assist this nation, we will continue a true partnership that promotes world peace and security, and uncaps Pakistan's vast untapped economic potential to the benefit of both Pakistan and the United States.

The United States has enjoyed a strong relationship with the government and people of Pakistan since the founding of the modern state in 1947, and Pakistan has proven to be an indispensable ally during both the Cold War and the War on Terror.

Pakistan's strategically important location and unwavering support have played a decisive role helping to remove the Taliban regime from Afghanistan and the capture of hundreds of wanted al-Qaeda terrorists. Pakistan has suffered thousands of casualties and has been a victim of numerous terrorist acts on their own soil because of their steadfastness with our nation in the War on Terror.

Stripping assistance from Pakistan sends out the wrong message; such an act is disrespectful and most importantly it is dangerous. By choosing to single out and exclude Pakistan from access to our financial assistance, we show them how unappreciative we are for their efforts to aid us in the War against terrorism. Pakistan has been committed to assisting us in the effort to stomp out terrorism, and has proven this commitment by capturing hundreds of terrorists found in Afghanistan and all over the world.

Congressman PAUL asserts that, ample evidence exists proving that Osama bin Laden is a current free resident of Pakistan, and highlights the ineffectiveness of their aid thus far. I ask you to question the validity of this intelligence. Is this the same intelligence used, which caused our nation to believe that Sadam Hussein was harboring weapons of mass destruction? I ask that you also reflect upon our own nation as to how effective we have been in capturing Osama bin Laden ourselves. Playing the blame game has no place here, and only acts to alienate and ostracize a valued ally in the War on Terrorism. Congressman PAUL's amendment suggests that because Osama bin Laden may be currently at-large in Pakistan, we should strip our funding from a nation that has provided us with enormous amounts of aid in our effort to stomp out terrorism.

Finally, Mr. Chairman, I would like to urge my colleagues to remember the fact that we called upon the help of Pakistan during both the Cold War and the War on Terrorism, and in both instances they helped us. Without the knowledge of the future, it would be very unwise to cut off a country that we may need yet another time in the future. There is absolutely no reason to strain our ties with Pakistan by denying them the assistance needed.

Mr. JACKSON of Illinois. Mr. Chairman, I rise to commend Chairman JIM KOLBE, Ranking Member NITA LOWEY, the other members of the Foreign Operations Appropriations Subcommittee and the majority and minority staffs for the bipartisan, collegial spirit during our oversight hearings and the subcommittee and full committee markups.

I feel privileged to have worked with such a fine group of people. We all know this is a difficult appropriations year, and I am grateful to Chairman KOLBE and the subcommittee staff for their even-handed approach to drafting the FY 2005 Foreign Operations bill.

I support this bill, despite the lack of resources. The Chairman and the subcommittee staff incorporated most of my requests that significantly improve funding for health and development programs for those suffering in the developing world—especially in Africa. I thank them for that.

During my tenure on this subcommittee, I have always fought for more funds for sub-Saharan Africa. When the President submitted his budget for the Foreign Operations bill earlier this year, he proposed several cuts in Development Assistance and Child Survival funds to scores of specific African countries. Development Assistance funds are crucial to the long-term, sustainable development of these countries because they fund agriculture, education, environment, democracy, and governance programs. Child Survival funds are important because they combat infectious diseases such as HIV/AIDS, malaria, and tuberculosis.

Moreover, during our oversight hearings, administration witnesses did not put forward a coherent or credible plan when it came to solving the long-term health and development problems of sub-Saharan Africa.

After working with the Chairman and the Ranking Member, we restored these cuts and improved the bill.

Let me be the first to say that this bill is not perfect. Overall, it is almost $2 billion below the President's request. Our commitment to the Global Fund to Fight AIDS, TB and Malaria is severely underfunded by possibly hundreds of millions of dollars, and although funding for the Peace Corps has been increased from last year relative to FY 2004, it is $70 million below the President's FY 2005 request.

Moreover, this bill is $95 million below the President's request for Debt Restructuring and $13 million below our commitment for the Global Environment Facility.

One of the more troubling aspects of this bill is that the Rules Committee did not make in order a very thoughtful amendment by my Ranking Member, Representative LOWEY.

Representative LOWEY's amendment would have provided much needed health care resources through UNFPA programs in only 6 countries of strategic and national security importance to the U.S.: Iraq, Afghanistan, Jordan, Pakistan, Kenya and Tazania and would continue to prohibit funding for any individual UNFPA country that has been cited for violating Kemp-Kasten.

Despite these omissions, I plan to support this bill. The House should not let the perfect be the enemy of the good.

Although I think this bill underfunds the Global Fund, it is $300 million above the President's request. This bill is $228 million above the President's request for Child Survival and Health Programs. It is $100 million above the President's request for Development Assistance, and $27 million above the President's request for Migration and Refugee Assistance.

Also, this bill includes $12 million for conflict resolution and a $17 million increase for International Organizations and Programs.

All of the cuts requested in the Child Survival and Health Programs were restored, and $6 million has been included for obstetric fistula prevention and repair. All of the cuts requested for sub-Saharan African countries in Child Survival and Development Assistance accounts have been restored and there is a $15 million African school fee reduction incentive fund.

The Chairman and the Ranking Member have produced a solid piece of legislation despite the lack of resources they were provided.

I cannot stress enough how much I have enjoyed my work this year on the Foreign Operations Subcommittee as we addressed the problems and concerns of the developing world. I encourage my colleagues to support this bill.

Mr. CROWLEY. Mr. Chairman, I rise today in strong support of this bipartisan legislation crafted by Mr. KOLBE and my good friend from New York, Ms. LOWEY.

Representing one of the most diverse Congressional districts, I know how important U.S. foreign assistance is to nations around the world and I have seen the success of our assistance firsthand.

I am pleased to see the committee increased international development assistance—this is a positive step by the U.S.

We cannot afford to offer only military assistance to front line states in the war on terrorism. Our Nation must address some of the root causes that attract young men and women to the extremists like poverty, lack of education, and the lack of freedom in their countries.

I thank the Chairman and Ranking Member for supporting priorities of mine, including the Asian University for Women that is located in Bangladesh and increased funding for the Peace and Reconciliation programs in this legislation. I believe these types of programs are a step in the right direction to help solve some of the problems that we face around the world.

This bill also includes $25 million for the United Nations Population Fund. But we all know that money will not be released by this administration, because the administration seems determined to hinder the health of women around the world. And this bill continues to mandate the onerous Global Gag Rule, which keeps funding away from groups such as the Bangladeshi Rural Advancement Committee and their work to improve child and maternal health.

While I am saddened to see these horrible policies continued there is much good in this bill particularly when you look at the Middle East. I strongly support the $2.2 billion in foreign military funding and economic aid in this bill for Israel. At this critical point of the peace process we must make sure that our friend and close ally receives all the support they need to protect themselves from terrorists and the states that support them.

While I am pleased about the support for Israel as well as Jordan, a steadfast ally and proponent of stability, I believe the United States must do more to combat the anti Israeli and Western stances taken by our supposed allies like Saudi Arabia. The anti-Semitic statements made by Crown Prince Abdullah show the true feelings of this so called ally—my colleagues and I have raised our outrage and it is time for the Administration to speak out against these types of slanderous statements.

Egypt will all receive full funding under this bill and I am pleased to see that the Egyptians are starting to take a more active role in the peace process and working to close terrorist smuggling rings in Gaza.

I urge my colleagues to support this bill.

Mr. NUSSLE. Mr. Chairman, I rise today to speak on H.R. 4818, the Foreign Operations, Export Financing, and Related Programs Appropriations Act of Fiscal Year 2005. This is the [seventh] bill we are considering pursuant to the 302(b) allocations adopted by the Appropriations Committee on June 9th. I am pleased to report that it is consistent with the levels established by the conference report to S. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2005, which the House adopted as its fiscal blueprint on May 19th.

H.R. 4818 provides $19.429 billion in new budget authority, which is within the 302(b) allocation to the House Appropriations Subcommittee on Foreign Operations, Export Financing and Related Programs, and outlays of $26.742 billion. The bill contains no emergency-designated new budget authority, nor does it include rescissions of previously-enacted appropriations.

Accordingly, the bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

I commend Chairman KOLBE's efforts to prioritize our foreign operations funding to respond to the global HIV/AIDS pandemic, to support our allies in the global war on terrorism, and to support innovative approaches to foreign assistance.

In addition, I strongly support the record level of $2.2 billion in funding provided in the bill to combat HIV/AIDS, tuberculosis, and malaria; of which almost $1.26 billion is funded under the Global HIV/AIDS account, $885 million under the Child Survival and Health Programs Fund, and $54 million through other accounts.

I am pleased the Appropriations Committee was able to prioritize our critical funding needs for foreign operations within the fiscally responsible manner outlined in the budget resolution and, therefore, urge my colleagues to support H.R. 4818.

Mr. PORTMAN. Mr. Chairman, I rise today to express my support for H.R. 4818, the FY 2005 Foreign Operations Appropriations bill, and I want to commend Chairman KOLBE and Ranking Member LOWEY for including $20 million for the Tropical Forest Conservation Act. This is the amount requested by President Bush in his FY 2005 Budget submission.

The TFCA is based on the previous Bush administration's Enterprise for Americas Initiative, and authorizes the President to restructure debt in exchange for conservation of threatened tropical forests worldwide.

Tropical forests are important. They absorb carbon dioxide from the atmosphere to help reduce greenhouse gases. They help regulate rainfall on which agriculture and coastal resources depend, and their plants are a vital source of new medicines, including treatments for cancer.

Regrettably, about 30 million acres of tropical forests (an area larger than the State of Pennsylvania) are lost each year because many countries are forced to exploit timber and other natural resources to generate revenue to pay their external debt.

Seven TFCA agreements have been concluded to date: Bangladesh, El Salvador, Belize, Peru, the Philippines, Panama and Colombia. These agreements have generated more than $70 million in long-term income tropical forest conservation and will contribute to the conservation of 40 million acres of tropical forests. Private donors have contributed more than $5 million to TFCA swaps, leveraging the U.S. government funds. Active deals are currently being negotiated with Jamaica and Sri Lanka. Several other countries that have expressed interest or are eligible for TFCA.

On June 24th, The International Relations Committee unanimous approved H.R. 4654, a bipartisan bill I introduced with our colleague, TOM LANTOS, and 32 other cosponsors to reauthorize TFCA through FY 2007. That bill was developed with the Bush administration, the Nature Conservancy, the World Wildlife Fund, Conservation International and the Wildlife Conservation Society. We expect H.R. 4654 to come to the floor in the near future.

TFCA is a worthy program that is working well. The Bush Administration is a strong proponent of the Tropical Forest Conservation Act, and it has bipartisan support in the Congress. I again thank the leadership for providing the funding in H.R. 4818 so TFCA can continue to protect some of the world's most threatened natural resources.

Mr. GREENWOOD. Mr. Chairman, today, as the House considers the Foreign Operations Appropriations Act of 2005, I respectfully submit the following statement into the record in order to raise awareness of an issue that I have found most distressing. For over three years, I have been working on behalf of a company in my district, Pennsylvania Ship Supply Inc. (PA Ship) to resolve a financial dispute with a Ukrainian entity, the Black Sea Shipping Company (BLASCO).

PA Ship is a company that provides ancillary services to ships at ports around the world. My office has been working on behalf of this company since June of 2001, although PA Ship's problems with BLASCO began much earlier. In 1996, PA Ship provided services to the BLASCO ship m/v Sosnogorsk in the amount of $17,242.44. Shortly thereafter, BLASCO filed for bankruptcy. To this date, PA Ship has yet to receive payment for the services it provided BLASCO.

This matter is made all the more alarming by the fact that BLASCO is a state owned company. My office has made numerous attempts, through the Department of State, to resolve this issue. Unfortunately, the government of the Ukraine has been either unwilling or unable to provide much more than contact information for the Director and Deputy Head of the Ukrainian State Department of Sea and River Transport. Further inquiries from the U.S. Embassy to these agencies in the Ukrainian government have been ignored.

I find this lack of concern on behalf of the Ukrainian government unacceptable. Ukrainian officials have indicated to my office that BLASCO's bankruptcy had been a major scandal in the Ukraine when it first surfaced in the mid-1990s. It is also my understanding that PA Ship was not the only company that has yet to receive payment for services rendered prior to BLASCO filing for bankruptcy.

The government of the Ukraine has a well-established history of ignoring the concerns of its international partners. Since 1993, Ukraine has been seeking to gain accession to the World Trade Organization (WTO). Negotiations between the government of the Ukraine and the WTO working party assigned to examine its application have yielded very little progress. Concerns about Ukraine's persistent failure to take effective action against significant levels of optical media piracy and to implement intellectual property laws that provide adequate and effective protection have prompted the United States Trade Representative to place Ukraine on its "Priority Foreign Country" list in its 2004 special 301 report, an action which could ultimately lead to an investigation. This dubious distinction is highlighted by the fact that the Ukraine is the only country to be placed on this list for this year.

I urge the office of the United States Trade Representative to advocate for the suspension of the WTO working party's negotiations with the Ukrainian government until these and other outstanding issues have been resolved.

Mr. STARK. Mr. Chairman, I rise in support of the Foreign Operations Appropriations Act for Fiscal Year 2005.

There are many important initiatives in this bill, specifically: the extra funding for economic assistance to some of the poorest countries in the world, the additional funding for the Emergency Plan for AIDS Relief, and the sizable funding allocation for the implementation of development programs to support women in Afghanistan. This will help improve the lives of poor people in every corner of the globe.

As the AIDS epidemic continues to wipe out enormous segments of the world's population, funding to improve and implement effective medical programs and infrastructure is vital. America has a responsibility to stem this horrific epidemic that claims hundreds if not thousands of lives every day. This bill provides significant funds toward that effort and thus deserves our support.

Even as I vote for this bill today, however, I have serious concerns about this Congress' proclivity for taxpayer subsidization of foreign militaries and U.S. defense contractors. The bill continues this wrongheaded policy when Congress ought to be working to reduce the number of weapons in the world.

I am also strongly concerned about the restrictions placed on the $25 million provided to the U.N. Population Fund or UNFPA. Throughout the last three decades, UNFPA has provided over $6 billion in assistance to more than 150 countries for maternal and child health care and voluntary family planning. My Republican colleagues have successfully sought, year after year, to hobble this international health program under the dictates of their extreme ideological agenda, despite its success in lifting the yoke of poverty and disease from people around the world. Simple compassion tells us to provide funding for this effort without unfounded restrictions preventing UNFPA from fully addressing the interconnected issues of health, family planning and poverty.

Although I am frustrated by the lack of commitment to disarmament and family planning programs in our annual foreign operations bills, I cannot deny the significance of so many other initiatives included in this bill, most notably the commitment to fighting global AIDS. I look forward to working with like-minded colleagues and advocates to improve this bill before it returns to the House as a conference report.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support the current bill and to applaud Chairman KOLBE and Ranking Member LOWEY for their hard work and leadership in crafting an effective piece of legislation. However, in making appropriations for the entire nation, it is virtually impossible to have a complete assessment or to profess a complete breadth of knowledge of the regions that need the most assistance—because this is an ever-changing issue.

Thus, I have offered an amendment. I support H.R. 4818, but I also urge that not less than $5 million be appropriated for agricultural development in sub-Saharan Africa. This money would not only provide assistance to needy farmers and villages, but it would also strengthen infrastructure and encourage sustainable agriculture growth.

Providing small farmers and villages within the assistance and the resources necessary to plant, harvest, and distribute food crops is an essential component of development in Africa. In my amendment I propose doing much more than just giving small farmers money to buy farming products such as shovels, seeds, and livestock. I propose that we also improve infrastructure such as roads, irrigation canals, wells, and storage facilities. From this small investment, rural farmers will be able to reap profits for seasons and years to come. This is essence of sustainable development.

Mr. Chairman, without such measures toward systemic change, populations all over the world will continue to be faced food shortages. It is estimated that there are already 842 million undernourished people in the world, 798 million of which lived in developing countries and 34 million of which live in developing countries. It is clear that this is an issue that affects both poor and rich countries.

The African continent, however, is undeniably the hardest hit. The continent claims 24 of the 34 countries experiencing food emergencies. The sub-Saharan African region is feeling the brunt of this crisis with some 207 million people in 1999–2001 facing and experiencing food shortages. That amounts to nearly 26 percent of the sub-Saharan population facing inadequate access to nutritious food supplies.

Such widespread hunger plays a crucial role in sub-Saharan African societies. There are implications for education. When a child does not have the proper nourishment in his breakfast, it is impossible to expect him to perform well in school. There are implications for public health. When a mother's body is ravaged by the effects of HIV/AIDS, it is impossible to expect that anti-retroviral drugs will ameliorate her situation when food is a requirement for taking such powerful drugs. There are implications for peace and security. When a young man's meager wages are not enough to help provide for his family, it is implausible to expect that he will not go to whatever lengths necessary to secure some sort of food for his family. Mr. Chairman, the United States is invested in improving the state of education, health, and peace in sub-Saharan countries. This will not be possible without providing for improvements in rural agriculture by providing assistance to small farmers.

Those living in poor, rural areas are the most vulnerable. They comprise 70 percent of the continent's population and are the most in need of agricultural development because their livelihoods are dependent on agriculture.

Small farmers produce the food that feeds the men, women, babies, and the elders living in the small villages scattered across the arid landscape of Africa. If we neglect Africa's rural population, we neglect Africa's backbone. If we provide these farmers with the necessary resources to shore up inefficient and antiquated infrastructure we open the door to alleviating a host of other problems that plague almost 70 percent of Africa's rural population that depend on agriculture.

My proposal would allow for the development of small-scale irrigation, water and drainage, post-harvest storage, crop intensification, crop and livestock diversification, and rural infrastructure. Such improvements to infrastructure would encourage sustainable development and lead to a decrease in food shortage in the short and long run.

The Special Programme for Food Security of the Food and Agriculture organization of the United Nations (FAO) along with other international NGOs is already making headway in Africa and other continents to reduce the food shortage crisis. We must acknowledge the benefits of agricultural improvement and its subsequent benefits for other areas of life for those living in rural communities and villages.

Mr. Chairman, for the reasons stated above, I support H.R. 4818 with the principles set forth in the amendment that I offer.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 4818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear

Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act: *Provided further*, That notwithstanding section 1(c) of Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect through October 1, 2005.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $125,700,000, to remain available until September 30, 2008: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall remain available until September 30, 2023, for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2005, 2006, 2007, and 2008: *Provided further*, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, and related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $30,000 for official reception and representation expenses for members of the Board of Directors, $73,200,000: *Provided*, That the Export-Import Bank may accept, and use, payment or services provided by transaction participants for legal, financial, or technical services in connection with any transaction for which an application for a loan, guarantee or insurance commitment has been made: *Provided further*, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2005.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided*, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $42,885,000: *Provided further*, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2005 and 2006: *Provided further*, That such sums shall remain available through fiscal year 2013 for the disbursement of direct and guaranteed loans obligated in fiscal year 2005, and through fiscal year 2014 for the disbursement of direct and guaranteed loans obligated in fiscal year 2006.

In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $51,500,000, to remain available until September 30, 2006.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2005, unless otherwise specified herein, as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,648,500,000, to remain available until September 30, 2006: *Provided*, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: *Provided further*, That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further*, That of the funds appropriated under this heading, not to exceed $250,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further*, That the following amounts should be allocated as follows: $330,000,000 for child survival and maternal health; $28,000,000 for vulnerable children; $330,000,000 for HIV/AIDS; $185,000,000 for other infectious diseases; and $375,500,000 for family planning/reproductive health: *Provided further*, That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than $400,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 1701 et seq.), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the "Global Fund"), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That up to 5 percent of the funds made available under the previous proviso may be made available to the United States Agency for International Development for technical assistance related to the activities of the Global Fund: *Provided further*, That of the funds appropriated under this heading, $65,000,000 may be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the United States Agency for International Development" for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contributions under this and preceding provisos: *Provided further*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further*, That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further*, That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare, or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further*, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That to the maximum extent feasible, taking into consideration cost, timely availability, and best health practices, funds appropriated in this Act that are made available for condom procurement shall be made available only for the procurement of condoms manufactured in the United States: *Provided further*, That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

AMENDMENT NO. 20 OFFERED BY MR. SHERMAN

Mr. SHERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. SHERMAN:

In the item relating to "UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT–CHILD SURVIVAL AND HEALTH PROGRAMS FUND", after the aggregate dollar amount, insert the following: "(increased by $290,000,000)".

In the item relating to "UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT–CHILD SURVIVAL AND HEALTH PROGRAMS FUND", after the third dollar amount, insert the following: "(increased by $290,000,000)".

In the item relating to "CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION", after the aggregate dollar amount, insert the following "(reduced by $359,000,000)".

Mr. KOLBE. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 20 minutes, to be equally divided and controlled by the proponent and myself as the opponent.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. SHERMAN) will control 10 minutes on his amendment. The gentleman from Arizona (Mr. KOLBE) will control 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I yield myself 3 minutes.

I introduced this amendment on behalf of myself and the gentlewoman from Florida (Ms. ROS-LEHTINEN). The gentlewoman is the chairwoman of the subcommittee that deals with the Middle East on the Committee on International Relations. I am the ranking member of that subcommittee of that committee that deals with terrorism and nuclear proliferation.

We are both concerned that the World Bank has decided to make loans of $359 million to the government of Iran. We are also both concerned that we have an opportunity here to help the Child Survival Account, to save perhaps millions of children's lives simply by providing it more funding than this bill provides, to those programs that provide immunization, those that treat diarrhea and other easily curable diseases. So we see an opportunity both to deal with the World Bank's decision and to increase child survival.

Mr. Chairman, just a couple of months ago, the World Bank, over American objections, approved $359 million for Iran. They did so at the same time that the IAEA was deliberating not whether Iran was developing nuclear weapons, we all know that they are, but the degree to which they should be sanctioned for their clear violation of nuclear proliferation control agreements.

Now, the government of Iran spends the minimum necessary on domestic projects in order to stay in power. This $359 million allows them to fund those minimal domestic projects. Then the government of Iran uses what is left over to develop nuclear weapons and to support terror. It is the number one state sponsor of terror as identified by the United States State Department.

So this bill as presently written puts money in the World Bank. One quarter of the World Bank's assets and funds, roughly, are those of the American taxpayer, and then $359 million is going from the World Bank to Iran.

□ 1315

We need to make it clear that Members do not have to go back to their districts and defend sending American tax dollars to Tehran at a time when they are developing nuclear weapons.

We also need to help the child survival accounts. I would have wanted to cut $359 million from the World Bank and add a full $359 million to child survival. As a result of the outlay rules and timing of outlays, this amendment was in order only if we increased child survival by $290 million. So if my colleagues are fiscal conservatives, this amendment saves the government $69 million, but, more importantly, it funds some of the very best U.S. AID programs. It provides additional money for child survival and maternal health. It provides for those very effective treatments for easily curable and preventable diseases.

This amendment enhances the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY), the ranking member.

Mrs. LOWEY. Mr. Chairman, I rise in opposition reluctantly to this amendment.

While I have absolutely no sympathy for the government of Iran and would strongly prefer that the World Bank not approve loans to that country, I oppose this amendment because its passage will not in any way affect lending to Iran.

What the amendment would do is cut $359 million from the International Development Association, which is almost half of the proposed fiscal year 2005 U.S. contribution. IDA funds loans to the poorest countries in the world, mostly African countries, at low rates of interest and on a long-term repayment schedule.

IDA is the source of much of the capital that poor countries use to rebuild vital infrastructure and deal with the chronic problems of poor health and education systems. The World Bank, through the IDA loan window, has spent over $1 billion to combat HIV/AIDS to date. The bank is also the center for the "Education for All" initiative, which aims to provide a free, primary education to the 110 million children around the world who currently do not attend school.

Because the subcommittee's 302(b) allocation was $1.9 billion below the President's request, we had to make some tough choices. In that context, the funding currently in the bill for IDA represents a $200 million cut from the President's request. I am certainly not totally satisfied with the quality of the World Bank's lending programs and will be monitoring closely the result of the new Performance Evaluation Scheme. The cuts the committee made were in that context, but cutting further would be a mistake and would only serve to reduce the bank's overall lending capacity without in any way affecting Iran.

I urge opposition to the amendment.

Mr. SHERMAN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Chairman, I thank my friend, my distinguished colleague from California, for the time, and I rise in strong support of the Sherman/Ros-Lehtinen amendment and ask my colleagues to render their full support to it.

Iran's unconventional weapons program, and its fondness for using terrorism as statecraft, have made this pariah state a litmus test of the war on terror.

For at least two decades, the Iranian regime has been pursuing a covert nuclear program. It has undertaken a number of efforts for the manufacture and testing of centrifuge components, including at facilities owned by military industrial organizations.

According to multiple reports of the International Atomic Energy Agency, the Iranian regime's deceptions and nuclear activities have dealt with the most sensitive aspects of the nuclear cycle.

Just last month, after the international community once again called on Iran to "come clean" with its efforts to develop a nuclear weapons capability, the Iranian foreign minister and the secretary of Iran's Supreme National Security Council retorted that Iran has to be recognized by the international community as a member of the nuclear club and that Iran is on an irreversible path, their own words, toward becoming a nuclear state.

It is, therefore, imperative that the international community join forces to deny Iran any and all avenues to bring to a halt Iran's progress on this path.

This Chamber has repeatedly articulated this position. Most recently, we adopted by an overwhelming vote H. Con. Res. 398 which clearly underscored the denial of financial and other resources to Iran is an overarching priority for the United States.

Yet, through the World Bank, Iran is receiving hundreds of millions of dollars in loans.

Now, we will hear some argue that these loans are for nonlethal programs. However, given the fungible nature of the fund, there is no effective way of preventing the manipulation of these funds.

We certainly cannot trust the terrorist regime in Teheran to apply those World Bank funds to good, humanitarian use; and, as we have discovered recently with the investigations into the UN's handling of the Oil-For-Food program, we certainly cannot trust international institutions to practice due diligence and oversight.

Further, even if the loans are applied for basic services in Iran, that just enables Iran's mullahs to increase their budget allocations to fund terrorist activities and intensify their efforts to develop nuclear weapons.

The Sherman/Ros-Lehtinen amendment seeks to bring an end to this farce. Given that this is an appropriations bill, we cannot go even further. However, the amendment is a good first step.

The amendment seeks to cut U.S. contributions to the World Bank by an amount equal to its recent loans to Iran. In turn, it shifts these funds to U.S. AID's child survival programs; that is, it denies funds to the Iranian regime while helping prevent children from dying from preventable or easily treatable diseases, providing them with immunizations and other inexpensive treatments.

I ask my colleagues to vote an overwhelming "yes" on the Sherman-Ros-Lehtinen amendment.

Mr. KOLBE. Mr. Chairman, I am the only other speaker I have, if the gentleman is prepared to yield back the balance of his time.

The CHAIRMAN. The gentleman from California (Mr. SHERMAN) has 3½ minutes remaining.

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

First, let me deal with this view that somehow the World Bank is not the World Bank, it is separate agencies. It is true the World Bank has five different departments, but as the World Bank's own Web site says in referring to the two departments in question now, the IBRD and the IDA are run on the same lines. They share the same staff and headquarters, report to the same president and evaluate projects with the same standards. They go on to say the IDA simply takes the money out of a different drawer. So, if we are funding the World Bank, we funding the World Bank.

This vote on this amendment is our only chance this year to vote to put economic pressure on the government of Iran that is developing nuclear weapons. It is the only chance we have this year to respond to the World Bank and to show how we feel when they send our money to a government that our State Department has identified as the number one state sponsor of terrorism. It is our only chance to respond to the investigation of Senator LUGAR, who has shown that many experts estimate that between 5 percent and 25 percent of the money we send to the World Bank is misused; and it is our best opportunity to vote to increase child survival and to save children's lives, whether they are dying from diarrhea or dying from diseases for which immunization is possible.

This is our chance to speak as a caucus and to say that time for business as usual is over. We can walk out of here saying, well, we disagree with the World Bank, but there is nothing we can do about it. But then we have to go back to our districts, when a nuclear mushroom cloud explodes first in a test in Iran and then, God forbid, in a hostile use by the Iranian government, and defend our votes to support a bill, part of the money of which ended up in Tehran.

I see the gentleman from Minnesota (Mr. KENNEDY) here, and I do not know whether he wishes time. I commend the gentleman for his efforts to make sure that we deal with the World Bank, and I appreciate his support for this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. KOLBE. Mr. Chairman, I yield myself the balance of my time.

The Sherman amendment is really not about Iran. It is about depriving the poorest countries in the world of development assistance for basic education, for health care, for HIV/AIDS prevention and treatment, and for environmental protection programs. It is about blocking the path towards achieving the Millennium Development Goals. I do not think this Congress wants to be remembered for this.

I know that Iran is a politically sensitive issue, and none of us believe that the World Bank should be making loans in Iran, but the funding contained in the foreign operations bill is for IDA, the concessional lending program of the World Bank which is designed to help the poorest countries of the world, with per capita incomes of $1 to $2 per day.

Mr. Chairman, Iran is not eligible to use the resources of IDA. The projects approved for Iran were funded by the IBRD, which is the market rate lending program of the bank. IBRD does not receive appropriated funds. There is no fungibility between IDA and IBRD resources.

So, Mr. Chairman, restricting the appropriations of funds to IDA will not affect Iran in any way. However, it will cut funding that supports development and health programs in sub-Saharan Africa and the poorest countries of Asia and Latin America. Over half of IDA resources are programmed for sub-Saharan Africa, and many of the programs would be supported on a grant basis, no longer just loans.

Diverting these funds into bilateral programs would deny six times, that is, again, six times, as much funding as the gentleman's cut. For every $1 of U.S. taxpayer money that goes into IDA, other donors and resources provide $6 of support. So if we cut this, we cut out six times as much of the money that goes to sub-Saharan Africa and other of the poorest countries of the world.

Mr. Chairman, I have already made what I think is a difficult decision to cut World Bank funding by $211 million below the request. Another $359 million cut would probably put U.S. leadership at risk at the bank, in addition to putting at risk billions of dollars of assistance for poor countries in Africa, Asia and Latin America.

To reiterate, Mr. Chairman, Iran is not eligible for IDA finances. IDA funding, which is the subject of this bill, the only source of funding that is in this bill for the World Bank, Iran is not eligible for any of those sources, and Iran would not be affected by a cut in funding to the IDA.

I urge my colleagues to oppose this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. SHERMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SHERMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

Mr. KOLBE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CANTOR) having assumed the chair, Mr. THORNBERRY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 4818, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 4818 in the Committee of the Whole pursuant to House Resolution 715, the remainder of the bill be considered as read and open for amendment at any point, and no further amendment to the bill may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments 5, 6, 7, 8, 12, 14, and 21;

Amendments 11 and 17 which shall be debatable for 20 minutes;

Amendment 15, which shall be debatable for 30 minutes;

Amendments 9, 13 and 18, which shall be debatable for 40 minutes;

An amendment by Mr. GARRETT of New Jersey regarding conference attendance;

An amendment by Ms. JACKSON-LEE of Texas regarding agricultural development in sub-Saharan Africa;

An amendment by Mr. SANDERS regarding Export-Import Bank loans, which shall be debatable for 40 minutes;

An amendment by Mr. DEAL of Georgia regarding extradition, which shall be debatable for 20 minutes;

An amendment by Mr. WEINER regarding Saudi Arabia, which shall be debatable for 30 minutes;

An amendment by Mr. BUYER regarding monitoring of elections, which shall be debatable for 20 minutes;

An amendment by Mr. OTTER regarding West Bank/Gaza;

An amendment by Mr. MENENDEZ regarding Latin America child survival and development assistance;

An amendment by Mr. SCHIFF regarding Armenian genocide;

An amendment by Ms. LEE regarding Global AIDS, which shall be debatable for 30 minutes;

An amendment by Ms. DELAURO regarding child survival;

An amendment by Ms. WATERS regarding contract fraud; and

An amendment by Ms. MCCOLLUM regarding unexploded ordnance.

□ 1330

Each such amendment may be offered only by the Member designated in this request, or a designee, or the Member who caused it to be printed in the RECORD, or a designee, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in this request if it addresses in whole or in part the object described.

The SPEAKER pro tempore (Mr. CANTOR). Is there objection to the request of the gentleman from Arizona?

Mr. OBEY. Reserving the right to object, Mr. Speaker, I would simply point out that this is an effort to try to complete action on this bill before Members leave. I would also note that, as I count the minutes that this agreement provides for, when you include a time for votes, it means that we will be very lucky to be out of here by 10:30 or 11 o'clock at night. So we would appreciate Members' cooperation if Members want to get out of here, whether it is to catch airplanes or do something even more constructive. It would be helpful if they would work with the committee to try to limit the time that it takes for consideration of these amendments.

Mr. Speaker, I withdraw my reservation of objection.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments and certainly concur.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mrs. LOWEY. Mr. Speaker, I reserve the right to object. I want to say that we have tried to accommodate everybody with their amendments, and I believe this agreement does so. I look forward to working with the chairman, and, hopefully, everyone will go along with the plan.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there further objection to the request of the gentleman from Arizona?

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 715 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4818.

□ 1333

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 20 by the gentleman from California (Mr. SHERMAN) had been postponed, and the bill was open from page 6, line 16 to page 12, line 4.

Pursuant to the order of the House of today, the remainder of the bill is considered as having been read and open for amendment at any point.

The text of the remainder of H.R. 4818 is as follows:

DEVELOPMENT ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of sections 103, 105, 106, and 131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,429,000,000, to remain available until September 30, 2006: *Provided*, That $194,000,000 should be allocated for trade capacity building: *Provided further*, That $300,000,000 should be allocated for basic education: *Provided further*, That of the funds appropriated under this heading and managed by the United States Agency for International Development Bureau of Democracy, Conflict, and Humanitarian Assistance, not less than $15,000,000 shall be made available only for programs to improve women's leadership capacity in recipient countries: *Provided further*, That such funds may not be made available for construction: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $32,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 for international disaster relief, rehabilitation, and reconstruction assistance, $335,500,000, to remain available until expended.

In addition, for necessary expenses for assistance for famine prevention and relief, including for mitigation of the effects of famine, $20,000,000, to remain available until expended: *Provided*, That such funds shall be made available utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, and shall be in addition to amounts otherwise available for such purposes: *Provided further*, That funds appropriated by this paragraph shall be available for obligation subject to prior consultation with the Committees on Appropriations.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $47,500,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: *Provided*, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further*, That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance: *Provided further*, That if the President determines that it is important to the national interests of the United States to provide transition assistance in excess of the amount appropriated under this heading, up to $15,000,000 of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961 may be used for purposes of this heading and under the authorities applicable to funds appropriated under this heading: *Provided further*, That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with the Committees on Appropriations.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading "Assistance for Eastern Europe and the Baltic States": *Provided*, That such funds shall not exceed $21,000,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further*, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading.

In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $8,000,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided*, That funds made available under this heading shall remain available until September 30, 2007.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $42,500,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $618,000,000, of which up to $25,000,000 may remain available until September 30, 2006: *Provided*, That none of the funds appropriated under this heading and under the heading "Capital Investment Fund" may be made available to finance the construction (including architect and engineering services), purchase, or long term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: *Provided further*, That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long term lease of offices does not exceed $1,000,000: *Provided further*, That contracts or agreements entered into with funds appropriated under this heading may entail commitments for the expenditure of such funds through fiscal year 2006: *Provided further*, That none of the funds in this Act may be used to open a new overseas mission of the United States Agency for International Development without the prior written notification of the Committees on Appropriations: *Provided further*, That the authority of sections 610 and 109 of the Foreign Assistance Act of 1961 may be exercised by the Secretary of State to transfer funds appropriated to carry out chapter 1 of part I of such Act to "Operating Expenses of the United States Agency for International Development" in accordance with the provisions of those sections.

CAPITAL INVESTMENT FUND

For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667 of the Foreign Assistance Act of 1961, $64,800,000, to remain available until expended: *Provided*, That this amount is in addition to funds otherwise available for such purposes: *Provided further*, That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated under this heading and under the heading "Operating Expenses of the United States Agency for International Development" may be made available for USAID's contribution to the Capital Cost Sharing Program only if all other agencies who have agreed to participate in that program during the current fiscal year are making their contributions to the program.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $35,000,000, to remain available until September 30, 2006, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

Other Bilateral Economic Assistance

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,450,000,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, not less than $360,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act or by October 31, 2004, whichever is later: *Provided further*, That not less than $535,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: *Provided further*, That of the funds appropriated under this heading, not less than $250,000,000 should be made available only for assistance for Jordan: *Provided further*, That not to exceed $200,000,000 of the funds appropriated under this heading may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: *Provided further*, That amounts that are made available under the previous proviso for the cost of modifying direct loans and guarantees shall not be considered "assistance" for the purposes of provisions of law limiting assistance to a country: *Provided further*, That $13,500,000 of the funds appropriated under this heading should be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: *Provided further*, That $35,000,000 of the funds appropriated under this heading should be made available for assistance for Lebanon, of which not less than $4,000,000 should be made available for scholarships and direct support of American educational institutions in Lebanon: *Provided further*, That funds appropriated under this heading that are made available for assistance for the Central Government of Lebanon shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That $22,000,000 of the funds appropriated under this heading should be made available for assistance for the Democratic Republic of Timor-Leste: *Provided further*, That $50,000,000 of the funds appropriated under this heading should be made available for assistance for Haiti: *Provided further*, That funds appropriated under this heading may be used, notwithstanding any other provision of law, to provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That in the previous proviso, the term "assistance" includes non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes: *Provided further*, That funds appropriated under this heading that are made available for a Middle East Financing Facility, Middle East Enterprise Fund, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $18,500,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 2006.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $375,000,000, to remain available until September 30, 2006, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States.

(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(c) With regard to funds appropriated under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program) the Administrator of the United States Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee.

(d) The provisions of section 529 of this Act shall apply to funds made available under subsection (c) and to funds appropriated under this heading: *Provided*, That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 529 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

(e) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between state sponsors of terrorism and terrorist organizations and Bosnian officials has not been terminated.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, $550,000,000, to remain available until September 30, 2006: *Provided*, That the provisions of such chapters shall apply to funds appropriated by this paragraph: *Provided further*, That funds made available for the Southern Caucasus region may be used notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further*, That of the funds appropriated under this heading, $1,500,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: *Provided further*, That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses.

(b) Of the funds appropriated under this heading, not less than $65,000,000 should be made available for assistance for Armenia.

(c) Of the funds appropriated under this heading, not less than $57,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

(d)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation:

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(e) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

Independent Agencies

INTER-AMERICAN FOUNDATION

For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, $16,238,000, to remain available until September 30, 2006.

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, $18,579,000, to remain available until September 30, 2006: *Provided*, That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the board of directors of the Foundation: *Provided further*, That interest earned shall be used only for the purposes for which the grant was made: *Provided further*, That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: *Provided further*, That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

PEACE CORPS

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612), $330,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 2006.

MILLENNIUM CHALLENGE CORPORATION

For necessary expenses for the "Millennium Challenge Corporation", $1,250,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading, not more than $30,000,000 may be available for administrative expenses of the Millennium Challenge Corporation: *Provided further*, That none of the funds appropriated under this heading may be made available for the provision of assistance until the Chief Executive Officer of the Millennium Challenge Corporation provides a written budget justification to the Committees on Appropriations: *Provided further*, That up to 10 percent of the funds appropriated under this heading may be made available to carry out the purposes of section 616 of the Millennium Challenge Act of 2003: *Provided further*, That none of the funds available to carry out section 616 of such Act may be made available until the Chief Executive Officer of the Millennium Challenge Corporation provides a report to the Committees on Appropriations listing the candidate countries that will be receiving assistance under section 616 of such Act, the level of assistance proposed for each such country, a description of the proposed programs, projects and activities, and the implementing agency or agencies of the United States Government: *Provided further*, That section 605(e)(4) of the Millennium Challenge Act of 2003 shall apply to funds appropriated under this heading: *Provided further*, That funds appropriated under this heading, and funds appropriated under this heading in division D of Public Law 108–199, may be made available for a Millennium Challenge Compact entered into pursuant to section 609 of the Millennium Challenge Act of 2003 only if such Compact obligates, or contains a commitment to obligate subject to the availability of funds and the mutual agreement of the parties to the Compact to proceed, the entire amount of the United States Government funding anticipated for the duration of the Compact: *Provided further*, That the previous proviso shall be effective on the date of enactment of this Act.

DEPARTMENT OF STATE

GLOBAL HIV/AIDS INITIATIVE

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the prevention, treatment, and control of, and research on, HIV/AIDS, $1,260,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading, not more than $8,818,000 may be made available for administrative expenses of the Office of the Coordinator of United States Government Activities to Combat HIV/AIDS Globally of the Department of State: *Provided further*, That of the funds appropriated under this heading, not less than $26,000,000 should be made available as a contribution to the International AIDS Vaccine Initiative.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $328,820,000, to remain available until September 30, 2007: *Provided*, That during fiscal year 2005, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the Secretary of State shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further*, That up to $10,000,000 of the funds appropriated under this heading should be made available for demand reduction programs: *Provided further*, That of the funds appropriated under this heading, not more than $26,117,000 may be available for administrative expenses.

ANDEAN COUNTERDRUG INITIATIVE

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $731,000,000, to remain available until September 30, 2007: *Provided*, That in fiscal year 2005, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: *Provided further*, That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: *Provided further*, That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: *Provided further*, That none of the funds appropriated by this Act may be made available to support a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to the Congress, 30 days before any resumption of United States involvement in a Peruvian air interdiction program, that an air interdiction program that permits the ability of the Peruvian Air Force to shoot down aircraft will include enhanced safeguards and procedures to prevent the occurrence of any incident similar to the April 20, 2001 incident: *Provided further*, That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further*, That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further*, That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961 shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further*, That of the funds appropriated under this heading, not more than $16,285,000 may be available for administrative expenses of the Department of State, and not more than $4,500,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $756,000,000, which shall remain available until expended: *Provided*, That not more than $21,000,000 may be available for administrative expenses: *Provided further*, That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), $20,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $382,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for antiterrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided*, That of this amount not to exceed $30,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further*, That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further*, That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further*, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: *Provided further*, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961, $19,000,000, to remain available until September 30, 2007, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended, and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, $105,000,000, to remain available until September 30, 2007: *Provided*, That not less than $20,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961: *Provided further*, That up to $75,000,000 of the funds appropriated under this heading may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: *Provided further*, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

(1) the Inter-American Development Bank;

(2) the African Development Fund;

(3) the African Development Bank; and

(4) the Central American Bank for Economic Integration:

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: *Provided further*, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: *Provided further*, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: *Provided further*, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

(1) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institutions to export-oriented commercial projects that generate foreign exchange which are generally referred to as "enclave" loans; and

(2) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: *Provided further*, That none of the funds made available under this heading in this or any other appropriations Act shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office: *Provided further*, That none of the funds appropriated under this heading may be paid to the HIPC Trust Fund for the benefit of any country that has accepted loans from an international financial institution between such country's decision point and completion point: *Provided further*, That the terms "decision point" and "completion point" shall have the same meaning as defined by the International Monetary Fund.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $89,730,000, of which up to $3,000,000 may remain available until expended: *Provided*, That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further*, That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training, and funds made available for Nigeria and Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY FINANCING PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,777,500,000: *Provided*, That of the funds appropriated under this heading, not less than $2,220,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: *Provided further*, That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act or by October 31, 2004, whichever is later: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $580,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That in addition to the funds appropriated under this heading, up to $150,000,000 for assistance for Pakistan may be derived by transfer from unobligated balances of funds appropriated under the headings "Economic Support Fund" and "Foreign Military Financing Program" in prior appropriations Acts and not otherwise designated in those Acts for a specific country, use, or purpose: *Provided further*, That funds appropriated or otherwise made available by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further*, That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided*, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further*, That none of the funds appropriated under this heading shall be available for assistance for Sudan, Indonesia and Guatemala: *Provided further*, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further*, That the authority contained in the previous proviso or any other provision of law relating to the use of funds for programs under this heading, including provisions contained in previously enacted appropriations Acts, shall not apply to activities relating to the clearance of unexploded ordnance resulting from United States Armed Forces testing or training exercises: *Provided further*, That the previous proviso shall not apply to San Jose Island, Republic of Panama: *Provided further*, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That not more than $40,500,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further*, That not more than $367,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2005 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2005 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act or by October 31, 2004, whichever is later.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $104,000,000: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, $107,500,000 to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $850,000,000, to remain available until expended.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, $25,000,000, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, $112,212,465, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, $5,100,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $79,532,933.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, $118,000,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $35,431,111 for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended: *Provided*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations and shall be transmitted at least 15 days in advance of the obligation of funds.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $121,996,662.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, $15,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $323,450,000: *Provided*, That none of the funds appropriated under this heading may be made available to the International Atomic Energy Agency (IAEA).

TITLE V—GENERAL PROVISIONS

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 502. None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the United States Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $125,000 shall be available for representation allowances for the United States Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $4,000 shall be available for entertainment expenses and not to exceed $130,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $55,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading “Trade and Development Agency”, not to exceed $4,000 shall be available for representation and entertainment allowances: *Provided further*, That of the funds made available by this Act under the heading “Millennium Challenge Corporation”, not to exceed $130,000 shall be available for representation and entertainment allowances.

PROHIBITION ON TAXATION OF UNITED STATES ASSISTANCE

SEC. 506. (a) PROHIBITION ON TAXATION.—None of the funds appropriated by this Act may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

(b) REIMBURSEMENT OF FOREIGN TAXES.—An amount equivalent to 200 percent of the total taxes assessed during fiscal year 2005 on funds appropriated by this Act by a foreign government or entity against commodities financed under United States assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors and subcontractors shall be withheld from obligation from funds appropriated for assistance for fiscal year 2006 and allocated for the central government of such country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the Committees on Appropriations that such taxes have not been reimbursed to the Government of the United States.

(c) DE MINIMIS EXCEPTION.—Foreign taxes of a de minimis nature shall not be subject to the provisions of subsection (b).

(d) REPROGRAMMING OF FUNDS.—Funds withheld from obligation for each country or entity pursuant to subsection (b) shall be reprogrammed for assistance to countries which do not assess taxes on United States assistance or which have an effective arrangement that is providing substantial reimbursement of such taxes.

(e) DETERMINATIONS.—

(1) The provisions of this section shall not apply to any country or entity the Secretary of State determines—

(A) does not assess taxes on United States assistance or which has an effective arrangement that is providing substantial reimbursement of such taxes; or

(B) the foreign policy interests of the United States outweigh the policy of this section to ensure that United States assistance is not subject to taxation.

(2) The Secretary of State shall consult with the Committees on Appropriations at least 15 days prior to exercising the authority of this subsection with regard to any country or entity.

(f) IMPLEMENTATION.—The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of assistance contained in this section.

(g) DEFINITIONS.—As used in this section—

(1) the terms “taxes” and “taxation” refer to value added taxes and customs duties imposed on commodities financed with United States assistance for programs for which funds are appropriated by this Act; and

(2) the term “bilateral agreement” refers to a framework bilateral agreement between the Government of the United States and the government of the country receiving assistance that describes the privileges and immunities applicable to United States foreign assistance for such country generally, or an individual agreement between the Government of the United States and such government that describes, among other things, the treatment for tax purposes that will be accorded the United States assistance provided under that agreement.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Libya, North Korea, Iran, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup: *Provided*, That assistance may be resumed to such government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: *Provided further*, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: *Provided further*, That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFERS

SEC. 509. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than five days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided*, That funds transferred under such authority may be made available for the cost of such audits.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 510. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapters 4, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the heading “Assistance for Eastern Europe and the Baltic States”, shall remain available for an additional four years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Health Programs Fund", "Development Assistance", "International Organizations and Programs", "Trade and Development Agency", "International Narcotics Control and Law Enforcement", "Andean Counterdrug Initiative", "Assistance for Eastern Europe and the Baltic States", "Assistance for the Independent States of the Former Soviet Union", "Economic Support Fund", "Global HIV/AIDS Initiative", "Peacekeeping Operations", "Capital Investment Fund", "Operating Expenses of the United States Agency for International Development", "Operating Expenses of the United States Agency for International Development Office of Inspector General", "Nonproliferation, Anti-terrorism, Demining and Related Programs", "Millennium Challenge Corporation" (by country only), "Foreign Military Financing Program", "International Military Education and Training", "Peace Corps", and "Migration and Refugee Assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project for which funds are appropriated under title II of this Act of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2006.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 517. (a) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union—

(1) unless that government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

Assistance may be furnished without regard to this subsection if the President determines that to do so is in the national interest.

(b) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: *Provided*, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(c) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for any state to enhance its military capability: *Provided*, That this restriction does not apply to demilitarization, demining, or nonproliferation programs.

(d) Funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

(e) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(f) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading "Assistance for the Independent States of the Former Soviet Union" and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to Europe and Eurasia and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 519. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2005, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated by this Act shall be obligated or expended for Liberia, Serbia, Sudan, or Zimbabwe except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, "program, project, and activity" shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development "program, project, and activity" shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND HEALTH ACTIVITIES

SEC. 522. Up to $13,500,000 of the funds made available by this Act for assistance under the heading "Child Survival and Health Programs Fund", may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: *Provided*, That up to $3,500,000 of the funds made available by this Act for assistance under the heading "Development Assistance" may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: *Provided further*, That funds appropriated by titles II and III of this Act that are made available for bilateral assistance for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading "Child Survival and Health Programs Fund" and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.).

AFGHANISTAN

SEC. 523. Of the funds appropriated by titles II and III of this Act, not less than $977,000,000 should be made available for humanitarian, reconstruction, and related assistance for Afghanistan: *Provided*, That $60,000,000 of the funds allocated for assistance for Afghanistan from this Act and other Acts making appropriations for foreign operations, export financing, and related programs for fiscal year 2005 should be made available for assistance for Afghan women and girls.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 524. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA

SEC. 525. Notwithstanding any other provision of this Act, none of the funds that are appropriated by this Act that are made available to support the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) may be made available to the Global Fund until the Secretary of State certifies to the Committees on Appropriations that—

(1) the Global Fund is making concerted efforts to—

(A) establish a full time, professional, independent office which reports directly to the Global Fund Board regarding, among other things, the integrity of processes for consideration and approval of grant proposals, and the implementation, monitoring and evaluation of grants made by the Global Fund;

(B) strengthen domestic civil society participation, especially for people living with HIV/AIDS, in-country coordinating mechanisms; and

(C) establish procedures to assess the need for, and coordinate, technical assistance for Global Fund activities, in cooperation with bilateral and multilateral donors; and

(2) the Global Fund has established clear, consistent progress indicators upon which to determine the release of incremental disbursements;

(3) the Global Fund is releasing such incremental disbursements only if sufficient positive results have been attained based on those indicators; and

(4) the Global Fund is providing an appropriate level of support and oversight to country-level entities, such as country coordinating mechanisms, principal recipients, and local Fund agents, to enable them to fulfill their mandates.

DEMOCRACY PROGRAMS

SEC. 526. (a) The Secretary of Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to support projects in Tibet if such projects do not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.

(b) Notwithstanding any other provision of law, not less than $4,000,000 of the funds appropriated by this Act under the heading "Economic Support Fund" should be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China.

(c) Notwithstanding any other provision of law, not less than $250,000 of the funds appropriated under the heading "Economic Support Fund" should be made available for human rights and democracy programs for Tibetans.

(d) Not less than $27,000,000 of the funds appropriated by this Act under the heading "Economic Support Fund" should be allocated for the Human Rights and Democracy Fund: *Provided*, That up to $1,200,000 may be used for the Reagan/Fascell Democracy Fellows program.

(e) Notwithstanding any other provision of law, up to $1,500,000 of the funds appropriated by this Act under the heading "Economic Support Fund" may be provided to make grants to educational, humanitarian, and nongovernmental organizations and individuals inside Iran and Syria to support the advancement of democracy and human rights in Iran and Syria, and such funds may be provided through the National Endowment for Democracy.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 528. In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and, subject to the regular notification procedures of the Committees on Appropriations, and any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 529. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ENTERPRISE FUND RESTRICTIONS

SEC. 530. (a) Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

(b) Funds made available by this Act for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

SUDAN

SEC. 531. (a) Of the funds appropriated by title II of this Act, not less than $311,000,000 should be made available for assistance for Sudan.

(b) Subject to section (c):

(1) Notwithstanding section 501(a) of the International Malaria Control Act of 2000 (Public Law 106–570) or any other provision of law, none of the funds appropriated by this Act may be made available for assistance for the Government of Sudan.

(2) None of the funds appropriated by this Act may be made available for the cost, as defined in section 502, of the Congressional Budget Act of 1974, of modifying loans and loan guarantees held by the Government of Sudan, including the cost of selling, reducing, or canceling amounts owed to the United States, and modifying concessional loans, guarantees, and credit agreements.

(c) Subsection (b) shall not apply if the Secretary of State determines and certifies to the Committees on Appropriations that—

(1) the Government of Sudan has disarmed and disbanded government-supported militia groups in the Darfur region;

(2) the Government of Sudan and all government-supported militia groups are honoring their commitments made in the cease-fire agreement of April 8, 2004; and

(3) the Government of Sudan is allowing full and unconditional access to Darfur to humanitarian aid organizations, the human rights investigation and humanitarian teams of the United Nations, including protection officers, and an international monitoring team that is based in Darfur and that has the support of the United States.

(d) EXCEPTIONS.—The provisions of subsection (b) shall not apply to—

(1) humanitarian assistance; and

(2) assistance for Darfur and for areas outside the control of the Government of Sudan.

(e) DEFINITIONS.—For the purposes of the Act and section 501 of Public Law 106–570, the terms "Government of Sudan", "areas outside of control of the Government of Sudan", and "area in Sudan outside of control of the Government of Sudan" shall have the same meaning and application as was the case immediately prior to the conclusion of the cease-fire agreement of April 8, 2004.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 532. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 533. None of the funds appropriated by this Act may be obligated or expended to provide—

(1) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(2) assistance for any program, project, or activity that contributes to the violation of internationally recognized workers rights, as defined in section 507(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided*, That the application of section 507(4) (D) and (E) of such Act should be commensurate with the level of development of the recipient country and sector, and shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 534. (a) AFGHANISTAN, PAKISTAN, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated by this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 512 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles I and II of this Act that are made available for Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking, may be made available notwithstanding any other provision of law.

(b) Tropical Forestry and Biodiversity Conservation Activities.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: *Provided*, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) Personal Services Contractors.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: *Provided*, That not more than 10 of such contractors shall be assigned to any bureau or office: *Provided further*, That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)(1) Waiver.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) Period of application of waiver.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) Small Business.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

(f) Reconstituting Civilian Police Authority.—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other subnational entity emerging from instability, as well as a nation emerging from instability.

(g) National Endowment for Democracy.—Funds appropriated by this Act that are provided to the National Endowment for Democracy may be provided notwithstanding any other provision of law or regulation.

(h) World Food Program.—Of the funds managed by the Bureau for Democracy, Conflict, and Humanitarian Assistance of the United States Agency for International Development, from this or any other Act, not less than $6,000,000 shall be made available as a general contribution to the World Food Program, notwithstanding any other provision of law.

(i) Extension of Authority.—Public Law 107–57, as amended, is further amended—

(1) in section 1(b)—

(A) in the heading, by striking "2004" and inserting "2005"; and

(B) in paragraph (1), by striking "2004" and inserting "2005";

(2) in section 3(2), by striking "and 2004" and inserting in lieu thereof "2004, and 2005"; and

(3) in section 6, by striking "2004" and inserting in lieu thereof "2005".

ARAB LEAGUE BOYCOTT OF ISRAEL

Sec. 535. It is the sense of the Congress that—

(1) the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;

(2) the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;

(3) the three Arab League countries with diplomatic and trade relations with Israel should return their ambassadors to Israel, should refrain from downgrading their relations with Israel, and should play a constructive role in securing a peaceful resolution of the Israeli-Arab conflict;

(4) the remaining Arab League states should normalize relations with their neighbor Israel;

(5) the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and

(6) the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ELIGIBILITY FOR ASSISTANCE

Sec. 536. (a) Assistance Through Nongovernmental Organizations.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States": *Provided*, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) Public Law 480.—During fiscal year 2005, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided*, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) Exception.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

RESERVATIONS OF FUNDS

Sec. 537. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided*, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

Sec. 538. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

Sec. 539. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: *Provided*, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

Sec. 540. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NONGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

SEC. 541. None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 542. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 543. (a) Subject to subsection (c), of the funds appropriated by this Act that are made available for assistance for a foreign country, an amount equal to 110 percent of the total amount of the unpaid fully adjudicated parking fines and penalties owed by such country shall be withheld from obligation for such country until the Secretary of State submits a certification to the appropriate congressional committees stating that such parking fines and penalties are fully paid.

(b) Funds withheld from obligation pursuant to subsection (a) may be made available for other programs or activities funded by this Act, after consultation with and subject to the regulation notification procedures of the appropriate congressional committees, provided that no such funds shall be made available for assistance to the central government of a foreign country that has not paid the total amount of the fully adjudicated parking fines and penalties owed by such country.

(c) Subsection (a) shall not include amounts that have been withheld under any other provision of law.

(d) The Secretary of State may waive the requirements set forth in subsection (a) no sooner than 60 days from the date of enactment of this Act, or at any time with respect to a particular country, if the Secretary determines that it is in the national interests of the United States to do so.

(e) Not later than 6 months after the initial exercise of the waiver authority in subsection (d), the Secretary of State, after consultations with the City of New York, shall submit a report to the Committees on Appropriations describing a strategy, including a timetable and steps currently being taken, to collect the parking fines and penalties owed by nations receiving foreign assistance under this Act.

(f) In this section:

(1) The term "appropriate congressional committees" means the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(2) The term "fully adjudicated" includes circumstances in which the person to whom the vehicle is registered—

(A)(i) has not responded to the parking violation summons; or

(ii) has not followed the appropriate adjudication procedure to challenge the summons; and

(B) the period of time for payment of or challenge to the summons has lapsed.

(3) The term "parking fines and penalties" means parking fines and penalties—

(A) owed to—

(i) the District of Columbia; or

(ii) New York, New York; and

(B) incurred during the period April 1, 1997 through September 30, 2004.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 544. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided*, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 545. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961 of up to $30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further*, That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: *Provided further*, That funds made available for tribunals other than Yugoslavia, Rwanda, or the Special Court for Sierra Leone shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 546. Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 547. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided*, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further*, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 548. None of the funds appropriated or otherwise made available by this Act under the heading "International Military Education and Training" or "Foreign Military Financing Program" for Informational Program activities or under the headings "Child Survival and Health Programs Fund", "Development Assistance", and "Economic Support Fund" may be obligated or expended to pay for—

(1) alcoholic beverages; or

(2) entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

HAITI

SEC. 549. The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 550. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(d) REPORT.—Whenever the waiver authority pursuant to subsection (b) is exercised, the President shall submit a report to the Committees on Appropriations detailing the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure. The report shall also include a description of how funds will be spent and the accounting procedures in place to ensure that they are properly disbursed.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 551. None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: *Provided*, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: *Provided further*, That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

FOREIGN MILITARY TRAINING REPORT

SEC. 552. The annual foreign military training report required by section 656 of the Foreign Assistance Act of 1961 shall be submitted by the Secretary of Defense and the Secretary of State to the Committees on Appropriations of the House of Representatives and the Senate by the date specified in that section.

AUTHORIZATION REQUIREMENT

SEC. 553. Funds appropriated by this Act, except funds appropriated under the headings "Trade and Development Agency", "Millennium Challenge Corporation", and "Global HIV/AIDS Initiative", may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

CAMBODIA

SEC. 554. The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Central Government of Cambodia, except loans to meet basic human needs.

PALESTINIAN STATEHOOD

SEC. 555. (a) LIMITATION ON ASSISTANCE.—None of the funds appropriated by this Act may be provided to support a Palestinian state unless the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) a new leadership of a Palestinian governing entity has been democratically elected through credible and competitive elections;

(2) the elected governing entity of a new Palestinian state—

(A) has demonstrated a firm commitment to peaceful co-existence with the State of Israel;

(B) is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures;

(C) is establishing a new Palestinian security entity that is cooperative with appropriate Israeli and other appropriate security organizations; and

(3) the Palestinian Authority (or the governing body of a new Palestinian state) is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships, which should include—

(A) termination of all claims or states of belligerency;

(B) respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area through measures including the establishment of demilitarized zones;

(C) their right to live in peace within secure and recognized boundaries free from threats or acts of force;

(D) freedom of navigation through international waterways in the area; and

(E) a framework for achieving a just settlement of the refugee problem.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the newly elected governing entity should enact a constitution assuring the rule of law, an independent judiciary, and respect for human rights for its citizens, and should enact other laws and regulations assuring transparent and accountable governance.

(c) WAIVER.—The President may waive subsection (a) if he determines that it is vital to the national security interests of the United States to do so.

(d) EXEMPTION.—The restriction in subsection (a) shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or a newly elected governing entity, in order to help meet the requirements of subsection (a), consistent with the provisions of section 550 of this Act ("Limitation on Assistance to the Palestinian Authority").

COLOMBIA

SEC. 556. (a) DETERMINATION AND CERTIFICATION REQUIRED.—Notwithstanding any other provision of law, funds appropriated by this Act that are available for assistance for the Colombian Armed Forces, may be made available as follows:

(1) Up to 75 percent of such funds may be obligated prior to a determination and certification by the Secretary of State pursuant to paragraph (2).

(2) Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

(A) The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister of Defense or the Procuraduria General de la Nacion, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

(B) The Colombian Government is vigorously investigating and prosecuting those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed Forces found to have committed such violations of human rights or to have aided or abetted paramilitary organizations.

(C) The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

(D) The Colombian Armed Forces have made substantial progress in severing links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at the command, battalion, and brigade levels, with paramilitary organizations, especially in regions where these organizations have a significant presence.

(E) The Colombian Armed Forces are dismantling paramilitary leadership and financial networks by arresting commanders and financial backers, especially in regions where these networks have a significant presence.

(3) The balance of such funds may be obligated after July 31, 2005, if the Secretary of State certifies and reports to the appropriate congressional committees, after such date, that the Colombian Armed Forces are continuing to meet the conditions contained in paragraph (2) and are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(b) CONGRESSIONAL NOTIFICATION.—Funds made available by this Act for the Colombian Armed Forces shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) CONSULTATIVE PROCESS.—Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2006, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in that subsection.

(d) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term "aided or abetted" means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 557. (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

(b) Waiver.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

Sec. 558. None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

WEST BANK AND GAZA PROGRAM

Sec. 559. (a) Oversight.—For fiscal year 2005, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading "Economic Support Fund" for the West Bank and Gaza.

(b) Vetting.—Prior to the obligation of funds appropriated by this Act under the heading "Economic Support Fund" for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution found to be involved in or advocating terrorist activity.

(c) Audits.—(1) The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, under the West Bank and Gaza Program, are conducted at least on an annual basis to ensure, among other things, compliance with this section.

(2) Of the funds appropriated by this Act under the heading "Economic Support Fund" that are made available for assistance for the West Bank and Gaza, up to $1,000,000 may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of this subsection. Such funds are in addition to funds otherwise available for such purposes.

CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

Sec. 560. (a) Limitations on Amount of Contribution.—Of the amounts made available under "International Organizations and Programs", $25,000,000 for fiscal year 2005 shall be available for the United Nations Population Fund (hereafter in this section referred to as the "UNFPA").

(b) Prohibition on Use of Funds in China.—None of the funds made available under "International Organizations and Programs" may be made available for the UNFPA for a country program in the People's Republic of China.

(c) Conditions on Availability of Funds.—Amounts made available under "International Organizations and Programs" for fiscal year 2005 for the UNFPA may not be made available to UNFPA unless—

(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(3) the UNFPA does not fund abortions.

WAR CRIMINALS

Sec. 561. (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the "Tribunal") all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords.

(f) Definitions.—As used in this section—

(1) Country.—The term "country" means Bosnia and Herzegovina, Croatia and Serbia.

(2) Entity.—The term "entity" refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) Municipality.—The term "municipality" means a city, town or other subdivision within a country or entity as defined herein.

(4) Dayton Accords.—The term "Dayton Accords" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

Sec. 562. The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan, grant, strategy or policy of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' financing programs.

FUNDING FOR SERBIA

Sec. 563. (a) Funds appropriated by this Act may be made available for assistance for Serbia after March 31, 2005, if the President has made the determination and certification contained in subsection (c).

(b) After March 31, 2005, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of the Federal Republic of Yugoslavia (or a government of a successor state) subject to the conditions in subsection (c): *Provided*, That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended, shall not apply to the provision of loans and assistance to the Federal Republic of Yugoslavia (or a successor state) through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of the Federal Republic of Yugoslavia (or a government of a successor state) is—

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension, including making all practicable efforts to apprehend and transfer Ratko Mladic;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law, including the release of political prisoners from Serbian jails and prisons.

(d) This section shall not apply to Montenegro, Kosovo, humanitarian assistance, assistance to promote democracy in municipalities, or assistance to nongovernmental organizations to promote democracy.

COMMUNITY-BASED POLICE ASSISTANCE

Sec. 564. (a) Authority.—Funds made available by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority in Jamaica and El Salvador through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict and foster improved police relations with the communities they serve.

(b) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 565. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to the funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for the purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 566. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

BASIC EDUCATION

SEC. 567. Of the funds appropriated by title II of this Act, not less than $400,000,000 shall be made available for basic education.

RECONCILIATION PROGRAMS

SEC. 568. Of the funds appropriated under the heading "Economic Support Fund", not less than $12,000,000 should be made available to support reconciliation programs and activities which bring together individuals of different ethnic, religious, and political backgrounds from areas of civil conflict and war.

DEBT RESTRUCTURING AUTHORITY

SEC. 569. Funds appropriated under the heading "Iraq Relief and Reconstruction Fund" in title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106) may be made available for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees for Iraq, without regard to the sectoral allocations and related provisos under that heading in such Act: *Provided*, That the authority of this section shall be used subject to prior consultation with the Committees on Appropriations: *Provided further*, That the obligation of funds pursuant to the authority provided in this section shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That amounts made available pursuant to the authority of this section are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress): *Provided further*, That amounts made available pursuant to the authority of this section shall not be considered "assistance" for the purposes of provisions of law limiting assistance to a country.

TRADE CAPACITY BUILDING

SEC. 570. Of the funds appropriated by this Act, under the headings "Trade and Development Agency", "Development Assistance", "Transition Initiatives", "Economic Support Fund", "International Affairs Technical Assistance", and "International Organizations and Programs", not less than $517,000,000 should be made available for trade capacity building assistance.

EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTH EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

SEC. 571. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during fiscal year 2005, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavian Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

CUBA

SEC. 572. None of the funds appropriated by this Act under the heading "International Narcotics Control and Law Enforcement" may be made available for assistance to the Government of Cuba.

OFFICE OF THE INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY

SEC. 573. (a) ESTABLISHMENT OF NEW OFFICE.—(1) The Office of the Inspector General of the Coalition Provisional Authority shall be reconstituted as a separate office within the Department of State and redesignated the Office of the Inspector General for Iraq Reconstruction (hereinafter "the Office").

(2) Any reference in title III of Public Law 108–106 to the "Office of the Inspector of the Coalition Provisional Authority" or to the "Inspector General of the Coalition Provisional Authority" shall be deemed to be a reference to the Office of the Inspector General for Iraq Reconstruction or the Inspector General for Iraq Reconstruction, respectively.

(3) Any reference in title III of Public Law 108–106 to "appropriated funds" shall be deemed to be a reference to funds appropriated in that Act and in Public Law 108–11 under the heading "Iraq Relief and Reconstruction Fund".

(b) INSPECTOR GENERAL OF THE OFFICE.—The Inspector General of the Coalition Provisional Authority (hereinafter "the Inspector General") and Assistant Inspectors General of that office should be reappointed by the Secretary of State to serve in the same capacity in the Office established by subsection (a).

(c) PURPOSE AND AUTHORITIES.—(1) The Inspector General shall—

(A) conduct independent and objective audits and investigations relating to the programs and operations funded with amounts appropriated for the "Iraq Relief and Reconstruction Fund";

(B) make independent and objective recommendations on policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and to prevent and detect fraud, waste, and abuse in such programs and operations; and

(C) provide an independent and objective means of keeping the Secretary of State fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

(2) The Inspector General shall have the duties, responsibilities, powers, and authorities described in sections 3001 (f), (g), and (h) of Public Law 108–106.

(d) RELATIONSHIP TO THE SECRETARY OF STATE.—

(1) The Inspector General shall report directly to and be under the supervision of the Secretary of State.

(2) Any reference in title III of Public Law 108–106 to the "Coalition Provisional Authority" or to the "head of the Coalition Provisional Authority" shall be deemed to be a reference to the Department of State or to the Secretary of State, respectively.

(e) COORDINATION WITH OTHER INSPECTORS GENERAL.—In carrying out the duties, responsibilities, and authorities of the Inspector General, the Inspector General shall coordinate with, and receive the cooperation of, the Inspector General of the Department of State, the Inspector General of the Department of Defense, the Inspector General of the United States Agency for International Development, and any other Inspector General carrying out functions related to the provision of reconstruction assistance for Iraq with funds appropriated for "Iraq Relief and Reconstruction Fund".

(f) FUNDING.—Funds available pursuant to section 3001(n) of Public Law 108–106 shall be transferred to the Office and used for purposes of this section.

(g) The Office of Inspector General for Iraq Reconstruction shall terminate on September 30, 2007.

OVERSIGHT OF IRAQ RECONSTRUCTION

SEC. 574. (a) Section 2207(a) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), is amended by striking "The Director of the Office of Management and Budget, in consultation with the Administrator of the Coalition Provisional Authority (CPA) and the Committees on Appropriations," and inserting "The Secretary of State".

(b) The allocation of any funds appropriated under the heading "Iraq Relief and Reconstruction Fund" in chapter 2 of title II of Public Law 108–106 for administrative expenses purposes pursuant to the authority contained in the seventh proviso under that heading, shall be subject to the regular notification procedures of the Committees on Appropriations.

INDONESIA

SEC. 575. Congress notes that the Indonesian Government and Armed Forces have pledged to cooperate with the Federal Bureau of Investigation with respect to its investigation into the August 31, 2002, murders of two American citizens and one Indonesian citizen in Timika, Indonesia. Therefore, funds appropriated under the heading "International Military Education and Training" may be made available for Indonesia if the Secretary of State determines and reports to the appropriate congressional committees that the Indonesian Government and Armed Forces are cooperating with the Federal Bureau of Investigation's investigation: *Provided*, That this restriction shall not apply to expanded international military education and training, which may include English language training.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005".

The CHAIRMAN. No further amendment to the bill may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments 5, 6, 7, 8, 12, 14, and 21;

Amendments 11 and 17, which shall be debatable for 20 minutes;

Amendment 15, which shall be debatable for 30 minutes;

Amendments 9, 13, and 18, which shall be debatable for 40 minutes;

An amendment by Mr. GARRETT of New Jersey regarding conference attendance;

An amendment by Ms. JACKSON-LEE of Texas regarding agricultural development in sub-Saharan Africa;

An amendment by Mr. SANDERS regarding Export-Import Bank loans, which shall be debatable for 40 minutes;

An amendment by Mr. DEAL of Georgia regarding extradition, which shall be debatable for 20 minutes;

An amendment by Mr. WEINER regarding Saudi Arabia, which shall be debatable for 30 minutes;

An amendment by Mr. BUYER regarding monitoring of elections, which shall be debatable for 20 minutes;

An amendment by Mr. OTTER regarding West Bank/Gaza;

An amendment by Mr. MENENDEZ regarding Latin American child survival and development assistance;

An amendment by Mr. SCHIFF regarding Armenian genocide;

An amendment by Ms. LEE regarding global AIDS, which shall be debatable for 30 minutes;

An amendment by Ms. DELAURO regarding child survival;

An amendment by Ms. WATERS regarding contract fraud; and

An amendment by Ms. MCCOLLUM regarding unexploded ordnance.

Each such amendment may be offered only by the Member designated in the request, or a designee, or the Member who caused it to be printed in the RECORD, or a designee, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in the request if it addresses in whole or in part the object described.

Are there any points of order to the portion of the bill which is open?

POINT OF ORDER

Mr. GOODLATTE. Mr. Chairman, I make a point of order against section 565(a)(3) for the reason it violates rule XXI, clause 2, which prohibits legislative language in a general appropriation bill.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. KOLBE. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The gentleman from Arizona concedes the point of order, and the point of order is sustained. This language is thereby stricken from the bill.

Are there any amendments to this portion of the bill?

AMENDMENT OFFERED BY MS. LEE

Ms. LEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. LEE:

In title II, at the end of the item relating to "CHILD SURVIVAL AND HEALTH PROGRAMS FUND", insert the following:

In addition to the amount provided in the preceding paragraph for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, $800,000,000 for such purpose, to remain available until September 30, 2006: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress).

Mr. KOLBE. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. A point of order is reserved on the amendment.

Pursuant to the order of the House of today, the gentlewoman from California (Ms. LEE) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just say that today I rise, having just returned yesterday afternoon, from the 15th International AIDS Conference in Bangkok, Thailand, as the only Member of this body in attendance. This was the third International AIDS Conference which I have had the privilege to participate in: several years ago, Durban, South Africa; following that Barcelona, Spain; and now Bangkok, Thailand.

My experiences at these conferences, especially very recently in Bangkok, confirmed the vital need for this amendment, which designates $800 million in emergency funding for the Global Fund to fight AIDS, tuberculosis, and malaria. Together with the $400 million which the base bill provides for the fund, my amendment would increase the total United States contribution to the fund to $1.2 billion this coming fiscal year.

Based on its projection of need, the fund estimates that it will require approximately $3.6 billion in fiscal year 2005. By bringing the total United States contribution to the fund to $1.2 billion, this amendment would provide one-third of that figure as laid out in the Global AIDS legislation. The funding will help treat an additional 2 million people for tuberculosis and an additional half million people for AIDS.

Having spent this week, well, the last few days, actually, among the international leaders on the global pandemic, and also with people living with the virus, I can tell my colleagues that the international community is quite disappointed, to put it mildly, about the United States' failure to deliver on promised funding to date; and this amendment would help restore what many see as really the lack of United States leadership and credibility on the HIV/AIDS pandemic.

This point was reinforced by Secretary of Health Tommy Thompson's decision to allow a delegation of only approximately 50 people to attend the World AIDS conference this year, down by 236 the year before in Barcelona. It is shameful, I believe, that this administration has prevented many of our best and our brightest scientists at the Centers for Disease Control and the National Institutes of Health from gaining new insights from their colleagues in the international community and from sharing the research they have conducted on this pandemic with their colleagues in the global community.

It is tragic that this administration's unilateralist and ideological tendencies have now spread, unfortunately, to the fight on HIV and AIDS. It is morally wrong to allow right-wing ideology to trump science when it comes to the administration's HIV/AIDS prevention policies. Their policies set aside 33 percent of all funding for abstinence only. That denies access to lifesaving technology, including condoms. Simply put, this is irresponsible, unethical, and inhumane. Emphasis should be science based, not ideological.

It is unethical, I believe, that the antiretroviral treatment policies are focused more on protecting patents and big pharmaceutical companies than on the urgent need to get fixed-dose combination into the hands of those who need them. Emphasis really should be put on saving lives.

And I think it is pretty disingenuous that the administration has proposed cutting our support for the Global Fund, given all these enormous problems that we have, to a measly contribution of about $200 million, rather than the $1.2 billion, which is desperately needed.

I must thank the gentleman from Arizona (Mr. KOLBE) and our ranking member, the gentlewoman from New York (Mrs. LOWEY), for their unwavering commitment to helping to increase this funding and actually doubling the funding for this Global Fund twice as much as what the initial bill provided for. But, Mr. Chairman, I think we must go further in providing the resources.

We have a battle before us to get this devastating and deadly pandemic under control. And why the fund? This fund is the best way to get the money out into the hands of the NGOs immediately. It is a multilateral approach. For example, $1 billion could leverage up to $9 billion to $10 billion from the private sector, from additional donor countries, and from foundations. We are the wealthiest country in the world. We should be leading the charge. This Global Fund is the best vehicle to show that type of cooperation to provide for the quick release of this money.

I met with too many people, Mr. Chairman, who are living and dying with this disease. For example, I participated in one meeting with women leaders. There were maybe 50 to 75 women in the room. Over half of them were living with the virus. One woman happened to share a story with us, and she indicated that she had recently gotten married. She did not know that her husband was HIV infected. Four months later, after her marriage, lo and behold she has the virus.

I could go on and on with stories about orphans and vulnerable children; stories about women who cannot negotiate abstention; stories about women who are subjected to violence; stories about women and children that need help in terms of antiretroviral treatment. The quickest way for us to address this pandemic is to get the money out, and to get it out quickly.

The fund is headed by Secretary Tommy Thompson. It is directed by Dr. Feachem, based in Geneva, Switzerland. They know what they are doing in terms of establishing the criteria, and they know how to get the money out quickly. I would say the bureaucracy is not as stringent as it is through the bilateral programs. So, quite naturally, the money can get to where the people are more quickly and in a way that is more effective.

So I would just ask for consideration of this very modest amendment. It is only $800 million more, and it will save millions and millions of lives.

Mr. Chairman, I reserve the balance of my time.

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Mr. KOLBE. Mr. Chairman, I am prepared to make my point of order unless the gentlewoman wishes to speak further.

Ms. LEE. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York (Mrs. LOWEY), ranking member on the Subcommittee on Foreign Operations, Export Financing and Related Programs. I want to acknowledge her very stellar work and her commitment to addressing this pandemic in a very real way.

Mrs. LOWEY. Mr. Chairman, I want to thank the gentlewoman from California for her important leadership on this issue. I know that she recently returned from the HIV/AIDS conference in Bangkok. I know that in this very busy place we never have adequate time to really listen and learn, but she has truly been a leader, and I hope that we all have the opportunity to share her experiences with her. I thank her.

Mr. Chairman, while the bill before us already contains $2.2 billion for HIV/AIDS programs, which is the requested level, it only contains $400 million for the Global Fund to Fight AIDS, TB and Malaria. The Global Fund has made clear to us that a $400 million U.S. contribution for fiscal year 2005 will endanger completion of multiyear grant agreements it has already signed and will totally shut down the Fund's ability to make new grants. The Fund has appealed to us for a total U.S. contribution of $1.2 billion this year, which is its estimate of the funds needed to meet anticipated demands for the next round of grant awards.

I want to point out that the committee has not been totally satisfied with the management performance of the Fund, and there are a number of reforms mandated in the bill to improve its performance. But, despite these concerns, the demand for increased funds for meeting the needs for HIV treatment, prevention, and awareness are vast and growing. One need only cite the daunting statistics of the most recent U.N. reports on the spread of HIV to understand the need for more funds. Based on this alone, I would support the gentlewoman's amendment.

I do, however, have another compelling reason to support the amendment, and that is because I am convinced that the Global Fund is doing a better job at scaling up HIV treatment programs than our bilateral program currently is. As many of the Members know, the administration recently announced that the Food and Drug Administration would institute new policies that would dramatically speed up the process of approving generic drugs for HIV treatment. Unfortunately, this announcement was completely misleading.

As documented in a recent letter to HHS Secretary Thompson from our colleague from California (Mr. WAXMAN), ranking member on the House Committee on Government Reform, the administration's announcement in May that the FDA would be able to review these drugs in "2 to 6 weeks" raised the expectation of their imminent purchase and distribution. After close review, however, of FDA plans, it becomes clear that the expedited review starts only after companies have submitted a complete application to FDA. In order to have a complete application, these companies may have to repeat clinical studies, undergo a raw materials review, and submit to detailed inspections. The bottom line is that this presubmission process could add months, if not years, to the approval process.

The Bush administration has made treatment of those living with HIV its highest priority, stating that 200,000 people will be in treatment within 1 year and 2 million by 2007. As the cost for generic "one pill combinations" continues to decline to less than $150 per year, the United States is still purchasing brand-name drugs at four to five times that price. Without a viable regime in place to certify safe and effective generic drugs to treat HIV, our ability to meet the goals set out by the President will diminish. WHO has standards in place and in use today, but they are not currently recognized by the United States.

I believe that either the administration should implement a realistic plan for rapid approval of safe and effective combination therapies by expediting the FDA approval process, or we should participate in the WHO approval process.

I do not believe Congress should have to get involved in this issue. It is best left to medical experts to determine what is safe and effective in treating HIV. However, I also believe that the President should not mislead Congress and the American people. We should not continue indefinitely to purchase expensive brand-name drugs with no clear plan in place by the FDA to expedite its review of cheaper generics. Unfortunately, that is where we find ourselves today.

I intend, along with Chairman KOLBE, to follow up with Global AIDS Coordinator Tobias and Secretary Thompson. In the meantime, providing more funds to the Global Fund will speed progress toward reaching the treatment and prevention goals we all share.

I urge support of this amendment.

Ms. LEE. Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. MCDERMOTT) who has been sounding the alarm about this pandemic for many, many years. I thank him for his leadership.

The CHAIRMAN. The gentleman from Washington is recognized for 3 minutes.

Mr. McDERMOTT. Mr. Chairman, I rise in support of the Lee amendment, and I want to talk about what this issue really means. The issue of whether or not we give the money for AIDS to the Global Fund or to the President's Millennium Account is a big decision. The Millennium Account is limited to 15 countries. The Global Fund deals the world over, including China, India and Russia, where the rates are going up at the fastest rates in the world.

So the question, first of all, is, do we want to reach the whole world or do we not? The President actually, unfortunately, I think, says good things but then in his allocations moves backward. He says he wants to reach the whole world but reduces the amount we are giving to the Global Fund.

Mr. Chairman, I include for printing in the CONGRESSIONAL RECORD two articles, one on the 14th of July and one on the 15th of July, because these issues talk about a second problem. It is really related to this country's policies of using only brand-name drugs and making it difficult to use generics. The first thing is, they say, "Well, they're not safe." One of these articles is about the Doctors Without Borders experiments. They have dealt with 12,000 patients worldwide. The multiple drug dose generic works. There is no question about it. So all this business about running all the drugs through the FDA to see if they work is simply a stall. There is no question about what they are doing.

Why is the stall there? If one company owns one drug and another company owns another drug, you can put them together in a pill and give the patient one pill, and it is a lot easier to monitor when a patient is taking one pill that has two or three components in it. But the problem of the patents get in the way of Pfizer and Merck getting together, or Ayerst or whatever company it is, they cannot work out how they can put their two drugs together in one. Who gets the money? Or what is the price?

The generics that the Indians and the Brazilians are making are much less expensive. We could get much more bang for our buck if we would use generics, because we would not only be getting less costly drugs but we would be able to get it down to single pills. If you care about this, you want to give the money to the Global Fund because they can use generics. They do not have to run it through the complicated process of the United States.

[From the New York Times, July 15, 2004]

FIXED-DOSE MIXTURES OF GENERIC AIDS DRUGS PROVE EFFECTIVE

(By Lawrence K. Altman)

BANGKOK, July 14.—The first large-scale study of AIDS patients receiving fixed-dose combinations of generic antiretroviral drugs in poor countries documented their effectiveness, scientists reported at the 15th International AIDS Conference here on Wednesday.

The combinations consist of three antiretroviral drugs formulated into one pill that is taken twice a day. The aim is to simplify therapy because experience has shown that the fewer the pills a patient needs to take, the better the compliance.

Doctors Without Borders, the group that carried out the study in 21 countries, bought the pills from two manufacturers in India, Cipla and Ranbaxy Laboratories Ltd.

Fixed-dose generic drug combinations have been controversial. Critics contend that they may be less effective than patented versions and not as safe.

This study expands on a much smaller study with similar results published in the Lancet early this month.

The findings from Doctors Without Borders should assure patients, donors, health workers, governments and others, said Dr. Alexandra Calmy, an AIDS adviser to Doctors Without Borders in Geneva.

When Doctors Without Borders began prescribing the fixed-dose combinations in 2002, "we were convinced they would work or we would not have done it," said Dr. Calmy, who specializes in infectious diseases. "It was common sense."

But to make certain, her group undertook the study reported Wednesday.

"We found a very robust outcome, and the findings are important for the Global Fund and other groups that are recommending" use of generic fixed dose combinations of antiretroviral drugs, Dr. Calmy said in an interview.

The combination that Doctors Without Borders uses for first-line therapy is the same one recommended by the World Health Organization, drugs known as stavudine, lamivudine, 3TC and nevirapine.

Of the 12,058 adults that Doctors Without Borders has treated with antiretroviral drugs in 21 countries in Africa, Central America and Asia since 2002, 6,861 received fixed-dose combinations. Since March, 80 percent of the group's new AIDS patients have received fixed-dose combinations.

Among the fixed-dose combination recipients, the probability of survival after one year was calculated as 82.4 percent, Dr. Calmy reported. About 60 percent of the deaths occurred in the first three months of therapy. The deaths occurred largely among patients who were so ill that they began the antiretroviral therapy too late to protect them from the infections that often kill patients as a complication of AIDS.

Among the 6,861 fixed-dose combination recipients, there was a significant increase in the number of immune cells, known as CD–4 cells, that are destroyed by H.I.V., the virus that causes AIDS. The CD–4 count rose by an average of 137 cells in a year, in about half the patients.

Because of logistical difficulties in treating patients in slums and rural areas in countries like Malawi with poor roads and transportation, Doctors Without Borders does not routinely monitor each patient with the tests that measure the amount of virus in the blood. Doctors in developed countries routinely use such tests, known as viral loads, to determine the effectiveness of therapy.

However, a viral load test in a subset of patients showed that fixed-dose combinations failed in 12 percent of the 477 tested, which is comparable to findings in developed countries, Dr. Calmy said.

Among the 6,861 patients who had been on treatment for one year or longer, 51 had to switch to other drugs because they had suffered side effects to one or more of the drugs in the fixed-dose combination. For those who had taken a new regimen, the number of pills was 13 or more a day.

Nevirapine was the most common cause of the unwanted effects. Of the 51 who suffered reactions such as rashes and liver damage, 23 changed to other regimens. An additional nine patients switched to other drugs because they suffered nerve damage and disfiguring accumulations of fat on the neck, back and abdomen.

The frequency of adverse reactions was comparable to that observed among recipients of patented drugs in developed countries, Dr. Calmy said.

In a separate part of the study conducted in Malawi, Dr. Arno Jeannin's Doctors Without Borders team randomly tested the amount of H.I.V. in the blood of 477 patients who had received fixed-dose combinations there for six months or longer. Of these, H.I.V. could not be detected in 85 percent, showing the overall effectiveness of the fixed-dose combinations.

The annual cost of the fixed-dose combinations was $389 or less.

[From the New York Times, July 14, 2004]

EARLY TESTS FOR U.S. IN ITS GLOBAL FIGHT ON AIDS

(By Deborah Sontag)

The Bush administration did not consult with Mozambique last year before designating the country as a beneficiary of its emergency AIDS plan. Mozambique was simply informed that it would be one of 12 African nations, and 15 countries overall, awarded substantial financial assistance.

The pledge of big money was certainly welcome, said Francisco, Songane, the Mozambican health minister; AIDS has lowered life expectancy in Mozambique to 38. But the approach, perceived by many Mozambicans as arrogant and neocolonial, was not.

Mozambique, in southeastern Africa, had spent considerable time developing a national strategy to combat its high rate of H.I.V. infection. Other international donors had agreed to pool their contributions and let the Mozambicans control their own health programs. Thus, Mozambican officials recoiled when the Americans said earlier this year, "We want to move quickly, and we know that your government doesn't have the capacity," Mr. Songane said.

The Bush administration wanted the bulk of its funding to go toward more costly brand-name antiretroviral drugs for treatment programs run by nongovernmental organizations. But Mozambique had already decided to treat its people with 3-in-1 generic pills, which were cheaper and simpler to take. Also, Mozambique did not want an American program dependent on costly foreign consultants, N.G.O.'s and the largesse of foreign political leaders, that would run parallel to its own.

There were confrontational meetings in Washington and in Maputo, the capital of Mozambique. And in the end, to the surprise of many, the Bush administration agreed to give Mozambique the kind of help it really wanted, by strengthening its laboratories, blood-transfusion centers and the Health Ministry itself—albeit indirectly, through a grant to Columbia University.

"What I witnessed in Mozambique was a disaster averted," said Dr. Steven Gloyd, an international health specialist at the University of Washington who works with Mozambique. "So, for countries like Mozambique, this may turn out to be a positive intervention, even though it could be a lot more."

Seventeen months after President Bush announced his five-year, $15 billion emergency AIDS initiative, the program is belatedly getting under way, and surprising some critics of what is seen as its go-it-alone approach. In some cases, the plan is proving to be more adaptive and collaborative than had been expected, especially when countries are strong enough to stand their ground.

The plan is already directing considerable money into health clinics, laboratories, testing centers and hospices, AIDS treatment, prevention of H.I.V. and care of orphans.

For every Mozambique, however, where Washington has altered its plans to meet local objections, there is a Zambia, where local officials are in the dark. The Zambian health minister, Brian Chituwo, said his government did not have a formal meeting on the program with the American ambassador until May, 15 months after Zambia's role was announced. Further, he said, on everything but blood-transfusion services, which were negotiated, the Americans' plans for Zambia have "all come from Washington." The American plan, one senior United Nations official said, "has created turbulence wherever it has gone." But another, Michel Sidibe, praised the Americans for making a "major shift" in May by signing "a declaration of harmonization" in which they pledged to coordinate their anti-AIDS activities with other donors.

The president's program, a centerpiece of his compassionate conservativism, has been a prime topic of conversation at the International AIDS Conference in Bangkok—and a magnet for some protests. On Tuesday, President Jacques Chirac of France accused the United States of blackmailing developing countries into bartering their right to produce generic H.I.V. drugs for free-trade agreements. American officials dismissed the charge as groundless.

After decades when the pandemic in Africa spread unchecked, billions in anti-AIDS money is suddenly pledged to assist the continent, and questions about how to channel that outpouring have taken center stage. The administration's AIDS effort is under sharp scrutiny because it is so big, so unabashedly Washington—dominated and tinged by the administration's political ideology.

Many critics see big pharmaceutical companies behind the Bush administration's preference for costlier brand-name drugs, conservative Christians behind its heavy promotion of abstinence, and hard-line unilateralists behind its decision to bypass the Global Fund to Fight AIDS, Tuberculosis and Malaria in creating its own plan.

Randall L. Tobias, a former chief executive of the Eli Lilly & Company drug group and a Republican donor who became the administration's global AIDS coordinator last October, lamented the politicized environment and suggested that critics refocus their antagonism. "The enemy here ought to be apathy, denial and stigma," he said. "I don't know why people spend so much time fighting each other."

Still, the administration's refusal thus far to use its money to buy generics is complicating the roll-out of its own emergency plan. Like the Mozambicans, other African officials have resisted the distribution of brand name drugs as first-line therapy. As a result, in a half a dozen or more of the focus countries, the governments themselves or other donors are picking up most of the cost of life-saving drugs.

The goal set by President Bush in January 2003 was to treat two million people in five years. Under the plan, an estimated 6,000 to 10,000 people have started on antiretroviral drugs so far, according to a Congressional appropriations expert. The global AIDS office could not give a figure. In the slums of Lusaka, Zambia, American money was put to use quickly this spring renovating four clinics and training workers to distribute drugs. American doctors worked in concert with a local health official to salvage a stockpile of government AIDS drugs that were about to expire.

In late April, they started handing out drugs that ward off death for some very ill people, and within two months, they had 700 patients on antiretroviral therapy.

"There was a patient whose family had sadly sent her off to a hospice" to die, said Jeffrey Stringer, a doctor from the University of Alabama who is running the program. Recently, a health worker escorted the patient back home." And there was a woman who couldn't crawl who has now gained weight and is walking around."

Dr. Stringer, who is working in collaboration with the Elizabeth Glaser Pediatric AIDS Foundation in Los Angeles, noted that he had not voted for President Bush. But he had to admit, he said, "They ponied up."

Other American experts are more skeptical.

"Sure, off the bat, you can put 5,000" on antiretroviral drugs, said Josh Ruxin, an assistant clinical professor of public health at Columbia and a consultant to Rwanda and Nigeria. "They're easy to ID, they're terribly sick, they need drugs now, they live in cities, they have cell phones. So that's the low-hanging fruit. But then what happens? You quickly reach a point where you can't treat more people unless you develop the national health systems, and that is not something I've heard the American government commit to in a big way."

FOR BUSH, A 'WORK OF MERCY'

Mr. Bush presented the President's Emergency Fund for AIDS Relief in his 2003 State of the Union address, which also began the countdown to the war in Iraq. He called it a "work of mercy," offering the soft power of American humanitarianism to counterbalance the imminent use of military force.

"As our nation moves troops and builds alliances to make our world safer, we must also remember our calling as a blessed country to make this world better," he said.

Mr. Bush declared a five-year goal of getting 2 million into treatment, preventing 7 million infections and providing care to 10 million infected people and AIDS orphans in what he called the most afflicted countries in Africa and the Caribbean.

The 14 focus countries named were: Botswana, Ethiopia, Guyana, Haiti, Ivory Coast, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda and Zambia. Vietnam was added last month at Congress's insistence that there be another nation from a different region.

The sheer ambition of the proposal stunned advocates for huge increases in global AIDS funding into applause. Jeffrey Sachs, the Columbia University economist, called the president's commitment "historic" and a "breakthrough."

But at a time when American power was being imposed and questioned in the military arena, the AIDS plan struck some as another kind of unilateralism. They feared that Mr. Bush's program would undermine the multilateral Global Fund, which assists eight times as many countries, including India, China and Russia, whose infection rates are rising rapidly. And these experts thought it was retrogressive in its reliance on American universities, faith-based organizations and nongovernmental organizations, whose ability to pay higher salaries could drain workers from local public health systems that should be reinforced instead.

Dr. Paul Zeitz, executive director of the Global AIDS Alliance, said advocates were baffled. "We thought the international community had come to a consensus that there needed to be a new way of doing business where we all worked together and helped strengthen national capacities," he said.

When he took office, Mr. Bush had inherited a kind of global momentum toward an international AIDS fund, and a drumbeat for action was building at home, too. Senators Bill Frist and John Kerry formed a bipartisan team to fight for greater American involvement. The Rev. Franklin Graham, who delivered the invocation at Mr. Bush's inauguration, was catalyzing the evangelical community to get over its aversion to the disease and confront it as part of its mission.

The push for an international fund was led by, among others, Mr. Sachs and Secretary General Kofi Annan at the United Nations. But the Bush administration was a major force in shaping the Global Fund as an independent, multilateral, public-private partnership, and not a World Bank or United Nations program.

The Global Fund's approach was conceived as a reaction against years of inefficient and often ineffective foreign development programs. The idea was to funnel aid from multiple donors to the affected countries and let them run their own health programs, thereby eliminating waste, duplication and burdensome demands on patients.

Yet it took a couple of years for the Global Fund, which is based in Geneva, to persuade countries to develop plans that could be financed, and to get the money flowing from government coffers into health care. The Bush administration was impatient, and concerned that other countries were not contributing their share. The Global Fund did not seem the ideal repository for the billions it wanted to pour into the pandemic.

After the 2003 State of the Union address, Richard Feacham, executive director of the Global Fund, said: "There was to some degree a mood in Washington of dichotomy" between the president's plan and the Global Fund. "People felt the need to make a choice and see a rivalry. We worked extremely hard to convey the message that the world needs both. You can't stop the pandemic in 15 countries. The Global Fund is in 130. We also focus on TB and malaria, the greatest killer of African children."

Right after the State of the Union address, Tommy G. Thompson, the secretary of health and human services, became the new chairman of the Global Fund, which made some European donors fear an American takeover. But Mr. Bush has instead moved to pull back. In his budget request for 2004, he sought to reduce America's contribution. And in his 2005 request, he is asking for a 60 percent cut in the contribution.

Congress, however, refused the Global Fund's allocation for 2004, instead nearly tripling the administration's request. It also increased the global financing to $2.4 billion, of which $1.9 billion goes for H.I.V./AIDS (and the rest for tuberculosis and malaria). Several members of Congress complained that $2.4 billion was not a lot of money for a global health emergency, especially compared with more than $100 billion spent on military operations in Iraq.

The global AIDS coordinator's office, in fact, had only $488 million in new money this year. It also used old money in new ways, though. By the end of the 2004 budget year, it will have committed—but not yet spent—$865 million, one-fifth of which is committed to faith-based groups. Some $253 million will go toward treatment programs, but the drug issue has made spending that money more difficult than expected.

GENERIC DRUGS VS. BRAND NAMES

"We are using generics here because they are cheaper," Mr. Songane of Mozambique said. "And apart from being cheaper, they are prepared in a manner which is simple for our patients, and even simpler for our staff."

Like Mozambique, many countries prefer generics because they can be used to treat more people and because, given patent problems, only generics now come in fixed-dose combinations, which combine three drugs in one tablet, improving adherence to pill-taking schedules.

Foreign-made 3-in-1 pills have been approved by the World Health Organization and purchased in bulk by the Global Fund and many developing countries. But the Bush administration is insisting on brand-name antiretroviral drugs because the generics have not been reviewed by the Food and Drug Administration. The F.D.A., Mr. Tobias said, is the most stringent regulatory authority in the world and should make the determination whether drugs for an American overseas program are safe and effective, and of the highest quality.

Mr. Tobias noted that the World Health Organization recently withdrew two generic antiretroviral drugs made by Cipla of India from its list of approved treatments. (Its fixed dose tablets remain on the list.) This, he suggested, cast doubt on the W.H.O.'s screening procedures.

Cipla has said that the problem lay not with the product but with a contract research laboratory that it no longer uses. Tests are being repeated in different labs, and the company says it is confident that the drugs will be back on the approved list soon.

Further, earlier this month, researchers who studied Cipla's Triomune reported in the Lancet medical journal, that fixed-dose generic AIDS drugs work as well as brand-name drugs, according to the first clinical trial. Triomune costs as little as $140 a year per patient, compared with about $562 for the brand-name versions in the 3-in-1 pill.

In early spring, the Americans discovered that resistance to their rule on brand-name drugs was coming even from the American organizations who were getting multicountry, multiyear grants to set up treatment programs. The American organizations, which are expected to receive more than $600 million over five years, are the Harvard School of Public Health; the Glaser foundation; the Joseph L. Mailman School of Public Health at Columbia University; and a faith-based consortium led by Catholic Relief Services.

Some expressed their preferences for generics outright. Barry R. Bloom, the dean of public health at Harvard, said, "The Indian pills are terrific—you take just two a day." Allan Rosenfield, dean at Mailman, issued a statement urging the Bush administration to allow American money to purchase generics.

At an American-initiated conference in Botswana in late March, Jacqueline Patterson, who manages the program for a Protestant medical association that is part of the Catholic Relief Services' consortium, declared that most mission hospitals and clinics in Africa and the Caribbean were already using fixed-dose combinations and wanted to continue. She read comments from the field that voiced a collective anxiety about the imposition of brand-name drugs, resulting in fewer people in treatment and more skipping doses and sharing pills.

With countries like Mozambique, Namibia and Rwanda holding fast to their positions that generics would be their first-line drugs, American officials realized that their assistance in those places would be limited. They would be able to provide medicine for children, for whom only brand-name drugs are available, and for those adults, say, who had developed a resistance to the generics. But essentially, they would be providing technical support for the drug treatment program rather than the drugs themselves.

In May, the Bush administration announced that it would set up a new expedited review for generic antiretrovirals, including the 3-in-1 pills. If approved, the drugs would be eligible for use in the AIDS plan, it said.

An executive at an American foundation engaged in global AIDS work said it remained to be seen whether "the F.D.A. process is real, a stalling tactic, or ultimately a tool for the R-and-D companies." But, he said, his foundation was encouraging foreign drug companies to submit dossiers to the agency.

So far, no foreign drug companies have applied for the expedited review. William F. Haddad, an American representative for Cipla, said the Indian company was left with unanswered questions about the accelerated approval process. "When they come back to us with answers, Cipla will make up its mind about whether to apply," he said. "But the bottom line is that this is a political act, not a scientific one. Why is the World Health Organization's stamp of approval O.K. for the World Bank and the Global Fund and not for the U.S.?"

ABSTINENCE VS. CONDOMS

With its focus on treatment, Mr. Bush's plan is profoundly changing a two-decades-long emphasis on H.I.V. prevention as the American strategy abroad. The prevention efforts are continuing but, on Congress's mandate, they are being given a new emphasis on abstinence, with $86 million devoted this year to promoting abstinence.

World Relief International, the humanitarian arm of the National Association of Evangelicals, is to receive $9.6 million over five years to promote abstinence. Deborah Dortzbach, international director for its H.I.V./AIDS programs, said World Relief would use a network of churches, schools and "Choose Life" clubs in Haiti, Kenya, Rwanda and Mozambique.

"We teach abstinence as an opportunity," she said, "as a way to delay the gift of sexuality and its pleasures until they can experience it with responsibility."

A guide for World Relief instructors includes a detailed chapter on condom use and how to negotiate the use of a condom with a reluctant partner. Ms. Dortzbach acknowledged, however, that many pastors were reluctant to discuss condoms at all with youths and needed some persuasion to mention them during marriage counseling.

Any discussion of condoms, Ms. Dortzbach said, emphasized that condoms were not perfectly safe and that "the only guarantee for protection is abstinence," which is the Bush administration's message.

That message is predicated on the success of the A B C model in Uganda, which stands for Abstain, Be Faithful, Condomize. Critics say, however, that the Americans are paying too little attention to "C."

The American government is probably buying more condoms now than at any time in its history, Mr. Tobias said, but Congress did not want a broad distribution of condoms to be the primary prevention tool, as it has been historically. In Africa, too, some experts question the efficacy of condoms, given that infection rates continue to climb as many men refuse to use them.

The Bush administration's strategy does suggest condoms for "high risk" individuals like prostitutes, soldiers, drug users and "serodiscordant" couples. But critics say everybody in a sub-Saharan country with a sky-high infection rate is high risk.

"In their approach, they ignore the basic reality that a large share of unmarried adolescents are already sexually active and so at high risk," said Jodi L. Jacobson, executive director of the Center for Health and Gender Equity in Maryland. "They also ignore the fact that marriage doesn't protect married teens and women from H.I.V., and that sexual violence and coercion are facts of life."

THE LONGER TERM

In Maputo, health officials said that they were struck by the Americans' obsession with numeric goals.

"To see an increase in numbers of people on antiretrovirals, that was their only concern," said Mr. Songane, the health minister. "But this is a complex disease. We can not judge the success of our fight just by the numbers of people on treatment."

The Mozambicans wanted to move gradually and to strengthen their health sector at the same time. They did not want to neglect other health issues, like malaria, childhood diseases and maternal health. They did not want to use nongovernmental organizations where the Americans would pay the salaries, buy the drugs and purchase the vehicles that would travel to the villages to distribute the drugs.

"In one year, two years' time, who is going to follow those people?" he asked. "When the N.G.O. is gone, who is going to take over?"

Dr. Paul Farmer, an American renowned for his treatment programs in rural Haiti, said international projects intending to help poor countries should pay heed, as Mozambique does, to the need to integrate AIDS treatment with overall health care.

"When you're in a clinic in rural Haiti and someone comes in with a broken arm or in obstructed labor, you can't say, 'Sorry, we only do AIDS prevention and care,'" said Dr. Farmer, a Harvard professor. "The massive loss of life due to H.I.V. disease is only one symptom of a very sick world in which hundreds of millions are going without any modern medical care at all. Addressing AIDS properly offers a chance to set some of this right."

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment; and I yield myself such time as I may consume.

Mr. Chairman, I count myself among the Fund's strongest supporters. Last year, I worked with my colleagues on both sides of the aisle to increase the U.S. contributions to the Fund from the President's request of $200 million to $550 million.

Not including funds in the bill under discussion, the United States has made available nearly $1.2 billion of the Fund's $3.4 billion in pledges and contributions through 2004.

However, this is a global disease, and we must have the commitment of many partners to fight it. That's why Congress requires that other donors match the U.S. funds, at a 2:1 ratio. Unfortunately, other countries have not contributed enough this year for the entire U.S. contribution to be released—we have nearly $190 million waiting for other donors to step up to the plate. The Committee took this fact into account in making its recommendation.

I must note that it is more than unfortunate that some in the AIDS community continue to scold the United States for not giving more to the Global Fund. Their time would be better spent encouraging other donors to contribute and to improving the Fund's operations.

Of the more than $3 billion that the Fund has approved in grants, only $428 million has even made it out of the Global Fund's account. That means nearly $2.6 billion in committed funding is simply sitting in the Global Fund's account.

The Committee has recommended provisions in this year's bill to help the Fund improve its disbursements. I can only ask that others begin to take a hard look at the Fund's operations, rather than blindly call for more money, more money. We need the Fund around for the long-term, and improving its operations is the only way to maintain public confidence in it.

If other countries step up to the plate, and provide sufficient contributions to allow more from the U.S. than Congress appropriates, and if the Fund improves its operations, then we will take these developments into account for future years.

Ms. WATERS. Mr. Chairman, I rise to support the Lee amendment to add $800 million to the Global Fund to Fight AIDS, Tuberculosis and Malaria.

The HIV/AIDS epidemic is having a devastating impact on Africa and the world. Over 60 million people have been infected by the AIDS virus since the beginning of the epidemic, and 42 million people are currently living with this dreadful disease. Approximately three million people died of AIDS last year, and another five million people became infected with HIV.

The HIV/AIDS epidemic has already curtailed the economic development of many countries in Africa. AIDS is responsible for shortages of skilled workers and teachers, high rates of absenteeism and labor turnover, and the deaths of workers and managers throughout business and government. Teachers and other skilled workers can be very difficult to replace. Tragically, in some parts of Africa, employers even find it necessary to hire two workers for every job opening, because they expect one of them to die of AIDS.

On May 1, 2003, the House passed H.R. 1298, "the Global AIDS Bill," which authorizes appropriations of $3 billion per year over five years for global HIV/AIDS treatment and prevention efforts. This bill, which is critically needed and long overdue, was signed into law by the President on May 27 of last year. However, it has never been fully funded.

According to UNAIDS, HIV/AIDS has spread rapidly in Eastern Europe, and gained a strong foothold in India and China over the past year. Fortunately, there has been progress, as infection rates actually fell last year in a few hard-hit areas of Africa. Without adequate funding, however, our progress will be short-lived.

I urge my colleagues to support the Lee amendment.

POINT OF ORDER

Mr. KOLBE. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation on an appropriation bill and, therefore, violates clause 2 of rule XXI.

The rule states, in pertinent part, "an amendment to a general appropriation bill shall not be in order if changing existing law." The amendment includes an emergency designation under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 and as such constitutes legislation in violation of clause 2 of rule XXI.

I ask for a ruling from the Chair.

The CHAIRMAN. Does any other Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that this amendment includes an emergency designation. The amendment, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained and the amendment is not in order.

AMENDMENT NO. 14 OFFERED BY MR. LANTOS

Mr. LANTOS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. LANTOS:

Page 18, line 22, after "$2,450,000,000", insert the following: "(increased by $325,000,000)".

Page 19, line 3, after "$535,000,000", insert the following: "(increased by $325,000,000)".

Page 19, line 8, after "fiscal years:", insert the following: "*Provided further*, That of the amounts that are made available under the previous proviso for Egypt, $325,000,000 shall not be obligated until after September 1, 2005:".

Page 42, line 13, after "$4,777,500,000", insert the following: "(reduced by $325,000,000)".

Page 42, line 16, after "$1,300,000,000", insert the following: "(reduced by $325,000,000)".

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I rise to make a point of order against the amendment.

The CHAIRMAN. Does the gentleman from Florida wish to make a point of order?

Mr. YOUNG of Florida. I do.

Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill and, therefore, violates clause 2 of rule XXI.

The rule states in pertinent part, "an amendment to a general appropriation bill shall not be in order if changing existing law." The amendment includes a legislative prohibition on the obligation of funds.

I ask for a ruling from the Chair.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. LANTOS. Mr. Chairman, I request to be heard on the point of order.

The CHAIRMAN. The gentleman from California is recognized to be heard on the point of order.

Mr. LANTOS. Mr. Chairman, my amendment is sponsored by a distinguished list of Republicans and Democrats. It does not change by one penny the amount of aid that Egypt will receive. It merely shifts the ratio from military to economic aid, which is clearly in the interest of the Egyptian people since Egypt faces no military threat but its economic conditions are dire. The amendment does not alter the appropriations for Egypt.

The CHAIRMAN. Does any other Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that this amendment includes language imparting direction regarding the obligation of funds. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the amendment is not in order.

AMENDMENT NO. 13 OFFERED BY MR. LANTOS

Mr. LANTOS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. LANTOS:

Page 18, line 22, after "$2,450,000,000", insert the following: "(increased by $570,000,000)".

Page 19, line 3, after "$535,000,000", insert the following: "(increased by $570,000,000)".

Page 42, line 13, after "$4,777,500,000", insert the following: "(reduced by $570,000,000)".

Page 42, line 16, after "$1,300,000,000", insert the following: "(reduced by $570,000,000)".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California (Mr. LANTOS) and the gentleman from Arizona (Mr. KOLBE) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is a very simple amendment. It shifts $325 million from Egypt's economic aid that we provide and increases Egypt's economic aid that we provide by that exact amount.

The logic of the amendment is clear. Egypt is facing no military threat. Few states on the face of this planet inhabit a strategic environment more secure than Egypt. Egypt shares land borders with three states, and it is at peace with all of them. Recently, Egypt's security environment has improved dramatically as Libya divested itself of its weapons of mass destruction.

Despite this enviable security environment, Egypt has embarked on a major military buildup of a sort one would expect from a nation under dire and imminent threat. This buildup is not only puzzling but, in my view, it is a policy choice with seriously damaging implications for Egyptian society. As a matter of fact, Mr. Chairman, the civilian leaders of Egyptian society are welcoming my amendment because this would enable them to deal with the dire economic conditions of that country in the field of education, health and other areas.

Per capita income in Egypt is less than $1,000. The majority of women over 15 are illiterate. Yet we are pouring our aid money into cutting-edge military equipment rather than into desperately needed economic and social programs. What do we get for this lavish support of the Egyptian military, over $30 billion in recent years? When we needed Egypt's support, the powerful Egyptian military on the whole has been AWOL. Just imagine how politically and militarily useful would have been Egyptian police presence in Afghanistan. It still would be. The Egyptian government said, "Sorry, it's not our fight."

□ 1400

And that is on its best days when it is not viciously criticizing our policies. If Egypt is not going to support us militarily, we can nevertheless serve the interests of the Egyptian people and our own national interest by supporting health, education, and economic development programs that contribute to the stability of Egypt. We can do this by correcting our own mistaken priorities in Egyptian foreign aid. That is exactly what we intend to do.

The amendment which the gentleman from Indiana (Mr. PENCE), the gentleman from New York (Mr. ACKERMAN), the gentlewoman from Florida (Ms. ROS-LEHTINEN), and the gentleman from Virginia (Mr. CANTOR) and others support, would transfer the funds from military to economic assistance. This clearly is in the interests of the Egyptian people, and it is in the long-term interests of diminishing the military confrontation in the Middle East. Our amendment would not force the cancellation of any existing military contracts, contrary to a phony letter designed by the Department of State and distributed in this body.

One would have thought that the Department of State would learn the difference between fiction and fact because the Department of State sent out the Secretary of State to the United Nations on a globally televised program where he peddled fiction and was presenting it as fact. We do not want the Department of State to be equally embarrassed again by peddling fiction instead of dealing with facts.

The framework of the Egyptian-Israeli peace process is now 25 years old. We should no longer have to pay the Egyptian military political protection money to keep it in place. The biggest threat to Egyptian stability is its bloated military budget, which undermines economic and educational development and democratization. In fact, if we enhance our support for economic and social projects in Egypt, our credibility with the Egyptian people will soar.

I strongly urge my colleagues to support this reasonable, logical amendment, which is in the interests of the Egyptian people, which is in the interests of strengthening the forces of peace in the Middle East, and which clearly is in our own national interests.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY), distinguished ranking member of the full committee.

Mr. OBEY. Mr. Chairman, those who know me in this House know that I have a vast preference in almost all instances for economic assistance rather than military assistance, not just in the Middle East but in virtually every other area of the world. I think that for years we have been unbalanced in terms of military assistance as a policy weapon instead of trying to deal with more basic long-term economic and structural problems within recipient societies.

But I happen to believe that in this instance it would be counterproductive to pass the amendment offered by the distinguished gentleman from California. I greatly respect his knowledge in the area. I respect his passion. I respect his guts. But I think that at a time when we have been questioning unilateral practices on behalf of the White House, this would be a peculiarly strange time for me on this side of the aisle to practice some unilateralism myself, and I think that is what this amendment does.

Secondly, I would point out that it is in Israel's interest, as our most reliable ally in the region, it is in Israel's best interest for us to maintain the best possible relationships with our friends in the Arab world that we can possibly retain. And I would point out that right now we need Egypt to deal with the pending withdrawal from Gaza on the part of the Israelis. We need Egypt's help in training police so that we can see real security provided in that region and help protect Israel itself against attack.

And I also think that we do not at this point want to weaken Mr. Mubarak with his military because I think that civilian control of the military in that country is tenuous at best; and even though Mr. Mubarak is out of the military, it is in our interest for a decent and healthy and strong relationship between Mr. Mubarak and the Egyptian military to continue to exist.

I would urge Members to recognize that right now American influence in the Arab world is at an all-time low. Much exploitation has occurred against America's interests, much exploitation of Arab public opinion has occurred because of the activities in Iraq. Regardless of how we feel about that, we have to admit that that is the case with respect to Arab public opinion.

I think it would be a disastrous development for the Congress to take a unilateral action which would undercut the administration's ability to work with what moderate forces are left in the Arab world, and I would strongly urge that we oppose this amendment.

I recognize the emotional force that lies behind the amendment; but sometimes we have to think with our heads, not with our spleens. This is certainly one of those occasions, and I would urge rejection of the amendment.

Mr. LANTOS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I thank the gentleman from California and the gentleman from Arizona for bringing this bill forward. And I rise in support of the amendment by the gentleman from California.

As he has stated, Egypt has embarked on a major military buildup of a sort one would expect from a nation under dire and imminent threat. Last year, the Egyptian Navy created 11 new battle units. At a time of 30 percent illiteracy and a per capita income of less than $1,000, Egypt is pouring its money into cutting-edge military equipment rather than schools, hospitals, and economic development.

The United States has a vital stake in Egypt's stability and prosperity, and the U.S. can best serve that goal and the strengthening of the relationship with Egypt by supporting educational and economic development, as well as political freedom, that contributes most effectively to Egyptian stability.

The amendment offered by the gentleman from California (Mr. LANTOS), the gentleman from Indiana (Mr. PENCE), the gentlewoman from Florida (Ms. ROS-LEHTINEN), the gentleman from New York (Mr. ACKERMAN), and others will not, as the gentleman from Wisconsin suggests, preclude Egypt's ability to help the United States in brokering the pull-out from Gaza which Israel has embarked upon. It will not weaken Mr. Mubarak in the eyes of his military. My goodness, as the gentleman from California has stated, we have given Egypt $30 billion over the last 20 years. This will not preclude our ability to work with Egypt, a moderate Arab ally.

Instead, Mr. Chairman, this amendment supports the Egyptian people and the U.S. interests by transforming approximately 25 percent from the Egyptian military, changing that into economic assistance that will improve the quality of life of the Egyptian people and contribute to the overall prospects for peace in the Middle East.

Mr. KOLBE. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY), ranking member of the subcommittee.

Mrs. LOWEY. Mr. Chairman, I rise in reluctant opposition to this amendment. For the last several years I have joined many of my colleagues, including this amendment's sponsor, in expressing concern about the composition of the United States aid package to Egypt. Why at a time when Egypt has no major enemies should we be providing over $1 billion each year in military assistance? Why, when economic conditions in Egypt are so dire, should we be maintaining such a high level of military aid even as economic assistance levels drop?

I share the concerns many of my colleagues have expressed about Egypt's record. Egypt's media is rife with anti-Israel and anti-Semitic images and language, including constant comparisons between Israel and the Nazis in television shows that perpetuate anti-Semitism. Egyptian officials have called Israel a "terrorist organization" by taking self-defensive actions against terrorists in the West Bank and Gaza. Egypt's move towards political reform has been slow and bumpy, with little support from that country's top leaders for adopting measures to make Egyptian society more democratic and inclusive.

As for Egypt's record on security and peace process issues, I have other serious concerns. The Egyptians have dragged their feet in stemming the flow of smuggled weapons through tunnels under the Egypt-Gaza border. The Egyptian leadership has not historically been helpful in pressing the Palestinians to comply with agreements they have already made and to negotiate with Israel on matters of grave importance to regional stability and security. Egypt has failed to return its ambassador to Israel since it recalled him nearly 4 years ago.

All these examples point to one conclusion: Egypt has not acted the way we should expect one of the largest recipients of United States foreign aid to act. Its policies have at times been in outright opposition to the best interests of United States national security. For these reasons, I agree with the message of the gentleman's amendment.

However, as much as I agree with my good friend's message, I am troubled by the timing. In the wake of Israeli Prime Minister Sharon's decision to pursue a unilateral Israel withdrawal from Gaza, which I strongly support, Egypt has signaled a new readiness to play a constructive role in making the region secure. Egyptian intelligence chief Omar Suleiman has become the point man in discussions with the Palestinians, delivering the message of the United States and the Quartet that the Palestinians must consolidate and reform their security forces and empower their prime minister rather than Chairman Arafat.

Egypt is taking actions right now that are supportive of what Israel has determined is in its best security interests. So at a time when Egypt is preparing to take on the Herculean task of consolidating and training the Palestinian security services, a task that will require steely resolve and sustained pressure on Arafat to achieve, I am concerned about the unintended consequences this amendment may have.

In a July 2 op-ed in The Washington Post, former Middle East envoy Dennis Ross, who has served both administrations and is probably one of the foremost experts in this region of the world, warned that the Egyptians are unlikely to succeed at the long list of goals they have, goals shared by both the United States and Israel without active United States support. I agree with Ambassador Ross, and I believe that this amendment could have the effect of chilling these efforts at a time when they could be most helpful for bolstering security in the region.

□ 1415

Mr. LANTOS. Mr. Chairman, first I want to thank my good friend for eloquently and powerfully making the case for my amendment.

Mr. Chairman, I am now pleased to yield 2 minutes to my friend, the gentleman from New York (Mr. ACKERMAN), the ranking member of the Subcommittee on the Middle East and Central Asia.

Mr. ACKERMAN. Mr. Chairman, I thank the distinguished ranking member for his leadership on this very important issue.

Mr. Chairman, it is important to be clear about what this amendment does not do. It does not cut the overall level of assistance to Egypt but merely redirects a portion of our military assistance to economic assistance.

For many years we went in the opposite direction. We decreased our economic assistance to Egypt, while our military aid has remained the same. At the same time, I have wondered why Egypt needs all of these advanced weapons from us. Who are they arming themselves against? Finland?

I have met repeatedly with senior Egyptian military leaders and posed this question to them. The answer I get is that they need capabilities to respond to the "unknown threat." But someone, somewhere, must have an idea of what that threat is. Otherwise, how do you know what equipment to buy or what capabilities you need?

I recognize that Egypt has admirably provided the United States with overflight rights and swift transit through the Suez Canal. I also recognize that a certain level of interoperability between the United States and Egyptian forces is necessary in order for them to participate in future peacekeeping missions. Therefore, some level of military assistance is necessary to maintain that interoperability.

But I believe what Egypt needs now is not a larger, more powerful military, but a stronger, more prosperous economy. Decreasing our economic assistance while military assistance remains the same does neither Egypt nor us any favors.

Egypt faces significant economic challenges. Real wages stagnate, there is a growing debt burden, unemployment is far in excess of official estimates. All of this requires us to redouble our efforts to encourage economic reform in Egypt. Egypt's current economic growth rate is insufficient to absorb the 600,000 to 800,000 new entrants into the job market each year.

What is needed is more and faster reform, but the insistence of the government of Egypt on going slow on economic reform and has continued to discourage foreign direct and indirect investment, a key input if the Egyptian economy is to grow at a rate that will actually lower unemployment.

Shifting the emphasis of our aid to Egypt will also assist in supporting political reform there. Egypt has recently been saying all of the right things about political reform, although not much seems to be happening of late. The energy and enthusiasm for reform that emerged after Egypt's National Democratic Party's conference last year seems to have dissipated with opposition parties charging that the NDP has not consulted with them on the next steps in the reform process as promised.

Mr. Chairman, Egypt is an important partner to us in the pursuit of peace in the Middle East and Egypt has in the past taken courageous steps to pursue that peace. For that reason, I support the amendment and urge our colleagues to do so as well.

Mr. KOLBE. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I appreciate the gentleman yielding me this time.

I want to say to the author of this amendment that I understand his interest and I think it is a good-faith effort, but I just cannot agree with it.

I think the gentleman would agree, that one of the only stabilizing factors in the very unstable Middle East is the relationship that the United States has, on behalf of Israel, with President Mubarak and the nation of Egypt. Any change to the Egyptian military assistance account, I believe, would seriously undermine that strong U.S.-Egypt partnership that started in 1979 at the Camp David Accords and continues to be one of the foundations for achieving our own foreign policy goals in the Middle East.

Members know that U.S. military aid to Egypt is a cornerstone of the Camp David Accords. The Administration is opposed to an amendment that would modify our commitment to the parties as contained in that agreement. This commitment is the foundation of our efforts to promote peace in the region, to combat terrorism, and to advance interoperability with the Egyptian military.

In addition, this reduction in military assistance could lead to the cancellation of approximately $2.2 billion in total contract value. These contracts all go towards the purchase of United States products.

Our military assistance to Egypt has contributed to regional stability in an area that had previously been the scene of military conflict against Israel. This calming of tensions has enabled us to develop a strategic partnership with Egypt that has contributed to a broad range of U.S. objectives in the region, including the global War on Terrorism, the stabilization and reconstruction of Iraq, and, more recently, the efforts to stop the humanitarian crisis in the Sudan.

Egypt has also taken a critical initiative to work with Israel to support the Israeli withdrawal from the Gaza Strip through the reorganization and training of the Palestinian security services.

On a bilateral military-to-military level, our assistance has helped to modernize the Egyptian military, thereby creating a defensive force that is interoperable with and capable of supporting, U.S. security goals in the region. We also continue to train Egyptian military officers through the IMET Program and to conduct joint exercises, thereby ensuring that our militaries both understand and support each other at critical moments.

This Egyptian capacity has enabled the Egyptian military to participate in international peacekeeping operations, to help us successfully prosecute Operations Enduring Freedom and Iraqi Freedom, to enable our craft to safely transit the Suez Canal, to enable our planes to traverse Egyptian air space, and to provide our tankers with invaluable accession to Egyptian facilities.

This amendment would undermine this relationship, and I would hope that the Members would join the bipartisan leadership of the Committee on Appropriations in opposing this amendment.

Mr. LANTOS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to remind the distinguished chairman of the Committee on Appropriations that, if my amendment is approved, Egypt will still receive vast military assistance from the United States. At the present time, the bulk of our aid is military aid, and my amendment merely shifts the balance a bit.

Mr. Chairman, I am pleased to yield 2 minutes to my good friend, the distinguished gentlewoman from Florida (Ms. ROS-LEHTINEN), the Chair of the Subcommittee on the Middle East and Central Asia of the Committee on International Relations.

Ms. ROS-LEHTINEN. Mr. Chairman, I rise in strong support of the Lantos amendment. It is with sadness and great concern that I rise today to propose a shift in military aid to Egypt. I am saddened that Egyptian society is suffering from illiteracy, decreasing per capita income, and is clamoring for the right to exert their fundamental freedoms and civil liberties, while the Egyptian government has embarked on a significant military buildup of the sort one would expect from a nation under imminent threat.

Yet, as all of us know, Egypt currently occupies a secure, strategic environment, further improved by Libya's decision to verifiably disarm and dismantle its chemical, biological and nuclear missile programs.

Egypt's military aid is particularly daunting when considered within the context of the $1.3 billion in annual military aid that the U.S. provides to Egypt, in essence making us in this Chamber enablers of this increase in Egyptian battle units, Harpoon missiles and fast-attack aircraft.

This cannot and must not continue.

You will hear that the administration has concerns about this amendment. However, the amendment that I have cosponsored on a bipartisan basis is in keeping with President Bush's priorities to bring freedom, democracy and economic liberalization to the Middle East.

This amendment merely shifts funds from military aid to economic assistance for the purpose of supporting

Egyptian civil society and improving the quality of life of the Egyptian people. It is in keeping with U.S. public diplomacy efforts by sending a clear message about U.S. priorities for Egypt's future and the future of Egypt's people. It builds goodwill with the people of the region by supporting educational, economic and political development, goals which contribute most effectively to Egypt's internal stability.

You might hear arguments about how this amendment undermines Egypt's efforts to provide security in Gaza. Let us not be fooled: Egypt is not using this military assistance for anything else but to strengthen its political stature in the region through a show of weapons and military capabilities.

Mr. Chairman, I think that it is time to say no more excuses, and let us vote for the Lantos amendment.

Mr. KOLBE. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Chairman, very, very reluctantly I rise in opposition to the amendment of my good friend and, more importantly, our wise and respected colleague, the ranking member of the Committee on International Relations (Mr. LANTOS). He and I are hardly ever on opposite sides of an important issue relating to the Middle East.

Everyone knows this amendment will not become law, irrespective of what happens today. Neither the Senate nor the conference committee will accept this transfer. The administration would veto it if it did. So, if you pardon the use of a military metaphor, this is simply a shot across the bow.

There are ample reasons to take that shot. On democracy promotion, respect for human rights economic reforms, the Egyptian record is woefully inadequate. The state-sponsored media is filled with repulsive antisemitism and outrageous over-the-top scapegoating of Israel and the United States for the serious problems afflicting the Arab world. Egypt faces no external existential military threats.

But this is the wrong time to take this shot and the wrong time to pass this amendment. Why? Because it will not achieve its purposes, and it threatens to undercut America's national interests in seeking to resolve the Israeli-Palestinian conflict.

How so? For the first time in a very long time, the political and military leadership of Egypt appears willing to take real risks that will enhance Israel's security and force Yasser Arafat to end his support for terrorism.

We are at a critical juncture in the Middle East. Prime Minister Sharon, the father of the settlement movement, has proposed and is deeply committed to an historic disengagement plan that will lead to the removal of all Israeli settlements and military installations from Gaza, at the cost of severing his ties to much of his own political base. This plan is supported by a substantial majority of the Israeli people.

Egypt has a huge stake in the success of the disengagement plan. The last thing they want is a terrorist base camp in Gaza that exports instability to their country and other parts of the region.

In recent weeks, Egypt has begun to play a very constructive role in discussions with Israel and the Palestinians to help ensure an orderly Israeli withdrawal from Gaza.

Most importantly, for the first time since the outbreak of violence, they have put significant pressure on Yasser Arafat. President Mubarak's envoy, General Omar Suleiman, has demanded that Arafat relinquish control over all Palestinian security forces and agree to their consolidation. In addition, he has told Arafat he must fire more than 70 corrupt Palestinian officials, or risk losing any Egyptian financial assistance. Egypt has expressed its willingness to train the Palestinian security services in Gaza as the disengagement plan proceeds.

In light of Arafat's repeated refusal to take steps that could stop the violence, we are not sure whether the Egyptian efforts will bear fruit.

Mr. Chairman, let me conclude with a quote from the Associated Press from yesterday: "The first time an Egyptian President took the risk of reconciling with Israel, he was shunned by other Arabs and vilified by his own citizens. A quarter century after Anwar Sadat became the first Arab leader to sign a peace treaty with Israel, his successor, Hosni Mubarak, is contemplating yet another risky step in the world of Middle East peacemaking: Sending Egyptians to help keep the peace in Gaza if Israel withdraws.

"And as with the 1979 treaty, which ushered in a lasting if cool peace, Egypt finds itself accused of a variety of missteps."

Mubarak is acting on behalf of hated Israel to many of the people in the Arab world. What a strange time to propose this particular amendment.

Mr. LANTOS. Mr. Chairman, I am delighted to yield 1⅔ minutes to our distinguished colleague and my good friend the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, when I hear about now is not the time, I guess my response is, when is it? I dare say it is long overdue.

Last November, President Bush said in a speech to the National Endowment for Democracy, "As long as the Middle East remains a place where freedom does not flourish, if will remain a place of stagnation, resentment, and violence ready for export."

Those in this body know that it is rare that I agree with President Bush, but he has it right on this occasion.

We learned on September 11 that this is not just an image problem, and I refer to the anti-American sentiment that is abundant in the Middle East, because we, unfortunately, are perceived to be aligned with regimes in the Middle East that do not serve their people well.

This is what our State Department in its Human Rights Report has to say about Egypt. "The security forces committed numerous serious human rights abuses. The ruling party dominated the legislature.

□ 1430

"The mass media, labor, and large public sector entities control the licensing of new political parties, newspapers, private organizations to such an extent that as a practical matter, citizens do not have the meaningful ability to change their government."

Yet we find ourselves considering another $1 billion plus and we are doing nothing to advance the cause of democracy and the nurturing of democratic institutions in the Middle East and specifically, in Egypt, and now is the time.

Mr. KOLBE. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Chairman, I reluctantly come, as many of my colleagues, probably this is as close to a 50–50 vote as we are normally going to have on this floor, to oppose this amendment, not because many of the points being made are not accurate, but because in 1998, Egypt and the United States agreed to a 10-year economic assistance phase-down. We agreed between our two nations to a long-term change in what had been the 1979 peace agreement. We need to be a nation that keeps our promises or renegotiates in good faith. It should not be done unilaterally from this body.

What I would say is, if, as I hope and will vote this is defeated, we should all work together to find new ways to ensure that Egypt has the assets and the impetus to do 100 percent successful sealing of the Gaza border, and particularly the tunnels that have been so troublesome. I look forward to working with both sides of the aisle after this vote to make that happen.

Mr. LANTOS. Mr. Chairman, I am delighted and proud to yield 1 minute to my dear friend and distinguished colleague, the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, I rise in strong support of the Lantos amendment, and I appreciate so much the gentleman's leadership on this, as much as I appreciate the strong leadership of the gentleman from Arizona (Chairman KOLBE) on this legislation as a whole; excellently prepared, thoughtfully conceived.

I find it difficult to add to the arguments that have been made, so I will add a new argument. The State Department asserted earlier today that the United States had developed a strategic partnership with Egypt that has contributed to the global war on terrorism, stabilization, and reconstruction of Iraq.

If the truth be told, Mr. Chairman, Egypt has been largely absent from the war on terror, despite the contribution of $1.3 billion in military assistance by the people of the United States of America; despite its sizable and, we learned today, increasingly well-funded military force that has contributed no combat forces to our effort in Afghanistan; and, unlike Jordan, Egypt has not offered to send a single soldier to even help the Iraqi interim government establish peace and stability.

It is for these reasons that I think it is time to send a message to Egypt to transfer resources into humanitarian purposes and bring them on board on the war on terror.

The CHAIRMAN. The gentleman from Arizona (Mr. KOLBE) has 4½ minutes remaining; the gentleman from California (Mr. LANTOS) has 4¾ minutes remaining.

Mr. KOLBE. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, our efforts to achieve peace in the Middle East have a major part of their foundation in the accords of Camp David. Part of those accords were that we would provide a certain level of military assistance to our friends in Egypt. They and the Israelis are the friends that we have in that area. This amendment puts the finger of the Congress of the United States in the eye of our friends in Egypt. We have commitments made to them. Those commitments will be broken by this amendment.

Now, to go further, what do these accords do? They give the Egyptians, in addition to all things else, the required strength to come in to assist us, the U.N., and the Israelis in providing the necessary security at Gaza when Gaza is relinquished by Premier Sharon. The result of that will be that if we do not see that Egypt has sufficient funding, they may either choose not to or may be incapable of moving in to control the terrorists and other organizations which are sinister threats not only to Israel, to the United States, but to the peace in the area. This amendment is therefore extremely counterproductive to the purposes of this Nation and to the commitments which we have made.

Beyond that, it poses a real threat to the security of Israel and the security of the area. Fancy, if my colleagues please, another Afghanistan directly on the borders of Israel full of terrorists, full of extremists, full of people who bring danger not just to world peace, but to Israel. I ask my colleagues to conceive of whether that is a wise policy for us to enunciate today by the adoption of this amendment.

Now, I say this with all respect to the author of the amendment. I am sure he is sincere in what he does. But the result of this action is counterproductive in the extreme. It breaches a sensible commitment made by the United States. It poses risks to Israel and significant danger to world peace.

Mr. LANTOS. Mr. Chairman, I am delighted to yield 1 minute and 50 seconds to my good friend and distinguished colleague, the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, while the words of the dean of the House are ringing in our ears, I would just point out that Egypt also has a vital interest in maintaining stability in Gaza. They are going to do so, move in to help deal with stability there, not because we bribe them, but because it is in their national interests. They cannot afford for it to fall apart.

I appreciate what the ranking member of the Committee on International Relations has done bringing forward this amendment. We have a long and productive relationship with Egypt, and it is not going to change if we change the emphasis. We have already invested in Egypt as the number two recipient of our aid, over $30 billion, much of it in military assistance. We bought interoperability.

The question, I think, is after 25 years, how do we make adjustments, 6 years after the most recent alignment. The gentleman from California (Mr. BERMAN) asks, 'is this the wrong time?' I think the gentleman from California (Mr. LANTOS) is saying now is the time, even if it does not pass, to signal that the way that we are going to have peace in Egypt, in the Middle East, is to stabilize the economy, shift away from massive military buildup, which they do not need, and feed that positive public opinion.

I can think of nothing more positive than for us to invest in the Egyptian people at a time when their government sadly has fallen short, fallen short in terms quieting virulent anti-Semitic rhetoric. It has fallen short in meeting the needs of the Egyptian people. They have all the military they need to deal with their current needs and with moving in to Gaza for their own interests. It is time to send a signal that we are going to beef up the economic side of the equation.

Mr. LANTOS. Mr. Chairman, I am delighted to yield 1 minute to my good friend, the gentlewoman from Nevada (Ms. BERKLEY), a distinguished member of the Committee on International Relations.

Ms. BERKLEY. Mr. Chairman, I rise in strong support of the Lantos amendment; and I thank him, thank him for bringing this forward.

Per capita income in Egypt hovers around $1,000 a year. Illiteracy, 30 percent, over 50 percent for women. With this kind of poverty, why are we continuing to fund the military complex instead of providing economic aid to the Egyptian people? There is no need for military assistance to protect Egypt's borders. They have no enemies in the region.

But let us please examine their record.

When I hear my colleagues talk about their aid in our war against terrorism, who are we kidding? They have contributed no combat forces in Afghanistan. They have contributed no help to the United States in Iraq. They have done nothing to stop the virulent anti-Semitism and anti-United States rhetoric that is rampant in their media, and they do not need $1.3 billion in order to support Israel's withdrawal from the Gaza.

The Egyptians claim they are supporting Israel's efforts in the Gaza, but how are they doing that? They have done nothing to stem the flow of arms and terrorists. They have done nothing to close the tunnels. They have done nothing to help train a single Palestinian in their security forces.

Their economy is in shambles. It is time that we do something for the Egyptian people.

Mr. LANTOS. How much time do we have, Mr. Chairman?

The CHAIRMAN. The gentleman from California has 2 minutes remaining; the gentleman from Arizona has 2½ minutes remaining.

Mr. LANTOS. Mr. Chairman, I am delighted to yield 1 minute and 45 seconds to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

This amendment does not cut aid for Egypt. What it does is, it cuts aid for Egypt's military; and it takes the same amount of money and gives that money to the civilian economy in Egypt, to help the citizens of Egypt. And it is to send a signal to the Egyptian leaders and to the Egyptian military that it is unacceptable for the United States people to give money to the Egyptian military, even as a sieve has been created which allows for the transfer, the smuggling of guns and other weapons, explosives from Egypt into the Gaza, which is being used by Palestinian radicals to kill Israeli civilians.

That is the signal that we are sending, not to the Egyptian people, they can keep the money; but to the Egyptian military that they must do their job to secure their borders so that there is peace in Gaza, so that Israelis are not made victims of a trusting relationship between the United States and the Egyptian government and military. That is the signal which we are sending, and that is hopefully what will happen as we renew, through Egypt and its leaders, the commitment to the principles embraced by former President Anwar Sadat who, in his 1988 address to the Israeli Knesset, said, What is peace for Israel? It means Israel lives in the region with her Arab neighbors in security and safety. Is that logical? I say yes. It means that Israel lives within its borders secure against any aggression. Is that logical? And I say yes. It means that Israel abates all kinds of guarantees that will ensure these two factors. To this demand, I say yes.

We need Anwar Sadat's kind of leadership in Israel today. Vote "yes" on the Lantos amendment.

Mr. LANTOS. Mr. Chairman, I yield myself the remainder of the time.

Mr. Chairman, if my colleagues think that Egypt needs more high-tech military equipment, vote against our amendment. If my colleagues believe that the Egyptian people, with a per capita income of less than $1,000 and a social system which is a shambles, need more economic aid, then vote for the Lantos amendment. I urge my colleagues to do so.

Mr. KOLBE. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I want to say at the outset that I have the greatest respect for the gentleman from California (Mr. LANTOS), the sponsor of this amendment; but I believe that adoption of the amendment would be a serious mistake and it will undermine our relations with one of our major allies in the Middle East.

This amendment is being proposed at the very time when the governments of Egypt and Israel are coordinating plans for Israel to withdraw from Gaza. In order for a withdrawal to be successful, both countries must cooperate on security and intelligence matters; and Egypt must be prepared to help ensure that terrorist organizations do not gain power in Gaza. Discussions, cooperation, and coordination on these matters are already occurring at the highest level of both governments.

I cannot imagine that at the very time that Israel and Egypt, after years of an admittedly cold, frosty peace, are finally engaged in serious discussions on military and on intelligence cooperation, that this Congress would choose this moment to disrupt this cooperation by cutting military assistance for Egypt.

As has already been indicated, the administration does strongly oppose this amendment, and part of the letter from Secretary Powell has been quoted in opposition to this amendment. I will include the entire letter in the RECORD at this point, but let me quote from one section of that letter.

In it the Secretary says: "In Egypt we have an ally that can help us in war and in peace. Our credibility in this relationship depends to a great degree upon being a reliable provider of assistance to the Egyptian military.

□ 1445

"A transfer of funds from the military assistance account to the economic account will damage the credibility of our bilateral relations at a very sensitive moment in the region, one that has witnessed Egyptian engagement in and support of our regional objectives."

Include the full text of the letter for the RECORD.

THE SECRETARY OF STATE,
Washington, DC, July 14, 2004.

Hon. JIM KOLBE,
Chairman, Foreign Operations, Export Financing and Related Programs, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: I ask for your support on the subject of a possible amendment to the Fiscal Year 2005 Foreign Operations Appropriation bill that proposes to reduce our annual military assistance to Egypt by 25 percent and to reprogram it for economic assistance. We understand that the House may consider this amendment July 15. This matter is of urgent concern, as I believe that any changes to the Egypt military assistance account would seriously undermine the strong U.S.-Egypt partnership that has been built since the 1979 Camp David Accords and that continues to be one of the foundations for achieving U.S. foreign policy goals in the Middle East.

As you know, U.S. military aid to Egypt is a cornerstone of the Camp David Accords. The Administration is opposed to any amendment that would modify our commitment to the parties as contained in that agreement. This commitment is the foundation of our efforts to promote peace in the region, to combat terrorism, and to advance interoperability with the Egyptian military. In addition, a $325 million reduction in military assistance, as proposed, could lead to the cancellation of approximately $2.2 billion in total contract value; these contracts all go towards the purchase of U.S. products.

Our military assistance to Egypt has contributed to regional stability in an area that had previously been the scene of military conflict against Israel. This calming of tensions has enabled us to develop a strategic partnership with Egypt that has contributed to a broad range of U.S. objectives in the region, including the Global War on Terrorism, the stabilization and reconstruction of Iraq, and more recently, efforts to stop the humanitarian crisis in Darfur, Sudan. Egypt has also undertaken a critical initiative to work with Israel to support the Israeli withdrawal from the Gaza Strip through the reorganization and training of the Palestinian security services.

On a bilateral military-to-military level, our assistance has helped to modernize the Egyptian military, thereby creating a defensive force that is interoperable with, and capable of supporting, U.S. security goals in the region. We also continue to train Egyptian military officers through the International Military Education and Training Program and to conduct joint training exercises, thereby ensuring that our militaries both understand and support each other at critical moments. This Egyptian capacity has enabled the Egyptian military to participate in international peacekeeping operations, to help us successfully prosecute Operations Enduring Freedom and Iraqi Freedom, to enable our craft to safely transit the Suez Canal, to enable our planes to traverse Egyptian airspace, and to provide our tankers with invaluable access to Egyptian facilities.

In Egypt we have an ally that can help us in war and peace. Our credibility in this relationship depends to a great degree upon being a reliable provider of assistance to the Egyptian military. A transfer of funds from the military assistance account to the economic account will damage the credibility of our bilateral relations at a very sensitive moment in the region, one that has witnessed Egyptian engagement in and support of our regional objectives. I hope you will oppose this amendment.

Sincerely,

COLIN L. POWELL.

Again, I have great respect for the author of the amendment. However, this is not the time to make a cut of more than 40 percent of military assistance. Even if we were so inclined, now is not the time to take that kind of action that would disrupt our ongoing efforts to facilitate the withdrawal of Israel from Gaza. I urge the House to reject this amendment.

Mr. KNOLLENBERG. Mr. Chairman, I rise in opposition to this amendment.

Since the 1978 Camp David accords, Egypt and the United States have shared a close relationship built around mutual strategic interests and common goals.

The U.S.-Egyptian military is both strong and important.

Our military assistance to Egypt has helped to build an Egyptian military that is interoperable with the United States, and actively supports U.S. security goals in the region. This Egyptian capacity has enabled our U.S. ships to safely traverse the Suez Canal, and enabled our planes to effectively traverse Egyptian airspace.

Let me be clear. I am not satisfied with the pace of economic and political reform in Egypt. I know many of the Egyptian people feel the same way. There are many issues the United States and Egypt will have to work through in the coming years. It is important for the United States to continue to press Egypt on these issues.

However, I believe this amendment would unwisely undermine the U.S.-Egyptian military relationship. This would be particularly damaging at a time when Egypt is providing important cooperation in the War on Terrorism and the peace process between Israel and the Palestinians. In addition, as we ask Egypt to take a more prominent role in the security of the Gaza strip, we should not undercut Egypt's ability to play the role we are asking them to play.

Mr. Chairman, for all these reasons, I urge my colleagues to join me in voting against this amendment.

Mr. CROWLEY. Mr. Chairman, I rise today in strong support of my good friend from California Mr. LANTOS's amendment.

It is time for the United States to start redirecting aid to Egypt.

The United States has been providing military assistance to Egypt for over 20 years and Egypt has made peace with its neighbors.

Egypt no longer has to fear from any outside threats to its sovereignty and it's now time this aid move toward helping Egyptian people not the military.

The real threat to Egypt comes from the poverty and lack of freedom that exists in the country today.

We cannot continue to fund the military while people live in squalor and do not have the freedoms they deserve.

Egypt must start focusing on its people and its economic reforms.

Moving towards economic aid will help to push this process forward.

Egypt is a consistent violator of human rights and our funding needs to address how to begin to respect these rights.

Even in the State Department human rights reports, they reported that there is "convincing evidence" the police regularly use torture to extract confessions, and detain suspects without charging people or bringing them to trail.

I continue to see Egypt's lack of respect for minority and religious rights.

Our funding should not be building up Egypt military but instead on building its society.

Mr. Chairman, I stand in strong support of this amendment and urge my colleagues to support the passage of this important amendment.

Mr. KOLBE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LANTOS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LANTOS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. LANTOS) will be postponed.

The Committee will rise informally.

The SPEAKER pro tempore (Mr. BURR) assumed the Chair.

The SPEAKER pro tempore. The Committee will resume its sitting.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

The Committee resumed its sitting.

Mr. KOLBE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I thank the gentleman for yielding, and I rise today to engage in a colloquy with the gentleman from North Carolina (Mr. BURR) and with the chairman of the subcommittee.

I want to first thank the gentleman from Arizona (Chairman KOLBE) for his work in overseeing the critical rebuilding effort in Iraq.

A key element in our foreign policy is developing and strengthening local governmental institutions. It is my privilege to represent an organization, the Research Triangle Institute, which is helping to fulfill this laudable goal. I joined the gentleman from Arizona (Chairman KOLBE) on a Congressional delegation trip he led to Iraq in November, and we saw firsthand evidence of RTI's good work in Kirkuk and elsewhere.

Mr. Chairman, the gentleman from North Carolina and I are coming together on the House floor today to discuss the important ongoing work which Congress supports and RTI conducts.

USAID's Local Governance Project has supported the establishment of 16 provincial councils and more than 700 local councils. The project staff of international experts in municipal government, supported by almost 3,000 Iraqi nationals, has worked to link local council leaders, citizens, and municipal service departments to improve service delivery to the citizens of Iraq. They have coached and trained 15 governors, 42 deputy governors, 420 department heads and more than 380 local service departments.

Working with USAID and RTI, Iraqis are building the capacity to deliver essential services, to develop transparent and participatory policy processes at the local level, and to develop civil society institutions that foster participation in political processes. USAID Administrator Andrew Natsios has remarked that local government will be the training ground for future national political leaders.

Mr. Chairman, that future is now.

Mr. Chairman, will the gentleman from Arizona (Mr. KOLBE) yield to the gentleman from North Carolina (Mr. BURR) for such remarks on the local governance projects as he might want to make?

Mr. KOLBE. Mr. Chairman, I yield to the gentleman from North Carolina (Mr. BURR).

Mr. BURR. Mr. Chairman, I appreciate the opportunity to be here, and I appreciate my colleague including me in this colloquy..

Mr. Chairman, the gentleman from North Carolina is correct. This is an exciting and important work. With the Committee on Appropriations' financial and USAID's technical support, Iraqis have seized the opportunity to participate in government and have demonstrated an aptitude for local governance. They are working hard to restore services in their communities. They are drafting and approving procedures and policies to efficiently provide government services. They are prioritizing the needs of the people within their communities, and they are developing budgets to support those plans.

The Iraqi people have discovered government that operates with the consent of the governed, and they are enthusiastic about it. Their representative officials have discovered accountability to the people, and they are eager to demonstrate their fidelity.

There is still a long way to go in Iraq before the seeds of democracy that have been planted are fully established. We cannot be short-sighted with respect to these kinds of activities in our foreign operations agenda. We must make certain that the work started by such programs can be sustained as a partnership not only between the United States and Iraq but also through our foreign operations activities throughout the world.

Mr. KOLBE. Mr. Chairman, I thank both the gentlemen for their comments.

For decades, the Iraqi people have labored under the brutal dictatorship of Saddam Hussein. In the last year, Iraqis have established local governments and representative councils. These entities represent a radical departure from past practice in which the central government made all of the decisions, including many that we believe are appropriate for the local level, such as education or municipal services.

As the gentleman remarked, we face significant challenges in Iraq that are going to require our continuing oversight. The United States' assistance to Iraq is well over $21 billion thus far and is the largest single assistance program ever undertaken in the world.

The effective implementation of programs like the Local Governance Project is critical to American efforts to bring peace to the Middle East and to the successful withdrawal of American troops from Iraq, and I appreciate the gentlemen for bringing this to our attention today.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT NO. 11 OFFERED BY MR. KENNEDY OF MINNESOTA

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. KENNEDY of Minnesota:

In title II, in the item relating to "MILLENNIUM CHALLENGE CORPORATION", after the aggregate dollar amount insert "(increased by $250,000,000)".

In title II, in the item relating to "GLOBAL HIV/AIDS INITIATIVE", after the aggregate dollar amount insert "(increased by $90,000,000)".

In title IV, in the item relating to "CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION", after the dollar amount insert "(reduced by $425,000,000)".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Minnesota (Mr. KENNEDY) and a Member opposed each will control 10 minutes on the amendment.

The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself such time as I may consume.

I thank the distinguished chairman for his great work on foreign relations. I share his great concern with the fact that half the people in this world live on less than $2 a day, that half the people in this world have not made a phone call, that one-fifth of the people do not have safe drinking water, and that 115 million children do not have a school to go to.

We need to, with this crisis out there, have a razor-sharp focus on results, not dollars spent. We need to demand results from our aid programs, not try to comfort ourselves by saying that we spent some dollars on certain programs.

What this amendment does is it takes $425 million out of our contribution for this year to the World Bank, which has a poor track record of delivering results. The World Bank is far too much focused on process, as opposed to performance. They might record how many schools they built, but they are not focusing on how many children we have really educated. They may focus on what water treatments they have helped fund but not on how many families are really getting clean water from them.

They already do have sufficient capital to expand their programs. We put this money, $90 million of it, into the global AIDS initiative, which has a proven track record. It meets this year's commitment of our $15 billion plan that we have approved as a Congress. There are millions of orphans throughout Africa because of the AIDS epidemic. This is a horrible pandemic. It threatens the stability of the continent. It must be addressed.

We also put $215 million into the Millennium Challenge Account. Today in this bill only half of the President's request is funded. This gets us part of the way there. The Millennium Challenge Account has criteria that ensure results. They make sure that the countries that we are investing in rule justly, that they invest in their people, that they pursue free enterprise, economic freedom. There is substantial evidence that exists that shows that countries that do this have growing standard of livings, that they are more likely to eat better, live longer, have children in school rather than working in the fields, speak, assemble, worship more freely. They are three times more likely to elect their governments democratically, and they are less likely to fight wars.

It would be mistaken to say that this amendment reduced investments in aid. We indeed invest in a proven AIDS initiative. It is also mistaken to say that it is designated towards AIDS funds within IDA. IDA can continue their AIDS program with the capital they have already, and the MCA encourages health care spending. It is also mistaken to say that this reduces investment in Africa. The AIDS program is for Africa, and over half of the first 16 countries chosen for the Millennium Challenge Accounts were part of Sub-Saharan Africa.

So I encourage my colleagues to vote to support putting our dollars where the results are, in fighting AIDS, in fighting other diseases, in fighting hunger and poverty.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY), the distinguished ranking member of the subcommittee.

Mrs. LOWEY. Mr. Chairman, I join the chairman in opposition to the amendment. Because what the amendment would do is cut $250 million from the International Development Association and IDA funds, loans to the poorest countries in the world, mostly African countries, at low rates of interest and long-term repayment schedules.

IDA is the source of much of the capital that poor countries use to rebuild vital infrastructure and deal with the chronic problems of poor health and education systems. This amendment, if we had unlimited funds and we can do it all, it might make sense, but in light of the good work of the committee in trying to balance needs in all the accounts, I do not think we can possibly deal with cutting $250 million from IDA, and, therefore, I am opposed to this amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL), a cosponsor of this amendment.

Mr. EMANUEL. Mr. Chairman, I thank my colleague from Minnesota for yielding me this time.

President Kennedy used to say, to govern is to choose, and we all would like to do a lot of things, but we do not have the resources to do everything.

As we know, the World Bank is sitting on top of $119 billion in equity, enough to make investments in the area that they need to make investments.

What we are talking about is an additional $90 million towards the President's own AIDS initiative. Now, he did a big signing, big photograph, but we have got to put the resources towards that to fight the scourge of AIDS across Africa and the Caribbean and $250 million towards the Millennium Challenge Corporation, another initiative by the President.

We cannot underfund these initiatives. They would go primarily to the countries that would also receive funding from the World Bank, but we do know by now that the World Bank has the resources. It is not shallow on resources. It has $119 billion in equity to make the types of loans that they need to make.

We know today that dealing with the health care crisis faced in Africa and Caribbean countries, that we would be alleviating one of the greatest problems for their development. That is in the area of AIDS and other health care. The Millennium Project and the President's AIDS initiative would attack those problems head on, and we cannot continue to underfund the President's initiative in those areas, which is what has happened.

By increasing the funding on the global AIDS initiative, we are showing our strong commitment to fight against AIDS in Africa and the Caribbean nations; and in another rare moment of bipartisanship, we are even working to support the President's own AIDS initiative, underfunding the administration's promise by close to $800 million this year.

Increasing funding for the Millennium Challenge Account is a good investment that gives impoverished families in the poorest countries access to health care, education and welfare. This is a policy we can all support over giving additional funds to the World Bank that has the capital that it needs now to continue to make the loans that are necessary for the World Bank.

Mr. Speaker, I urge my colleagues to support this amendment, and I thank the gentleman from Minnesota for his leadership.

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Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Minnesota (Ms. McCOLLUM).

Ms. McCOLLUM. Mr. Chairman, as a member of the Subcommittee on Africa, I rise in strong opposition to the Kennedy amendment cutting funds for the International Development Association which is helping the Earth's poorest countries reduce poverty.

In 2005, a country with a gross national income per capita exceeding $2.45 a day is not eligible for IDA loans. Imagine the poverty and the misery of nations impacted by IDA loans. IDA serves 38 nations in Africa that are among the world's 48 poorest nations.

This amendment is exceedingly harmful to people of the 29 African nations that currently receive IDA support, but are not included in the President's AIDS initiative. Millions of poor Africans are the losers.

It is foolish to fight HIV by cutting IDA funding for HIV in Chad or cutting support for children's health in Madagascar or by cutting the support for building peace in war-torn Sierra Leone or cutting educational assistance to Malawi.

People living in desperation and misery on $1 or $2 a day should be supported in this House and International Development Association, and we should not punish the planet's poorest people.

The amendment's author mentioned, where is the accountability? I would like to point out that two nations, Turkey and Korea who were once recipients to this aid, are now participants in IDA. This is a program which does have oversight, which does help the poorest of the poor in the world; and I would urge that the Members not support this amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself such time as I may consume.

I would just like to respond to the distinguished ranking member and my distinguished fellow Member from Minnesota. This is not a debate as to whether we give to the poorest countries on Earth, whether we give to sub-Saharan Africa. In both cases IDA gives, yes, to the poorest countries but so does the Millennium Challenge Account. In fact, the Millennium Challenge Account is required to go to the 74 poorest countries. If you look at the 16 countries that were included in the initial allocation, Madagascar, one of the ones my fellow colleagues mentioned, is a recipient of the Millennium Challenge Account as is Benin and Cape Verde and Ghana and Lesotho and Mali and Mozambique and Senegal. So we are addressing sub-Saharan Africa. We are addressing AIDS. We are doing it again in a way that focuses on results, that focuses on making sure we are making a difference for the poorest people in the world.

I do encourage my colleagues to vote for this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. KOLBE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I thank the gentleman from Minnesota (Mr. KENNEDY) for his amendment in the sense that the support that it gives the Millennium Challenge Corporation, I think as he knows, I am one of his biggest champions. Indeed, it is our bill last year that carried the authorization for Millennium Challenge Corporation. But I do have to rise to oppose this amendment, cutting IDA to pay for addition funds through the Millennium Challenge Corporation and for HIV/AIDS.

As I said at the very outset and as the gentlewoman from New York (Mrs. LOWEY) has said, this bill is a bipartisan one which means none of us could get everything we wanted. Given that the subcommittee had a budget allocation of $1.9 billion that is below what the President requested for all his initiatives, we simply could not fund all of them. The Millennium Challenge Corporation is one that we were not able to fully fund. I wanted to. I would have liked to, but the dollars simply were not there. Already our legislation cuts the International Development Association which, of course, is known as IDA, by $211 million below the President's request. And I can assure you this is already giving the Department of Treasury heartburn. So I feel compelled to resist further cuts to this funding.

Diverting these funds into bilateral programs denies six times as much as the gentleman's cuts to the poorest nations. Now, I made this point on the Sherman amendment earlier, because other countries put up for every U.S. taxpayer dollar that is put up, other countries and donors and resources provide $6 for each of those. This means a cut of six times as much when we cut this money out of there.

Mr. Chairman, I think the ranking member and the subcommittee and I made a difficult decision to cut the World Bank funding by $211 million below the request, but another $425 million would put U.S. leadership at risk at the bank, in addition to reducing billions of dollars of assistance for poor countries for Africa, Asia, and Latin America.

As an appropriations chairman, I have a responsibility to manage many requests and many priorities, Presidential and congressional. And I do think that in this bill we have found a good balance between the Millennium Challenge Corporation, the HIV/AIDS accounts, and the IDA. And I think we have met all of those requirements. And I look forward, let me just say, to working with the gentleman to support the Millennium Challenge Corporation in the years ahead.

I am excited about what it is going to do. We are at the very beginning of that, but I am very excited about the potential for the Millennium Challenge Corporation. I hope we can provide substantially more funding for it in the years ahead.

I can also say that if our committee receives a higher allocation in conference, which is possible if the Senate numbers are different, I will certainly work my hardest to ensure that more of that goes to the Millennium Challenge Corporation. But for now I am compelled to oppose the gentleman's amendment, and I urge my colleagues to vote "no."

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KENNEDY of Minnesota. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) will be postponed.

Mr. KOLBE. Mr. Chairman, I move to strike the last word. I do so for the purpose of entering into a colloquy with the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. I thank the gentleman very much for yielding.

Mr. Chairman, the great ape populations are declining at an alarming rate worldwide.

The continuing destruction of habitat, in combination with the growth in the commercial bushmeat trade in Africa and increased logging activities in Indonesia, has led scientists to suggest that the majority of the great ape populations will be extinct in the next 10 to 20 years.

To address this crisis, in May 2001, UNESCO and UNEP established the Great Apes Survival Project, known as GRASP.

GRASP is uniquely placed to mobilize resources and provide a communication platform to bring the dramatic decline of great ape population to a halt.

But, sadly, Mr. Chairman, the bill we have before us includes no funding for the GRASP program.

While I recognize that assessed contributions to UNESCO are part of the CJS appropriations bill, voluntary contributions to UNESCO programs, like GRASP, are usually included in the Foreign Operations appropriations bill's International Organizations Account.

For fiscal year 2004, Congress appropriated almost $1.9 million in voluntary contributions to UNESCO programs. It is my hope that, in the further deliberations of this bill, both here and in the conference, serious consideration can be given to the funding of GRASP programs to protect the great apes from total extinction.

Could I ask my friend from Arizona, the distinguished Chair, for his help and cooperation on this very important issue as we move to the conference on this legislation.

Mr. KOLBE. Let me say I appreciate the gentleman calling this to our attention, and I agree with the importance of this program. I certainly would be happy to work with my friend from California as the bill moves to conference.

Mr. GEORGE MILLER of California. I thank the gentleman very much for that.

AMENDMENT NO. 8 OFFERED BY MR. BLUMENAUER

Mr. BLUMENAUER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. BLUMENAUER:

In title III, in the item relating to "FOREIGN MILITARY FINANCING PROGRAM", after the first dollar amount, insert the following: "(reduced by $20,000,000)".

In title IV, in the item relating to "GLOBAL ENVIRONMENT FACILITY", after the dollar amount, insert the following: "(increased by $13,177,734)".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Oregon (Mr. BLUMENAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I yield myself such time as I may consume.

I rise today on an amendment dealing with the Global Environment Facility. It is the primary financing mechanism for important environmental work around the world. It helps developing countries address environmental challenges that may impact the United States as well as those countries. And as the world's largest donor to the institution, our country plays a critical leadership role.

The projects of the GEF fall into four major categories, conserving bio-diversity, expanding clean energy production and its use, cleaning up international waters, and protecting its fisheries, and phasing out ozone depleting chemicals. All critical priorities for this country and citizens around the world.

Since 1991, the GEF has funded over 1,000 projects in 160 different countries. And it is not just the investment that the United States made. A key point I think that needs to be focused on here is that for every dollar spent by the United States the GEF leverages $15 in funding from other sources.

I have a wide range of examples, but the committee is well aware of the good work; and I will conserve time by not going into that. But I do want to make the point that it is the United States as the largest shareholder that has a unique responsibility with this program. Two years ago, the Bush administration committed to increase its contribution to GEF for 4 years and to pay off our long-standing unpaid debt that was $210 million in 3 years. This agreement served as a catalyst for other donor governments to also increase their donations.

Now, I appreciate and I referenced earlier on the floor the difficulty that this subcommittee has given the allocation that they were given. But that said, the subcommittee reported out a funding level of $107 million with no arrearage payment. The amendment that I am offering here today would add $13.2 million in order to at least fully fund the President's budget request of $120.7 million and at least continue the commitment towards dealing with the arrearages even though it would put us behind schedule.

I appreciate this difficult situation the subcommittee is in. I am prepared to withdraw the amendment, but I would seek to ask either the Chair or the ranking member if there is some prospect that if we are able to work this through the process, if we might be able to continue meeting the commitment that the administration has made in the past to fund the arrearages.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I applaud the spirit of the gentleman's amendment and regret that I cannot support it in this context. We have worked hard to bring a bill to the floor under a requirement to reduce the President's request by $1.9 billion. And so in order to accomplish this, we were forced to make, as you know, many tough choices, and reducing funding for the Global Environmental Facility of the World Bank, unfortunately, was one of them.

I have always worked hard to get adequate funding for the GEF because I believe it provides a vital source of funds for environmentally sound lending. The bill does provide $107.5 million for the GEF, which is the amount of our annual contribution. As you know, we did not include the additional $13 million requested for arrears and that is reflected in the funding levels of other banks as well.

It would be my hope that we could find a way to make up these arrears either in conference on this year's bill or next year. I know of the gentleman's commitment to GEF. I share that commitment. And I want to assure you of my intention to work towards this goal. I thank you for bringing this issue to the attention of my colleagues.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman from Oregon (Mr. BLUMENAUER) for his dedication to environmental issues and raising the funding for the Global Environmental Facility today.

As my colleague knows, the bill before the House today is bipartisan, as the gentlewoman has indicated, and of course that means that we do not get everything we want here. Given the priorities of the President, the priorities of both sides of the House, we did cut funding for the Global Environmental Facility by $13 million from the President's request.

□ 1515

But we did fund the entire regularly scheduled contribution of $107.5 million to the GEF so that we do not go further into arrears.

Just so my colleague understands that the GEF was not the one that was targeted specifically. The International Development Association, or IDA, which we just discussed in the last amendment, the concessional arm of the World Bank was cut $211 million from the administration's request.

So I appreciate my colleague raising the issue, and I appreciate his withdrawing the amendment and the bipartisan spirit within which the gentlewoman from New York (Mrs. LOWEY) and I have worked during the course of the year, and I thank the gentleman.

Mr. Chairman, I reserve the balance of my time.

Mr. BLUMENAUER. Mr. Chairman, I yield myself such time as I may consume.

I appreciate both, again, the difficult situation that the subcommittee was facing and the comments from my friend the Chair and the ranking member.

I will withdraw the amendment, Mr. Chairman. I would hope that we could continue to focus on trying to keep this commitment. I appreciate that there were a number of other areas that we simply had to shut the door on in terms of paying arrears where we were in arrears, but this I hope, if we get to the point where there are additional resources, bears special attention because of the global impact of these environmental programs, how they are targeted at some of the most desperately needy of countries and how this is an area, if we do not continue to make progress, we are going to slide back.

But I appreciate the work that has been done and look forward to working with my colleagues so that hopefully we will be able to restore it and gain the benefit of those important investments.

Mr. BLUMENAUER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDMENT NO. 17 OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. PAUL:

Title II of the bill is amended by striking the item relating to "MILLENNIUM CHALLENGE CORPORATION".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Texas (Mr. PAUL) and the gentleman from Arizona (Mr. KOLBE) each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment strikes the Millennium Challenge Account. When this program was put in place a year ago, it was originally thought to be a program that would replace old-fashioned foreign aid, but because the votes were not there, instead of a transition from one form of foreign aid to another, it was just added on. That is the way we do things here. We keep adding on in order to satisfy everybody.

So the foreign aid bill now is up to nearly $20 billion, and that represents $1.25 billion for the Millennium Challenge Account, and it is a $266 million increase from 1 year ago. So we are making "progress", if one is a strong supporter of such programs.

The strongest argument of those who endorse foreign aid is a humanitarian argument: We are rich, they are poor, we have empathy, we must help, it is our moral obligation. For the most part, people go along with that. But I have a humanitarian argument, also. Mine is that it does not work and that, if we indeed care about people, we ought to be encouraging free markets and individual liberty, and that is when countries become more prosperous.

But the idea that we can promote humanitarian programs by taking literally money from poor people in this country and giving it to rich, influential leaders in other countries and we are going to have this miraculous success I think is a myth. It does not work that way, and there are people who are not benefitted.

Now, it may be said by those who have promoted the Millennium Challenge Account, that is exactly what we are trying to address. We want to reward countries that are moving in the direction of free markets. Now, that is a nice notion, but it cannot work. It is impossible because when we give money to a government, it is politicized. It becomes bureaucratic, and it has to be handed out to special interests.

When Paul Applegarth, the chairman of the corporation for the Millennium Challenge Account was before our committee, I asked him a question. I said, are there any American companies that will benefit by this type of program? I actually was pretty shocked with his answer, because he was very blunt. He said, I certainly hope so. In other words, even our American corporations benefit from programs like this.

So it would be nice to think that the poor people of these other countries are going to benefit, but I think it is a greater injury to the poor people of this country. My colleagues say the poor people of this country do not pay taxes. Well, that is incorrect, because the inflation tax is borne by the poor and the middle class, and that occurs when we spend too much money. And this is too much money spent the wrong way, and we do not have the authority to do it. Besides, how many of us ever get calls from our constituents saying please vote for more foreign aid? No, they are asking for more help here, and this distracts from it.

When we do not have the money, we run up the debt. Then we go and we literally print the money to pay the bills. We create the inflation and the higher cost of living, and it injures the low and middle income people the most, and they are the ones who are losing jobs.

So this is literally money coming out of our pockets for programs that could help us in this country.

My suggestion is, since I am a moderate here in the Congress, my moderate approach would be when we have a program like this, whether it is 1.25 or the whole $20 billion, my suggestion is cut it, cut the whole thing. Let us say we cut the $20 billion of foreign aid. I would take $10 billion and put it toward the deficit, and I would join my colleagues on the left and say, look, let us fund some of these programs that are needed or are coming up short. Why are we cutting veterans benefits at the same time? Why do we cut the Corps of Engineers? Why do we not fully fund our infrastructure?

This type of spending does not make any economic sense, and it does not make any moral sense.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment and claim the time in opposition.

Because I am going to close, unless the gentlewoman from New York wishes to say something on this amendment, I reserve the balance of my time.

Mr. PAUL. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, today I rise to support the amendment and in opposition to the 2005 Foreign Operations appropriations bill. At a time when our country is facing record budget deficits, I cannot justify voting for the largest foreign aid bill in history. We should not give away billions of dollars in foreign aid in the name of friendship when everybody knows that friendship cannot be bought.

Over the past four sessions of the U.N. General Assembly, 86 percent of the U.S. foreign aid recipients voted against the United States a majority of the time. Now, let me give my colleagues five specific examples.

Egypt is slated to get $1.836 billion in foreign aid in this bill, even though they voted against us at the U.N. 86 percent of the time.

Indonesia will get $151 million in foreign aid. They voted against us 83 percent of the time.

Nigeria will get $68 million in foreign aid. They voted against us at the U.N. 76 percent of the time.

Kenya will get $67 million. They voted against us at the U.N. 81 percent of the time.

Bangladesh will get $63 million in foreign aid. They voted against us 82 percent of the time.

Not one of these five countries contributed any money or troops to the war effort or reconstruction of Iraq.

Now, some might say, but what about the money we are giving Israel? Well, I fully and completely support 100 percent of the $2.58 billion in aid to Israel. They are, by far, our best ally in the Middle East. They are the only democracy in the Middle East, and they face increasing terrorist threats.

But I cannot in good conscience vote for a $19.4 billion foreign aid bill when only a tiny portion of it goes to support our valuable ally Israel.

I cannot go home to Orlando, Florida, and look waitresses and secretaries in the eye and tell them that we took taxpayer dollars from their paychecks and gave it in foreign aid to countries that do not even support the United States.

I urge my colleagues to support this amendment and vote "no" on the bill.

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

Let me follow up on the point I made earlier about the good intentions of a program like this to promote free market changes in certain countries, but, unfortunately, this backfires because once the money gets in the hands of the government we then require them to develop partnerships or alliances with businesses, which is exactly the opposite of free markets. This is closer to crony capitalism or fascism when we combine government money with business interests.

At the same time, we know that our corporations will also participate in these programs. So the money once again leaves the people of this country, many times the poor, and goes to these foreign aid programs which subsidize certain governments, solidifying powers of certain politicians, which then allows fungibility of their other funds to do other things and then encourage business partnerships between government and business which is not free markets, which literally is undermining the move that I think is intended and that is to improve the conditions of other countries.

If the conditions of a country are amenable to capitalism and investment, there is never a problem of a lack of investors. The fact that we have to do this, that means there are flaws in the system. This will not improve it. It actually makes it worse. Just because you have partnership with businesses does not mean you are moving toward free enterprise. That means you are moving toward a system of interventionism, or crony capitalism. It is not true reform.

So a program like this actually does the reverse. It has unintended consequences. It makes our problems worse. And, besides, we do not have the right to do it. We do not have the constitutional authority to do it, and we certainly do not have a moral authority to undermine the poor people of this country by making the conditions worse here.

For this reason, I strongly urge my colleagues to vote "yes" on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

I do rise in opposition to this amendment.

I find it ironic that a few moments ago we had an amendment offered by the gentleman from Minnesota to take money out of IDA and put it into the Millennium Challenge Corporation. Now we are having an amendment to take everything out of the Millennium Challenge Corporation, which suggests to me that maybe the subcommittee is just in the right place here in regards to the amount of the funds that we have.

I also find it ironic that the gentleman from Texas, who is a strong fiscal conservative, is offering this amendment. If ever there was anything in foreign assistance that made sense, it is the Millennium Challenge Corporation. I believe that it is the most dramatic departure from the way we have administered and provided foreign assistance since the Marshall Plan at the end of World War II, and I think it has a real opportunity to make a difference in the way that countries approach foreign assistance. In fact, we are already finding that to be the case, that countries that are not on the list of those who are eligible yet for consideration for the Millennium Challenge grants are saying what do we have to do to get on that, what kind of reforms do we have to undertake, and this is exactly what this Millennium Challenge Corporation, which we carried in our bill last year, does.

It is different than any other foreign assistance account that we have. It is different for four essential reasons.

First, the MCC will act as an incentive for countries to govern justly, to invest in their own people and create the right policy framework for economic growth. In short, it rewards good governance. No other development or economic assistance administered by USAID or the Department of State currently provides that kind of incentive.

Second, the MCC will offer up a laser focus on economic growth and poverty reduction. That is unlike current development assistance efforts where the U.S. government and other donors try to do a little bit of everything.

Third, the MCC recognizes that successful reforms have to be internally led. As I said a moment ago, this goes to countries where they have made a commitment to rooting out corruption, where they have openness and transparency, where they have a commitment to the rule of law, where they have a commitment to the protection of property rights. So it has to come internally in order to make this work. These are incentive kinds of grants, technical kinds of grants, things that will help the country do exactly what they need in order to have sustainable, long-term economic growth.

Fourth, the Congress has given the program the flexibility to meet the needs of the MCC countries as presented by the countries themselves.

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In other words, it offers countries the prospect of local ownership and accountability for their own development, and that is why I believe this is critically important. The MCC promises to be one of America's best tools to help us address poverty, and I hope we can defeat this amendment. I urge my colleagues to defeat the amendment.

Mr. Chairman, I submit for the RECORD a copy of the letter sent to me by the Board of Directors of the MCC:

MILLENNIUM CHALLENGE CORPORATION,
Arlington, VA.

HON. JIM KOLBE,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As the members of the Board of Directors of the Millennium Challenge Corporation, we greatly appreciate your leadership and support for the Millennium Challenge Account (MCA), a key Presidential priority. The President's request will accelerate growth and opportunity for countries that govern justly, invest in their people and encourage economic freedom.

We are concerned, however, that the limitations on your Subcommittee's appropriations allocation caused a reduction in MCA levels to $1.25 billion, half of the President's $2.5 billion request. This level of funding may compromise the Corporation's opportunity to commit to full multi-year support to all countries that qualified to compete for MCA assistance this year and could have an impact on the support for countries that may qualify in 2005. For this reason, we would strongly oppose any amendments which would impose additional reductions, and will work with you to achieve the necessary resources for this Presidential foreign assistance initiative. Such amendments could call into question our commitment to support those countries that have taken responsibility for their own development through adoption of sound policies.

We look forward to working with you to assure MCA is adequately funded as we proceed with our critical mission in the developing world.

Sincerely,

COLIN L. POWELL,
Chairman of the Board.
JOHN SNOW,
Vice Chairman of the Board.
ROBERT ZOELLICK,
U.S. Trade Representative.
PAUL V. APPLEGARTH,
CEO, Millennium Challenge Corporation.
ANDREW S. NATSIOS,
Administrator, U.S. Agency of International Development.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PAUL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PAUL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. PAUL) will be postponed.

Mr. KOLBE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to enter into a colloquy with the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentlewoman from Minnesota.

Ms. MCCOLLUM. Mr. Chairman, I thank the gentleman from Arizona, the subcommittee chairman, for entering into this colloquy.

Mr. Chairman, I am seeking at least $3 million from the State Department's Nonproliferation Anti-terrorism Demining and Related Programs Account to fund demining activities in Laos.

A persistent and deadly legacy of our country's involvement in the Vietnam War continues to kill and maim thousands of children, women, and men in the impoverished nation of Laos. I am speaking of the millions of unexploded cluster bombs left by a decade of bombing by the United States during the Vietnam War. This is a human rights tragedy for the people of Laos.

From 1964 to 1973, the U.S. flew 580,000 bombing runs over Laos, one every 9 minutes for 10 years. More than 2 million tons of ordnance were dropped on Laos, double the amount dropped on the European theater during the entirety of World War II. As many as 30 percent of these bombs dropped on Laos did not explode, leaving up to 20 million unexploded submunitions, known as bombies, litter throughout the country. These American bombies may be 30 years old, but they continue to kill and maim children as well as farmers clearing the land for farming.

In the first 5 months of 2004, 39 people died and 74 have been maimed by unexploded ordnance. In the 30 years since the end of the Vietnam War, an estimated 10,000 Laotian people, including thousands of children, have died. And yet while families struggle for food and survival, tens of thousands of acres of land cannot be put into agricultural production because the Earth is contaminated with this deadly cluster ordnance.

In today's dollars, our Nation spent $9 million every day for 10 years dropping millions of tons of bombs on Laos.

This year, fiscal year 2004, the State Department will spend only $1.4 million helping to remove our Nation's deadly legacy.

We have a responsibility to help to end this ongoing human rights tragedy. I had intended to offer an amendment to more than double the level of the current funding in this account for Laos. However, I understand the chairman of the subcommittee has agreed he will seek to include language in conference with the other body that sufficient funds be found in the Nonproliferation Anti-terrorism Demining and Related Programs Account or from the Bilateral Assistance programs for Laos in order to continue this important work in fiscal year 2005; and, if possible, at $3 million in order to help provide for the expeditious removal of the unexploded munitions from Laos.

Mr. Chairman, does the gentleman agree he will help to include such language in conference with the Senate?

Mr. KOLBE. Reclaiming my time, Mr. Chairman, the gentlewoman is correct in her characterization. Assuming the availability of funds, we will seek to include report language that, at a minimum, would continue the program in Laos at the fiscal year 2004 level; but, if possible, at a higher level of $3 million.

Ms. MCCOLLUM. Mr. Chairman, if the gentleman will continue to yield, I sincerely thank him for his courtesy and also for pursuing this. I also want to thank the ranking member, the gentlewoman from New York (Mrs. LOWEY), for her support on this matter. I look forward to working with both of them to address this important issue.

Mr. KOLBE. Mr. Chairman, I yield back the balance of my time.

Mrs. LOWEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to support the intent of the gentlewoman's amendment, and I appreciate her thoughtful comments.

The problem of unexploded ordnance in Laos is real and will be addressed immediately. I would strongly urge a significant portion of the funds already in the bill for demining be used to address this problem in Laos, and I want to thank the gentlewoman for bringing this important issue to the attention of the committee.

AMENDMENT OFFERED BY MR. GARRETT OF NEW JERSEY

Mr. GARRETT of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GARRETT of New Jersey:

At the end of the bill (before the short title), insert the following:

LIMITATION ON ATTENDANCE AT CONFERENCES OUTSIDE THE UNITED STATES

SEC. . None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 Federal employees at any single conference occurring outside the United States.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New Jersey (Mr. GARRETT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, while those on both sides of the aisle may disagree exactly how we got here today, I think most of us, myself included, would say that, as far as the Federal budget is concerned, we are spending too much and the deficit is too high. That is why I am offering an amendment that is, I think, a commonsense approach to help limit spending and the abuse that our constituents at home complain about.

I will say this: when I go home to my town hall meetings, so many times constituents ask me, why in the world is Congress spending so much money on this or that particular program. In short, my amendment will limit the number of Federal employees that are able to be sent to international conferences to 50.

Recently, there has been a trend in our government to send far in excess of the amount of staff to these international conferences, costing our taxpayers millions and millions of extra dollars. This amendment would simply put a cap on that number.

Now, like my colleagues on the other side of the aisle on this, I understand the importance of staff in our daily routines. I am simply saying that we should send the essential staff, those necessary in order to get the job done. Let me just give a couple of quick examples here why I bring up this amendment.

In this year, 2004, in a conference that was in Thailand for an AIDS conference, over 130 Federal employees of the U.S. Government were sent to this conference. Had my amendment been in place at that time, and been able to limit the amount of employees, Federal employees that went over there, we would have saved millions of dollars.

To put it in the context of dollars and cents, we could have provided a dose of nevirapine, which is an AIDS preventive medicine which provides benefits to babies, to over 216,616 newborns in Africa. Over almost a quarter of a million dosages could have been provided had we had a cap on people going there.

Another example, 2002: the U.S. sent 236 people to a conference in Barcelona, Spain. These employees were sent at a cost of $3.6 million. Again, my people at home, the constituents at home, ask why do we spend so much money.

Due to the limited amount of time I have right now on this amendment, I cannot go into more of the examples we have seen in past experience as far as excessive numbers of Federal employees going overseas to Federal conferences. I would simply urge my colleagues on both sides of the aisle to support this commonsense and important amendment to make a limit as to the amount of people we send over.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, I claim the time in opposition to the amendment, and I reserve the balance of my time.

Mr. GARRETT of New Jersey. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume; and I will not take 5 minutes, but just want to say that I would have serious concerns about this amendment. I think it is something that we can work with and perhaps solve in conference, but I would have severe heartburn about an amendment that is as arbitrary as this.

Let us say we were, for example, to have a major conference, like the Camp David Accords, or what we had in the Sinai a few years ago, where we came very close to a settlement on the peace accords. Obviously, hundreds of people were involved in that. This would arbitrarily limit any of the funding here from being spent to send people to a conference of that nature.

Mr. GARRETT of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from New Jersey, briefly.

Mr. GARRETT of New Jersey. Just very briefly, Mr. Chairman, I do not believe that the amendment would address those concerns, or the points the gentleman raises, and I share his concerns there. This applies to those that would come under this act, and that such conferences as those could very well conceivably be coming under the other act, like State Department and the like.

Mr. KOLBE. Reclaiming my time, Mr. Chairman, I realize they could be coming under State Department, the White House and others that are not funded under this bill; but there are a number from USAID, Treasury, and others that would be funded and could be affected as a result of this. So I just have real concerns about that, and we will try to work that out.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 20 offered by the gentleman from California (Mr. SHERMAN), amendment No. 13 offered by the gentleman from California (Mr. LANTOS), amendment No. 11 offered by the gentleman from Minnesota (Mr. KENNEDY), and amendment No. 17 offered by the gentleman from Texas (Mr. PAUL).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

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AMENDMENT NO. 20 OFFERED BY MR. SHERMAN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. SHERMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 312, not voting 10, as follows:

[Roll No. 380]

AYES—111

Ackerman
Andrews
Bachus
Barrett (SC)
Bartlett (MD)
Bass
Berkley
Bilirakis
Bishop (NY)
Boswell
Brown (OH)
Burton (IN)
Cardoza
Chabot
Chandler
Clyburn
Coble
Costello
Cox
Crowley
Davis, Jo Ann
Deal (GA)
DeFazio
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Duncan
Edwards
Emanuel
Engel
English
Feeney
Ferguson
Filner
Flake
Forbes
Fossella
Franks (AZ)
Gingrey
Goodlatte
Gordon
Graves
Gutknecht
Hall
Hastings (FL)
Hayes
Hefley
Hooley (OR)
Hostettler
Israel
Jones (NC)
Kennedy (MN)
King (NY)
Kucinich
Lantos
Lewis (KY)
LoBiondo
Lofgren
Manzullo
Markey
Matheson
McIntyre
McNulty
Meehan
Moran (KS)
Nadler
Napolitano
Norwood
Oberstar
Owens
Pallone
Paul
Payne
Pence
Peterson (MN)
Petri
Pitts
Platts
Porter
Rahall
Ramstad
Rodriguez
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Rush
Ryan (OH)
Sánchez, Linda T.
Sensenbrenner
Sherman
Shimkus
Smith (MI)
Smith (NJ)
Souder
Stearns
Stenholm
Strickland
Sweeney
Tanner
Tauzin
Taylor (MS)
Toomey
Vitter
Wamp
Waters
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—312

Abercrombie
Aderholt
Akin
Alexander
Allen
Baca
Baird
Baker
Baldwin
Ballenger
Barton (TX)
Beauprez
Becerra
Bell
Bereuter
Berman
Berry
Biggert
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Carter
Case
Castle
Chocola
Clay
Cole
Conyers
Cooper
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Ehlers
Emerson
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goss
Granger
Green (TX)
Green (WI)
Grijalva
Gutierrez
Harman
Harris
Hart
Hastings (WA)
Hayworth
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holt
Honda
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Pearce
Pelosi
Peterson (PA)
Pickering
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ross
Roybal-Allard
Ruppersberger
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Sullivan
Tancredo
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Watson
Watt
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Carson (IN)
Collins
Cummings
Deutsch
Doggett
Greenwood
Holden
Isakson
Majette
Quinn

☐ 1611

Messrs. CANTOR, BERRY, CARTER, HOEFFEL, MICHAUD, ALEXANDER, and Ms. SLAUGHTER changed their vote from "aye" to "no."

Messrs. LEWIS of Kentucky, VITTER, LANTOS, DEMINT, BARRETT of South Carolina, LINCOLN DIAZ-BALART of Florida, MARIO DIAZ-BALART of Florida, HOSTETTLER, COX, LOBIONDO, MORAN of Kansas, COSTELLO, FERGUSON, BISHOP of New York, GINGREY, PAYNE, OWENS, FOSSELLA, Mrs. JO ANN DAVIS of Virginia, and Ms. WOOLSEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 13 OFFERED BY MR. LANTOS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. LANTOS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 131, noes 287, not voting 15, as follows:

[Roll No. 381]

AYES—131

Abercrombie
Ackerman
Bachus
Barrett (SC)
Beauprez
Becerra
Berkley
Bishop (NY)
Blumenauer
Boswell
Brown (OH)
Burns
Burr
Burton (IN)
Camp
Cannon
Cantor
Cardin
Cardoza
Chabot
Chandler
Chocola
Coble
Cooper
Crane
Crowley
Davis (AL)
Davis (TN)
Deal (GA)
DeFazio
Delahunt
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Edwards
Emanuel
Engel
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Fossella
Frank (MA)
Frost
Gingrey
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Hastings (FL)
Hayes
Hayworth
Hoeffel
Honda
Hooley (OR)
Hyde
Israel
Jackson-Lee (TX)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Langevin
Lantos
Leach
LoBiondo
Lynch
Markey
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McNulty
Meehan
Moran (KS)
Murphy
Musgrave
Nadler
Napolitano
Neal (MA)
Northup
Norwood
Oberstar

Otter
Pallone
Payne
Pence
Peterson (MN)
Pickering
Porter
Pryce (OH)
Ramstad
Renzi
Reynolds
Rogers (AL)
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Sánchez, Linda T.
Saxton
Schrock
Scott (VA)
Sensenbrenner
Sherman
Shuster
Simpson
Smith (MI)
Smith (NJ)
Souder
Stearns
Stupak
Sullivan
Sweeney
Tiahrt
Tiberi
Tierney
Towns
Udall (NM)
Waters
Waxman
Weiner
Weller
Woolsey
Wu

NOES—287

Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballenger
Bartlett (MD)
Barton (TX)
Bass
Bell
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Calvert
Capito
Capps
Capuano
Carson (OK)
Carter
Case
Castle
Clay
Clyburn
Cole
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeGette
DeLauro
DeMint
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Eshoo
Etheridge
Fattah
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Harman
Harris
Hart
Hastings (WA)
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holt
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kilpatrick
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Marshall
Matsui
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Myrick
Nethercutt
Neugebauer
Ney
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pascrell
Pastor
Paul
Pearce
Pelosi
Petri
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Simmons
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Buyer
Carson (IN)
Collins
Conyers
Deutsch
Doggett
Greenwood
Holden
Isakson
Jones (NC)
Keller
Majette
Peterson (PA)
Quinn
Stenholm

□ 1619

Mr. TIAHRT changed his vote from "no" to "aye."

Mr. SHAYS and Mr. UDALL of Colorado changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 11 OFFERED BY MR. KENNEDY OF MINNESOTA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 133, noes 288, not voting 12, as follows:

[Roll No. 382]

AYES—133

Abercrombie
Ackerman
Akin
Andrews
Bachus
Bartlett (MD)
Bass
Becerra
Berkley
Berry
Bilirakis
Bishop (NY)
Boehner
Bradley (NH)
Burns
Burr
Burton (IN)
Cantor
Capito
Cardoza
Chabot
Chandler
Chocola
Clay
Coble
Cox
Crane
Cubin
Cummings
Deal (GA)
DeFazio
Delahunt
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Emanuel
Emerson
Engel
English
Feeney
Ferguson
Filner
Flake
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gingrey
Goode
Goodlatte
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Harris
Hart
Hayworth
Hensarling
Hostettler
Hulshof
Inslee
Israel
Kennedy (MN)
Kind
King (NY)
Kline
Kucinich
Larson (CT)
LaTourette
LoBiondo
Lofgren
Manzullo
McCarthy (NY)
McCotter
McInnis
McIntyre
McNulty
Mica
Moore
Myrick
Nadler
Nethercutt
Neugebauer
Northup
Norwood
Pallone
Paul
Pence
Pickering
Pitts
Platts
Pombo
Porter
Ramstad
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Rush
Ryan (OH)
Ryan (WI)
Sanders
Schrock
Sensenbrenner
Sessions
Shadegg
Sherman
Shimkus
Shuster
Simmons
Simpson
Snyder
Souder
Stearns
Strickland
Sullivan
Tancredo
Tauzin
Terry
Thornberry
Toomey
Turner (TX)
Udall (NM)
Walden (OR)
Watt
Weiner
Weldon (FL)
Weller
Woolsey
Wu

NOES—288

Aderholt
Alexander
Allen
Baca
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Beauprez
Bell
Bereuter
Berman
Biggert
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp
Cannon
Capps
Capuano
Cardin
Carson (OK)
Carter
Case
Castle
Clyburn
Cole
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeGette
DeLauro
DeLay
Dicks
Dingell
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gephardt
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Goss
Granger
Graves
Grijalva
Hall
Harman
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hunter
Hyde
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
King (IA)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McGovern
McHugh
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Napolitano
Neal (MA)
Ney
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Petri
Pomeroy
Portman
Price (NC)
Pryce (OH)

Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Ross
Roybal-Allard
Ruppersberger
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherwood
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Spratt
Stark
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Udall (CO)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walsh
Wamp
Watson
Waxman
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Carson (IN)
Collins
Deutsch
Doggett
Greenwood
Holden
Isakson
Majette
Peterson (PA)
Quinn
Stenholm
Waters

☐ 1627

Mr. ROSS changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 17 OFFERED BY MR. PAUL

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. PAUL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 41, noes 379, not voting 13, as follows:

[Roll No. 383]

AYES—41

Bartlett (MD)
Burgess
Chabot
Coble
Cox
Davis, Jo Ann
Duncan
Everett
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Gibbons
Goode
Goodlatte
Graves
Hayes
Hefley
Hostettler
Jones (NC)
Keller
King (IA)
Kingston
Kucinich
McInnis
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Otter
Paul
Peterson (MN)
Pombo
Rahall
Royce
Shuster
Smith (MI)
Tancredo
Taylor (MS)
Toomey
Wamp

NOES—379

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chandler
Chocola
Clay
Clyburn
Cole
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Goss
Granger
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—13

Carson (IN)
Collins
Deutsch
Doggett
Greenwood
Holden
Isakson
Istook
Lantos
Majette
Peterson (PA)
Quinn
Stenholm

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1635

Mr. BURGESS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. HOLDEN. Mr. Chairman, earlier today I missed several votes so that I could travel back to Pennsylvania to survey damage from a tornado strike yesterday afternoon in my Congressional District.

I respectfully request the RECORD to reflect that, had I been present, I would have voted:

"Yea" on rollcall vote 377 on agreeing to House Resolution 615;

"Yea" on rollcall vote 378 on agreeing to House Resolution 713;

"Yea" on rollcall vote 379 on agreeing to House Concurrent Resolution 462;

"No" on rollcall vote 380 on agreeing to the Sherman amendment to H.R. 4818;

"No" on rollcall vote 381 on agreeing to the Lantos amendment to H.R. 4818;

"No" on rollcall vote 382 on agreeing to the Kennedy (of Minnesota) amendment to H.R. 4818; and

"No" on rollcall vote 383 on agreeing to the Paul amendment to H.R. 4818.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to simply point out to the Members that by the calculation of the majority, a calculation with which I concur, that if everyone entitled to offer amendments uses the full time available to them under the unanimous consent agreement, we will finish voting sometime around 11 o'clock tonight. If Members would like another outcome, I would ask them to see whether or not they can assist us in limiting the time taken by Members on some of these amendments, if Members would like to get out of here before 11 o'clock.

AMENDMENT NO. 12 OFFERED BY MS. KILPATRICK

Ms. KILPATRICK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. KILPATRICK:

At the end of the bill (before the short title), insert the following:

LIMITATION ON CONTRACTS

SEC. . None of the funds made available under this Act may be used to fund any contract in contravention of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)).

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Michigan (Ms. KILPATRICK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Chairman, I yield myself such time as I may consume.

I first want to thank our chairman, the gentleman from Arizona (Mr. KOLBE), as well as our ranking member, the gentlewoman from New York (Mrs. LOWEY), for working with us as we put together what we consider the best bill under the circumstances of our 302(b) allocation.

The amendment before us deals with small businesses in America. Currently, the procedure of the Federal Government is that they work with small businesses to get them into the procurement process so that they can grow their business and hire the people of America. This amendment today that will be a part of the Foreign Operations bill, and my chairman has accepted it, and I thank him very much, and I know that he will protect it as it goes through the process, will allow the small businesses of America to also procure government contracts for the international assistance that we give.

I recently met with my truck and bus owners and those who do parts on those buses and trucks, and what they said to me was they need assistance in getting some of the foreign contracts where we are buying trucks and buses and the like. This is an attempt to help those businesses and other small businesses in America who can and will assist as we rebuild communities around the world.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Ms. VELÁZQUEZ), the ranking member on the Committee on Small Business.

Ms. VELÁZQUEZ. Mr. Chairman, I would like to take this opportunity to thank the gentlewoman from Michigan (Ms. KILPATRICK) and for yielding me this time.

Mr. Chairman, today we are considering the $19 billion Foreign Operations appropriation bill. Billions of dollars of this funding will be spent on Federal contracts performed overseas. This amendment ensures that U.S. small businesses have an opportunity to compete for this work.

Large contractors in the United States are currently required to submit subcontracting plans for work performed in the United States. These plans must simply identify small business goals and demonstrate that small companies have a reasonable opportunity to compete for these subcontracts. The Kilpatrick amendment merely extends this requirement to overseas contracts.

I cannot overstate the important role of small businesses in our economy. Whether domestic projects or overseas work, our Nation's small businesses deserve access to Federal contract opportunities. The Kilpatrick amendment eliminates these double standards and gives United States small businesses a chance to compete.

Mr. Chairman, this amendment, a similar amendment like this was included in last year's appropriation bill, only to see it stripped out in conference. I hope that this is not the case this year. I urge its adoption.

Ms. KILPATRICK. Mr. Chairman, I yield myself such time as I may consume.

We do believe that the gentleman from Arizona (Chairman KOLBE) and the gentlewoman from New York (Mrs. LOWEY) will protect the amendment. It is a stimulant that our small businesses need so that they can grow their businesses and hire more of our American citizens as well as refund their lost taxes from local communities around the country.

With that, I again would like to thank the gentleman from Arizona (Chairman KOLBE) and the gentlewoman from New York (Mrs. LOWEY).

Mr. Chairman, I yield back the balance of my time.

Mr. KOLBE. Mr. Chairman, I rise to claim the time in opposition, and I do not rise in opposition to it. I think we all support the promotion of small business. We certainly need to have small enterprises get a fair shot at getting contracts and getting every business opportunity. And one of the things we have been pushing through AID is to do more with small businesses, both here and abroad.

The agency says that it has been essentially following the requirements of the proposed amendment now; and since it does simply restate current law, and in the interest of expediting business here in the House, I would accept this amendment and ask that we review it in conference. So I am prepared to vote right now.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Michigan (Ms. KILPATRICK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BUYER

Mr. BUYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BUYER:

At the end of the bill (before the short title), insert the following:

PROHIBITION ON USE OF FUNDS TO REQUEST THE UNITED NATIONS TO ASSESS THE VALIDITY OF ELECTIONS IN THE UNITED STATES

SEC. . None of the funds made available in this Act may be used by any official of the United States Government to request the United Nations to assess the validity of elections in the United States.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Indiana (Mr. BUYER) and a Member opposed each will control 10 minutes.

Mrs. LOWEY. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN. The gentlewoman will be recognized.

The Chair recognizes the gentleman from Indiana (Mr. BUYER) for 10 minutes.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

My amendment seeks to end any possible form of manipulation of our elections in November. Article I of section 4 of the Constitution specifies that elections, including those for Federal offices in the United States, will be conducted by the States and the Congress, and the States and the Congress can only regulate and oversee the electoral process in this country.

For over 200 years this Nation has conducted elections fairly and impartially, ensuring that each person's vote will count. When problems have arisen over the years, by Constitution, authority was granted to Congress and the States to address them, and we have.

Congress passed the Voting Rights Act in 1965, and we have subsequently amended that act over the years. Just this last Congress, we enacted the Help America Vote Act to strengthen the election process.

Recently, nearly a dozen Members of this House have written United Nations Secretary General Kofi Annan requesting "to have election observers to monitor the Presidential election in the United States" on November 2.

I suppose that through this letter, Members of this body were suggesting that we, the United States, need help, that the States cannot ensure the integrity of the election process and, therefore, we need the United Nations monitors to look over our shoulders to make sure we do it right in the United States.

Now, if my colleagues can imagine on Election Day, you get up, you have your breakfast, you grab your coffee and your Danish, and you are going to go to the voting booth. When you show up, you are curious because you see a white van out there that says the U.N. beside it and little blue helmets. The United Nations has arrived; we are going to ensure the integrity of the American electoral process.

The United Nations has sent monitors to Haiti, Nicaragua, Angola, Mozambique, and now what, the United States? I do not think so.

This request by Democratic Members to have the U.N. supervise United States elections is rather foolish, nonsense, and silly. If anybody wants to come here to learn how to conduct a proper election, let them come to the United States. We are happy to teach anybody the foundations of our Republic and democratic values.

This amendment prohibits Federal executive officials from asking the United Nations to come in and have any authority of our election process to assess the validity of the United States Federal elections. The authority to ensure the integrity of the United States elections rests with the States and the Congress by constitutional authority, and this amendment merely seeks to keep it that way.

Mr. Chairman, I reserve the balance of my time.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentlewoman from New York for yielding me this time.

I would say to my friend, and he is my friend, that I think he is very wrong in offering this particular measure. We in the United States go all over the world telling people about free and fair elections and about transparency in that regard. I, along with other Members of this Congress, have traveled throughout the world monitoring elections on behalf of a variety of organizations that do not necessarily come under the aegis of the United Nations.

I would say to the gentleman, I was last week elected as president of the Organization For Security and Cooperation in Europe. That organization is one of the lead organizations in the world on election monitoring. Members from this body under the aegis of that body have gone to the Ukraine, to Belarus. Soon we will be going to Kazakhstan. I have gone to Russia.

□ 1645

I was welcomed, when Russians awakened on that morning and had their Danish and their coffee, at the election polling place; and, surprisingly, I found that a great deal fairer in some respects than what I saw in my own county when you were there in 2000. I suggest that if one were not there for any other reason other than to observe an election, it would be foolhardy for us to not take into consideration the importance of encouraging free and fair and transparent elections, and what better way than to tell the world we are wide open for your peerage into the freest and fairest system in the world.

Mr. Chairman, I yield back and am prepared at the appropriate time to yield to additional Members.

Mr. BUYER. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise today in strong support of the Buyer amendment. It saddens me, Mr. Chairman, that some members of the body seem to think that we need the U.N. election monitors here in the United States. I was pleased to work with the Members on both sides of the aisle to secure passage of the Help America Vote Act, which passed overwhelmingly in the previous Congress. That bill is being implemented today as we speak and is addressing many of the problems referenced in the letter to the U.N.

Three billion dollars have already been provided and been appropriated pursuant to the bill, which provides for better voting machines, better registration systems and for more poll worker training. I have faith in the commissioners of the EAC Elections Commission to carry this out.

Mr. Chairman, the U.N. has its hands full helping countries around the world that have problems far beyond anything we have experienced here in the U.S. For example, just a few weeks ago in Afghanistan, Taliban forces determined to prevent the onset of democracy in that country killed 16 Afghans, simply because they had voter registration cards.

In India, Reuters reports that militants in Kashmir set off mines and fired at polling stations as voting began to elect a new parliament, killing at least seven people and wounding dozens.

In Myanmar, separatist guerrillas killed four soldiers, burned electoral rolls and destroyed voting machines.

In Turkey, a candidate for village headman was gunned down and others injured.

Clearly, Mr. Chairman, the problems in other parts of the world far surpass anything we face in this country. The U.N. needs to focus its attention on situations like these where people cannot even register to vote without fear of being killed.

Of course, one of the biggest hurdles facing the U.N. election monitors will be assisting and setting up the framework for democratic elections in Iraq.

Mr. Chairman, I am glad the U.N. is helping other countries with their elections, and I hope they will continue to do so. We do not need them here in the United States, however.

I thank the gentleman from Indiana for offering the amendment, and I strongly support its adoption.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. CUMMINGS), the distinguished chair of the Black Caucus.

Mr. CUMMINGS. Mr. Chairman, I heard the gentleman from Indiana (Mr. BUYER) say we say that we need to end possible core manipulations with regard to our elections. The gentleman from Indiana (Mr. BUYER) may not be familiar, although he visited Florida right after the 2000 catastrophe, where so many African-American people and so many others were not allowed to vote, and their votes were simply not counted.

Our last speaker talked about how the U.N. had all this work to do all around the world. Let me tell you something. This is a democracy in the United States. The way this democracy is built, it is built upon the individual's right to vote and to have that vote counted, and basically that is what did not happen in Florida and in other places.

I would submit to you that this is not a Republican issue. This is not a Democratic issue. This is a red, white and blue issue. I cannot figure out anything that could be more important than making sure that every single person in your district and in my district have that right to vote and have that vote counted.

I do believe that if the gentleman, the sponsor of this amendment, were to have one of his constituents to come and say, "Mr. BUYER, I could not vote for you," I believe that you would tear down walls, build bridges, do everything you could to make sure that that person could vote.

Just this weekend when I was down in Miami, there was a headline in the Miami Herald talking about things that Jeb Bush is doing or had tried to do to stop folk from being able to have their votes cast and counted. And so the beat goes on.

That is why the gentleman thinks the Congressional Black Caucus likes coming and saying that we want monitoring? We want to make sure that all of our constituents have their vote.

So it is not about manipulation. It is about integrity in this system. That is what it is all about. We want to make sure that another person is not selected but elected.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

The Miami Herald report, when they did their analysis and actually looked at the Civil Rights Commission, stated that in fact that report was overstated. They also in the Miami Herald's report analyzed and said there was no widespread evidence of what the gentleman just said in the well.

In fact, the evidence points just the opposite, that the election in Florida, the officials were mostly permissive, not obstructionists when unregistered voters presented themselves; and, in fact, during the 18 months of litigation that followed the election of 2000, only two people in the State of Florida testified that they were not able to vote.

Now, of the 176,000 votes that were discarded ballots in the State of Florida, there were 65,000 that were undervotes, meaning people who went to vote, but they did not vote in the Presidential column. They voted for maybe State rep or State senator or for sheriff, but they did not vote for President. Then there were 111,000 that were overvotes.

Yes, when I was in Florida, yes, I saw thousands of ballots whereby people actually in the Presidential column, for one reason or another, decided that they would forget the one person, one vote. What they actually did was vote for three, four, five, six, seven people in the Presidential column. So, by their own hand, they spoiled their very own ballots.

Mr. Chairman, I reserve the balance of my time.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), our distinguished leader.

Mr. HOYER. Mr. Chairman, when President Bush was campaigning for office, he said that if we were humble and treated our allies and other nations with respect, that they would relate well to us.

I chaired the Helsinki Commission of this Congress from 1985 to 1995 and have served as the ranking member until this past year when I became the whip. I will tell my friend from Indiana, I went to country after country after country and said to them, you need to accept election monitors, because you need to ensure that the world is confident that your elections are honest and aboveboard.

I will tell my friend from Indiana that I believe America's elections will be aboveboard, but our Nation, I tell my friend from Indiana, ought to be too big, too confident, too proud to say to somebody, you cannot come to the United States and see for yourself. Because if we ask of others that they accept monitors, are we too proud, too arrogant, too self-satisfied to say to the world, but you cannot come to America, the freest, most open, most democratic land on the face of the earth?

I say to my friend from Indiana, I hope my colleagues reject this amendment, not because as some here will assert there is wrongdoing in America but because America ought to be proud to invite all of the world to come to America and see how democracy works.

Do we make mistakes? We do. But are we proud of our democracy? We are.

Come to America. See us act. See our democracy. Be proud.

Mr. BUYER. Mr. Chairman, I yield myself 20 seconds, and I would just say to the gentleman, please do not mischaracterize the amendment. I agree with you. We welcome people to come to this country to observe. What this amendment says, we do not believe that the United Nations should be here to assess the validity of the United States election process as monitors.

Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I will not even take the 60 seconds. It seems to me there is a lot of misconceptions about this amendment here. Yes, we do welcome observers to our elections. We welcome people coming into this country. We have thousands of them come in every year. We invite them to come. They come under various plans, journalists, politicians, all kinds of people, who look at elections at the local level, at the State level, at the national level at our conventions. I have hosted those people in my district on election day, on primary day, on general election day. We should want those people to come here.

What we are talking about is whether we have people come here that have some kind of official capacity to determine the validity of our elections. We have a uniquely, unlike most other countries which have national elections, a National Elections Supervisory Board. Ours are so scattered. Every State has the responsibility for determining the elections.

So it would not be possible or not be wise to do that, and that is why this amendment is a very simple amendment that makes sense. Yes, come and observe, but you are not going to be here to determine the validity of the elections.

Mrs. LOWEY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, let me first acknowledge the work that the gentleman from Maryland (Mr. HOYER) and the gentleman from Ohio (Mr. NEY) did on the election reform bill the last session. I was there every day attempting to help make it pass, but it has not been implemented. Forty-one States have asked to implement it in 2006; and then 27, including some of those, have asked to get a waiver. So we have not improved.

We had observers in Florida in November of 2002 requested by the Secretary of State. They came from Russia, Bosnia, Switzerland, United Kingdom and somewhere else; and we go all over the world observing elections. Why cannot we follow the same rules we insist on the world following? We write the rules. We enforce them everywhere but here. We want a fair election that is transparent, and we have not experienced it the last 4 years.

We are tired of making sure we vote and the votes do not get counted or getting intimidated to keep from voting. If we cannot do that as a democracy, we have no democracy. This is the very foundation of a democracy.

The first amendment right to freedom of speech, that is an expression of who they want in office, and they did not get the last one that was elected.

Mr. BUYER. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time and wanted to stand in support of the Buyer amendment and say also I support this for two reasons.

Number one, I am very uncomfortable with the U.N., regardless of what their intentions could be. It is a political body. They are very, very anti-American and I think very ineffective. Just look at their record on human rights, their record on peace around the world, the records on democracy. The U.N. would not be who you want to come in and straighten out a problem.

Secondly, let us go under the assumption there was a problem and what did we do about it. One thing to remember, and I went down to Florida. Twenty-five of the counties in Florida that had the highest percentage of vote spoilage, or they were accused of it, how many were controlled by a Republican? Zero. All of the 25 had Democrat chief election officials.

Now, as a Republican who was asked to go down there and monitor the recount, I was expecting the worst. I went in there, as I know the gentleman from Florida (Mr. HASTINGS) did, and we sat in kind of bleachers and watched Theresa LePore and Judge Burton, two of the Democrats. Ironically, I forget the Republican's name. And they would hold the ballots up and look at the chads.

I expected the worst, but I want to say to my Democrat friends, they did the right thing. They were looking it in the eye. They were resisting all the political pressure from the outside. They were running Palm Beach and Broward and Dade County the way it should be run, on a local level. The Democrats were doing it, and the Democrats I think were doing a doggone good job. I went back and told my friends, you know what, that process is fair.

Key point being is we handled the problem, we handled it locally. We do not need a lot of outsiders from the U.N. to come in.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WATSON).

□ 1700

Ms. WATSON. We need observing. I observed the election in 2000 from Micronesia. I was ashamed. I was embarrassed because I had to go out and interpret what had happened. I did not find those elections to be free or fair. The spaghetti ballot, the hanging chad, and the Supreme Court's decision, cutting off the counting of votes, so the person who had the largest number of votes did not win. And so we need the world to see how our elections are run because Florida cheated, and we are not going to allow it to cheat again.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has 45 seconds remaining. The gentlewoman from New York (Mrs. LOWEY) has 1½ minutes remaining.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

I would say to the gentlewoman who spoke, who used the word "cheating," I hope she would choose another word because she is definitely impugning the integrity of a lot of her Democratic colleagues in the State of Florida who supervised the election.

Number two, I think I must infer from that sense of outrage I am hearing from the other side that you are just as concerned about the systemic design to disenfranchise the absentee military vote, which I hope you are just as outraged about. But what this amendment is about is we welcome America to observe the integrity of our electoral process. We do not ask, though, for the United Nations to come as monitors at our polling stations in this country. That is what this amendment is about.

Mr. Chairman, I yield back the balance of my time.

Mrs. LOWEY. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentlewoman for yielding me time and for her leadership on so many issues.

What in the world are we worried about? If we have nothing to hide, then we should not have any concern whatsoever. Yet, today's New York Times in their article on the front page cites "election troubles already descending on Florida."

I truly expect that our elections will be well maintained and done in an honest and fair way, but no American should be ashamed or scared to have our democratic system observed and monitored by an international agency if voters are truly not being disenfranchised in the United States.

We have all served as monitors elsewhere. Why not have the same standard in our own country?

[From the New York Times, July 15, 2004]

ELECTION TROUBLES ALREADY DESCENDING ON FLORIDA

(By Abby Goodnough)

MIAMI, July 14.—Three years after Gov. Jeb Bush announced a new voting system that he called "a model for the rest of the nation," Florida is grappling with some of the same problems that threw the 2000 presidential election into chaos, as well as new ones that critics say could cause even more confusion this November.

The touch-screen voting machines intended to cure many of the ills of 2000 have raised a host of other concerns here just four months before the election. A new state rule excludes the machines from manual recounts, and the integrity of the machines was questioned after a problem was discovered in the audit process of some of them. Voting rights groups filed a lawsuit last week challenging the recount ban, and a Democratic congressman has also sued to request a printed record of every touch-screen vote.

The controversy over the new equipment is just one of Florida's challenges, which also include confirming which voters are ineligible, training poll workers on new policies and processing a flood of new registrations.

State officials announced on Saturday that they would throw out a controversial list used to remove felons from the voting rolls, acknowledging that Hispanic felons were absent from the list. Secretary of State Glenda E. Hood, appointed by Governor Bush last year, had earlier dismissed concerns from lawmakers and advocacy groups about the list of 48,000 suspected felons, which the state made public only after a judge's order.

The United States Civil Rights Commission, which issued a scathing report on the last election here in 2001, will examine problems with the list of felons in a hearing Thursday in Washington.

"The most important thing is to really show the voters that there are reasons to have confidence in these systems," said Bobbie Brinegar, president of the League of Women Voters of Miami-Dade County. "But the mantra has been 'trust us.' And that is not good enough."

Jacob DiPietro, a spokesman for Governor Bush, said the governor was "taking full responsibility" for the problem with the list, adding: "His No. 1 priority is to have a seamless election and an election where people have confidence that their vote will be counted."

The state, whose 36-day recount after the 2000 election stunned and divided the nation, is expected to be a major battleground again this year, with President Bush (the governor's brother) and Senator John Kerry, his probable Democratic opponent, fighting fiercely for its 27 electoral votes. Mr. Bush won Florida by 537 votes last time, but thousands of votes were discarded because of voter error on poorly designed ballots and other problems.

The Republican-led Legislature quickly passed an overhaul of the voting system in 2001, banning the punch-card ballots that caused so much trouble in 2000, giving counties money for new voting equipment and setting recount guidelines. It adopted two-thirds of the recommendations from a bipartisan task force that Governor Bush appointed after the 2000 election, but stayed away from some of the more contentious issues.

Most notably, lawmakers passed over recommendations to make the positions of county elections supervisors nonpartisan and to review the state's policy of permanently stripping felons of voting rights. The package that the Legislature adopted has played a role in the new turmoil. Tucked into the law was a provision keeping registration records secret. A state judge struck it down on July 2, opening the way for a close examination of the list of suspected felons to purge from the rolls.

Newspapers then reported that the list had a simple but glaring flaw: it guaranteed that no Hispanics, who tend to vote Republican here, would be purged, while thousands of blacks, who tend to vote Democratic, might be purged. Governor Bush moved quickly to drop it, but he was too late to avoid accusations from Democratic lawmakers and groups. The critics have denounced the effort to keep the list secret, the touch-screen problems and other troubles as purposeful efforts by Florida's Republican leadership to give President Bush an advantage here.

Unlike her predecessor Katherine Harris, who was co-chairwoman of President Bush's 2000 campaign in Florida even as she oversaw elections, Ms. Hood has publicly stayed away from politics. But critics say that Ms. Hood, a Republican and former Orlando mayor whom Governor Bush appointed, has sown doubt by dismissing criticism of the electoral system and by not answering questions sufficiently.

The abrupt resignation of Ed Kast, the state's director of elections, last month—he said he wanted to pursue other interests—only deepened public distrust, said Sandy Wayland, a member of the Miami-Dade Elections Reform Coalition.

While previous secretaries of state were elected, Ms. Hood was the first appointed by the governor, the result of a 2003 change in the State Constitution. She reports to Governor Bush, who is therefore more directly responsible for her office's successes and failures.

"She is dealing with some really sophisticated, aggressive partisans," said Lance deHaven-Smith, a political science professor at Florida State University, speaking of the Jeb Bush administration. "She has been a good soldier, getting up and saying, 'Everything is fine, not to worry.' And come to find out, some of the problems that people feared were actually there."

The coalition asked Ms. Hood's office last month to allow an independent review of the touch-screen machines now used by 15 of 67 counties, including Miami-Dade, Broward and Palm Beach. The office said that only counties were authorized to seek such audits, and told reporters that the request was an effort to undermine voter confidence.

Through a public-records request, the coalition obtained e-mail messages and other documents from Miami-Date election officials who referred to a flaw in the touch-screen equipment's ability to audit elections results, a backup way of recording votes. The e-mail messages date back as far as June 2003.

Constance Kaplan, the Miami-Dade County elections supervisor, publicly acknowledged the problem this spring. This month, the company that makes the machines, Elections Systems and Software, provided software to correct the flaw, which the county and state say will not affect the machines' accuracy.

"It is important to note that the anomaly was rare, and all votes were counted as the anomaly did not affect the vote itself but rather the audit after," Ms. Hood's office wrote in a statement Tuesday.

Nicole de Lara, Ms. Hood's communications director, said that Ms. Kaplan's office had "unfortunately" not alerted Ms. Hood to the problem, and that she first learned of it from an article in The Daily Business Review in late May. Some critics suspect that Mr. Kast's resignation was related to the malfunction, but Mr. Kast said in an interview it was not.

Ms. Wayland is among many here who contend that counties like Miami-Dade and Broward adopted touch-screen technology too soon, swayed by aggressive lobbyists. The 52 counties that do not use touch-screen equipment use optional-scan machines, which produce records that can be manually recounted.

A recent analysis by The Sun-Sentinel found that touch-screen machines in South Florida failed to record votes eight times more often than optical-scan machines in the March presidential primary.

Nonetheless, Ms. de Lara said touch-screen machines were wholly reliable for tabulating votes. She added that they would never require a recount because under State law the only reason for a manual recount is "voter intent" when a voter makes too many or too few choices. Touch-screen machines do not allow people to vote for more than one candidate, she said. And if people do not choose any candidate for a given office, that is their prerogative, she said.

The rule says no manual recounts will be conducted when votes are cast by touch-screen machine.

The election reform coalition and other groups have also expressed concerns about a new policy on provisional ballots, used by Floridians if poll workers cannot verify their registration on the spot. The Legislature decided that provisional ballots cast outside a voter's home precinct can be thrown out, which voting-rights groups call unfair.

Florida is one of several States where people are questioning touch-screen technology. California's Secretary of State, Kevin Shelley, has prohibited the use of machines from Diebold Election Systems in four counties for the November election, and has ordered that touch-screen systems bought after July 1, 2005, produce a paper record that is verifiable by the voter.

"There's no question in my mind that ultimately there will be paper trails in every county in Florida," said Representative Robert Wexler, a Florida Democrat whose suits challenging paperless voting systems are on appeal. "The only question is when."

Mrs. LOWEY. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, for those of us who were here in this House on January 6, 2001, to challenge the election, this is, I guess, a matter of urgency. Monitoring elections is not punishment, it only helps our democracy. This is not a punishment. This is to say to all of the people, thousands who did not have their vote counted in 2000, that we care and this country is a democracy. Sweet land of liberty, that is what we know America to be. And no one should be ashamed or afraid, including the United States military, to have international monitors. All of us will demand that all votes are counted, civilians and the military. None of us should be afraid to have our election system scrutinized. Again, it is not a punishment, it is only to provide for a consistent, fair election. It is for the protection of the democracy that we believe in.

The CHAIRMAN. The gentlewoman from New York (Mrs. LOWEY) has 30 seconds remaining.

Mrs. LOWEY. Mr. Chairman, I yield 30 seconds to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to turn in a copy of the Certified Vote Organization. Over 1,700 people, that is technologists, lawyers, political scientists, says that the technology that we are using in the upcoming election is flawed.

I come from Florida * * * No, we are not going to get over it. And we want verification from the world.

Mr. BUYER. Mr. Chairman, I ask the gentlewoman's words be taken down. She said that "you stole an election."

The CHAIRMAN. All Members will suspend.

The gentleman from Indiana (Mr. BUYER) asked that the gentlewoman's words be taken down.

The Clerk will report the words.

In the meantime, all Members will cease from conversation. The gentlewoman will be seated.

□ 1715

The CHAIRMAN. The Clerk will report the words objected to.

The Clerk read as follows:

> I come from Florida where you and others participated in what I call the United States coup d'etat. We need to make sure that it does not happen again. Over and over again, after the election, when you stole the election, you came back here and said get over it.

The CHAIRMAN. The Committee will rise.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. OSE) having assumed the chair, Mr. THORNBERRY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, had under consideration the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, when certain words used in debate were objected to and on request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.

The SPEAKER pro tempore. The Clerk will report the words objected to.

The Clerk read as follows:

> I come from Florida where you and others participated in what I call the United States coup d'etat. We need to make sure that it does not happen again. Over and over again, after the election, when you stole the election, you came back here and said get over it.

The SPEAKER pro tempore. As stated by the Chair in response to a parliamentary inquiry on February 27, 1985, Members should not accuse other Members of committing a crime, such as "stealing" an election. By accusing an identifiable Member of stealing an election, the gentlewoman's words are not in order.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I appeal the ruling of the chair. I ask unanimous consent to clarify my words.

Mr. BUYER. I object.

The SPEAKER pro tempore. Objection is heard.

□ 1730

Ms. CORRINE BROWN of Florida. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore (Mr. OSE). The question is: Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. BUYER

Mr. BUYER. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. CORRINE BROWN of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 187, not voting 28, as follows:

[Roll No. 384]

AYES—219

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce

Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—187

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—28

Alexander
Bell
Boucher
Brown (OH)
Carson (IN)
Collins
Davis (TN)
DeMint
Deutsch
Doggett
Dooley (CA)
Ford
Gephardt
Greenwood
Hayes
Houghton
Isakson
Kind
Majette
McCarthy (MO)
McInnis
Meeks (NY)
Paul
Peterson (MN)
Quinn
Roybal-Allard
Stenholm
Waxman

☐ 1814

Mr. BISHOP of New York and Mr. LIPINSKI changed their vote from "aye" to "no."

Messrs. PICKERING, LEWIS of California, THOMAS, and BURR changed their vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 384, tabling the appeal of the ruling of the Chair, I was unavoidably detained. Had I been present, I would have voted "no".

The SPEAKER pro tempore (Mr. OSE). Without objection, the words are stricken from the RECORD.

There was no objection.

The SPEAKER pro tempore. Without objection, the gentlewoman may proceed in order this day.

There was no objection.

The SPEAKER pro tempore. The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4818, with Mr. THORNBERRY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for debate on the amendment offered by the gentleman from Indiana (Mr. BUYER) had expired.

The question is on the amendment offered by the gentleman from Indiana (Mr. BUYER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BUYER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana (Mr. BUYER) will be postponed.

AMENDMENT NO. 9 OFFERED BY MR. FARR

Mr. FARR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. FARR:

At the end (before the short title), add the following:

UNITED STATES MILITARY PERSONNEL IN COLOMBIA

SEC. ____. None of the funds made available in this Act may be made available for the assignment of any United States military personnel for temporary or permanent duty in Colombia if that assignment would cause the number of United States military personnel so assigned to exceed 550.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California (Mr. FARR) and a Member opposed each will control 20 minutes.

The gentleman from California (Mr. FARR) is recognized for 20 minutes.

Mr. FARR of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentleman from Arizona (Chairman KOLBE) and the ranking member, the gentlewoman from New York (Mrs. LOWEY), for the opportunity to debate an important topic on foreign aid to Colombia under the Plan Colombia.

The amendment that I am going to offer today would cap the military personnel in Colombia. The gentleman from Arizona (Chairman KOLBE) knows how much Colombia means to me as a former Peace Corps volunteer in that country, and I would like to debate this issue with my colleagues here on the floor.

In the original Plan Colombia, Congress placed caps on the number of personnel that would be allowed in Colombia, U.S. military personnel and U.S. civilian personnel. Those caps were put in place to prevent the growth of the U.S. military commitment in Colombia. I became very concerned when I heard the administration had asked Congress to increase the manpower caps in Colombia to 800 U.S. military personnel and 600 contractors.

It has been pointed out to Congress just last week by General Richard Cody, who told the House Committee on Armed Services that the recent troop deployments in Iraq have taken a toll on U.S. readiness to deploy elsewhere and even to replace troops currently deployed in U.S.-led military combat in Iraq and in Afghanistan. To quote General Cody, "We are stretched thin with our active and reserve component forces right now. Absolutely." Yet the administration wants to double the number of troops allowed under the manpower caps from 400 to 800.

Even General Hill of SOUTHCOM recently said before the Committee on Government Reform that rebuilding the social and economic system is needed in order to solve the problems in Colombia.

But today the administration has been calling Members' offices to ask them to oppose the Farr-Schakowsky-McGovern amendment, because the administration is dead set on working to expand the military aid, not the economic aid to Colombia.

After 5 years of spending almost $4 billion on Plan Colombia, is it not time that we reassess our policy? The Committee on Armed Services did that. The gentleman from Mississippi (Mr. TAYLOR) is to be commended for his work on the Committee on Armed Services, because he was able to get a reasonable ceiling on U.S. personnel in Colombia. He got bipartisan support and amended the defense bill to do just that. I am asking the same in the foreign ops bill.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY)

Ms. SCHAKOWSKY. Mr. Chairman, I rise in strong support of the Farr-Schakowsky-McGovern amendment. This amendment simply puts the House on record in support of language that the House has already agreed to as part of the defense authorization bill, and it is consistent with the Committee on Appropriation's report language on troop levels in Colombia.

The amendment allows for funds to support an increase in the number of U.S. military personnel in Colombia but continues the practice of this Congress to limit that number. The amendment allows for the current cap of 400 U.S. military personnel allowed in Colombia to be raised by 150, for a total of 550.

Mr. Speaker, when Plan Colombia was first presented during the 106th Congress, we were told it was strictly for the purpose of counternarcotics. In order to ensure that would be the case, the House placed strict prohibitions on funds being used for purposes other than counternarcotics.

Since enactment of Plan Colombia, the policy has changed. Now, as many of us have warned, the Bush administration is seeking to increase military involvement by the United States in Colombia. The administration wants to double the number of U.S. soldiers that are permitted to be deployed to Colombia.

This House placed caps on the number of U.S. troops in Colombia for a reason, and we should stick to the caps. We have provided $3 billion to Colombia over the last several years. This bill seeks to provide over $700 million for the Andean Region, including Colombia, and now we are being asked to commit more of our Nation's sons and daughters to the violence in Colombia.

Make no mistake, this is no longer a counternarcotics mission, and it is not a fight against terrorism that has anything to do with 9/11. It is a war, and sending more troops to Colombia means risking the lives of more Americans.

My colleagues on the other side of this argument seem to see no limit to what is an acceptable cap on U.S. investment in Colombia in terms of dollars and lives. As justification, they seem comfortable to toss around terms like the "war on drugs" and "fighting terrorism" without really discussing what that means and what the implications are for our country.

Despite our investments in Colombia so far, there have been no improvements in the overall problem of drug consumption in this country, and there has been no reduction in the violence in Colombia.

I have seen firsthand what a beautiful country Colombia is. I have met people from all sectors of Colombian society and traveled throughout Colombia. It is a wonderful nation but one in the midst of a civil war.

I believe what the Colombian people want and need from the United States is support to help improve the lives of its people. Sending troops will not accomplish that goal. If we allow the administration to double the number of U.S. troops in Colombia this year, what will next year's request look like?

We have heard from numerous military and civilian experts about the strains being placed on our Armed Forces as a result of the military conflict in Afghanistan and Iraq and additional homeland security needs. Instead of sending another 400 of our service personnel to Colombia, we should look for ways to ease the burden on our forces.

Vote to affirm the House-passed defense authorization and in support of the Committee on Appropriations. Support the Farr-Schakowsky-McGovern amendment.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Arizona (Mr. KOLBE) is recognized for 20 minutes.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do rise in opposition to this amendment, which would limit the number of U.S. military and contractor personnel in Colombia. While I certainly can and would debate this on policy grounds, let me instead debate it on process, which I think is just as important here. This is an issue, and Members ought to know this, being currently decided in conference by the House and Senate Committee on Armed Services.

Permanent law limits the number of U.S. military and contractor personnel in Colombia to 400 each. That was enacted in the fiscal year 2002 foreign operations appropriations bill. The House Committee on Armed Services in their 2005 defense authorization bill included an increase in the number of military personnel to 500 and left the cap of 400 on contractor personnel. The Senate included in their bill an increase in military personnel to 800 and contractor personnel to 600, as the administration requested. Then on the floor of the other body, an amendment to limit these increases failed by a 40 to 58 vote.

This Committee was consulted by the administration on the personnel cap increase, and the House leadership decided that the authorizers would take the lead, which I think is appropriate.

The number of personnel in Colombia ought to be an issue of authorization. We provide the funds, but they should decide how many personnel may be in that country.

While my colleague may say this will allow the United States to get more deeply involved in Colombia, if one looks at the appropriation levels, that is not true. The Andean Counterdrug Initiative is streamlined from last year's $731 million.

So a vote in favor of this amendment would put this subcommittee right in the middle of the conference negotiations between the Armed Services Committees. I do not think we should be in that position.

Let me say a word on policy. Until recently, the agencies involved were able to work comfortably within the ceilings. The increased pace of implementation for all the programs we support being undertaken by the Uribe Administration offers an opportunity for real progress. The current cap levels have recently come to hurt management efficiency and planning and prevent full implementation of programs.

The average number of U.S. military and U.S. civilian contractors has grown as programs have been fully implemented or as new programs have started, such as the anti-kidnapping program started with the supplemental funds we appropriated last year.

During 2003, the number of U.S. military varied from 128 to 396; that of civilian contractors from 246 to 400. Requirements in our bill requiring human rights vetting and the prohibition on combat will be maintained.

Let me just say, in conclusion, that we have had some significant achievements in our efforts to eradicate coca in Colombia. Cultivation has been reduced by 21 percent in the last year on top of 15 percent in the year 2002. We have reduced potential production of cocaine by over 20 percent. The number of communities that have voluntarily and manually eradicated cocaine is over 8,000 hectares in the year 2003.

So these are some of the reasons, but we will hear more in a little bit, why we ought to not support this amendment. I urge my colleagues not to do so.

Mr. Chairman, I reserve the balance of my time.

Mr. FARR. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding me time.

I support the Farr amendment and would like to take this opportunity to raise another equally important and related issue.

Colombia is a nation that has been embroiled in a 40-year civil war. Despite this fact, as Members of Congress we must seriously question Colombia's commitment to winning that fight. I say this because, currently, Colombian law excludes from their military draft individuals who are high school graduates. In other words, if you graduate from high school in Colombia, you do not have to serve in their military.

Colombia is sending its least fortunate citizens off to fight its civil war, but it is unwilling to require the sons and daughters of the elite to fight. If the elite, educated Colombians will not send their sons and daughters to fight in their own civil war, why should

American troops be sent to Colombia in their place?

Every year we hear that this issue is being addressed by the Colombian government, but over and over again, fact remains, it has not been corrected, and every year we get an increase for more and more U.S. troops to fight in that civil war.

The Bush administration is willing to involve more U.S. men and women in Colombia's civil war, while the elite of Colombia society is protected from military service. This administration now wants to increase the troops to 800 people, exposing more of our young men and women to harm.

Colombia needs to reform its conscription laws to make military service universal and fair. It needs to change its laws to do away with the existing discriminatory practices and create a universal military service obligation without distinction for economic, social or education conditions.

The Bush administration wants an open policy to send as many military troops and contractors to fight in Colombia's 40 year civil war, while Colombia's elite has exempted itself from military service. We should not be involved in Colombia's civil war at all.

At a time when our military is already stretched thin in Iraq and Afghanistan, the Bush administration should not be sending yet more American troops overseas to fight in a war that well-off Colombians seem unwilling to fight for. I ask and urge our Members to support the Farr amendment and limit the U.S. involvement in this unjust civil war in Colombia.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from California (Mr. OSE).

Mr. OSE. Mr. Chairman, I rise in opposition to the amendment.

It is interesting, the United States does a lot of things around the world. Some things we do very well, some things we do so-so, and some things we do not do very well. But it seems to me, curiously, that in a political body our history is that those things we do very well, we end up saying, "Well, let's stop doing it." Those things we do so-so, we just kind of hold back. And those things we do very poorly, we end up saying, "Let's throw more money at it."

□ 1830

Well, I would share with the folks of this body that what we are doing in Colombia under Plan Colombia and have been doing under Plan Colombia for the last few years is working. We are helping a democracy in the Western Hemisphere get on its feet and protect its institutions with a minimum of investment.

Yes, we have spent $3 billion or $4 billion. Yes, we are going up incrementally, a very little bit, to 800 military personnel or as many as 600 civilian contractors under what is being discussed in the conference committee. But the net result, I say to my colleagues, is very positive. Let me just share a little with my colleagues.

Colombia, which has been a home for significant disruption in civil society over the past decade, let alone the 40 years that the gentleman from Michigan (Mr. STUPAK) reported, homicides this year are down 16 percent from last year in the first 4 months of the year. Massacre events have dropped from 34 in the first 4 months of last year to 20 this year. Kidnappings have dropped from 820 to 447. Highway robberies have dropped from 445 to 336. Vehicle thefts have dropped from 4,859 to 3,489.

Mr. Chairman, the assistance we are giving our friends in Colombia is working. We are helping them protect their institutions and their civil society from encroachment by criminals and terrorists. It is absolutely important that we finish this job, that we help our friends protect their democratic institutions and come join us in the Western Hemisphere as a fully functioning democracy.

Now, I would just add that our efforts are not limited to law enforcement or military. We are also down in the despeje, helping the folks who used to do coca production learn other crops and alternatives. We are in there with the justice training, helping their justice system set up courts that function so that people have due process, so that we have fair trials. We are in there with USAID helping folks rebuild their country.

Now is not the time to pull the plug. Now is the time to pay attention to the effectiveness that we have clearly implemented in Colombia under Plan Colombia and move incrementally to improve their prospects.

Mr. FARR. Mr. Chairman, I yield 4½ minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Chairman, I rise in support of the Farr-Schakowsky-McGovern amendment.

Mr. Chairman, this is an amendment about America, about us, and about the pressures placed on our uniformed men and women serving in the Armed Forces. In effect, this amendment matches what the House has already approved in the Defense authorization bill. In this sense, it is a conforming amendment. Everyone in this House knows that America's troops are stretched dangerously thin. Every day, there is a story in one of the major papers about the stresses facing American troops as more are deployed to Iraq, Afghanistan, and elsewhere around the world. We are diverting troops from South Korea to Iraq, and we are placing burdens on our Guard and Reservists just to give some small amount of relief to our regular military units before they are redeployed into combat once again.

Faced with these tremendous strains, the administration has come forward and asked Congress to double the number of troops in Colombia, offering no more compelling a rationale than Colombia needs more of our men and women for their civil war.

The Farr amendment, like the Taylor provision in the Defense authorization bill, offers a prudent alternative: provide a modest increase of 150 more troops, give the U.S. military in Colombia a bit more flexibility and relief, retain the private contractor cap at 400, and evaluate our global military situation over the next 12 months.

I do not want any Member of this House to be fooled. This latest bid to raise the military troop cap will not be the last. The administration has assured Congress repeatedly that no increase to the troop cap would be necessary; yet, now their story has changed. Will it change again in another year or two? Let us refresh our memories on what the administration has told Congress about the current troop cap.

On April 4, 2001, General Peter Pace, commander of the U.S. Southern Command said, "That troop cap, sir, is well within the limits that I need to do the job that I have been given, and I support it."

On October 4, 2002, Brigadier General Galen Jackman, J–3 Chief of Operations at the U.S. Southern Command testified, "We have a 400-person military cap in Colombia. We do not envision that that is going to change. Typically, we have maybe a couple of hundred people in the country at any given time."

On March 7, 2003, Mark Grossman, the Under Secretary of State for Political Affairs stated, "There are caps on the number of people who can be in Colombia at any one time, and there is no one who is advocating the breaking of those caps."

And on August 19, 2003, Secretary of Defense Donald Rumsfeld declared, "I think it would be unlikely to be anything that would break that cap."

Mr. Chairman, when Plan Colombia was first launched and American troops first sent down to Colombia, Congress was told we were only going to fight the drug trade. Then we were asked to commit our troops to fight not only a drug war, but to join the campaign in a counterterrorist, a counterinsurgency civil war. Now we are being asked to double the number of our soldiers, boots on the ground in Colombia. There is a term for what is happening in Colombia. It is called "mission creep."

Mr. Chairman, Congress was right 4 years ago to impose military personnel caps in Colombia. It was a smart and prudent safeguard against any rapid escalation of U.S. involvement in Colombia's internal armed conflict. We did the right thing then. The Farr-

Schakowsky-McGovern amendment is the right thing to do now.

I urge my colleagues to support this amendment on U.S. troop caps in Colombia.

Mr. YOUNG of Florida. Mr. Chairman, may I inquire as to the time remaining on both sides?

The CHAIRMAN. The gentleman from Florida has 13½ minutes remaining; the gentleman from California (Mr. FARR) has 7 minutes remaining.

Mr. YOUNG of Florida. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I do not believe this is mission creep, this is more like Mission Success. But I want to say first before I get into it, and I appreciate that the gentleman from California has agreed to withdraw his amendment, as I have tremendous respect for the gentleman from California who has truly been committed to Colombia, who was in the Peace Corps in Colombia, and has worked through many of these problems. And the gentleman from Massachusetts has shown, through his personal visits to Colombia in a repeated way and in different areas that he is truly and deeply concerned, as is the gentlewoman from Illinois.

I think it is important that even when we have deep differences of philosophy on how to approach narcotics, how to approach things like sending our troops overseas, that we treat each other with respect here in this body and it is very important, even in these most contentious times, that we try to do that here; and we all need to work towards that. But we do have some disagreements.

First, the reason I say that I believe it is Mission Success is that one way we measure this is whether we have succeeded in reducing the massacres which have gone down this year compared to last year by 41 percent, massacre victims by 55 percent, kidnappings by 46 percent, executive kidnappings by 60 percent, illegal roadblocks by 66 percent, roadblock kidnappings by 61 percent, bank robberies by 66 percent; in addition to the statistics we are getting on cocaine and heroin seizures which are substantially up, but which often, as we all know are fungible, because it seems like we always discover more but, in fact, at this point, we cannot even find in organized areas big plots of heroin, which has been a growing problem. They have moved it into higher altitudes; and, quite frankly, we did not understand how hard it was going to be to continue to make the reductions. Similar in coca. They have reconfigured. We are making progress. We believe we are at a critical tipping point.

We have an administration in Colombia that has finally understood a basic point, not only about the DMZ, but about going after, in a repeated way, the coca growers.

I am a strong supporter, as the gentleman from California knows, of alternative development. We have met down in Colombia with leaders there and understand unless we can rebuild their justice system, it is the oldest democracy in South America, but unless we can rebuild that justice system, we have deep problems, and we have worked to try to make sure funding goes both ways.

But, quite frankly, nobody will run for office if they think they are going to be assassinated. Businessmen are fleeing the country if they think they are going to be kidnapped. I went in Nelson Mandela Village with many of the displaced people, and they do not want to go home because, first, the FARC comes through and terrorizes them, then the paramilitaries come through and terrorize them; often the kidnappings, and what they need is some order.

We have an administration under President Uribe who is giving the order. And, to my view, and I think to most observers, this is the model for Iraq. By the way, we are not asking for 800; we are saying a cap, and that way we do not have to come back. The number there of advisors varies. These are not fighters, soldiers in the sense of them shooting bullets like in Afghanistan and Iraq. These are advisors. In my opinion, this is where we want to be in Iraq, this is where we want to be in Afghanistan, where we are arguing how many advisors we have there.

But the people on the ground in Colombia who are fighting and dying are Colombians, not Americans. And they are fighting, by the way, over something that is our drug habit and Western Europe's drug habit. They did not have, and I heard them all the time here, a civil war. They have at different points in time, like many countries, had people who are displaced landowners or people who felt land distribution was unfair, which it generally is in South America, and had a civil war; but this is now a narcotics war with only a small pocket.

The total support for the FARC is less than the drug lords, terrorists, dealers, and other terrorists groups in the United States. We would not like it if Colombia referred to us as having a civil war because we have drug dealers in our country or we have terrorists in our country. The group that tried to negotiate the peace, and many of them have come out, may have at one time been there for altruistic, civil war motives; but this is a classic terrorism war at this point, and Uribe is going after it. He, as much as anybody. And we can see it in Medellin; we can see it in Putumayo and in other areas working for alternative development.

I believe this lifting of the cap which may be only 450, may be 500, hopefully will eliminate the need to come in, if there are times when we need a few more, of advisors to train the Colombians and to use the model where they are really turning the progress. Quite frankly, if we do not reach a tipping point, we have a problem, and we need to work together, that after these people start to move back into their villages, after they start to rebuild their communities, we absolutely have an obligation to help with the financial alternative development, to help them rebuild those institutions.

I appreciate the gentleman from Arizona (Chairman KOLBE) and the gentleman from Florida (Chairman YOUNG) working in this bill to allow, one group that I worked with was Kid Save where we have many of these older kids who are orphaned or who have been abandoned, and this bill now allows some money to be able through AID to help those kids in adoption in the United States and in Colombia; and that is the type of thing we need to be working towards. But to achieve that, we have to have order.

Mr. FARR. Mr. Chairman, I yield 3½ minutes to the ranking member of the committee, the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in support of the Farr amendment.

As part of the fiscal year 2001 supplemental for Plan Colombia, Congress limited U.S. military and contractor presence in Colombia to 800 people. That bill, which first established our support for Plan Colombia, also strictly limited our assistance to Colombia for antinarcotic purposes.

As many of my colleagues may remember, that decision was made because Members were concerned that our involvement would increase as time went by and that the United States would expand the scope of its involvement from an antinarcotics campaign to an anti-insurgency campaign.

As the involvement of the Colombian terrorist organizations and drug trafficking increased, Congress approved an expansion of the authority governing our involvement in Colombia. Essentially, we allowed our resources and manpower to be used more broadly to pursue terrorist organizations involved in drug trafficking. The overall U.S. manpower caps remained in place, but were adjusted to allow 400 military and 400 contractor personnel, and this was done at the request of the administration in the 2002 Foreign Operations bill. The expanded authority was approved with those manpower limitations in mind; but this year, the administration has requested an expansion of our manpower cap to 800 military and 600 contractor personnel.

The House-passed Defense authorization bill partially grants this request, increasing the manpower cap to 500, while the Senate version of the bill grants the entire request to allow 800 military and 600 contractors. Today, the House should send a clear signal to the conferees in that bill by voting to limit our military presence to 550.

Our Armed Forces, and especially the Army and Special Forces, are stretched to the breaking point with our commitments in Iraq and Afghanistan.

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It will take years for us to recover. While an increase of 400 may not seem large, I view this as a manifestation of a long-term plan to ramp up U.S. involvement in Colombia. Who knows what expansion will be sought next year?

The request to increase manpower is clearly intended to expand U.S. troop involvement in the Colombian's war against the FARC, that war that has been under way for 20 years. Solving Colombia's problems will not be accomplished with a few hundred additional U.S. soldiers. There must be a comprehensive effort that includes a plan for reintegration of former combatants back into Colombian society.

I respect the view of others. I certainly understand their point of view. I have always supported assistance for Colombia in the context of a plan that I thought made sense. The U.S. is now spending close to $1 billion a year in Colombia, including ever-increasing amounts found in the DOD appropriations bill. I do not support this manpower increase, because I believe it continues to expand U.S. involvement, and a violent political struggle will only lead to an ever-increasing commitment of U.S. manpower.

The amendment grants a modest increase in military manpower, reflects the House position as contained in the House defense authorization bill, and it is the soundest policy, in my judgment.

I urge my colleagues to support the Farr amendment.

Mr. YOUNG of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Chairman, I thank the gentleman for the opportunity to speak, and I rise today in opposition to the amendment offered by the gentleman from California (Mr. FARR) to put a cap on U.S. military and contract personnel assistance assigned to our friend, the Republic of Colombia.

Mr. Chairman, this is a bad amendment. It ties the hands of the President, our Commander in Chief, from making military and counterterrorism decisions. Specifically, this bill makes no exceptions to the cap, greatly limiting Presidential action. This can be a serious problem, should the President, Republican or Democrat, ever need to deploy U.S. personnel to safeguard American citizens or security, since the amendment would force all U.S. assistance under foreign operations to be cut off. This would mean that development programs, counternarcotics initiatives and U.S. security could be severely damaged under this amendment.

The increased pace of implementation for programs we support being undertaken by the Uribe administration in Colombia offers an opportunity for real progress towards our goals, but current cap levels hurt our efficiency, prevent full implementation of our programs.

Draft legislation to raise the military cap to 800 and the civilian cap to 600 was included in the fiscal year 2005 DOD authorization bill, as it was recognized it is necessary to increase the cap to ensure continued success in Colombia.

I think it is important to recognize that the Republic of Colombia is Latin America's oldest long-standing democracy, and it is important to recognize that Plan Colombia is working.

Let us take a closer look at the success in Colombia in fighting drugs in partnership with our friend, President Uribe. Coca cultivation has declined by 21 percent in Colombia and over 33 percent in the last 2 years. The Colombia coca crop has been reduced to 127,000 hectares from 169,000 hectares 2 years ago. Potential production has been reduced by 20 percent for export quality cocaine, and potential pure heroin production has been reduced by 10 percent just this past year in 2003.

Ladies and gentlemen, the elected government of Colombia is restoring basic protections to every Colombian community, because Plan Colombia is working. Police presence has been extended in all 158 municipalities in Colombia that had no police before, and 87 Colombian citizens have been extradited to the United States on narcotics-related charges. A government presence in all of Colombia's 1,098 municipalities has been established for the first time in the country's history.

Again, Plan Colombia is working, and Plan Colombia is a key component of our fight against terrorism.

We must also remember the strong link between terrorism and drug trafficking. The funds from drug sales are often funding worldwide terrorist activities. Specifically in Colombia, desertions among narcotrafficking terrorist groups are up 80 percent, and child soldiers are increasingly being voluntarily repatriated.

In 2003, nearly 7,000 narcoterrorists were captured. Colombia's murder rate has dropped by 20 percent. Terrorist incidents have dropped by 49 percent. Terrorism cases in Colombia were down 48 percent in 2003; and in a July, 2003, poll, 65 percent of Colombians say they felt more secure in July of 2003 than they did one year before in July of 2002, which happened to be one month before President Uribe took office.

Again, Plan Colombia is working.

Finally, on the human rights front, kidnappings are down by 26 percent in 2003. Homicides reached their lowest level since 1987. Of 2,500 human rights allegations in Colombia over the past year, there have been no allegations of human right abuses filed against U.S.-trained units and only 2 percent against the Colombian military, compared with 40 or 50 percent just 7 years ago.

Again, Plan Colombia is working. Our partnership with President Uribe is working. It is strong. The eradication of narcotics and regional security is a priority. I urge a "no" vote on this amendment.

Mr. FARR. Mr. Chairman, I yield myself 2½ minutes at this time.

I want to respond to the gentleman from Illinois and the gentleman from Indiana. They say that Plan Colombia is working, and it is working under the existing caps. My point is that, as a person who lived in that country and worked in the economic development and the community development as a Peace Corps volunteer, is that I believe that Colombia has the capacity with our help to win this war on terrorism, to win this war on drugs, and it is the obscene amount of money that drug cartels dumped into the country that is doing it.

But you are not going to win that by putting all of the emphasis on the military side, and that is where the mission creep is. We have the most amount of money being spent on the military than we ever have, and we are winning the war. Now we need to spend money on the civilian side, on the economic side.

You cannot win this war. What you have to do is win the peace, and the peace will not be won until the investment is in Colombians to do the job for themselves.

My job in the Peace Corps was to work myself out of a job, and I think what we have lost track of here or lost sight of is that we are not really emphasizing how do we get these countries to do the job themselves. How do we get the contractors that are being paid American dollars, how do we get military that is our military to work themselves out of a job? Until we answer that and see that we are moving in that direction, I think we are asking the wrong question and we are quoting the wrong facts here.

Yes, it is moving in the right direction. In fact, we would argue that, because of the way it is moving, there ought to be a greater emphasis, not a less emphasis, on local economic development, on fighting the war on poverty. There is only 20 percent of the budget that now goes to the economic side of it. That is the least amount of money since the war in Colombia, the Plan Colombia began. So the mission creep is on the military side, and I think the mission creep ought to be on the other side, on the economic side. Until we win the war on poverty, we will not win the peace, and until we win the peace, we will not have a stable country.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I basically agree with the gentleman from California that I am disappointed that as we need more dollars, if we do, for some military operations that they would come out of the domestic side. Long term, you are absolutely right. We have to win the hearts of the people, but, as the gentleman knows, we have two variables that have complicated the final kind of push over the top.

One, they moved the heroin up higher on the mountains; and it requires a different military capability with the helicopters and different training. And, secondly, they moved east, into the country, into the jungles, farther from our air bases; and we need the capability, at least at certain periods of time, to increase the number of advisers to address those two things.

But, long term, if we are not moving in the direction you are talking, we will never win this war and we will not accomplish it. But there are times when you have to have different strategies, and I believe that is essential at this point in time.

Mr. FARR. Mr. Chairman, I yield myself such time as I may consume.

In conclusion, I would ask for unanimous consent that, at the end of this, we withdraw the amendment to keep this dialogue going. I think we can focus on really trying to do the right thing in Colombia, and I do not think that there is any difference on either side of the aisle that we want the Colombians to be able to have the capacity to govern themselves in a peaceful fashion.

They certainly, of all the countries that we are involved in, have a better infrastructure, a longer-running democracy, more communities established all over the country, have well-educated people, but they also have a massive amount of poverty. The biggest problem with the drug war is it has displaced millions of people who just do not have an adequate place to live or a job or the social services or the health services and educational services that are necessary.

That is my concern, that if we are putting more emphasis essentially into the military, we are going to have less emphasis, because there is only so much money you can spend on what I think is so essential, to having a lasting peace in Colombia. And that is, we have got to provide for the infrastructure, the social, economic infrastructure of all of the people that have been displaced, and we are moving away from that, from the ability to have alternative crops.

Remember, the crops that are growing and are being destroyed are way out in the boonies in the middle of the jungles. You are not going to reestablish a market crop in the jungles. You are going to have to reestablish a market crop in the areas.

And, remember, Colombia has been one of the leading agricultural countries in the world. We have all been drinking its coffee forever, and the quality of that coffee is the highest there is. We could do more by paying more for Colombian coffee, would be the best help in economic aid to that country of anything that I can imagine.

But I would like to make sure that, as we go into conference on this bill and into the defense bill, that we keep in mind that the war in Colombia is not going to be won by mission creep of the military. It is going to be won when we start tipping the scale, as the gentleman from Indiana said, to put more emphasis in the peace effort and less in the war effort.

Mr. PITTS. Mr. Chairman, I rise in support of the Farr amendment.

I am concerned about the use of U.S. funds in Colombia.

In particular, I am deeply concerned about four public statements by the President of Colombia in which he accused domestic and international human rights organizations of supporting armed groups and of being allied with terrorists.

These statements are not only unhelpful but are also deeply disturbing. Human rights organizations are working to assist with humanitarian aid and building civil society in local communities in Colombia that have been torn apart by the terrible violence.

The President's verbal assaults on human rights organizations do absolutely nothing to help the Colombian people or to help bring an end to the violence—instead his comments may cause a reverse in a recent trend of a decrease in politically motivated violence.

Despite the fact that the above violence has decreased, there are some areas of Colombia in which local communities continue to be victims of terrible violence and suffering.

For example, security in the special security areas, such as Arauca, has deteriorated under the current President.

According to Evangelical and Catholic church leaders, there have been dozens of cases in which pastors, priests, and lay leaders have been targeted by armed actors of the left and the right for refusing to take up arms. According to these reports, 37 Protestant pastors were killed in the first 6 weeks of 2003 and four Catholic clerics were assassinated in 2003. Most of these cases were in the State of Arauca.

The numbers of politically motivated murders have not changed for the better—in 2003, over 3,000 civilians were killed for political motives and at least 600 "disappeared."

Around 2,200 people were kidnapped, more than half by armed opposition groups and army-backed paramilitaries. Armed opposition groups such as the FARC and ELN were responsible for repeated and serious breaches of international humanitarian law, including hostage taking and the abduction and massacres. They carried out attacks using disproportionate and indiscriminate weapons that resulted in the death of numerous civilians.

The government and security forces increased their attempts to undermine the legitimacy of human rights defenders, peace activists and trade unionists. This coincided with paramilitary threats and attacks against human rights organizations. The attacks on these groups made it nearly impossible for many to continue documenting and reporting on human rights abuses by all armed actors—if the human rights organizations cannot do their work, the violations are largely under-reported.

Despite the declared cease-fire, paramilitaries were still responsible for massacres, targeted killings, "disappearances" torture, kidnappings and threats. They were allegedly responsible for the killing or "disappearance" of at least 1,300 people in 2003, over 70 of all attributable, non-combat, politically related killings and "disappearances."

Even the United Nations has noted an increase in complaints of serious human rights violations which directly involve the security forces themselves.

I would urge President Uribe to cease his senseless attacks on human rights organizations that simply hurt those who are helping the people of Colombia—instead he should vigorously pursue those who commit horrifying atrocities and terrorize communities across the country.

I urge my colleagues to support this amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, as we consider the Foreign Operations Appropriations bill today, it is important to reaffirm our commitment to our counternarcotics efforts in Colombia, to the people of Colombia, and to American citizens. I led three congressional delegations to Colombia last year and can say first hand that our significant investment, after years of effort, is beginning to see returns on the time, money, and resources spent in Colombia. Together with the strong commitment of President Alvaro Uribe and historic levels of support from the Colombian people, U.S. involvement is beginning to hit narcoterrorists where it hurts.

This year, the Administration is seeking a modest increase in the number of U.S. support personnel in Colombia. The existing caps on the number of U.S. civilian and military personnel contractors allowed in Colombia at any given time are proving too restrictive and in some cases, the ceilings, have prevented full implementation of already funded programs and hurt management efficiency.

An increase in the military and civilian contractor support provided to the Government of Colombia during the next two years is essential to maintain the current progress being made by our programs in Colombia. There are also new programs developed since the ceilings were established, such as the anti-kidnapping initiative and the training of prosecutors and judicial police in preparation for the constitutionally-mandated transition to an accusatorial criminal justice system with oral trials, as well as the re-started Air Bridge Denial program that need to be fully supported by personnel.

Last month, several senior Administration officials, including Assistant Secretary of State for Western Hemisphere Affairs, Roger Noriega, Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, Thomas O'Connell, Commander of U.S. Southern Command, General James Hill, and Assistant Secretary of State for Bureau of International Narcotics and Law Enforcement Affairs, Robert Charles testified before the Government Reform Committee and conveyed the need to reexamine military and civilian personnel caps if we are to continue in the right direction.

Accordingly, there is draft language included in the 2005 Defense Authorization bill that raises the number of military personnel permitted to 800 and the number of permitted civilian contractors to 600. The Administration's request to increase the number of troops and contractors deployable is critical to the continued success of U.S. policy in Colombia and to help President Uribe prosecute a unified campaign against terrorism and drug traffickers. Mr. Chairman, I strongly support this request and urge all of my colleagues to continue their support of our unified campaign with Colombia to fight narcotics trafficking and terrorist activities.

Mr. FARR. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. LOWEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I thank the gentlewoman for yielding.

I appreciate the opportunity. I am concerned, and I had an amendment that I originally drafted to restore development assistance and child survival and health money for Latin America to fiscal year 2004 levels. I will not be offering that amendment, and I would appreciate this chance to engage with you and hopefully as well as the chairman to discuss the issue.

As the ranking member on the Committee on International Relations Subcommittee on the Western Hemisphere and a member of the Hispanic Caucus, I was outraged that the President's budget proposal slashed development funding to Latin America by an average of 11 percent. Latin America is the only region in the world to be cut in both total economic development aid and total narcotic and military aid.

So to make these cuts real beyond those percentages, let me just say that, as a result of the overall cuts to Latin America, the President's proposed budget cut the child survival and health funding in Guatemala by almost 15 percent at a time when Guatemala's malnutrition rate for children is extremely high, one of the highest in the world.

As for the new Millennium Challenge Account, it does little for the over 40 percent of Latin Americans living in poverty who live in all of the Latin American countries; and, in fact, only three of those countries will actually benefit from MCA funding this fiscal year.

And the region is at a critical moment. Over just the past year, two democratically elected leaders were removed from office. The region is threatened by mob rule, from the lynching of a mayor in Peru to the ousting of a democratically elected president in Bolivia. These incidents only highlight the destabilizing impact of poverty, hunger and economic disenfranchisement.

Democracy means little if you cannot feed your family, your children, cannot get an education and you feel disenfranchised from your government. And in that regard, I think we are losing the battle for the hearts and minds of Latin American's democracy in that respect, losing the battle for the hearts and minds of Latin Americans, and that is why I asked the distinguished ranking member of this committee whether the gentlewoman can offer us any hope that we are going to get some relief from those cuts.

Mr. KOLBE. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Arizona.

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Mr. KOLBE. I thank the gentleman from New Jersey (Mr. MENENDEZ) for raising what I think is a very important point. Like he is, I am perplexed; I am disappointed with the administration's budget request for Latin America. I do not think it reflects the priorities or the national interests of the United States.

The gentleman from New Jersey (Mr. MENENDEZ) summarized some of the statistics; but for all of the Western Hemisphere, the development assistance, the child survival and health accounts were cut by 10½ percent in this year's request. And Central American countries received an even more disproportionate share of those cuts, a decrease of 17.8 percent.

Central American countries are our strong allies. They have become increasingly democratic. They are conducting fair and safe elections while electing governments that I believe history will view as turning points in these nations' future. But they do face daunting problems of poverty and corruption.

In countries such as Guatemala, El Salvador and Nicaragua, we are witnessing governments that are doing their best to tackle these problems head on. And we have of course recently negotiated a trade agreement with them that is going to require a lot of technical assistance for them to implement that. Add to these issues the need to get economic growth generated in Central America to provide a decent standard of living for their people, people are looking northwards for employment if not given any opportunities in their own country. Under those circumstances, I think Americans would support increasing assistance to these countries.

We do have in our report language that accompanies our bill before the House today language that directs the administration to restore the funding levels to last year's levels. I would prefer to see an increase and hope that we can see that sometime in the near future. I will push this issue further as we enter conference negotiations with the Senate, and I thank my colleague for raising this important issue. I thank the gentlewoman for yielding.

Mrs. LOWEY. I thank the chairman and I want to assure my good friend, the gentleman from New Jersey (Mr. MENENDEZ), that I share the gentleman's commitment to working with you to increase the dollars for Latin America because we realize how critical this is.

The committee's recommendation to increase both the Child Survival and Development Assistance accounts by a combined total of $328 million above the President's request was in large part meant to restore cuts made to Latin American countries. In addition, the committee report as cited by the chairman contains specific directive language mandating that the Agency For International Development restore cuts made to Central American countries when the FY 2005 operating plans are developed.

Mr. KOLBE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Frankly, it is unclear to me why the administration would choose to reduce our commitment to our closest neighbors at a time when overall foreign aid is increasing. Additional funding would enable vital education, maternal and infant health, and democracy and agricultural programs to be restored.

It is my hope that the administration's fiscal year 2006 request will reflect the clear interests of Congress at a robust level of funding for Latin America, as evidenced by the gentleman's amendment.

I want to conclude by saying, I share our chairman's deep commitment to Latin America. We thank the gentleman for his comments on this issue, and we assure the gentleman that we are going to work together to make sure that Latin America gets the assistance that it rightly deserves.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. I thank the distinguished gentleman both for yielding as well as for his work and commitment to the hemisphere. And I want to thank the ranking Democrat as well for her response to our concerns. I certainly hope and certainly agree with the chairman's comments that we want to see this funding increase in the future, because when we take in the consequences of inflation, the 2004 level is not enough. It is actually a decrease. And it should be a floor, not a ceiling; but we certainly need a floor to start with so we can build upon it. I appreciate the efforts in the report language.

I would just close by saying I hope that the chairman and the ranking member who have put some pretty strong report language in here, that the USAID understands that the committee and many Members here are serious, and that it will be followed, and that we will see these monies going for Latin America. Otherwise, next year we intend to pursue vigorously with the Hispanic Caucus and interested Members on both sides of the aisle the funding that is necessary for one of the most important parts of the world in terms of U.S. national interest on a variety of issues.

I want to thank the distinguished chairman for his engagement, his support and the ranking Democrat as well.

Mr. KOLBE. I thank the gentleman with his comments. I am confident with his support and that of other Members of this body, we will get the attention of the administration on this issue.

AMENDMENT OFFERED BY MR. OTTER

Mr. OTTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OTTER:

At the end of the bill, before the short title, insert the following:

LIMITATION ON ASSISTANCE FOR PALISTINIAN AUTHORITY AND THE PALISTINIAN PEOPLE

SEC. . Notwithstanding any other provision of law—

(1) of the total amount of funds that are available in this Act for assistance for the Palestinian Authority (or any other Palestinian entity) or for the Palestinian people, not more than 25 percent of such amount may be obligated and expended during each quarter of fiscal year 2005; and

(2) none of the funds made available in this Act may be made available for assistance for the Palestinian Authority (or any other Palestinian entity) or for the Palestinian people during any quarter of fiscal year 2005 unless the Secretary of State determines that the Palestinian Authority has not provided support for acts of international terrorism during the 3-month period preceding the first day of that quarter.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Idaho (Mr. OTTER) and a Member opposed each will control 5 minutes.

Mr. KOLBE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order is reserved.

The Chair recognizes the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to address what I believe to be a fatal flaw in the way we administer our foreign aid.

We cannot truly be effective either domestically or in our role on the world stage when our foreign policy forces us to support our friends while at the same time indiscriminately doling out money to our and their enemies.

All the efforts we put into promoting peace and cooperation is meaningless without requiring accountability from the recipients of our assistance. U.S. foreign aid should be based upon a recipient's demonstrated willingness to support our ideals and our aspirations for their region. When we provide aid to a country, we should be able to expect a marked change in that country's behavior in keeping with our goals.

Let me give a specific example of what I am talking about here. When they were much younger, I gave my children a monthly allowance. Unlike gifts of money or money that they earned themselves, this allowance came with some strings attached. It came with an understanding that I could expect certain behavior from them. On occasion they would forget about our bargain, and their behavior would not reflect the expectations that we had established. But when they did not receive their allowance, the next month they were quick to fix the problem so that we could peacefully live together.

Foreign aid is like an allowance which the United States is not obligated to offer and which should not come without certain strings attached. And yet we continue to treat it as if we are required to hand out money to nations and people who actively oppose the principles that we try to advance.

Today we have a golden opportunity to change the way we address the issues on foreign aid.

As part of his road map to peace, President Bush recommended giving foreign aid to the Palestine Authority for the first time in almost a decade. In light of that request, we should act now to infuse any aid with common sense and accountability so that we can advance the realistic goals that the President has set for the Middle East.

In a nutshell, Mr. Chairman, this amendment would simply require that any aid that we give to Palestine would only be given every quarter. In other words, it would be broken up into four payments over a year's period. And only 25 percent would be given in any one quarter. So January, February and March, at the end of March, the Palestine's would receive some aid. At the end of June, the Palestinians would receive some aid. At the end of September, same and just before Christmas once again.

The reason I approach it this way is because then the Secretary of State would be required to verify that in the previous quarter there had been no acts of terrorism, no human bombs that had ventured into Israel or had ventured into some other area, that the Palestinians had indeed not engaged in any acts of terrorism anywhere in the world.

And so every quarter, once every 3 months, once that is verified by the Secretary of State, then the Palestinians would receive some money. More like an allowance instead of alimony, that we treat it today as though we owed it to folks. Such a commonsense approach to accountability is the first step to reforming our foreign policy. It will provide, I believe, a powerful incentive for the recipients of this money in order to promote the kind of democracy and the kinds of values that we have in hopes for them.

The President is working to achieve a lasting peace in this region, realistically and in good faith, and I applaud his efforts. But if we are to see a change in the Middle East, our approach to foreign aid must change as well. What better time than now to implement a policy based upon behavior and responsibility, with the expectations that we offer at the same time that we offer the money.

I encourage you to take advantage of this opportunity to assist in the peace process by making sure that our assistance carries with it the same weight as our principles would.

Mr. Chairman, I reserve the balance of my time.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment. I yield myself such time as I may consume.

Mr. Chairman, I agree completely with the sentiments expressed by the gentleman from Idaho (Mr. OTTER). We certainly should not tolerate support for terrorism by any organization, that includes the Palestinian Authority. Indeed, the bill that is before you prohibits funds for the Authority, prohibits all funds for the Palestinian Authority, and includes a number of provisions affecting West Bank Gaza programs that would prohibit funds for any group or individual that supports terrorism.

This year the gentlewoman from New York (Mrs. LOWEY) and I strengthen the prohibition on funding for terrorist groups by banning funding through the West Bank/Gaza program for any individual, any individual or group that advocates terrorism. The new provision also requires an immediate cut-off of funds if any group currently receiving funds advocates or engages in terrorist activities.

On the other hand, it is important to continue the West Bank/Gaza programs because they provide important humanitarian and infrastructure assistance for the Palestinian people. It is important to stress that all of the funds in this program are provided through nongovernmental organizations or through American contractors, or in some cases, Israeli contractors for water and sewer infrastructure programs. Not one cent goes to the Palestinian Authority.

I appreciate the concerns that the gentleman has expressed. They are the concerns of this subcommittee, and they are, I can assure the gentleman, expressed in the bill here. I understand the gentleman is prepared to withdraw his amendment.

Mr. OTTER. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Idaho (Mr. OTTER) has 30 seconds remaining.

Mr. OTTER. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I will try to take less than that if possible.

I rise in support of the Otter amendment. The question should be should we have any aid going to the West Bank and Gaza. That should be the question. Is it buying us pro-American values? No. Is it buying us less violence? No. Is it buying us a more transparent government? No. Is it buying us more democracy? No.

And to make matters worse those receiving the aid are refusing now to sign a declaration saying that the money will not go to terrorists. There is no reason in my eyes that we should be providing any aid at all.

Mr. OTTER. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. KOLBE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, the distinguished chairman and I have discussed the case of the Berhane family, U.S. citizens who had their private businesses confiscated by the former Ethiopian government. While this occurred in 1977, the current government has not shown good faith in resolving this longstanding injustice. In 1999, the matter was nearly settled when the current Ethiopian government summarily deported Mr. Berhane to Eritrea.

Despite lip service since, the Ethiopian government has not settled this matter. It should have been resolved years ago. Additionally, as the distinguished chairman knows, the Overseas Private Investment Corporation has made a finding in support of the Berhane family claim and will not do business in Ethiopia until this issue has been settled. The CEO of the Millennium Challenge Corporation, Paul Applegarth, has indicated that the MCC may follow suit.

Mr. Chairman, Ethiopia is eligible for more than $60 million of funding in this bill in its present form. The government of Ethiopia should understand that any government that refuses to deal with the legitimate claims of American citizens is jeopardizing its eligibility for assistance funded by the U.S. taxpayers.

Mr. Chairman, I suggest that until these legitimate property claims are dealt with fairly by the Ethiopian government that the economic assistance funds in this bill for Ethiopia in the ESF account should be reprogrammed to the Child Survival and Health Programs Fund, specifically to the account of the "communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS."

□ 1915

Mr. KOLBE. Mr. Chairman, I thank the gentleman for his comments. I have to say that I find that these are very troubling charges, but we have only been recently informed of the issue. I intend to ask the State Department for further information regarding the situation, and I can assure the gentleman from California (Mr. ROHRABACHER) that I will give it serious consideration.

The way Ethiopia deals with this issue will weigh heavily in the decisions we make in terms of policy and levels of assistance. So I appreciate the gentleman bringing this to our attention, and I will ask my staff to work with the gentleman to move towards a resolution.

Mr. ROHRABACHER. I thank the gentleman very much.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SANDERS:

At the end of the bill (before the short title), insert the following:

LIMITATION ON PROVISION BY EXPORT-IMPORT BANK OF CREDIT TO ENTITIES REINCORPORATING OVERSEAS

SEC. ____. None of the funds made available in this Act may be used by the Export-Import Bank of the United States to approve an application for a master guarantee and political risk supplement where the applicant's charter or articles of incorporation show that the entity is incorporated or chartered in Bermuda, Barbados, the Cayman Islands, Antigua, or Panama.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Vermont (Mr. SANDERS) and the gentleman from Arizona (Mr. KOLBE) each will control 20 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, this tripartisan amendment has widespread support across the ideological spectrum, from Democrats and Republicans, from progressives, conservatives to moderates. It is being cosponsored today by the gentleman from Texas (Mr. PAUL), the gentlewoman from Ohio (Ms. KAPTUR), the gentleman from California (Mr. ROHRABACHER), the gentleman from Mississippi (Mr. TAYLOR), the gentleman from Ohio (Mr. KUCINICH), the gentleman from Illinois (Mr. LIPINSKI) and the gentlewoman from Connecticut (Ms. DELAURO). It also enjoys the support of the AFL–CIO, the Teamsters, Taxpayers for Common Sense, Citizen Works and other national organizations.

Mr. Chairman, in a very profound way this amendment deals with the issue of patriotism, love of country and respect for the American people. At a time when our country is at war and young Americans are dying almost every day, at a time when our country has a $7 trillion national debt and when veterans are unable to get the health care that they need, this amendment asks a very simple question: Should the middle class of this country, people who work hard, love their country and pay their fair share of taxes, be asked to provide billions in loan guarantees to corporate expatriates, U.S. companies who set up phony headquarters abroad in order to avoid paying U.S. taxes? That is what this amendment is all about.

Mr. Chairman, enough is enough. The American people are growing sick and tired of large corporations throwing American workers out on the streets as they move to China, to India and to other low-wage countries; and they are equally outraged by companies who come begging to Washington for corporate welfare and taxpayer dollars while they move to tax-haven countries in order to avoid their tax obligations here.

Oh, they do not want to pay taxes in America, not them. That is for the suckers of this country. That is what they say, but they sure do want the taxpayers to help them out with corporate welfare. That is okay.

This amendment will begin the process of putting an end to that absurdity. I fully concede that this amendment is not going to solve this problem completely, no question about that, but its passage will be a shot across the bow to every corporation in America who thinks that they will be able to continue to rip off the taxpayers of this country with impunity. It will, in fact, make some companies think twice before they run to Bermuda or to Panama or to the Cayman Islands in order to avoid paying American taxes.

Specifically, Mr. Chairman, this amendment would prohibit the Export-Import Bank from approving subsidized loan guarantees to corporate expatriates, companies who were formerly located in the United States but who have set up paper headquarters abroad in tax-haven countries in order to avoid paying taxes here.

Mr. Chairman, what every Member of Congress should know is that five out of the top 23 largest recipients of Export-Import Bank assistance since 2003 are corporate expatriates that have set up sham headquarters and post office boxes in places like Bermuda, Barbados and the Cayman Islands for the sole purpose of avoiding U.S. taxes.

Mr. Chairman, it is bad enough corporate expatriates are abandoning this country to dodge taxes, but it is unconscionable that these companies then turn around and seek U.S. taxpayer assistance through the U.S. Export-Import Bank, forcing middle-class families to pick up the tab. Companies that dodge U.S. taxes should not be rewarded with taxpayer subsidies through the Export-Import Bank.

Mr. Chairman, we are talking about substantial dollars here. Let me give my colleagues some examples of what I am talking about.

Tyco International, everybody will remember Tyco International, one of the poster children for corporate greed, saved $400 million in U.S. taxes by reincorporating in Bermuda in 1997. What was the response of the Export-Import Bank to this deliberate attempt to avoid paying their fair share of taxes? What did they do when Tyco moved to Bermuda? Well, they gave Tyco $115 million in assistance since 1998. That is absurd.

In 2002, Ingersoll-Rand saved up to $60 million in U.S. taxes by reincorporating in Bermuda. Since 2002, this tax-dodging company received over $370 million in subsidized loans, loan guarantees and other financial assistance from the Export-Import Bank.

In 2002, Nabors Industry saved $10 million in taxes by reincorporating in Bermuda. Since that year, it has received over $300 million in taxpayer-backed financial assistance through the Export-Import Bank.

Mr. Chairman, the time is now to say enough is enough. If corporations want to move to Bermuda and disown the United States, that is their right, but they do not have a right to then come back to the taxpayers of this country and ask the United States Congress and the Export-Import Bank to give them substantial sums of money.

Mr. Chairman, I reserve the remainder of my time.

Mr. KOLBE. Mr. Chairman, since I believe I will be the only one speaking here, I reserve my time.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I rise in support of this amendment.

Let me note that many of the companies that leave, and this is where I have a disagreement with the gentleman from Vermont (Mr. SANDERS), many of the companies that do leave our country leave because of high taxes, which I consider to be levels of taxation that are too high and levels of regulation that are too high in the United States of America.

We may have a fundamental disagreement on how high taxes should be and regulations should be on business, but where I do agree with the gentleman from Vermont (Mr. SANDERS) is that businessmen have to make a decision. They are a part of the American family, and we have got to make a decision if we are going to stay part of the American family based on the rules and regulations that we are judged by and have to live by because we are part of the process.

If an American company does decide that taxes and regulation are too high and decide to change their status so they are no longer being treated and taxed or regulated as a domestic company, they should not expect then to receive the benefits of a company that is an American company. This makes all the common sense in the world.

I think it is a travesty, as the gentleman from Vermont (Mr. SANDERS) has pointed out, there are some companies that have decided to leave this country and, thus, officially, in order not to pay the same tax load, then expect to receive and have received the benefit of such subsidies we are talking about tonight. This makes all the common sense in the world.

I would hope, however, that we would, number one, pass the Sanders amendment to make sure that companies that leave do not receive this subsidy, but, at the same time, I would hope that we pay close attention to our taxation and regulation policies that make it profitable or make the businessmen who are making these decisions feel it is profitable for them to leave this country.

We should want businesses to come here and do business because it is profitable, our taxes and regulations make it profitable for them to be here, create jobs, et cetera. In the meantime, let us not do the travesty of giving people subsidies who are not paying into the system and have gone overseas and changed their status in order to escape their tax obligation.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. SIMPSON) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

The Committee resumed its sitting.

Mr. SANDERS. Mr. Chairman, I yield 3 minutes to my friend, the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, the author of the amendment, and I am a coauthor of it, mentioned that it has a broad spectrum of individuals supporting it. He mentioned progressives and liberals and conservatives and moderates, but he forgot the libertarians.

Libertarians support this as well and for a precise reason. A free market libertarian does not believe in welfare for anybody, let alone the rich, and it is particularly gnawing to see the subsidies go to the very wealthy.

I am in strong support of this amendment, but, like the gentleman from California, I do not support this for the purpose of collecting more taxes, but I do think it is a message to us here that if we do not revise our tax system and our regulatory system we will prompt more and more business to leave this country.

So there are two issues here, but corporate welfare and subsidies should have no part in this. There is no room for it. It is wrong.

Also, the beneficiaries outside the corporations we should not forget either, because the biggest country that benefits from this is China. Why do we subsidize China? People who receive the goods get a benefit as well as the people who get to sell the goods get a benefit? China is on the books right now currently with $5.9 billion in outstanding loans. They receive more than anybody else. So there is something wrong with a system like that.

There are two economic points that I want to make on this. When we do this and we allow tax credit and special deals for some corporations, we assume, and we will hear this in the defense of the Ex-Im Bank, and say look at the good that we do. But what they fail to ask is, where did it come from, who was denied the credit? The fact that we do not finance it does not mean it would not happen. It would happen.

What it does is it distorts the market and causes people to do the wrong thing, and some individuals do not get the credit is obviously the case, but what we need to do is to have a much more oriented free market. When we direct it this way, even those companies may do more than they ordinarily would, and that participates in the economic bubble that occurs, of course, for other reasons as well. Then there has to be corrections. But if one is in a powerful position in a place where they can qualify, and 80 percent of this goes to the very, very large companies, although there are a lot of companies that receive the big bucks, and big countries like China.

This is corporate welfare. It should be defeated; and, ultimately, if we believe in liberty and freedom, we ought to get rid of the Export-Import Bank.

Mr. SANDERS. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut (Ms. DELAURO), who has actually been one of the leaders on this issue in the Congress.

□ 1930

Ms. DELAURO. Mr. Chairman, I am proud to join with this diverse group of Members who may not always agree on many things, but we do agree that taxpayer dollars should never be used to subsidize companies who have incorporated on paper overseas in order to avoid living up to their responsibilities to the United States of America.

Corporate expatriates cost our country $5 billion in lost tax revenue. Any reasonable person might assume that they would not also continue to benefit from government largess. But they are wrong, because these companies continue to receive billions of dollars in government contracts. I am pleased that the House finally passed, as part of the Homeland Security appropriation bill, my amendment to prevent that Department from contracting with corporate expatriates, one small step in an effort that is far from over.

Today's amendment is another important step in that effort. It will prohibit the Export-Import Bank from approving subsidized loans and loan guarantees to corporate expatriates. Unbelievably, five of the largest recipients of Export-Import Bank assistance since 2003 are corporate expatriates. In 2002, Ingersoll-Rand saved up to $60 million in U.S. taxes by reincorporating in Bermuda. Since that time, they have received over $370 million in subsidized loans, loan guarantees, and other financial assistance from the Export-Import Bank.

Ask any American, whether they be a Democrat, a Republican, an Independent or a Libertarian, they will tell you the same thing. This is an outrage. How can we explain this to the American people? How can we explain it to our constituents? Corporate expatriates put good corporate citizens, who stay in America and pay their taxes, at a permanent competitive disadvantage. In the end, that hurts American companies who do pay their taxes and who employ citizens all across this Nation.

We cannot afford to reward companies who shun their responsibilities of American citizenship at the expense of loyal American businesses and contractors. I urge my colleagues to support this amendment. Stop government subsidies of corporate expatriates. They have a choice. They can leave this country, and they cannot pay their taxes. We have a choice. We should set the standard, we should set the tone, we should set the obligation that if they are going to do that and not pay taxes in this country, then, in fact, they cannot feed at the public trough and get government contracts.

Mr. SANDERS. Mr. Chairman, I yield 2½ minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, while I am a strong supporter of the Ex-Im Bank, I am voting for this amendment to prevent companies that dodge U.S. taxes from receiving U.S. taxpayer assistance. It is simple: we should not be providing taxpayer-funded assistance to corporations that set up shell headquarters offshore for the purpose of avoiding paying their fair share of U.S. taxes.

The Export-Import Bank should be screening companies it funds to prevent this type of abuse. And if it does not, we should. I have consistently been a vigorous backer of the Export-Import Bank's mission to provide funding for exports produced in the United States. The bank's loans have supported American companies and provided jobs in this country, in my district of New York, and in many others. But giving loans to corporations, to expatriates, is an abuse of a good program.

Not only are companies that evade U.S. taxes getting taxpayers' money, but they are taking away dollars that should be spent helping companies that pay their fair share of American taxes. And, of course, if we allow this, we are encouraging other companies to move their so-called headquarters to Bermuda to avoid taxes and abandon the American worker. This is exactly what Senator KERRY meant when he said that we must stop providing tax subsidies to Benedict Arnold CEOs.

Specifically, this amendment would prohibit the Ex-Im Bank from approving subsidized loans or loan guarantees for any company that sets up a sham headquarters offshores to dodge U.S. taxes.

Five of the top recipients of Ex-Im funding are corporations that have set up sham headquarters in Bermuda and the Cayman Islands to avoid paying U.S. taxes.

Mr. Chairman, I just want to cite one example, Ingersoll-Rand. They saved $60 million in 2002 by formally incorporating in Bermuda, but they have received over $370 million since 2003 in Ex-Im financial assistance. This is wrong. It is a gross abuse of a good program.

In the name of American workers and taxpayers, we should put a stop to it. I urge my colleagues to vote for American jobs, for American companies that are responsible, for American companies that pay their fair share, not those that dodge our country and their responsibilities to it. I urge a strong "yes" vote on this amendment.

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I stand in strong support of the Sanders amendment in this matter. Our international tax rules provide far too many incentives for United States companies to move jobs and operations offshore.

It is a growing trend. Corporations that have built their successes through the protection of the United States laws and contracts in this country are increasingly giving up their citizenship to move offshore and avoid paying United States taxes. Not only are they doing that, but they are costing hardworking Americans their jobs and are grossly abusing loopholes in the current tax system. These corporations should not then be able to take advantage of the taxpayers' generosity through the Ex-Im Bank.

Particularly at a time when our country is at war and we are running record budget deficits, Congress should take a firm stand and prevent taxpayer money from increasing the bottom line for profitable corporations who shirk their responsibilities here at home.

The Ex-Im Bank is intended to finance American services and products, not the export of American jobs and resources. Mr. Chairman, I urge my colleagues to support this amendment.

Mr. SANDERS. Would the Chairman please tell us how much time is remaining.

The CHAIRMAN. The gentleman from Vermont has 3 minutes remaining.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I hope that the fact that the gentleman from Arizona is so silent on this means he is going to jump up and support this amendment, because it makes such abundant sense.

I hear my colleagues saying why do we allow corporations to leave America, avoid paying taxes, and yet still receive all the benefits of being an American. It is because Congress lets them. It is time for Congress to close this door.

Right now there are 140,000 young Americans getting shot at every day in Iraq, paying their dues to be an American; and another 15,000 in Afghanistan paying their dues. As I have said a dozen times on this floor, those of us who are lucky enough not to have to fight this war, ought to be at least willing to pay for it. And those of us who are lucky enough to be Americans and enjoy all the privileges of being an American, such as this program, ought to be willing to pay the dues of being an American. And that is called paying taxes.

These folks cannot have it both ways, I would say to the gentleman from Arizona (Mr. KOLBE). If they want the Jamaican Coast Guard to come rescue them, let them be Jamaicans. If they want the Grand Cayman Navy SEALS to rescue their drilling rigs if they get boarded by terrorists, I say let the Grand Cayman Navy SEALS go rescue them, but not the U.S. Navy. And if they want a loan, a subsidized loan from a government, if they choose to be Jamaican or Bermudan, let them do so. But there is absolutely no reason for the taxpayers of this Nation, who pay their dues, whose kids serve in our military to subsidize these folks who want to play it both ways.

They do not want to pay their dues, but they want all the privileges of being an American. And I commend the gentleman for bringing this to the public's attention.

Mr. SANDERS. Mr. Chairman, I yield myself the balance of my time, to conclude the debate from our side, by asking for support for what really is a very commonsense amendment.

I think the gentleman from Mississippi (Mr. TAYLOR) said it all. If people want to go to the Cayman Islands, if they want to go to Bermuda, that is their right. No one is questioning their right. But they cannot abandon their country, go abroad, and then say, oh, yeah, by the way, I do not want to pay my taxes, but I sure do want Washington to subsidize my business.

So I want to urge support for an amendment that has broad tripartisan support, support of the AFL–CIO, the U.S. Business and Industry Council, the Teamsters, the United Steel Workers, Taxpayers for Common Sense, and Citizens Works.

This is an amendment that will tell corporate America that if they want the benefits that U.S. taxpayers provide to them, they cannot run away and avoid their taxes.

Mr. KOLBE. Mr. Chairman, I yield myself the balance of my time. This has been an interesting discussion from the other side. But contrary to what the gentleman from Mississippi may have thought I would do, I do, indeed, rise in opposition to this amendment.

First of all, let me begin by saying I do not condone companies relocating overseas for tax purposes, but I will come back to that in a minute.

This is an interesting issue we are dealing with here today. We had this in the full committee not long ago as it related to outsourcing, but here we are talking about supporting U.S. exports and jobs. With this amendment, we are talking about punishing companies that are creating jobs here in the United States. We are going to punish them because they are creating jobs here.

Mr. Chairman, I will not yield. The gentleman from Vermont had 20 minutes. I am not going to use but a fraction of that, so I want to get my thoughts in here and do them all together here.

This is absolutely ridiculous. Why in the world are we talking about punishing companies that are creating high-paying export jobs, and giving that away to foreign competition by eliminating Export-Import Bank financing? But that is exactly what the amendment would do. It hurts workers in this country. It hurts the economy in this country.

And yes, of course, it hurts the shareholders in this country. But most of all it hurts the workers, because this only goes to companies that are exporting. We are talking about companies that are creating jobs here in this country in order to export.

Now, the gentleman named some companies in particular in his argument. Ingersoll-Rand I heard. I think we heard Nabors Industries, Noble Drilling Corporation, Weatherford International. But this amendment would prohibit any Ex-Im Bank loan or guarantee to any U.S. company, any U.S. company that is registered offshore.

Now, I do not have any percentage of how much U.S. Export-Import Bank loans would be affected by this amendment, but characterizing Ex-Im loans as corporate welfare and a giveaway from U.S. taxpayers is certainly not correct. I am not sure why the sponsors of this amendment do not recognize that exports means U.S. jobs. It is the exact opposite of outsourcing.

The fiscal year 2005 funding for the Ex-Im Bank would support U.S. exports valued at $12 billion. For every $1 of taxpayer money invested in Ex-Im's program, there have been historical returns, and this is not just this year, there have been historical returns of $15 in credit support for export transactions. Since Ex-Im Bank supports 85 percent of most transactions, this means that the actual export value is about 15 percent higher, raising the ratio to about $18 in total value of exports supported by every $1 we put into the Ex-Im program.

I do not think this is corporate welfare. The bank has an exceptional, I would say exceptional, repayment record, with losses running at 1.4 percent of disbursements over the 70-year history of the Ex-Im Bank. And while the Ex-Im Bank has done more and more each year for small businesses, even large companies cannot get private bank financing to go to some parts of the world or to compete with aggressive foreign financing.

While businesses may be able to exist without making that extra sale, Ex-Im Bank is here for that very reason, to keep U.S. exports strong, to hopefully grow them, and to help sustain U.S. jobs through exports. Eighty-six percent of the transactions of the Ex-Im Bank directly benefit small businesses, and that is because many small businesses benefit from the larger transactions of the bank.

□ 1945

Let me give a statistic that alone ought to cause Members to give pause about this amendment. Ex-Im Bank's top 13 users have over 35,000 suppliers in this country, most of which are small businesses. The reality is that small businesses benefit directly and indirectly from Ex-Im Bank-financed transactions.

By law, Ex-Im Bank finances only goods and services made here in the United States. Under this bill, if a U.S. company is cut off from using Ex-Im, the company would be confronted with either losing the export sale or being forced to use foreign financing and sourcing. In either case, the impact would be to reduce U.S. exports and jeopardize the jobs that are associated with those sales. Shutting off Ex-Im would remove one of the few government programs to help U.S. exporters and to keep export-related jobs here in the United States.

One more statistic. I have been able to find information on two of the companies that were mentioned.

Ingersoll-Rand has 28,000 employees here in the United States, not overseas. These are employees here in the U.S. Nabors Industries has 14,000 employees here in the United States. This amendment cuts off financing that helps to keep those jobs secure.

The U.S. Chamber of Commerce, which I know is not an organization that perhaps my colleague on the other side would put too much stock in, but I think they made a very important point in the letter that they wrote about this a couple of days ago to the Speaker. They made this statement, and I quote:

> Measures such as Representative SANDERS' amendment are poor substitutes for needed reforms of the U.S. Tax Code's archaic international provisions which currently put our corporations at a competitive disadvantage internationally and provide great incentive for them to leave this country.

That brings me back to my final point that I said at the beginning. The real issue here is the archaic Tax Code that the United States has. We are not even talking about 20th century. We are talking about 19th century. We have a Tax Code that is so archaic, we are virtually the only country in the world that taxes all income whether or not it has anything to do with being produced here in the United States. So, of course, it encourages companies to go offshore, to locate offshore their corporate headquarters. They are still paying the taxes on everything they make here in the United States, Ingersoll-Rand, Nabors, all of those pay the taxes on all the income that is made here in the United States, but they do not want to pay the taxes on a subsidiary they may have in South Africa or a subsidiary they may have in Japan or elsewhere, and so they locate their corporate headquarters offshore. It is because of the archaic Tax Code that the United States continues to have.

That is what we really need to be doing. That is what we really need to be reforming, is the Tax Code. We are in the 21st century, not the 19th century. That would make us more competitive in the world. Why do we have DaimlerChrysler and not ChryslerDaimler? We have DaimlerChrysler because of the Tax Codes of the United States. In order to avoid paying taxes on production done in Germany, it was necessary for them to become DaimlerChrysler, not ChryslerDaimler. Otherwise, they would have been paying taxes on everything they produced, every car they produced in Germany.

That is why this is so important that we continue to have Ex-Im Bank. It is a crutch, if you will, but it is something that we can do to help U.S. corporations export, and it helps American workers keep their jobs. Ex-Im Bank only goes to corporations for doing business producing here in the United States.

I urge my colleagues, in conclusion, to oppose this amendment. It hurts U.S. workers. It jeopardizes U.S. jobs. Now is not the time to further cut, to eliminate one of the few tools the U.S. Government has to support exports and export-related manufacturing jobs. I urge a "no" vote on this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

Mrs. LOWEY. Mr. Chairman, I move to strike the last word.

I am pleased to yield to my good friend from Connecticut (Ms. DELAURO) who chooses to comment on a very important area of the bill.

Ms. DELAURO. I thank the gentlewoman from New York for yielding.

Mr. Speaker, I would like to engage in a colloquy with the chairman and ranking member. I appreciate their work in crafting this bill. It is a good bill, and I will support it. I understand that the bill is a delicate balance, negotiated down to the last dollar. It is a good example of bipartisanship and what we can accomplish when Members of both parties work together.

Mr. Chairman, I would like to add my voice to those who support increased funding for the Child Survival and Maternal Health programs. Currently, 30,000 children under the age of 5 die every day, more than 10 million per year, from easily preventable or treatable diseases each year. Millions of children die in their first month or even year of life from malnutrition, diarrhea, pneumonia, malaria, and other common childhood diseases. Such high rates of child mortality have a devastating impact on families and communities in countries around the world.

These 10 million deaths are not inevitable. The health conditions that often prove fatal for young children can be treated and prevented with inexpensive interventions that have proven to be effective. Millions of children today are already benefiting from these interventions, many as a result of programs implemented by USAID or the United Nations Children's Fund, using the resources provided by the Child Survival and Maternal Health Fund.

In 2000, the United States joined 188 other member nations of the United Nations pledging to reduce child deaths worldwide by two-thirds and maternal deaths by three-fourths before 2015. An increase in the Child Survival Account will help us get there.

As the chairman and ranking member know, I had considered offering an amendment that would have raised funding for this account. At the request of the gentleman from Arizona and the gentlewoman from New York, I did not offer it, but I want to say that the child survival programs are critical to our Nation's leadership on global health issues, and I would urge them to support the highest possible allocation for child health programs as this bill moves through the rest of the legislative process.

I thank them for the opportunity to engage in this colloquy.

Mrs. LOWEY. Mr. Chairman, I want to thank my good colleague from Connecticut for her discussion on this very important subject; and certainly as the chairman and I were crafting this bill, we acknowledge how important these issues are. I want to assure the gentlewoman that if there were more money to distribute, a good deal more would have gone to that very important effort. As we work towards conference, if we can possibly find some additional funds, we certainly will heed her important remarks.

Mr. Chairman, I am pleased to yield to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. I thank the gentlewoman for yielding.

I certainly thank the gentlewoman from Connecticut for talking about this issue. As the gentlewoman knows, both the gentlewoman from New York and I feel very strongly about the Child Survival and Health Account and the good work that is done by this account in helping save children's lives and families and the poor people around the world. The vaccination programs, the health programs, the clinics, the education programs that are run through this are extraordinarily important.

I quite agree with the gentlewoman from Connecticut. Everything we can do to increase the amount in this account is certainly something that we intend to do. I appreciate her bringing it to our attention. We will do everything that we can to try to increase this account.

Ms. DELAURO. I thank the gentleman.

AMENDMENT OFFERED BY MR. DEAL OF GEORGIA

Mr. DEAL of Georgia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DEAL of Georgia:

At the end of the bill (before the short title), insert the following:

GOVERNMENTS THAT HAVE FAILED TO PERMIT CERTAIN EXTRADITIONS

SEC. 576. None of the funds made available in this Act may be used to provide assistance to the government of any country with which the United States has an extradition treaty and which has failed to permit the extradition to the United States, for trial or sentencing in the United States, of individuals accused of committing criminal offenses for which the maximum penalty is life imprisonment without the possibility of parole, or a lesser term of imprisonment.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Georgia (Mr. DEAL) and the gentleman from Arizona (Mr. KOLBE) each will control 10 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an amendment that provides as follows: that none of the funds made available in this act may be used to provide assistance to the government of any country with which the United States has an extradition treaty and which has failed to permit the extradition to the United States for trial or sentencing in the United States of individuals accused of committing criminal offenses for which the maximum penalty is life imprisonment without the possibility of parole or a lesser term of imprisonment.

This is foreign operations appropriations. Normally, most of the discussions that we have relate to activities that occur in other countries and the amount of money that we are going to send from taxpayers in this country to another country. The heart of this amendment, however, relates to things that are happening here in our own country.

The classic example that I would cite to this body to illustrate the magnitude of this problem occurred a little over 2 years ago when Los Angeles County Sheriff's Deputy David March pulled over a Mexican national named Armando Garcia, a twice-deported illegal alien who had been convicted of drug activities and who had currently two outstanding warrants for attempted murder. Garcia knew that if he were arrested, he would probably be deported for a third time and perhaps go to prison. As Officer March approached the automobile, Garcia pulled a handgun and shot Officer March; and as he lay on the ground, Garcia exited his vehicle and shot Officer March again to make sure that he was dead. Garcia then immediately fled to Mexico where he apparently remains free today.

Several months after this incident occurred, the Supreme Court of Mexico ruled that they would not allow extradition for anyone who faced imprisonment of life without the possibility of parole. Most extradition treaties that we have around the world already exclude the extradition of individuals who would face capital punishment. In the State of California in this case, the mandatory or optional sentence would be life without parole or the death penalty for the killing of a police officer in the line of duty. So what we have is a police officer who has been executed by a foreign national in our country who has now fled back to his home country, who cannot be brought back to trial in this country for that murder and who will not be tried in his own country for that murder.

That is an outrage. It is an outrage for this Congress to continue to send the tax dollars of Deputy David March's widow to a country that refuses to bring her husband's murderer to justice. This is an example that has occurred in our relationship with Mexico, but there are numerous similar examples with other countries around the world.

I think it is time that this Congress faced up to this ever-growing problem, because I am told that there are hundreds of other families in this country whose loved ones have been murdered and who likewise cannot have those murderers brought to justice.

Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I appreciate the gentleman from Georgia bringing this amendment tonight. I am a little distressed that it needs to be an amendment, frankly. This is a problem that must and has to be dealt with.

I am happy that this amendment does deal with any country that will not extradite nationals to the U.S., but I am particularly concerned about the one I know of particularly from Mexico, David March, one that a lot of us have been concerned about, frankly, for a long time. We do not really understand why the United States Government does not deal with this.

At the first of the year, we had written the President and asked why in the world do we not deal with a problem like this, the extradition back into our country. We really do have a formal agreement with them for extradition. It was not something that I could understand why you would put a family through this.

The White House sends it to the State Department, the State Department works overnight and gets us an answer back 6 months later to say that, gosh, we're sorry we can't help with that. President Fox is not in the judiciary in Mexico. We couldn't possibly bother him because he is in the executive branch.

None of that makes any sense to me, but what does make sense to me is that we tell any country but in this case and in particular we tell Mexico that if you want to be our friend, act like our friend. If you do not want to be our friend, there has to be some penalties; and in this case and in this bill we simply say that we are not going to fund the Mexican government. Is it $40 million a year, I believe, that we send down there or there is $40 million in this bill? You just do not get that this year.

I know we are going to hear a lot of concerns about that. I really need to ask the gentleman from Georgia a question or two, if I may, about the effects of this bill and the $40 million. I am told, and I think I am told correctly, that Mexico, that country, sends more illegal drugs into this country than any other. Of course, that does not sound very friendly to me, as if they are real friends, but the fact that they do send so many drugs into our country, we have to send them $40 million or we cannot possibly stop. That may not be the best use of $40 million, but I would like to hear your response to that, the maker of the amendment, why this is or is not such a bad thing.

Mr. DEAL of Georgia. Mr. Chairman, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from Georgia.

Mr. DEAL of Georgia. In response to the gentleman's inquiry, I think it is certainly an appropriate inquiry. I would suggest that if we really want to stop the flow of drugs from Mexico, rather than sending that $40 million there, we could use it on our border to beef up our DEA, our Customs and others to try to stop it here.

The real irony of the argument that we cannot deal with the lack of extradition is that, first of all, if we really want to deal with Mexican drug problems, under the current status of affairs if a Mexican drug dealer comes to our country and in the process of his illegal activity of selling drugs in our country he kills either an officer or a private citizen and then returns back to his own country, a drug dealer cannot be brought to justice because Mexico will not allow it.

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That to me is the greatest irony of all. I would suggest that if we really want to do something about the Mexican drug traffic, I understand their cartels are the leading distributors and manufacturers of drugs in our own country. So I would suggest that we can use the money better here at home.

Mr. NORWOOD. Mr. Chairman, reclaiming my time, so the gentleman is telling me that when Mexico does not cooperate with us on a treaty that we have with them, we are not going to send them that $40 million to try to stop the illicit drug trade, but we could use that $40 million, for example, in other places to stop that illicit drug trade.

Does the gentleman have any idea, and I do not know, the 40 millions of dollars we were sending down to Mexico in the past to work with International Narcotics Control, are they doing any good? Do we have any proof that that money is working?

Mr. DEAL of Georgia. Mr. Chairman, if the gentleman would continue to yield, I am sure there are arguments that can be made that it does some good, but Mexico continues to be the main source of illegal drugs into this country. And if we are doing something, it has not been as effective as it should have been.

Mr. NORWOOD. Mr. Chairman, reclaiming my time, if, in fact, Mexico was sending us 5,000 metric tons of marijuana, 50 metric tons of amphetamine, and 10 metric tons of heroin, we are not doing really good stopping it with that $40 million. I will tell the gentleman that. Maybe we need to tell them if they do not want to work with us in sending murderers back to our justice system, perhaps we need to keep our $40 million and put it in American hands to stop the illegal traffic.

Mr. DEAL of Georgia. Mr. Chairman, may I inquire how much time is left on my side.

The CHAIRMAN. The gentleman from Georgia (Mr. DEAL) has 1 minute remaining.

Mr. DEAL of Georgia. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I believe that Mexico is making very tiny progress, but a little progress. But there are not very many ways to address this. And the gentleman from Georgia (Mr. DEAL), both as vice chairman of the Criminal Justice, Drug Policy and Human Resources Subcommittee and in general, has been very active in bringing awareness to this subject.

We held a hearing, and we need to understand that it was not just Deputy Sheriff March who was killed. The Los

Angeles County District Attorney told us at that hearing over 200 murder suspects in Los Angeles County alone have fled to Mexico.

We have to address this question. It is tough enough with the death penalty; but if we cannot even do life imprisonment, how in the world are we going to enforce our law in the United States, and how can we not have a double standard, actually a triple standard, on our citizens? They can get the death penalty. They can get life in prison. But if they can get across the border, there will be no penalty. It is a travesty, and we have to figure out some way to make this stick.

And I appreciate the gentleman's leadership. We need to continue to work at this and make sure that the government of Mexico understands this cannot stand. This has to change, or we will be out of control on our borders as we see murderers flee across and we cannot get them back.

I rise in support of the Deal Amendment. On October 1 of last year, the Subcommittee on Criminal Justice, Drug Policy, and Human Resources addressed the status of the extradition process, an area of growing concern for lawmakers and law enforcement officials throughout the U.S.

The most significant problem with the extradition process today is the conditions imposed by foreign nations on extradition. This problem is not new. For many decades now, certain nations that ban the death penalty within their own borders have refused to extradite any criminal who could face the death penalty in the U.S. Other countries refuse to extradite any fugitive who was convicted in absentia. Prosecutors in the U.S. have generally dealt with this problem by agreeing to seek life imprisonment instead of the death penalty, or by agreeing to hold a retrial.

In October 2001, however, the Mexican Supreme Court issued a decision banning the extradition of anyone facing life imprisonment without the possibility of parole, on the grounds that the Mexican constitution gives all criminals the right to be rehabilitated and reintegrated into society. Thus, no matter how heinous the crime or how dangerous the criminal, Mexico will refuse to extradite anyone facing life imprisonment—which in most of our states is the minimum punishment for first degree murder. If Mexican authorities officially refuse an extradition request, they will then proceed to prosecute the fugitive under their own law—which often results in much lesser penalties. American prosecutors thus face a dilemma. They must either agree to charge a murderer with manslaughter or another lesser offense that does not match the seriousness of the crime; or they must trust to the Mexican justice system. Many prosecutors have simply refused to request extradition under such conditions preferring to hope that the fugitive will sneak back into the U.S. and be apprehended.

The case of Deputy Sheriff David March illustrates this problem. Deputy March, a seven-year veteran of the Los Angeles County Sheriff's Department, was murdered while making a routine traffic stop in April 2002. His suspected killer, Armando Garcia, a Mexican national and violent drug dealer who had been deported three times from the U.S., immediately fled to Mexico. Mexican authorities have refused to extradite Garcia, on the grounds that he faces, at a minimum, life imprisonment.

This is indeed not an isolated case; the Los Angeles district attorney's office estimates that over 200 murder suspects in Los Angeles County alone have fled to Mexico. In response, several Members of Congress have offered legislation calling for changes to the existing extradition treaty.

Other issues surrounding the extradition process must also be examined by Congress. For example, in March 2002 the Justice Department's Inspector General released a report criticizing the Criminal Division's Office of International Affairs, the main Justice Department agency responsible for extradition matters, for its management of extradition cases. Questions have also been raised about how vigorously other federal agencies with potential influence are pursuing extradition cases.

It is important the concerns Mr. DEAL raises be addressed at the highest level of the government. We need to send a signal to the Government of Mexico and other nations that cop-killing drug dealers must be extradited to the United States for prosecution.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

I certainly will not take the 10 minutes. Let me just quickly make a couple of comments.

I appreciate the comments that have been made here by the gentleman from Georgia, the other gentleman from Georgia, and the gentleman from Indiana here. I share the outrage that people feel about somebody who is a murderer of a law enforcement officer in this country getting away to a country like Mexico and then being able to escape justice. That should not happen. We have extradition treaties with a number of countries; and almost all of them in many cases, I should say, since most other countries prohibit death penalties, they do prohibit extradition if death is an option as a penalty.

But this is a new wrinkle. This is a new wrinkle that was put in by the supreme court in Mexico, which ruled that if an individual faces life in prison without possibility of parole, that is equivalent, apparently is what the supreme court said, and I have not read the complete ruling. I am a little sympathetic to the government of Mexico, which I do not think anticipated this. They certainly did not suggest to us or to the State Department that they anticipated this ruling by the supreme court, and I think they are willing and trying to work with us to resolve that.

We want to see that all crimes that are committed on our soil are brought to justice. We want to see them brought to justice particularly when it is a law enforcement officer who is the victim of this kind of terrible crime. So I intend to work with the gentleman to encourage the State Department to make every possible effort in these cases.

But before I close, let me just make one other comment, that is, I think there is a danger here of mixing some apples and oranges here when we talk about this punishment of Mexico and then we talk about whether or not they are having any effect in solving the drug problem. I would point out that this bill also contains $731 million for the Andean Counter-Drug Initiative, that is, Colombia, Peru, Bolivia, Ecuador. Those are the countries where most of the raw materials for our drugs that are consumed in this country come from. But I am sure that the three gentlemen that have spoken here would not suggest we would today cut off that money because we have not been effective. That argument has been made by some on this floor, and I do not think it is a good argument. We should do that. The $40 million that we provide to INL, the international narcotics force that we have overseas, goes largely in Mexico to support the helicopter program, that is, to maintain and supply the helicopters that are used both in chasing down drug smugglers, that is, in small planes, and in eradication efforts.

So I think it is money that is probably well spent, and I would suggest it is not money we would really want to cut off here. And with that I appreciate the gentleman's comments.

Mr. DEAL of Georgia. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Georgia.

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding to me.

I will tell the chairman I am prepared to withdraw the amendment. I will, however, say that even though I do support our efforts to interdict drugs overseas, that until those governments recognize that when someone comes into our country either legally or illegally, kills a law enforcement officer or any other citizen, or engages in major drug trafficking in our own country that under the provisions of their own laws or constitutions it prohibits them from being prosecuted for it that they have to understand if they want to be a partner in these efforts, that is the first step they should begin to take to show their good faith.

I would suggest if they want to show good faith, they should allow the murderer of Officer March to be brought to justice in the United States.

I do thank the gentleman for his indulgence. I would urge him to press this issue forward as we go forward with further funding issues. And I, quite frankly, would urge our administration to reexamine the extradition treaty not only with Mexico but with any other country that throws up these impediments. It is a double insult to the American public to have someone come into our country, kill our law enforcement officers or our citizens, and then be able to escape back to their own country and not be brought to justice.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. KOLBE. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I thank the gentleman for yielding to me.

I appreciate the opportunity to spend 5 minutes on an issue that I wanted to bring up in the form of an amendment, and that deals with the $300 million that will be going to Pakistan. And I call this to attention because I think it is a very unwise expenditure. But I want to make my case for this in the context of overall foreign policy.

Essentially for 100 years, we have accepted the foreign policy of Woodrow Wilson. It is a flawed idealism that we should, and it is our responsibility to, make the world safe for democracy. That did not just exist for World War I, which led to a peace treaty which caused a lot of problems leading up to World War II; but those notions are well engrained in the current neoconservative approach to foreign policy and the policy that this administration follows. But I do not think it is in the best interests of our country to follow this.

The advice of the Founders was that we should be more balanced in our approach and not favoring special nations, not giving money or weapons or getting involved in any alliances with the different nations of the world and we would all be better off for it.

I believe that this policy is a failure and has been very costly. If we think about the last 100 years how many lives were lost, how much blood has been spilled, how many dollars have been spent in this effort to make the world safe for democracy, the world is probably as unsafe now as it has ever been. And here we are. We are proposing that we send $300 million under this policy to Pakistan.

We are in Iraq to promote democracy, but here we send money to a military dictator who overthrew an elected government. And there just seems to be a tremendous inconsistency here. There was a military coup in 1999. There is the strong possibility that Osama bin Laden may well be in Pakistan. And to actually send money there, we are prohibited from really going in there and looking for Osama bin Laden; so we give the government of Pakistan money in the hopes that they will be helpful to us.

There is quite a bit of difference between the foreign policy of neutrality and friendship with everyone versus giving money and support to everyone. And if we look at our history, it has not worked very well. We have in the past given money to both sides of a lot of wars, and right now we try to be friends and we give money in support to both India and Pakistan. I do not bring this amendment up here to be pro either one or anti either one. I want to have a pro-American foreign policy and not say, well, I want to punish Pakistan and help India or vice versa.

We have helped people who have been arch enemies for years. Take Greece and Turkey. We helped both sides. But not only do we help both sides of a lot of these fights that have been going on for a long time, we literally help our enemies. Just think of the support we gave Osama bin Laden when he was fighting the Russians in Afghanistan and just think of our alliance with Saddam Hussein in the 1980s when we did provide him with a lot of destructive weapons. That type of policy does not add up. It does not make a lot of sense. It is not in our best interests, and my suggestion here is hopefully somewhere along the way, we will take a serious look at this and redirect our foreign policy.

But, specifically, is it a wise expenditure to put $300 million into the government of Pakistan with the pretense that we are promoting democracy by supporting a military dictator at the same time our young men are dying in Iraq promoting democracy? It does not add up, and it suggests that there are other motives for some of these expenditures and some of our motivations around the world.

In the past we have been arch enemies of Libya, but now we have decided they will be our friends. And I am not against that in particular, but I am against giving them subsidies and helping them out.

There is such a difference between neutrality and friendship and that of giving weapons and arms and promoting antagonisms.

AMENDMENT NO. 6 OFFERED BY MR. NETHERCUTT

Mr. NETHERCUTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. NETHERCUTT:

At the end of the bill (before the short title), insert the following:

LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR CERTAIN FOREIGN GOVERNMENTS THAT ARE PARTIES TO THE INTERNATIONAL CRIMINAL COURT

SEC. ___. None of the funds made available in this Act in title II under the heading "ECONOMIC SUPPORT FUND" may be used to provide assistance to the government of a country that is a party to the International Criminal Court and has not entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Washington (Mr. NETHERCUTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington (Mr. NETHERCUTT).

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Mr. NETHERCUTT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I also want to say congratulations to the chairman of the subcommittee. He has done a fine job and has worked very hard to get this bill through. As a Member of the Committee on Appropriations, I will support this bill.

I do want to have a discussion about this amendment, because, 2 years ago, we enacted the Armed Service Members Protection Act as part of the fiscal year 2002 Supplemental Appropriations Act. ASPA was a response to the International Criminal Court entering into force, creating the very real possibility of unconstitutional, extraterritorial and politically motivated prosecutions against military service members. The U.S. is not a party to the ICC, but our troops could face prosecution under the treaty.

As a result, the administration has understandably been very concerned about committing troops to support U.N. peacekeeping operations around the world without some assurance that our troops would not face ICC prosecution. For the last 2 years, we have operated under Security Council resolutions blocking ICC prosecutions.

Unfortunately, 3 weeks ago, lacking the support of the Security Council, the U.S. was forced to drop its request for a third extension of this waiver, meaning that our troops are now subject to ICC jurisdiction. At the end of June, the administration pulled out of two small peacekeeping missions because of this concern.

ASPA created a powerful tool for protecting our troops by prohibiting military assistance to countries that had not signed bilateral Article 98 agreements with the United States, agreeing not to surrender U.S. nationals to the ICC. The Act also included all of the necessary waivers to protect the President's foreign policy prerogatives.

My amendment today would simply give the President an additional tool to protect our troops by prohibiting Economic Support Funding as well as military assistance to the government of countries that are both parties to the ICC and have not signed Article 98 agreements.

This distinction is important because traditional development assistance through ESF typically is administered by a USAID contract to an NGO. Such assistance would not be restricted. Similarly, funding for the international Fund for Ireland and the

Walsh Visa Program could continue, as funding goes to non-governmental entities.

I want to see the U.S. engaged around the world supporting international efforts to keep the peace. That is our responsibility and obligation as a superpower. But we should not have to risk the unconstitutional prosecution of our troops in the process.

A vote for my amendment is a vote for continued U.S. engagement and the continued protection of our personnel deployed around the world in support of multilateral peacekeeping efforts.

Signing an Article 98 agreement, as 90 other nations have done, is not too much to expect from nations receiving millions of dollars in U.S. assistance. We have an obligation to protect our Armed Forces from unconstitutional extraterritorial prosecution.

Moreover, this amendment sends a powerful message to the world community that when we commit U.S. troops overseas we will insist that they be protected by Article 98 agreements, if the Security Council will not do its part.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Arizona (Mr. KOLBE) claim the time in opposition?

Mr. KOLBE. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Arizona (Mr. KOLBE) is recognized for 5 minutes.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just say that I agree with the motivations of this amendment, but I absolutely have to oppose the substance of it. The reason I do so is because I think it is going to accomplish exactly the opposite of the intent of this amendment.

Proponents of this amendment are, as the gentleman suggested, upset at opposition the U.S. faced at the United Nations Security Council in getting an extension of a U.S. exemption under the jurisdiction of the ICC. We were successful for some time in getting that, but now it has failed because we have faced a public relations nightmare in the United Nations and elsewhere around the world.

Do we have a right to be angry and upset and outraged that we have not gotten this extension? Yes, I think we should be; and we should continue to press for an extension.

Many times this Chamber has supported the American Servicemembers Protections Act, and I have been among its strongest supporters. I believe it is crucial that the U.S. negotiate Article 98 agreements with as many countries as possible to prevent the possibility that they may be tried in an international criminal court, with little or no political accountability.

However, conditioning ESF assistance and cutting it off to nations that do not sign Article 98 agreements is not, in my opinion, the right response. It is a very, very heavy hand to the problem.

We have conditioned foreign assistance through FMF and IMF accounts to encourage countries to sign Article 98 agreements. The result of this amendment, if it were to pass, would be to cut off all aid to some of these countries: Jordan, at $250 million; Kenya, at $25 million; Lebanon, at $32 million; Ecuador, at $13 million; Cyprus, at $13.5 million.

I believe most of us believe trying to get a Cyprus agreement is very important. I think all of us believe that Jordan is extraordinarily important in our war against terrorism. But it would cut off our ESF assistance and I think it would do extraordinary damage to our relationship with Jordan. How are we going to explain to them what we are really trying to do in getting them to cooperate in the war on terrorism?

At a time when we are fighting the war on terrorism, reducing this tool of diplomatic influence is not a good idea. Nothing would make the opponents of the U.S. in the Security Council and the U.N. General Assembly happier than if we were to do that. They do not like us using foreign assistance to support U.S. strategic interests. So if we were to cut it off, it makes them happy on two accounts: It will have denied the U.S. the exemption in the first instance, and it will have reduced our influence around the world.

So I urge my colleagues to vote no on this amendment. If we accept it, the U.S. will be hamstringing itself, placing a straitjacket on its diplomatic tools, when we have a lot of U.S. national security objectives that must carry the same or equal weight as securing Article 98 agreements. I urge a "no" vote on this.

Mr. Chairman, I reserve the balance of my time.

Mr. NETHERCUTT. Mr. Chairman, I yield myself 30 seconds just to point out that ASPA exempts Jordan, and my argument to the chairman would be that we can exempt Jordan in conference. If this amendment passes, we can exempt Jordan in conference, as I would agree we should.

Mr. Chairman, I am happy to yield 1 minute to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding me time.

Let me see if I have got this straight: The United Nations has created an International Criminal Court, a shady amalgam of every bad idea ever cooked up for world government.

The United States, its President, this Congress and the American people has categorically, unequivocally and completely rejected the ICC and its insistence on threatening the American people with prosecution. We reject its laughable legitimacy, we reject its U.N.-American denial of civil rights, and we reject its anti-American politics. And yet the ICC still asserts jurisdiction over the American people, including American soldiers fighting the war on terror and still salivates at the prospect of prosecuting one of us for anything the U.N. does not like.

Now, some nations who receive economic support from the United States may use the money we give them to arrest and hand over American citizens to the U.N.'s kangaroo court?

I do not think so.

President Bush has shown great leadership by removing the United States from the treaty creating the ICC, and Congress has passed legislation, the American Servicemembers Protection Act, to ensure our soldiers and peacekeepers around the world are protected from prosecution in it. Federal law now requires all countries who seek American military assistance sign an agreement assuring us they will not hand over our soldiers to the ICC; and, since its enactment, more than 90 countries have signed such an agreement.

The ASPA has proven to be a valuable tool in the war on terror, and the Nethercutt amendment takes that leverage to the next step, making American economic support contingent on a promise not to turn over our troops to the ICC. The Nethercutt amendment will forestall any attempt by a foreign country that receives American economic aid to arrest and extradite American soldiers to Kofi Annan's kangaroo court.

Now, let us be real clear: The ICC presents a clear and present danger to the war on terror and Americans who are fighting it all over the world. The United Nations just last month refused to extend protection from the ICC to American troops abroad. This was at once an ominous sign of things to come and an urgent call for Congress to do its duty and protect our men and women in uniform.

That is exactly what this vote is. If you want to go home to your constituents and tell them that you think that their tax dollars should go to foreign countries who allow American soldiers to be imprisoned and shipped off to Brussels without their constitutional rights, then, by all means, vote no on the Nethercutt amendment.

If, however, you think American troops should retain their human and constitutional rights even when they step on foreign soil and if you think American economic support should only go to countries who guarantee such protection for our soldiers, then stand with the American people, the President and the men and women winning the war on terror and vote yes.

The CHAIRMAN. The gentleman from Washington (Mr. NETHERCUTT) has 30 seconds remaining and the gentleman from Arizona (Mr. KOLBE) has 2 minutes remaining.

Mr. KOLBE. Mr. Chairman, I yield 1¼ minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in opposition to the amendment. The gentleman's amendment and all the discussion may sound good, but it would have a sweeping and potentially devastating impact. It would cut off, and I want to make it clear, if you read this amendment, it would cut off economic assistance to a long list of countries in the Middle East and Asia of vital strategic importance to the United States in fighting the war on terrorism, and that includes Jordan, Indonesia, Turkey and Cyprus. It would end economic assistance to South Africa, as well as a number of other African countries such as Angola, Ethiopia, Kenya and Sudan. The amendment would also cut assistance to Peru, Mexico and Ecuador, where U.S. counter-drug programs are attempting to stem the flow of narcotics to our country.

I could go on. But, in conclusion, I would like to make one final point: The American Servicemembers Protection Act of 2002 prohibits military assistance to countries that have not entered into Article 98 agreements with the United States. Although I opposed the bill, it became a law. But that bill, however, gave the President waiver authority for national security reasons. He has exercised that waiver for at least 16 countries so far. The Nethercutt amendment does not even allow the President that waiver authority and would result in the immediate cessation of economic assistance to many of the important allies to which I referred.

Mr. NETHERCUTT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I listened to the arguments on both sides. I think the most compelling argument is that if these countries want to receive money from the United States, it is simple: Sign an Article 98 agreement, and then you can receive the money.

But in these very dangerous times in which we find ourselves, I think the bottom line is we have to protect our American servicemen and women overseas on peacekeeping missions.

It worked in one case. I am informed Eritrea has agreed to sign an Article 98 agreement as we decided to remove our peacekeeping force from that country. So it works, and this is a logical and appropriate conclusion for us to take as a country.

I urge adoption of the amendment.

Mr. KOLBE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me, in conclusion, just say that the majority leader made the point that we should be protecting our servicemen, and he is absolutely correct. And he made the point that we have provisions in the law that says countries cannot get military financing or military support if they do not give us an exemption to Article 98. But he also pointed out that we have an exemption in there. We have an ability that the President can have a waive for those countries.

This takes it, as the majority leader said, another step to economic support, and there is no waiver in there. This means one of our key allies, and I keep coming back to Jordan, because I think Jordan is absolutely one of our key allies in this fight against terrorism, that we would have to cut off all the economic assistance to Jordan, because, for whatever reason, they have seen it in a different way and they have chosen, at least at this point, not to give us this exemption. I do not see how that helps us in the war against terrorism.

I hope we will defeat the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. NETHERCUTT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. NETHERCUTT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Washington (Mr. NETHERCUTT) will be postponed.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Page 12, line 10, insert after the dollar figure the following: "(increased by $5,000,000)".

Page 18, line 22, insert after the dollar figure the following: "(reduced by $5,000,000)".

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I start, I want to acknowledge the very hard work and I believe a commitment of the chairman of this committee to the point that I am about to make, as well as the historic commitment of the ranking member, because I have worked with her over the years on this question of sustainable development, the opportunity for many who are undernourished and struck by famine to sustain themselves.

□ 2030

Many of my colleagues are aware of the relationship of my congressional district to Congressman Mickey Leland. Many of my colleagues knew of his passion and commitment to Ethiopia and the famines that occurred in the 1980s. In fact, Mickey Leland lost his life in 1989 when he died on the side of an Ethiopian mountain trying to carry food resources to the famine-stricken individuals in Ethiopia. Ethiopia, along with other sub-Saharan nations in Africa, have suffered famine now for many, many cycles since his tragic death.

What we see here is an example of a farmer in sub-Saharan Africa trying to survive. He is not asking for food; but as we look at this arid background, he is working with a sickle, if you will, dealing with lack of irrigation, all representing the crisis of famine in sub-Saharan Africa.

So each time we have a cycle of a drought, lack of water, what we will find is teams and teams of teeming groups of Ethiopians and others going to feeding stations simply to survive.

In my most recent visit to Ethiopia, the cycle of drought and famine were again very present. We went into many parts of the country and visited enormous, large sites of families who had left their farming sites because they could not farm, there was no water, there were no tools, and they were not able to survive. They simply were in sickness-infested feeding camps with volunteers and USAID workers and others doing the very best that they could; but they kept coming, because we have not been able to provide the necessary resources for sustainable development.

This amendment is small in nature, but it is $5 million being put into the development assistance to help those in sub-Saharan Africa. It is to help them with small-scale irrigation, water and drainage, postharvest storage, crop intensification, crop and livestock diversification, and rural infrastructure such as in the special program for food security of the food and agriculture organization of the United States.

It is shameful that we have not authorized the Foreign Assistance Act of 1961 since 1987. So these dollars will simply help put life, water in the ground, irrigation resources, so that we can follow that old admonition that if we give a person a fish, they eat for a day; if we give them a rod, a fishing rod, they eat for a very long time.

We realize that through the FAO our distinguished colleague, Eva Clayton, has been working with the FAO now, and we realize that part of the problem is a lack of infrastructure. Constraints to agricultural development in Africa, says the President, and the continent's poor agriculture performance is water. Africa uses only 4 percent of its renewable water reserve for irrigation as compared to 17 percent in Asia. Only 7 percent of Africa's arable land is irrigated, against 37 percent in Asia. We need to have USAID have a separate and enhanced resource for food security. It is important to note that we can make a difference, and this amendment simply attempts to do so.

So I would ask my colleagues to take a hard look at this farmer in this picture. He represents and is symbolic of many others throughout the various countries in sub-Saharan Africa. My colleagues will find out that famine goes hand in hand with the drastic conditions of drought. Drought comes in a very frequent time frame in this area.

In speaking with the President of Ethiopia, speaking with USAID, they declared that Ethiopia, for example, only had $4 million set aside to help a farmer farm better, to get more enhanced farming skills and tools, to irrigate the water. So I believe that this mere attempt to respond to FAO, the works of Tony Hill, the chairman and president, and our colleague, Eva Clayton, and in the memory of Mickey Leland to realize that sustaining the farmers will help to stamp out hunger.

I would hope that we would be prepared to support such an amendment.

Mr. Chairman, let me conclude by simply saying Ethiopia's famine threat continues to increase. I simply hope that we will find in our hearts the ability to support this amendment in order to save lives.

Mr. Chairman, I rise to support the current bill and to applaud Chairman KOLBE and Ranking Member LOWEY for their hard work and leadership in crafting an effective piece of legislation. However, in making appropriations for the entire Nation, it is virtually impossible to have a complete assessment or to profess a complete breadth of knowledge of the regions that need the most assistance—because this is an ever-changing issue.

I have an amendment at the desk. Again, I rise to support the current bill and offer an amendment that speaks to the problems of sustainable development and subsistence farming in Africa and other needy regions. I urge that $5 million be appropriated for agricultural development in sub-Saharan Africa and taken from the Economic Support Fund found in Title II.

Funds requested in this amendment to be administered by USAID are clearly authorized under the Foreign Assistance Act of 1961.

This money would not only provide assistance to needy farmers and villages, but it would also strengthen infrastructure and encourage sustainable growth.

Mr. Chairman, developing and developed countries around the world are experiencing food shortages. There are an estimated 842 million undernourished persons, 798 million of which live in developing countries, 34 million of which live in countries in transition and 10 million of which live in industrialized countries.

Africa is undeniably the hardest hit of all continents, which claims 24 of the 34 countries experiencing food emergencies. The sub-Saharan African region, though, is facing the brunt of this crisis with some 207 million people in 1999–2001. That amounts to nearly 26 percent of the population facing inadequate access to nutritious food supplies.

Those living in poor, rural areas are the most vulnerable. They comprise 70 percent of the continent's population and are the most in need of agricultural development because their livelihoods are depending on agriculture.

Small farmers produce the food that feeds the men, women, babies, and the elders living in the small villages scattered across the arid landscape of Africa. If we neglect Africa's rural population, we neglect Africa's backbone. If we provide these farmers with the necessary resources to shore up inefficient and antiquated infrastructure we open the door to alleviating a host of other problems that plague almost ¾ of Africa's population.

My proposal would allow for the development of small-scale irrigation, water and drainage, post-harvest storage, crop intensification, crop and livestock diversification, and rural infrastructure. Such improvements to infrastructure would encourage sustainable development and lead to a decrease in food shortage in the short and long run.

Right now, only 7 percent of arable land is irrigated, and groups like FAO is working with governments and U.N. and NGO partners to protect and restore agriculture-based livelihoods in crisis countries through the supply of essential inputs, including improved seeds, tools, fertilizer, veterinary medicines and vaccines, livestock feeds and irrigation, fishing and agro-processing equipment, as well as through crop and livestock pest and disease control campaigns, the immediate rehabilitation of essential agricultural infrastructure, and putting in place natural disaster prevention mechanisms.

In addition, members of the House International Relations Subcommittee on Africa have recognized the importance of the issues to be addressed by this proposal.

We must help these people whose lives depend on the fruits of subsistence farming. Furthermore, these farmers are severely undertrained and lack proper irrigation technologies and other resources to create more arable land options. Therefore, Mr. Chairman, for the reasons stated above, I ask that my colleagues support the Jackson-Lee Amendment.

In conclusion, Mr. Chairman, I would like to add the following for the RECORD:

BACKGROUND ON ETHIOPIA

Over 80 percent of Ethiopia's 57 million people live in rural areas, where most of them are engaged in subsistence farming or pastoralism. Altitudes in Ethiopia vary greatly. The lowlands are characterized by dry, sometimes drought-stricken, areas occupied mainly by nomadic or semi-nomadic pastoralists. In the mid-altitude areas such crops as maize, cotton, sorghum and legumes grow. The high-altitude areas are most suited to wheat, barley and coffee cultivation. The staple cereal crop in Ethiopia—teff—grows in mid- to high-altitude areas as does chat which is grown for commercial as well as domestic use. Ethiopia has the highest cattle population in Africa, with large herds providing status to their owners.

Since the 1970s, Ethiopia has been periodically struck by drought, and many areas consistently suffer from erratic and unpredictable rainfall. Pressure on the land is very high, with an average landholding per household in mid- to high-altitude areas of only about 0.2 to 0.6 hectares. Households are typically large with an average of seven members. The use of family planning is not yet widespread in the country, and in rural areas, especially in Muslim communities, early marriage is very common. Girls are often married or committed to marriage at between eight and 12 years of age. Health facilities are limited and sparse and many people die of preventable diseases such as malaria, cholera and typhoid as well as malnutrition.

PRESENTATION BY THE DIRECTOR-GENERAL OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO) TO THE U.S. CONGRESSIONAL BLACK CAUCUS, CONGRESSIONAL HUNGER CENTRE, HUMAN RIGHTS CAUCUS, INTERNATIONAL RELATIONS COMMITTEE AND SUBCOMMITTEE ON AFRICA, JUNE 16, 2004

FOOD SECURITY, WATER AND AGRICULTURAL PRODUCTIVITY IN AFRICA

I wish to thank you all for your interest in Africa's food security. I am especially grateful to the Congressional Black Caucus and the Congressional Hunger Centre for organizing this Roundtable discussion, and for inviting me to give this presentation. I am greatly honoured to be here.

Honourable Members of the House, Ladies and Gentlemen

1. Current food security situation in Africa

FAO estimates that there are about 842 million persons in the world today that are undernourished, 798 million in the developing countries, 34 million in countries in transition and 10 million in industrialized countries. Progress in cutting the incidence of hunger remains painfully slow. At the current rate of progress, the World Food Summit's objective of halving the number of hungry by 2015 will only be achieved in 2150.

While Asia is home to the largest number of the hungry people in the world, it is Africa that has the highest prevalence of hunger—26 percent, some 207 million people in 1999–2001.

In Africa, agriculture accounts for 17 percent of GDP, 57 percent of employment and 10 percent of export earnings. Over 70 percent of the continent's poor live in rural areas, and are primarily dependent upon agriculture for their livelihoods. And yet Africa is the only region in the world in which average per capita food production has been constantly falling for the past 40 years. If current trends persist, the number of undernourished persons on the continent will increase between now and 2015, in contrast to the other developing regions.

In the coming decades, Africa will have to feed a population that is expected to increase from 832 million people in 2002 to over 1800 million in 2050. Because hunger is concentrated mostly in rural areas, growth in small-farm agriculture must be a central element of any effective food security programme. It will have to raise agricultural productivity if it is to meet this challenge.

2. Constraints to agricultural development in Africa

The continent's countries suffer the consequences of variability of output, relatively low yields and heavy dependence on the export of primary commodities, in a context of low elasticity of supply and high volatility of price. Africa's agriculture is undercapitalized, underperforming and uncompetitive. There are many reasons for this. There is, for example, the insignificant use of modern inputs, with only 22 kg of fertilizer applied to each hectare of arable land compared to 144 kg in Asia. The level is even lower in sub-Saharan Africa, which uses 10 kg per hectare.

The seeds that spurred the success of the Green Revolution in Asia and in Latin America are barely used in Africa.

Another factor strongly influencing the continent's poor agricultural performance is water. Africa uses only 4 percent of its renewable water reserves for irrigation as compared to 17 percent in Asia. Only 7 percent of Africa's arable land is irrigated against 37 percent in Asia. Yields from irrigated crops are three times higher than yields from rainfed crops, but agricultural activity on 93 percent of Africa's arable land is dependent on extremely erratic rainfall and therefore seriously exposed to the risk of drought. Eighty percent of food emergencies are linked to water, especially water stress.

The serious shortage of rural infrastructure (rural roads, storage, processing and transport facilities and markets) place present-day Africa on a par with India in the 1950s. This inadequacy of water control and lack of infrastructure constitute the structural limitations that largely explain why Africa's agriculture is unproductive and uncompetitive.

During the past ten years, Africa's fish production has stalled and per capita fish supply has only diminished. Apparent supply has dropped from 9 to 7 kg per person per year. At the world level, fish supplies are increasingly sourced from aquaculture, which now accounts for almost 30 percent of global output, but in Africa aquaculture's contribution is insignificant.

Diseases (in particular malaria and HIV/AIDS) and natural disasters, such as droughts, floods, windstorms, earthquakes, livestock epidemics and locust outbreaks exacerbate the food insecurity.

Conflicts and food insecurity are closely related. The proportion of food emergencies that are man-made has increased over time. Indeed, conflict and economic problems were cited as the main cause of more than 35 percent of food emergencies between 1992 and 2003, as compared to around 15 percent in the period from 1986 to 1991. More than half of the countries where undernourishment is most prevalent experienced conflict during the 1990s.

3. Spotlight on the crisis countries

As I speak, 35 countries in the world are experiencing serious food emergencies, 24 in Africa, where a large number of people depend on food assistance.

The food situation in Eritrea, Somalia and pastoral areas of Ethiopia and Kenya is of particular concern. In Southern Africa, prospects for the 2004 cereal crops are generally unfavourable due to prevailing drought conditions. In Sudan, the civil conflict in Darfur has resulted in the displacement of over a million people, and access to food has been sharply curtailed. In West Africa, internally displaced people and refugees continue to need food assistance in Côte d'Ivoire, Guinea, Liberia and Sierra Leone where.

FAO is working with governments and UN and NGO partners to protect and restore agriculture-based livelihoods in crisis countries through the supply of essential inputs, including improved seeds, tools, fertilizer, veterinary medicines and vaccines, livestock feeds and irrigation, fishing and agro-processing equipment, as well as through crop and livestock pest and disease control campaigns, the immediate rehabilitation of essential agricultural infrastructure, and putting in place natural disaster prevention mechanisms.

FAO, in collaboration with UNICEF and WFP, has embarked upon an innovative global programme starting in selected countries in Africa to protect and improve food and nutrition security among populations heavily affected by the HIV/AIDS epidemic. In the vast majority of cases, good nutrition is the only treatment available to people living with HIV/AIDS; even when anti-retroviral medicine is available, a good diet is essential for making the drugs most effective.

4. Water and infrastructure development: key elements

Getting rid of hunger in Africa and elsewhere in the world does not depend on any leap in technology. In the short-term, the focus must be on solutions which lie largely within the reach of Africa's small-scale farmers, including small-scale irrigation, water harvesting, soil conservation and tillage practices which cut rainfall run-off and maximize moisture retention in the soil and short-maturing crop varieties which fit well within the rainy season.

Successful examples exist in countries implementing the FAO's Special Programme for Food Security, an initiative launched in 1994 and now operational in 101 countries (42 in Africa), which aims at assisting mainly low-income food-deficit countries to improve their household and national food security through reduction of year-to-year variability in agricultural production and improvement of people's income and employment, and thus access to food.

It is estimated that the WFS objective cannot be attained without new water control over 16 million hectares and an upgrading of 4 million hectares distributed throughout all African countries. With an average cost of US$ 2,500 per hectare, it should be possible to rapidly double the irrigated area to 14 percent.

The programme of water control and management needs to be supplemented with a package of investment covering also other areas of rural infrastructure. Mobilizing local labour for these infrastructural works should make it possible to cover 40 percent of the cost.

5. Agriculture and food security under NEPAD and AGOA

Africa has the capacity to enhance agriculture and ensure food security. But this requires that political commitment translates into coherent and effective programmes. Agriculture is one of the priorities of the New Partnership for Africa's Development (NEPAD), a vision and strategic framework for Africa's renewal, conceived and led by African countries. At their Summit in July 2003, the Heads of State and Government of the African Union adopted the Maputo Declaration on Agriculture and Food Security in Africa, under which they called for the urgent implementation of the Comprehensive Africa Agriculture Development Programme (CAADP), prepared by the NEPAD Secretariat with FAO assistance of FAO; and agreed to allocate at least 10 percent of their national budgets, within five years, to agriculture and rural development.

African governments must now implement this decision; they also need to see that agriculture receives an appropriate allocation of resources from poverty reduction and debt alleviation programmes and programmes of the 9th and successive European Development Funds, as well as from the concessional funds of the World Bank and the African Development Bank, in particular.

Apart from the formulation of the CAADP, FAO has also assisted African countries in updating national strategies for food security and agricultural development towards 2015, and preparing National Medium-Term Investment Programmes and bankable projects. The CAADP foresees a total investment of US$ 251 billion for the period up to 2015. While the resources must come primarily from the national budgets, the developed countries and the international development community must invest in and support these countries.

As African countries make the required agricultural development investment and appropriate policy reforms, fair and open trade opportunities are essential. The value of African agricultural products, including forestry products, entering the US market duty-free under the (US) African Growth and Opportunity Act (AGOA) amounted to US$ 122 million in 2003 up from $60 million in 2001, corresponding to about 10 percent of total African agricultural exports to the US in 2003.

Although the value of African agricultural exports to the US under AGOA is small and has grown only modestly, it is reported to have significant impact in certain parts of Africa and holds promise for other areas.

6. The International Alliance Against Hunger

The right of everyone to have access to safe and nutritious food is affirmed in the opening statement of the Rome Declaration on World Food Security. We do not have an excuse for delaying action; off-the-shelf technologies to increase food and agricultural production under different agroecological systems are widely available. The WFS Plan of Action has provided the road map for reducing and eventually eradicating hunger. What is needed most is political commitment, especially at the national level, to give the problem the priority it deserves supported by a vibrant and strong International Alliance Against Hunger (IAAH), as called for by the World Food Summit: five years later (WFS.fyl) in 2002. World leaders explicitly recognised at both World Food Summit in 1996 and the WFS.fyl that, while the responsibility for national food security lies with the national governments, the battle against hunger and poverty can only be won in partnership with civil society, the NGOs, the private sector, bilateral donors and international organizations.

The International Alliance Against Hunger builds on the many existing initiatives and institutions that are already successfully engaged within their respective mandates in the fight against hunger and poverty and offers a framework for all of them to join forces in giving the hungry a stronger voice and responding to it. One of the objectives of the IAAH is to advocate greater resource flows into developing countries' agriculture. In the context of the Anti-Hunger Programme, unveiled at the World Food Summit: five years later, FAO estimates that, world-wide, some USD 24 billion per year is required to achieve the World Food Summit goal of halving the number of hungry people by 2015: USD 8 billion for food aid and commercial loans, USD 8 billion from developing countries, and another USD 8 billion through concessional loans from international financing institutions and bilateral assistance from developed countries, which themselves provided US$ 318 billion to support their farmers in 2002.

On the occasion of World Food Day 2003, the Rome-based food and agriculture agencies—FAO, IFAD, WFP and IPGRI—together with NGOs, issued an important joint statement to promote the International Alliance Against Hunger. We agreed to join forces, and to bring on board other partners, to eliminate the scourge of hunger. So far, about 78 countries have created or indicated their interest in creating national alliances. The United States "Alliance to End Hunger", bringing together Bread for the World, Second Harvest, advocacy groups, foundations and the private sector, was among the first alliances to be organized internationally. The US Alliance is reportedly ready to assist National Alliances in Africa.

In Africa, there are 26 National Alliances Against Hunger. Burkina Faso and Cameroon, for example, have very vibrant alliances.

7. What the US Congress and National Parliaments can do to address world hunger

Both developed and developing countries have a stake and self-interest in ensuring that the world is free of hunger. Hunger has moral, economic and security dimensions. While hunger reduction alone will not eradicate terrorism, enhancing human dignity, ensuring better health and enabling people to have greater freedom of choice will reduce risks of extremism. Greater global stability is clearly in the interest of all people, rich and poor alike.

What can the US Congress and Parliaments do to address world hunger?

First, understand the breadth of issues affecting hunger; there is no silver bullet, but there are several affordable tools available that can make a huge difference to the scale of the global hunger problem.

Secondly, ensure that there is a generous response by the US Government, National Governments and civil society to the calls for assistance of developing countries which are strongly committed to eradicating hunger by allowing them to produce food efficiently for their own consumption and for export.

Thirdly, create better trading conditions by opening up markets for farm produce from developing countries, especially for commodities which depend on heavy labour inputs, such as cotton and sugar.

Fourthly, help African countries build their capacity to improve the quality and safety of their food products, thus allowing them to be more competitive.

The problem of hunger in Africa is immense and deeply rooted in history, but it is also soluble within our lifetime if we put our collective minds to it. We know what to do to end hunger. Many positive examples exist throughout Africa which show how rural livelihoods and nutrition can be improved. Countries like Mozambique have succeeded in turning the tide against hunger. In May 2002, President Alhaji Kabba of Sierra Leone pledged to eradicate hunger within his current 5-year term of office, and set in motion a comprehensive food security programme providing very practical training to farmers, with assistance from FAO and major donors.

What is needed now is to move with boldness from successful pilot programmes to broader food security programmes on a scale commensurate with the size of the food insecurity problem.

I appreciate this opportunity to begin a dialogue on this important subject and look forward to your comments and observation.

Mr. KOLBE. Mr. Chairman, I rise reluctantly in opposition to this amendment, and I yield myself such time as I may consume.

Mr. Chairman, I will not take the 5 minutes. Let me just say that the substance of the amendment really does not accomplish, as I think the gentlewoman knows, does not accomplish what she would hope to do, because if we read the amendment, it adds money in one spot and takes it out of the other spot. So it really has no impact at all on the amount of funding that would go to sub-Saharan Africa.

The gentlewoman wants to increase the amount of money from development assistance for sub-Saharan Africa. I think by and large we do very well in this bill on sub-Saharan Africa. It is a balanced bill. I think we have some very good increases there. Many of the things that the gentlewoman talks about that I fully subscribe to about the need for greater water resources, for helping farming in those areas, those are the things that we support and that are done in our legislation.

But I think that this would not be the right amendment, since it simply does not do what the gentlewoman would try to accomplish. So I would hope that she would withdraw her amendment; if not, I hope that we will defeat this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, this does place $5 million into developmental assistance, and I think that with the statement on the record, it makes it very clear that it can be used for sustainable development.

Mr. KOLBE. Mr. Chairman, reclaiming my time, I would just point out that the $5 million that goes into development assistance comes out of ESF, which also does the same kinds of things. So the Economic Stabilization Fund does the same kinds of things. So it really is just transferring it from one hand to the other, doing the same kinds of programs.

Mr. Chairman, I oppose this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

AMENDMENT OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WEINER:

At the end of the bill (before the short title), insert the following:

PROHIBITION AGAINST DIRECT FUNDING FOR SAUDI ARABIA

SEC. ___. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance any assistance to Saudi Arabia.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New York (Mr. WEINER) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

My amendment is a simple one. It simply says that no money in this bill shall go to the Kingdom of Saudi Arabia. To many of those watching this debate, they would be surprised to learn that any money goes to Saudi Arabia at all. It should not, and there are reasons it should not.

First of all, the Saudis are shielding known terrorists. This is not a theory of mine; this is a fact. Just yesterday, the person who was standing to the right of Osama bin Laden as he presented a chilling videotape shot after September 11 showed up at a Saudi airport and gave credit to the Saudi Government for taking him in and offering him amnesty for his crimes. "Thank God, thank God," he said. "I called the embassy and we were very well received."

Saudi security forces allowed kidnappers to escape after killing 16 Westerners at a Khobar residential compound on May 29 of this year. Al Qaeda terrorists who kidnapped and killed American contractor Paul Johnson say they used official police uniforms and vehicles received from sympathetic Saudi police. Saudi Prince Abdullah responded with a 1-month amnesty for any terrorist who surrendered voluntarily.

In an October of last year interview in "The Voice of Jihad," Abu Hajjer, an al Qaeda member ranking high on Saudi Arabia's most wanted list, commented with the following quote: "It is true that we must use the country of Saudi Arabia, because it is the primary source of funds for most Jihad movements. It has some degree of security and freedom of movement." This is what members of al Qaeda say about Saudi Arabia.

The Saudis have famously also failed to crack down on terror. Last October when I offered a similar amendment, I heard some of the opponents say, oh, they are getting their act together. As of last month, not a single arrest or prosecution had come from the U.S.-Saudi Joint Terrorist Financing Task Force, which is supposed to cut down on the financing of terror coming out of Saudi; not a single one.

Since September 11, not a single Saudi donor of funds to terrorist groups has been publicly punished, despite Ambassador Bandar's assertion that Saudi Arabia would "prosecute the guilty to the fullest extent of the law." Since September 11, not a single one.

Last month's report by the Council of Foreign Relations on Terrorist Financing says: "Saudi Arabia has not fully implemented its new laws and regulations and, because of that, opportunities for the witting or unwitting financing of terrorism persists."

This is not some fringe element of Congress; this is the Council on Foreign Relations.

The Saudis finally are exploiting Wahabism. This is not even a question that the Saudis dispute. In March of 2002, an official Saudi magazine, Ain al-Yaqueen, wrote that the royal family wholly or partly funded some 210 Islamic centers, 1,500 mosques, 202 colleges, and 2,000 schools in countries without Muslim majorities to spread Wahabism.

So why is there any money in this bill going to the Saudis at all? Why is this amendment even necessary?

The most telling is from the President's own budget request. In the President's budget request, they explain why it is necessary to keep a small amount of money for the Saudis in our budget, with taxpayer dollars. Here is what it says. The modest amount of IMET funds requested permit the Saudi Government to purchase military training in the United States at a considerably lower cost than is charged countries that are not eligible. And get this: it says, the President, while Saudi Arabia controls the world's largest oil reserve, it faces increasing budget pressure.

This is why the United States taxpayer is providing funds to Saudi Arabia. Well, they are not going to after tonight if we vote "yes" on the Crowley-Israel-Berkley-Weiner amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I want to thank my good friend and colleague, the gentleman from New York (Mr. WEINER), for being one of the leaders on this most critical issue.

For too long, the United States has been sending foreign assistance and aid to a country that, quite frankly, has not been honest or trustworthy. Time and again, the Saudis have shown that they are not our allies in the war on terror. In fact, they are soft on al Qaeda terrorists operating in Saudi Arabia. Their efforts to prosecute terrorists have been fruitless and devious, and their financing of terror groups has been all but well documented.

Saudi blood money does not only threaten the United States, but it also threatens our good friend and ally, the State of Israel. More than 50 percent, 50 percent of Hamas funding comes from Saudi Arabia, as Ambassador Dore Gold testified in the House Committee on International Relations.

The Saudis impede American efforts in fighting our war on terror. They have denied U.S. officials access to several suspects in custody, including one Saudi who had knowledge of extensive plans to inject poison gas into the New York City subway system.

The Saudi connection to al Qaeda is undeniable. In fact, al Qaeda has an implicit deal, an implicit deal with the Saudi royal family to desist from violence in the kingdom in exchange for Saudi financing.

These inexcusable actions by the Saudi Government make them unworthy of any foreign assistance or aid from our country. As the U.S. is deeply engaged in this global war on terror, we need all the honest allies we can get; and, quite frankly, we simply are not getting that out of this government in Saudi Arabia.

I thank the gentleman from New York for offering this amendment on keeping the foreign aid from Saudi Arabia.

Mr. WEINER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I especially want to thank the gentleman from New York (Mr. WEINER) for introducing this amendment which I have supported year after year. I rise in strong support of this amendment.

The very idea that we are giving any funding to the Saudi kingdom with all of its oil, with all of its wealth, is nothing short of astounding. It boggles my mind. Not only is this a regime that allows terrorism to exist, they have exploited it worldwide. Not only have they exploited terrorism, they are the leading financiers of terrorism. The thought that one cent of American money is being spent in Saudi Arabia is an insult to the memory of those who died in the attack on this Nation of 9/11.

□ 2045

Let us never forget that 15 of the 19 hijackers were Saudi nationals. Knowing this, knowing this fact, did the Saudi Government express one word of remorse, of regret to the families of the 9/11 victims? Not one word.

The Saudis are constantly declaring to the United States that they are our partners in peace. Partners in peace? Are we talking about the same Saudis that support and encourage and finance terrorism, the same Saudis that exude racist and antiSemitic hatred, the same Saudis that allowed terrorists to escape after killing 16 westerners at a Khobar resident tower compound, the same that have the worst record on the planet when it comes to religious intolerance and discrimination? These are our partners in peace?

The Saudis claim that they are vigorously prosecuting and persecuting terrorists. Who are they kidding? Saudi efforts to prosecute terrorists are inept at best and, more accurately, practically nonexistent.

Since 9/11 not a single Saudi donor of funds to terrorist groups has been punished, not a single one. Is supporting the Saudi royal family the best use of American taxpayer dollars? Absolutely not. I do not want my taxpayer dollars going to the Saudis, and I do not want anyone else's. Let us pass this and send a strong message to our so-called partners in peace that they are with us, or they are against us.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am the only speaker on this side, so I will speak at the end.

Mr. Chairman, I reserve the balance of my time.

Mr. WEINER. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Chairman, I thank the gentleman for yielding me this time and for his leadership on this vitally important amendment.

Mr. Chairman, after 9/11, the President of the United States came to this Chamber, stood behind where I am standing now, and said that there is a line in the sand. He said the line divides democracy and dictatorship, liberty and tyranny, education, indoctrination, schools that teach kids how to put things together and schools that teach kids how to blow things up, ballots versus bullets.

This amendment, very simply, enforces that line in the sand. It is absolutely unfathomable to me, Mr. Chairman, that we would even contemplate rewarding a regime with U.S. tax dollars that blame Zionists for the May 1 attacks on a Saudi oil facility that killed two Americans, that blame the West for the attacks on our country on 9/11 and that went so far as to blame the Barbie doll for undermining values around the world, calling the Barbie doll a Zionist conspiracy.

Mr. Chairman, now faced with a terrorist threat in Saudi Arabia, a terrorist threat that confronts all of us around the world, the Saudi regime's response to that threat is to boldly say we will offer a one-month pass, we will offer a one-month amnesty to those people who are plotting and planning our demise, a regime that continues to fund madrassahs around the world that teach the most virulent hatred without any sense of modernity.

Mr. Chairman, it was the President who drew that line in the sand. This amendment enforces that line in the sand. We should not be giving U.S. tax dollars to a regime that has not demonstrated consistently and credibly that they are with us in the global war on terror, and that is why I support and urge all of my colleagues to support this amendment.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I conclude, and the hour is getting late and there are no further speakers on my side, I just want to once again clarify the record of the Saudis.

Every time we have this discussion in this Chamber, we hear about how the Saudis have changed their ways, that they finally decided they do not want to fund terror, they do not want to export terror, they do not want to be terrorists themselves, that if only we in the House of Representatives allow them a few more years of funding, a few more years chasing the fantasy that there are moderate friends in that region, that maybe things would turn around.

Well, the gentleman that is sitting here talking to Osama bin Laden shortly after September 11, it would be just great if somehow we can capture that guy, that guy who is laughing on the tape while Osama bin Laden took credit for the heinous acts of September 11.

Well, this is a picture from yesterday's newspaper at a Saudi Arabian airport of that fellow being wheeled into Saudi Arabia under an amnesty program by the Saudis.

If we think for a moment that U.S. authorities are going to have a chance to interview this person, think again. We learned from the explosion at the Khobar Towers years ago, when to this day the FBI has not been granted access to the crime scene, that we do not get Saudi cooperation. We learned from the Council of Foreign Relations, who just put out a report, that we do not get cooperation cutting down on the funding that the Saudis provide for terror.

So this person, the right hand to Osama bin Laden, is now somewhere in Saudi Arabia, our so-called ally that we with taxpayer dollars are funding in this bill.

Frankly, it is inexplicable. It is inexplicable. You can no longer live by the fantasy that somehow they are going to be helpful, that we are going to solve the problems of the Middle East if only we embrace the Saudis. We can no longer follow that fantasy thinking.

Every year when I bring this amendment up, I hear the same protests from the distinguished chairman and those that support the Saudi regime. They say, this is the wrong time, things are getting better, things are getting better. Sure it has been hundreds of years of exporting terrorism, but now it is getting better. We are right on the precipice. If only we give them a few more dollars in taxpayer funds, things will get a little bit better. It is not happening.

According to the United States Government, not a single arrest has come as a result of this vaunted U.S.-Saudi task force on the financing of terrorism; and this person, who is no doubt involved in the attacks of my city on September 11, the attacks in Pennsylvania and here in Washington, is now in the possession of what he calls his family in Saudi Arabia.

It is not a coincidence that 15 of the 19 hijackers on September 11 came from Saudi Arabia. It is not a coincidence that, according to the State Department, more than half of every single dollar for terrorists comes from Saudi Arabia. It is not a coincidence, because that is what the Saudi government is all about.

What is remarkable is that we keep going along with it. We provide funding, we embrace them, and we do not seem to learn.

Let us make this the year that we finally say not a single taxpayer dollar will go to Saudi Arabia in this bill. Let us take the explanation in the budget request that this will allow them to save money on military training, because, "While Saudi Arabia controls the world's largest oil reserve, it faces increasing budget pressure."

It is hard to even read with a straight face. Vote yes on the Weiner-Crowley-Israel-Berkley amendment. Finally end funding of U.S. tax dollars to Saudi Arabia.

Mr. Chairman, I yield back the balance of my time.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will not use the full time, but I do rise in opposition to the pending amendment. It is the wrong amendment. Especially, it is the wrong amendment at the wrong time.

I am a little bit reminded of the earlier amendment that we had by the gentleman from California (Mr. LANTOS), where I rose to say the timing could not be worse for this sort of amendment, and I think in this case the timing is very bad for this amendment.

There is no question that elements of the Saudi government in the past have not been helpful to the United States in the global war on terrorism, but I do not think anyone can deny that, with the targeting of the Saudi Government by Osama bin Laden, it now knows and understands that it is a prime target of international terrorism as well.

The government of Saudi Arabia has greatly increased its efforts to root out terrorism. It has greatly increased its cooperation in intelligence matters and others with the United States.

During the current fiscal year, the United States has been involved in training security services of Saudi Arabia to meet the threat to both them and to us, and that gets us to the heart of what we are talking about. By declaring them a terrorist state, we cut off the aid. The gentleman from New York has said, let us cut off every single dollar. Well, it is precious few dollars we provide here. It is $1 million in one account and $25,000 in another. A million dollars is spent through the Antiterrorism Assistance Program funded in this bill to provide courses in such areas as terrorist crime scene investigation, explosive incident countermeasures, investigation of terrorist organizations.

These are the things that our law enforcement specialties do and do very well, and we are in Saudi Arabia helping to train them or to bring them here in order to train them in just exactly these kinds of techniques, of how to go after a bomb investigation, how to do the counterintelligence kinds of work that has to be done.

It seems to me, given the targeting that has been done in Saudi Arabia of some Americans, as well as other European individuals and assets, that it is in our interest to have a Saudi Arabian police force, law enforcement agencies that are trained in these very special kinds of techniques.

I would argue that these small sums are well spent. The more that we can engage the security services of Saudi Arabia, the more that we can build a relationship between our antiterrorist organizations and those of the Saudi Government.

Now, the other amount that we provide is a very small sum of $25,000 through the International Military Education and Training Program, or IMET as it is called, to help train and increase military contacts with the Saudi military. Some would say, why not charge the Saudi government for this training? But, in fact, that is precisely what we do. By providing the relatively modest sum of $25,000, which allows for the training of one single officer in this country for one program, we allow them access to the program. The results in Saudi Arabia is that Saudi Arabia has spent $13 million of its own funds here in the United States to train over 400 students at U.S. military schools. This is training that exposes Saudi officers to U.S. military doctrines, to training regimes, to assistance and most importantly, yes, to U.S. values.

In the global war on terrorism, now is not the time for us to turn away from the cooperation and the efforts that we are getting with the government of Saudi Arabia. Yes, albeit belatedly, but they have turned to us for assistance and cooperation, and I think we all understand we need all of the friends and allies that we can get.

This may not be the perfect ally. I would acknowledge freely that it is not. But I do think in these areas where this funding is involved we are getting some very substantial cooperation from the Saudis. To reduce or eliminate this funding by putting them on the list of terrorist states seems to be absolutely counterproductive to everything that we are trying to do.

I would acknowledge that the Saudi Arabian government has been remiss in the past in its commitment to combating terrorism, but I think, as I said a moment ago, that is changing, and I think we need to encourage that change, not discourage it.

The administration does strongly oppose this amendment, and I would ask that a letter from Assistant Secretary William Burns in opposition to this amendment be placed in the RECORD at this point.

UNITED STATES
DEPARTMENT OF STATE,
Washington, DC.

Hon. JIM KOLBE,
Chairman, Subcommittee on Foreign Operations, Export Financing and Related Agencies, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: It is our understanding that the United States House of Representatives is considering a provision to the fiscal year 2005 Foreign Operations, Export Financing and Related Programs Appropriations bill which would add the Kingdom of Saudi Arabia to Section 507, the list of countries prohibited from receiving direct assistance from the United States.

Saudi Arabia was among the first countries to condemn the September 2001 attacks and has worked closely with the United States since then in the global war against terrorism. Since the May 2003 al-Qaeda bombings in Riyadh, our cooperation with Saudi law enforcement and intelligence agencies has been increasingly effective and mutually beneficial. Saudi Arabia is now taking aggressive steps to combat terrorists at home, and to choke off financing for terrorist entities being channeled through charities overseas.

The Administration strongly opposes efforts to add the Kingdom of Saudi Arabia to this list of state sponsors of terrorism and urges that the House reject the amendment offered by Representative Weiner, which would severely undermine our counterterrorism cooperation with Saudi Arabia at precisely the moment when it is moving to a new level of effectiveness. This amendment would also undermine our important interests in cooperation with Saudi Arabia on other critical issues in the region, including the stabilization of Iraq and the pursuit of Palestinian-Israeli peace.

We would appreciate your support in defeating Representative Weiner's amendment.

Sincerely,

WILLIAM J. BURNS,
Assistant Secretary of State.

The adoption of this amendment would only hearten those who seek to drive a wedge between the United States and Arab regimes that are cooperating with us on the war on terrorism, and for that reason alone, I urge the defeat of this amendment.

Mr. WEINER. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from New York.

Mr. WEINER. Mr. Chairman, it is for the purpose of a question. The gentleman talked about how the cooperation helps us in the war on terror. The Council on Foreign Relations issued a report recently that said that we are not getting that cooperation. The FBI has said that they are not getting cooperation in investigating crimes against U.S. citizens. Where does the gentleman derive the idea that we are getting cooperation with this money?

Mr. KOLBE. Well, I think if one talks to U.S. law enforcement agencies they will find that we are getting cooperation. We are not getting as full cooperation as we would like, it is not perfect cooperation, but that could certainly be said of a lot of other countries that we are providing assistance to.

I think there is no doubt that we have been getting cooperation, particularly on sharing of intelligence information with the Saudi Arabian government. So I do believe that we are getting that kind of cooperation.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEINER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEINER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. WEINER) will be postponed.

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Mr. KOLBE. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Arizona (Mr. KOLBE) is recognized for 5 minutes.

Mr. KOLBE. Mr. Chairman, I yield to the gentleman from Virginia (Mr. TOM DAVIS) for purposes of a colloquy.

Mr. TOM DAVIS of Virginia. Mr. Chairman, this appropriations bill includes an authorizing provision that would allow the inspector general from the Coalition Provisional Authority to continue to oversee the rebuilding effort in Iraq. This provision is within the jurisdiction of the Committee on International Relations and the Committee on Government Reform, and I want to thank the gentleman from Arizona (Mr. KOLBE) for his interest in this issue.

The Committee on Government Reform will hold its fourth hearing overseeing the rebuilding of Iraq next Thursday. My committee has made this oversight a priority. As part of the overall oversight of the $18.6 billion of the supplemental funds, we created the CPA Inspector General. I have met with the CPA IG. I believe with his help, we can expect the thorough oversight we need from his office.

My committee has jurisdiction over inspectors general, and because of our staff expertise we work closely with other committees and the executive branch to make sure that the various IGs have the tools to conduct the mission that the public expects of them. The inspectors general for DOD, USAID, the Department of State and the CPA, with the help of the Office of Management and Budget and my committee's oversight, have negotiated a memorandum of agreement to maintain appropriate oversight over the rebuilding efforts in Iraq. There is also a similar provision in the Senate Defense authorization bill that addresses the continuing oversight of the Iraqi rebuilding effort.

I will work with all involved to address the issue from the authorization side. I would ask the gentleman from Arizona (Mr. KOLBE) if he would work with the Committee on Government Reform, the Committee on International Relations, and the Committee on Armed Services to ensure that our efforts are coordinated and built constructively on the existing agreement.

Mr. KOLBE. Reclaiming my time, I thank the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the Committee on Government Reform, for his comments here tonight and for the work that he has done with the inspectors general.

Let me just say that, as he pointed out, the inspector general here for what was then the CPA, or Coalition Provisional Authority, was created as part of the legislation last year which authorized the large expenditure in the supplemental for the rebuilding of Iraq. And what we have done in this legislation is not something new, but simply to move it over as we have moved all the funding, as we moved all the programs from CPA over to the State Department. We have moved this jurisdiction over there.

Now, the gentleman from Virginia is absolutely correct in saying his committee not only has jurisdiction but has done yeoman's work in providing oversight. The hearings they have held have, I think, effectively brought attention to the problems we have had, particularly with the contracting in our rebuilding of Afghanistan and Iraq. And I really appreciate the work his subcommittee has done. So my answer is an unequivocal, yes, to the gentleman from Virginia that we will work with him as we proceed with this bill to make sure that we build constructively on the existing agreement that we have.

Mrs. LOWEY. Mr. Chairman, I move to strike the last word.

I would like to engage in colloquy with the chairman of the Subcommittee on Foreign Operations, my good friend, the gentleman from Arizona (Mr. KOLBE).

As my colleagues may be aware, the administration is expected to announce soon that for the third year in a row it will deny U.S. funding for the life-saving programs of the United Nations Population Fund. In my view, the administration's justification for this denial is flimsy at best. UNFPA has a long-standing program in China which aims to help introduce voluntary family planning into that country and change China's destructive and coercive one-child policy. The basis of denying UNFPA our support is precisely this: UNFPA is being punished for working within the Chinese government to change a policy we all agree is wrong.

Contrary to assurances from the administration and the leadership of this House since 2002 that the decision to de-fund UNFPA would not negatively affect the U.S. commitment to international family planning programs, the funding Congress originally intended for UNFPA has not all gone to support USAID's bilateral family planning program. A significant portion of it has been diverted to combat trafficking.

While I certainly do not take issue with anti-trafficking programs, I would urge the administration to request adequate funding for this priority instead of relying on transfers of funding that should have gone to UNFPA. It is our understanding that the administration will propose to Congress the UNFPA's fiscal year 2004 funding be diverted for anti-trafficking programs instead of going to support USAID's family planning programs.

I certainly hope that we can include language in the conference report indicating that the FY 2004 money meant for UNFPA can only be used for bilateral family planning programs. I would like to ask the chairman if he agrees with this sentiment, and if he will support such an effort.

Mr. KOLBE. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Arizona.

Mr. KOLBE. I thank the gentlewoman for yielding. Let me say I share the disappointment that the gentlewoman has that we have been unable to reach a resolution of this issue with regards to the funding and the use of funds by the UNFPA. I feel very strongly, as the gentlewoman does herself, that we should continue to invest in multilateral efforts to improve the health of women and families in the developing world. And that is exactly what the programs of UNFPA go for.

I have been a long-time supporter of family planning programs and specifically of the United Nations Family Planning Agency. I feel that the administration's position has hurt our efforts to support valuable life-saving programs. Nonetheless, that is a position that has been taken, and that is the reality of where we are.

As we take this bill to conference, however, if there continues to be no resolution of the U.S. contribution to UNFPA, I want the gentlewoman to know I will be happy to work with her in an effort to make sure that the increased resources that would not be available to UNFPA are set aside for bilateral family planning programs.

Mrs. LOWEY. I thank the chairman and I look forward to working with him.

AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHIFF:

At the end of the bill (before the short title), insert the following:

PROHIBITION ON USE OF FUNDS FOR CERTAIN PURPOSES

SEC. 576. None of the funds made available in this Act may be used by the Government of Turkey to engage in contravention of section 1913 of title 18, United States Code, (relating to lobbying with appropriated moneys), with respect to H. Res. 193, Reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California (Mr. SCHIFF) and a Member opposed each will control 5 minutes.

Mr. KOLBE. Mr. Chairman, I reserve a point of order on this amendment, and I claim the time in opposition.

The CHAIRMAN. The gentleman reserves a point of order.

The gentleman from California is recognized for 5 minutes on his amendment.

Mr. SCHIFF. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by congratulating the gentleman from Arizona (Mr. KOLBE) and the ranking member, the gentlewoman from New York (Mrs. LOWEY), for their outstanding work on the bill. I think they both have done a great job in advancing America's foreign policy priorities at an especially difficult time in our history.

I was particularly please to see the committee wisely provides $65 million in economic aid for Armenia, $3 million more than the administration's request, and that the committee wisely restored the parity in security assistance between Armenia and Azerbaijan by funding military aid and education assistance to both Armenia and Azerbaijan at $6 million.

Today, I offer a simple amendment that will honor the 1½ million Armenians who perished in the Armenian Genocide of 1915–1923. I consider this a sacred obligation, to ensure that the men, women and children who perished at the hands of the Ottoman Empire are not lost to history and that this Congress not fund shameful efforts to deny that the genocide occurred.

Time is the ally of those who would deny or change history. Such has it been, regrettably, by those who would continue to deny the undeniable facts of the murder of 1½ million people, the first genocide of last century.

My amendment tonight seeks only to prohibit the use of funds to lobby against H. Res. 193, the resolution which includes a reference to the Armenian Genocide and reaffirms the support of Congress for the genocide convention and commemorates the anniversary of our becoming a party to this landmark legislation. It will not deprive countries of funding that they need for legitimate purposes, but no appropriations under this bill or any other bill should be used by other governments to lobby this Congress against legislation, and particularly legislation that reaffirms our commitment to the convention on genocide and the recognition of the victims of the Armenian Genocide as well as the victims of many other genocides in the history of mankind.

Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, I rise today in support of the amendment offered by the gentleman from California (Mr. SCHIFF).

It is time for the United States to properly recognize the Armenian Genocide, which is fully documented in the U.S. Archives and through an overwhelming body of firsthand governmental and diplomatic evidence.

Despite the overwhelming evidence, the Turkish government and its paid lobbyists have through threats and blackmail sought to prevent the United States from properly commemorating the Armenian Genocide. Morally it is wrong for the American people to be complicit in the Turkish government's efforts to deny the suffering and death of 1.5 million people. I would also like to point out that Turkey's recognition of the Armenian Genocide would represent a meaningful step towards its acceptance into the European family of nations.

Finally, Mr. Chairman, it is time for this body to stop defending and funding a government that continues to deny its own history and refuses to break with the pattern of intolerance established by past Turkish governments which dealt with minority issues by committing genocide against Armenians, massacring and driving Greeks from its shores, restricting the rights of Christians to worship, and denying the existence of its Kurdish citizens.

I would like to add that I am joined in my support of this amendment by the gentleman from New York (Mr. CROWLEY).

Mr. SCHIFF. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Arizona (Mr. KOLBE) wish to make his point of order?

Mr. KOLBE. Mr. Chairman, I will not make a point of order on the amendment. I will conclude the debate.

Mr. Chairman, I reserve the balance of my time.

Mr. SCHIFF. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California (Mr. SCHIFF) has 2 minutes remaining.

Mr. SCHIFF. Mr. Chairman, I yield myself such time as I may consume.

Among historians there is no dispute about what happened to the Armenian people. There is no dispute that it was genocide. Thousands of pages of documents sit in our National Archives, newspapers of the day were replete with stories about the murder of Armenians: "Appeal To Turkey To Stop Massacres," headlined the New York Times on April 28, 1915, just as the killing began.

On October 7 of that year, the Times reported that 800,000 Armenians had been slain in cold blood in Asia Minor. In mid-December of 1915, the Times spoke of a million Armenians killed or in exile.

In 1948, in the shadow of the Holocaust, the international community responded to Nazi Germany's methodically orchestrated acts of genocide by approving the Convention on the Prevention and Punishment of the Crime of Genocide. It confirms that genocide is a crime under international law and defines genocide as actions committed with intent to destroy a nation, ethnic, racial or religious group.

The United States under President Truman was the first nation to sign the convention. Last year marked the 15th anniversary of President Reagan signing the Genocide Convention Implementation Act.

Just over a year ago, I introduced H. Res. 193 with my colleagues, the gentleman from California (Mr. RADANOVICH), the gentleman from New Jersey (Mr. PALLONE), the gentleman from Michigan (Mr. KNOLLENBERG), and other Members of this House. This should have been an easy resolution for all of us now to support on the House floor. Genocide is the most abhorrent crime known to human kind; and, unfortunately, it is happening in the Sudan as we speak.

The reason we have not yet succeeded in passing this resolution is simple. The government of Turkey refuses to acknowledge the genocide, and the strongest nation on Earth fears their reaction if we do.

110 of my colleagues have co-sponsored this resolution, and I expect it would pass overwhelmingly if given the chance. At the very least we should not fund efforts to silence our voices.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Arizona (Mr. KOLBE) is recognized for 5 minutes.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is most unfortunate. We have just been handed this amendment. It is a completely new amendment, quite different than the one we had seen before. So we do not really know what the implications of this are. I am trying to read it and think it through.

I am inclined to accept this and deal with its ramifications in the full committee. Looking at it, let me say that it appears by saying relating to lobbying with appropriated monies, but not having any way of making that determination as to what that is, it does not have any real impact. Nonetheless, I understand the symbolism of this, and I am concerned about that in terms of our ally, Turkey. But I am prepared to accept this amendment at this time. And as I said, we will deal with its implications and ramifications at a later time.

Mr. CROWLEY. Mr. Chairman, I rise in support of the amendment offered by my friend and colleague from California ADAM SCHIFF.

This is an amendment to ensure that we never forget the struggles of the Armenian people or that we never forget . . .

Ever since I was elected to the State Assembly and now in Congress, I have been a strong supporter of the Armenian American community.

However, my strong support is not only because I represent a large Armenian community in Queens but also because I see the strategic importance of Caucasus region for the United States.

The contributions of the Armenian community to this great city cannot be fully appreciated quantitatively.

It can only be realized by those who walk the streets of New York every day.

I had the opportunity to travel to Armenia last summer.

Through meetings and discussions with elected officials and even regular citizens, I have a clearer understanding of Armenia's needs and challenges.

I believe that as a nation Armenia is growing and with the support of the United States and the Diasporan Armenian community—Armenia will be able to overcome the economic and security challenges in the region.

I have continuously supported and encouraged closer ties between the United States and Armenia because of the strategic position and also because of the similar values of democracy and freedom.

The thorny path to liberty is a concept with which the people of Armenia have been forced to contend for many years.

From the Armenian Genocide, to the republic's absorption into the Soviet Union, to the current struggle for Nagorno (NA–GORE–NO)–Karabakh (KAR–AH–BAH), the path has not always been smooth.

I am pleased to say that the nation of Armenia does not need to travel that thorny path alone.

I am proud to stand alongside them in an effort to reach their goals.

I assure you, it will never be forgotten.

Armenia remains a major focus in American foreign policy.

The United States recognizes the need to cultivate and support the development of Armenia.

The United States has looked to Armenia to take the lead in bringing peace and prosperity to the Caucasus.

The people of Armenia have overcome tremendous obstacles on the path to liberty.

But again we can never forget the genocide and we must commemorate it.

Mr. KOLBE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. SCHIFF).

The amendment was agreed to.

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The CHAIRMAN. Are there other amendments?

Mr. KOLBE. Mr. Chairman I move to strike the last word. I do so for the purposes of yielding to the gentlewoman from New Mexico for the purpose of a colloquy.

Mrs. WILSON of New Mexico. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentlewoman from New Mexico.

Mrs. WILSON of New Mexico. Mr. Chairman, I thank the gentleman very much for yielding to me.

I appreciate the gentleman's willingness to enter into a colloquy with me, and I wanted to commend him for all his work on funding for global efforts to fight tuberculosis. This bill will allocate $185 million for infectious diseases, including tuberculosis, from the United States Agency For International Development, $46 million more than the President requested. This is in addition to the roughly $68 million for TB in the Global Fund and $17.5 million from other accounts. In a bill where several other programs received cuts in funding, I appreciate the gentleman's efforts to continue our commitment to combat global TB at a level at least equal to last year.

I am concerned about funding for the Global TB Drug Facility. The United States contributed $3 million to the Global TB Drug Facility last year and would do so again next year in this bill. The STOP TB partnership, which includes 50 world organizations, including the WHO, recommended a commitment by the U.S. of $50 million each year to reach the most people possible. The Global TB Drug Facility has successfully treated 3 million people in three years for tuberculosis. Funds from the facility can successfully treat tuberculosis for just $10 per person.

I would ask that the gentleman from Arizona and the gentleman from Ohio (Mr. BROWN) who has worked with me so hard on tuberculosis issues work together as this bill goes to conference to try to increase the funding for the Global TB Drug Facility to try to help get vital medicines out to the people who need them most.

Mr. KOLBE. Reclaiming my time, Mr. Chairman, I want to thank the gentlewoman from New Mexico for her statements and concern that she has expressed, along with the gentleman from Ohio, about the impact of tuberculosis worldwide. It is one of the world's worst killers, causing up to 2 million deaths every year.

Our foreign assistance has a strong emphasis on programs to fight this disease. Our bilateral TB programs lead the world in helping developing countries set up treatment and pharmaceutical management systems. Supporting the Global TB Drug Facility is another important component of our strategy. Through the GDF, the U.S. helps populations in need around the world gain access to life-saving tuberculosis drugs.

I would be happy to work with the gentlewoman from New Mexico and other colleagues on this important issue as we move into the conference, and I thank the gentlewoman for bringing this to our attention.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. If there are no further amendments, pursuant to clause 6 of rule XVIII proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment by Mr. BUYER of Indiana; amendment by Mr. SANDERS of Vermont; amendment No. 6 by Mr. NETHERCUTT of Washington; amendment by Ms. JACKSON-LEE of Texas; amendment by Mr. WEINER of New York.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. BUYER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. BUYER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 161, not voting 29, as follows:

[Roll No. 385]

AYES—243

Akin
Alexander
Andrews
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Cooper
Costello
Cox
Crane
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeLay
DeMint
Diaz-Balart, M.
Dicks
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOES—161

Abercrombie
Ackerman
Allen
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Case
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dingell
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gephardt
Gonzalez
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—29

Aderholt
Bonner
Carson (IN)
Collins
Cramer
Crenshaw
Deal (GA)
Deutsch
Diaz-Balart, L.
Doggett
Dooley (CA)
Ford
Frelinghuysen
Greenwood
Hayes
Houghton
Isakson
Jefferson
Jenkins
Kaptur
Majette
McCarthy (MO)
McInnis
Quinn
Radanovich
Roybal-Allard
Ryun (KS)
Stenholm
Young (FL)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are reminded there are 2 minutes remaining in this vote.

☐ 2143

Messrs. TIERNEY, MURTHA and BACA changed their vote from "aye" to "no."

Mr. KIRK, Ms. DUNN, and Messrs. ALEXANDER, LEWIS of California, SPRATT, and BEREUTER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Ms. McCARTHY of Missouri. Mr. Chairman, during rollcall vote No. 385, the Buyer Amendment, I was unavoidably detained. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. SANDERS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 270, noes 132, not voting 31, as follows:

[Roll No. 386]

AYES—270

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Bass
Becerra
Bell
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Boehlert
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burton (IN)
Camp
Capito
Capuano
Cardin
Cardoza
Carson (OK)

Case
Chabot
Chandler
Clay
Clyburn
Coble
Conyers
Cooper
Costello
Cox
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doyle
Duncan
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Frank (MA)
Frost
Gallegly
Gephardt
Gerlach
Gillmor
Gingrey
Gonzalez
Goode
Gordon
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hayworth
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (CT)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Porter
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Regula
Renzi
Reyes
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wamp
Waters
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOES—132

Aderholt
Akin
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Biggert
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Burgess
Burr
Buyer
Calvert
Cannon
Cantor
Carter
Castle
Chocola
Cole
Crane
Crenshaw
Crowley
Cubin
Culberson
Davis, Tom
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Dreier
Dunn
Ehlers
Everett
Feeney
Flake
Foley
Forbes
Fossella
Franks (AZ)
Garrett (NJ)
Gibbons
Gilchrest
Goodlatte
Goss
Granger
Graves
Hall
Harris
Hart
Hastings (WA)
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Istook
Johnson (IL)
Johnson, Sam
Kelly
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
McCrery
McKeon
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Pitts
Pombo
Pomeroy
Portman
Putnam
Rehberg
Reynolds
Rogers (AL)
Ryan (WI)
Schrock
Sessions
Shadegg
Shimkus
Simpson
Smith (MI)
Smith (TX)
Souder
Sullivan
Sweeney
Tauzin
Terry
Thomas
Thornberry
Tiahrt
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weller
Wicker
Wilson (SC)

NOT VOTING—31

Bonner
Capps
Carson (IN)
Collins
Cramer
Deal (GA)
Deutsch
Diaz-Balart, L.
Doggett
Dooley (CA)
Ford
Frelinghuysen
Greenwood
Hayes
Houghton
Isakson
Jefferson
Jenkins
Kaptur
Kennedy (MN)
Majette
McCarthy (MO)
McInnis
Meeks (NY)
Quinn
Radanovich
Roybal-Allard
Ryun (KS)
Stenholm
Watson
Young (FL)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are reminded that 2 minutes remain in this vote.

□ 2150

Mr. TAYLOR of North Carolina and Mr. GINGREY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Ms. MCCARTHY of Missouri. Mr. Chairman, during rollcall vote No. 386, the Sanders Amendment, I was unavoidably detained. Had I been present, I would have voted "aye."

Mrs. CAPPS. Mr. Chairman, on rollcall vote No. 386, had I been present, I would have voted "aye."

AMENDMENT NO. 6 OFFERED BY MR. NETHERCUTT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Washington (Mr. NETHERCUTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 241, noes 166, not voting 26, as follows:

[Roll No. 387]

AYES—241

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Edwards
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Hulshof
Hunter
Hyde
Israel
Issa
Istook
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
LaHood
Langevin
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
Matsui
McCarthy (NY)
McCotter
McCrery
McHugh
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Vitter
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NOES—166

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)

Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Case
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doyle
Dreier
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gephardt
Gonzalez
Gordon
Goss
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Maloney
Markey
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rodriguez
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (NC)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Visclosky
Walsh
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—26

Bonner
Carson (IN)
Collins
Cramer
Deal (GA)
Deutsch
Diaz-Balart, L.
Doggett
Dooley (CA)
Frelinghuysen
Greenwood
Hayes
Houghton
Isakson
Jefferson
Jenkins
Kaptur
Majette
McCarthy (MO)
McInnis
Quinn
Radanovich
Roybal-Allard
Ryun (KS)
Stenholm
Young (FL)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are reminded that 2 minutes remain in this vote.

□ 2158

Mr. CALVERT and Mr. ROSS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Ms. McCARTHY of Missouri. Mr. Chairman, during rollcall vote No. 387, the Nethercutt Amendment, I was unavoidably detained. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 164, noes 243, not voting 26, as follows:

[Roll No. 388]

AYES—164

Abercrombie
Ackerman
Alexander
Allen
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Bishop (GA)
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardoza
Carson (OK)
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doyle
Edwards
Engel
Etheridge
Evans
Fattah
Filner
Ford
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Harman
Hastings (FL)
Herseth
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lofgren
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rush
Ryan (OH)
Sánchez, Linda T.
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tancredo
Tanner
Tauscher
Taylor (MS)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—243

Aderholt
Akin
Andrews
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
English
Eshoo
Everett
Farr
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hulshof
Hunter
Hyde
Issa
Istook
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Ryan (WI)
Sabo
Sanchez, Loretta
Saxton
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stupak
Sullivan
Sweeney
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—26

Bonner
Carson (IN)
Collins
Cramer
Deal (GA)
Deutsch
Diaz-Balart, L.
Doggett
Dooley (CA)
Frelinghuysen
Greenwood
Gutierrez
Hayes
Houghton
Isakson
Jenkins
Kaptur
Majette
McCarthy (MO)
McInnis
Quinn
Radanovich
Roybal-Allard
Ryun (KS)
Stenholm
Young (FL)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members have 2 minutes remaining in this vote.

□ 2204

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. McCARTHY of Missouri. Mr. Chairman, during rollcall vote No. 388, the Jackson-Lee amendment, I was unavoidably detained. Had I been present, I would have voted "aye."

AMENDMENT OFFERED BY MR. WEINER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. WEINER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 217, noes 191, not voting 25, as follows:

[Roll No. 389]

AYES—217

Abercrombie
Ackerman
Alexander
Andrews
Baca
Baird
Baker
Barrett (SC)
Bartlett (MD)
Becerra
Bell
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burton (IN)
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Chabot
Chandler
Clay
Coble
Cooper
Costello
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Duncan
Edwards
Emanuel
Emerson
Engel
Eshoo
Evans
Everett
Farr
Ferguson
Filner
Flake
Forbes
Ford
Frank (MA)
Franks (AZ)
Garrett (NJ)
Gephardt
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hayworth
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Jones (NC)
Jones (OH)
Keller
Kelly
Kennedy (RI)
Kirk
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Norwood
Oberstar
Olver
Ortiz
Ose
Otter
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Platts
Porter
Ramstad
Rangel
Renzi
Reyes
Rodriguez
Rogers (AL)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Sherman
Shuster
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Solis
Souder
Stark
Stearns
Strickland
Stupak
Tancredo
Tanner
Tauscher
Terry
Thompson (CA)
Tierney
Toomey
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Walden (OR)
Wamp
Waters
Watson
Waxman
Weiner
Wexler
Wu
Wynn

NOES—191

Aderholt
Akin
Allen
Bachus
Baldwin
Ballenger
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boucher
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chocola
Clyburn
Cole
Conyers
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Tom
DeLay
DeMint
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Dunn
Ehlers
English
Etheridge
Fattah
Feeney
Foley
Fossella
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goss
Granger
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Issa
Istook
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Lucas (KY)
Lucas (OK)
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nethercutt
Ney
Northup
Nunes
Nussle
Obey
Osborne
Oxley
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Rahall
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Ruppersberger
Sandlin
Saxton
Schrock
Sessions
Shadegg
Shays
Sherwood
Shimkus
Simpson
Skelton
Smith (MI)
Smith (TX)
Snyder
Spratt
Sullivan
Sweeney
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walsh
Watt
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)

NOT VOTING—25

Bonner
Carson (IN)
Collins
Cramer
Deal (GA)
Deutsch
Diaz-Balart, L.
Doggett
Dooley (CA)
Frelinghuysen
Greenwood
Hayes
Houghton
Isakson
Jenkins
Kaptur
Majette
McCarthy (MO)
McInnis
Quinn
Radanovich
Roybal-Allard
Ryun (KS)
Stenholm
Young (FL)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2218

Mr. SWEENEY and Mr. LEWIS of Kentucky changed their vote from "aye" to "no."

Messrs. PASCRELL, BLUMENAUER, BOYD and UDALL of Colorado, Ms. WATERS and Mrs. CAPPS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Ms. McCARTHY of Missouri. Mr. Chairman, during rollcall vote No. 389, the Weiner Amendment, I was unavoidably detained. Had I been present, I would have voted "aye."

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. THORNBERRY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, pursuant to House Resolution 715, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 365, nays 41, not voting 27, as follows:

[Roll No. 390]

YEAS—365

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn

Coble
Cole
Conyers
Cooper
Costello
Cox
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Goss
Granger
Green (TX)
Green (WI)
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hensarling
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Sullivan
Sweeney
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—41

Akin
Bartlett (MD)
Berry
Brown-Waite, Ginny
Cubin
Davis, Jo Ann
DeFazio
Duncan
Flake
Franks (AZ)
Gibbons
Goode
Goodlatte
Graves
Gutknecht
Hefley
Herger
Hostettler
Hulshof
Jones (NC)
Keller
Kucinich
Lucas (OK)
Miller (FL)
Moran (KS)
Norwood
Otter
Paul
Pombo
Rahall
Rohrabacher
Royce
Sensenbrenner
Smith (MI)
Stearns
Stupak
Tancredo
Tanner
Taylor (MS)
Toomey
Whitfield

NOT VOTING—27

Bonner
Carson (IN)
Collins
Cramer
Deal (GA)
Deutsch
Diaz-Balart, L.
Doggett
Dooley (CA)
Feeney
Frelinghuysen
Greenwood
Hayes
Houghton
Isakson
Jenkins
Kaptur
Majette
McCarthy (MO)
McInnis
Miller, George
Quinn
Radanovich
Roybal-Allard
Ryun (KS)
Stenholm
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2236

Mr. GRAVES changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 390, the Foreign Operations Appropriations, H.R. 4818, Final Passage, I was unavoidably detained. Had I been present, I would have voted "yea."

REQUESTING THE SENATE TO RETURN TO THE HOUSE OF REPRESENTATIVES H.R. 4766

Mr. BONILLA. Mr. Speaker, I offer a privileged resolution (H. Res. 719) requesting the Senate to return to the House of Representatives the bill H.R. 4766, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 719

Resolved, That the Senate is requested to return to the House of Representatives the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AGREEING TO REQUEST OF SENATE TO RETURN H.R. 1303

The SPEAKER pro tempore. Without objection, the request of the Senate to return the bill (H.R. 1303) to amend the E-Government Act of 2002 with respect to rulemaking authority of the judicial conference is agreed to.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to my friend, the gentleman from Texas (Mr. DELAY), the majority leader, for the purposes of informing us of next week's schedule.

Mr. DELAY. Mr. Speaker, I thank the distinguished whip, the gentleman from Maryland (Mr. HOYER), for yielding to me.

Mr. Speaker, the House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of these measures will be sent to Members' offices by the end of the week. Any votes on these measures will be rolled until after 6:30 p.m.

On Tuesday and the balance of the week, we expect to consider additional legislation under suspension of the rules. We also plan to consider several bills under a rule: the fiscal year 2005 District of Columbia appropriations bill; H.R. 4837, the fiscal year 2005 Military Construction appropriations bill; H.R. 4842, the U.S.-Morocco Free Trade Agreement; H.R. 3574, the Stock Option Accounting Reform Act; and H.R. 3313, the Marriage Protection Act.

Finally, I would like to note that we are expecting a very busy week heading into the August recess. Members should expect to work some late nights and possibly into Friday evening as we resolve these important pieces of legislation.

I thank the gentleman for yielding, and will be happy to answer any questions he may have.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his information.

Mr. Speaker, the majority leader mentioned two appropriations bills, the District of Columbia and the Military Construction bill. Can the gentleman give me an estimate, if he knows, of what days those two bills will be considered?

Mr. DELAY. Mr. Speaker, if the gentleman will yield.

Mr. HOYER. I yield to my friend.

Mr. DELAY. I would expect to see the stock options bill legislation and the D.C. and Military Construction appropriations bills earlier in the week. The U.S.-Morocco Free Trade Agreement and the Marriage Protection Act would be Thursday or Friday.

Mr. HOYER. Mr. Speaker, the gentleman said the Morocco Free Trade will be early or later?

Mr. DELAY. Later.

Mr. HOYER. Later.

Mr. DELAY. Thursday or Friday.

Mr. HOYER. The gentleman anticipated my two questions, I see.

The conference reports, will we be considering the DOD appropriations conference report next week?

Mr. DELAY. Mr. Speaker, if the gentleman will yield.

Mr. HOYER. I yield to my friend.

Mr. DELAY. I have every expectation that the DOD conference will be finished and ready to go and voted on sometime next week, but I am not advised as to when during the week that we might anticipate voting on it.

Mr. HOYER. Mr. Leader, there has been a lot of discussion, and I have read some things in the newspaper and heard discussions, about the child tax credit bill which has been pending for some time in conference.

Can the gentleman tell me whether or not there is an intention to move that out of conference; and, if so, what condition will it be in in terms of what will there be in the bill, if the gentleman knows, in addition to the originally passed child tax credit? I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. We have been working to extend the child tax credit, the 10 percent tax bracket, and the marriage penalty tax relief provisions from the 2001 and 2003 tax bills. I would anticipate that the bill, well, I cannot say what else might be in the bill. The conference has yet to be called into a meeting, but in discussions with the other body, it seems to be that most want to keep this bill as simple as possible; and I hope we can find a way to send these tax measures to the President before the August recess.

Mr. HOYER. Mr. Speaker, does the gentleman have a view that if there was some disagreement and an agreement could not be reached on the other matters above and beyond the child tax credit, would the gentleman's expectation be that the child tax credit might be moved independently? Could the gentleman see a scenario that would result in that? I yield to my friend.

Mr. DELAY. Mr. Speaker, that is speculation and I hate to speculate, but I know that this House has voted several times on these issues, and I know that the House wants to see a 10 percent tax bracket, the marriage penalty, and the child tax credit provisions to be extended and funded; and I would tend to think that the bill would have to come back with at least those provisions in it.

Mr. HOYER. Mr. Speaker, H.R. 3313, what day does the gentleman anticipate we will consider this bill? That is the Defense of Marriage Act. I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. I expect that that will come on Thursday. As the gentleman knows, sometimes these appropriations bills take longer than we anticipate. If they do, then it could be pushed over into Friday, but our intention is to bring that bill to the floor on Thursday.

Mr. HOYER. Mr. Speaker, reclaiming my time, I would hope that during the consideration of the child tax credit, assuming the conference is going to meet, that our conferees be included in that conference. As the gentleman knows, we feel pretty strongly about the fact that if conferences are held; those Democratic conferees that have been appointed by the Speaker need to be invited and to be able to participate in those. So I would urge that to occur when and if that conference is convened.

Mr. DELAY. Mr. Speaker, if the gentleman will yield.

Mr. HOYER. I am glad to yield.

Mr. DELAY. I would have every reason to believe that if we can get the other body to call the meeting, then, surely, the Democrats on the conference committee, along with the Republicans, would all have invitations to that meeting.

Mr. HOYER. I thank the gentleman, and I yield back the balance of my time.

ADJOURNMENT TO MONDAY, JULY 19, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY COMMITTEE ON RULES ON AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 3313, MARRIAGE PROTECTION ACT OF 2004

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of July 19, 2004, to grant a rule which could limit the amendment process for floor consideration of H.R. 3313, the Marriage Protection Act of 2004. The Committee on the Judiciary ordered H.R. 3313 reported on July 14, 2004, and is expected to file its report with the House on July 19, 2004.

Any Member wishing to offer an amendment to the bill should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H–312 of the Capitol by 10 a.m. on Wednesday, July 21, 2004. Members should draft their amendments to the text of the bill as reported by the Committee on the Judiciary. Members also are advised that the text should be available for their review on the Web sites of both the Committee on the Judiciary and the Committee on Rules by Friday, July 16, 2004.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain that their amendments comply with the Rules of the House.

UNITED STATES-MOROCCO FREE TRADE AGREEMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–201)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit legislation and supporting documents prepared by my Administration to implement the United States-Morocco Free Trade Agreement (the "Agreement" or the "FTA"). This Agreement enhances our bilateral relationship with a long-standing partnership in the North Africa and Middle East region. The Agreement will benefit the people of the United States and Morocco, illustrating to other developing countries the advantage of open markets.

This Agreement is a strong demonstration of my Administration's commitment to opening markets, leveling the playing field, and expanding opportunities for American workers, manufacturers, businesses, farmers, and consumers. In negotiating this Agreement, my Administration was guided by the negotiating objectives set out in the Trade Act of 2002. The Agreement will expand Morocco's market for U.S. manufactured goods, agricultural products, services, and investment. As soon as this Agreement enters into force, tariffs will be eliminated on virtually all manufactured goods traded between our countries.

The Agreement provides U.S. producers of beef, poultry, wheat, corn, soybeans, and other agriculture products with increased access to Morocco's market, while complementing Morocco's agriculture reform program. In addition, the Agreement provides the opportunity for U.S. producers to adjust to increased imports from Morocco, if necessary.

New opportunities for U.S. services firms will be opened, U.S. investment will be protected, and U.S. companies will be able to participate in government procurement opportunities on the same basis as Moroccan firms. This Agreement has some of the strongest intellectual property protections ever contained in a U.S. trade agreement with a developing country.

The United States and Morocco have agreed to cooperate on environment and Labor issues and to establish mechanisms supporting those efforts. Negotiation of this Agreement has promoted adoption of a new labor law in Morocco. This Agreement has also helped lead to improved domestic environmental laws in Morocco, and a number of additional cooperative projects have been identified for future work.

The approval of this Agreement will be another important step in implementing our plan for a broader Middle East Free Trade Area. Indeed, this Agreement offers the United States an opportunity to encourage economic reform in a moderate Muslim nation, as we have done with the Jordan FTA and the recently concluded Bahrain FTA. Leaders in Morocco support a reformist and tolerant vision that includes free parliamentary elections, the sale of state-owned businesses, the encouragement of foreign investment that can be connected to broad-based development, and better protection of the rights of women and workers. It is strongly in the interests of the United States to embrace these reforms and do what we can to encourage them. Passing this Agreement is a critical step in that direction.

GEORGE W. BUSH.
THE WHITE HOUSE, *July 15, 2004*.

□ 2245

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KING of Iowa). Votes on H.R. 1587, S. Con. Res 114 and S. 2264 will be taken on Monday.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

STATEMENT ON SMART SECURITY AND LETTER TO SECRETARY TOM RIDGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, earlier this week Deforest Soaries, chairman of the U.S. Election Assistance Commission, asked Homeland Security Secretary Tom Ridge to consider seeking the authority to postpone a Federal election.

In response, I have composed a letter to Secretary Ridge expressing dismay at the very possibility of postponing an election. The letter has been signed by 90 other Members of Congress. Ninety percent of the Democrats have signed this letter and one Republican.

Mr. Speaker, the leader reads, "Dear Secretary Ridge, we are deeply troubled by reports that the Department of Homeland Security has asked the Justice Department's Office of Legal Counsel to analyze what steps would need to be taken to postpone the Presidential election in November of this year.

"We are also concerned that this important issue was not raised last week when Homeland Security Under Secretary Asa Hutchison, FBI Director Robert Mueller and Terrorist Threat and Interrogation Center Director John Brennan briefed Members of the Congress on the possibility of terrorist attacks affecting the upcoming elections.

"Any action taken by the Department of Homeland Security to postpone a Federal election, including requesting an informal review by the Justice Department, would present the greatest threat to date of our democratic process and would invite terrorists to disrupt the selection of our highest leader.

"The mere consideration of postponing an election, the very basis upon which our American democracy is founded, is a capitulation to terrorism. Wars, droughts, floods and hurricanes have not stopped elections, and the possibility of a terrorist attack must not stop one either.

"This move would be unprecedented for a Presidential election. Not even the Civil War stopped the 1864 Presidential election. In 1864, President Lincoln stated," and I quote President Lincoln in my letter, "'We cannot have free government without elections, and if the rebellion could force us to forego or postpone a national election, it might already fairly claim to have conquered or ruined us.'"

The letter continues, "Moreover, such a proposal suggests that State officials responsible for elections in their region are incapable of deciding for themselves what steps to take in the event of a catastrophe. The legislative branch of the government has always held the authority to regulate elections. Now is not the time to transfer this authority to the executive branch. In the event of a terrorist attack, we trust that the respective legislatures across the Nation will make the right decisions to ensure that our democratic process remains intact.

"Fighting terrorism and preventing terrorists from changing our democratic process is the greatest fight we face in America today, but postponing an election due to the possibility of a terrorist attack, or even in the event of an actual terrorist attack, would represent the greatest possible loss for democracy and victory for terrorism.

"Let us make sure that in the fight against terrorism we do not sacrifice the very values we are fighting for in the first place. We urge you to take no further steps to postpone this year's Presidential election."

Mr. Speaker, this letter is signed by 190 other Members of Congress. Each of these Members realizes there must be a way to both fight terrorism and hold onto the democratic ideals that make our country great. And there is.

I have introduced H. Con. Res. 392, the SMART Security Resolution, which provides a better way to address the threat of terrorism. SMART stands for Sensible, Multilateral, American Response to Terrorism.

SMART would prevent future acts of terrorism. It is more vigilant than the President on fighting terror. Instead of emphasizing military force, SMART focuses on multilateral partnerships and stronger intelligence capabilities to track and detain terrorists.

Mr. Speaker, after hearing about our letter in the House, DeForest Soaries revised his previous remarks. He claimed he could not conceive of any circumstances under which a Presidential election could be postponed or cancelled. Apparently, our message has gotten through. We must be smart about how we react to terrorist threats, and that means never sacrificing the democratic principles that make this country great.

ORDER OF BUSINESS

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A LEADER'S RESPONSIBILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr.

McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, in London yesterday Prime Minister Tony Blair did something that leaders do. Speaking to the House of Commons, Mr. Blair said, "I accept full responsibility for the way the issue was presented and, therefore, for any errors made."

Leaders lead, and leaders know the buck stops with them. Leaders lead, and leaders accept responsibility when things go wrong.

An independent report in England blamed its intelligence community for massive intelligence failures before the Iraq war. What did Tony Blair do? The Prime Minister got up in front of his nation and the world and accepted personal responsibility.

That did not happen when a similar report was released to the United States. The President did not accept responsibility. The President assigned blame.

In 1961, President John F. Kennedy accepted full responsibility for the Bay of Pigs fiasco. It did not matter that the planning for the Bay of Pigs had started in the Eisenhower administration. It did not matter that the intelligence failures directly led to the foreign policy disaster that was the Bay of Pigs. President Kennedy stood before the Nation and the world and accepted personal responsibility.

At one news conference not long afterward, President Kennedy used his legendary wit and intelligence to sum it up. "There is an old saying," Kennedy said, "that victory has a hundred fathers and defeat is an orphan."

The buck stops at the President's desk, except in this administration. Since the release of the U.S. report on pre-Iraqi intelligence failures, this President has done everything possible to pass the buck.

During the administration of President Ronald Reagan, the Iran-Contra scandal was a crisis that shook the Nation to its core and the White House to its foundation. President Reagan was given ample opportunity to assign the blame to Oliver North. What did Ronald Reagan do? When asked directly about Mr. North, Ronald Reagan said, "I do not feel betrayed. He has a fine record."

Leaders lead. Whatever your politics, you have to acknowledge that President Reagan was a leader. When our country faces a crisis, people look to the President for leadership.

Not long ago, America faced a moral crisis. America faced an ethical crisis. America faced a military and political crisis. When pictures of prison abuse stunned the world, the world looked to America, to our President, for a response. The President did not stand up and accept responsibility.

Outside the White House and then in an interview broadcast throughout the Middle East, the President did not or could not or would not tell the world he accepts responsibilities for the failures of the Americans under his command. He could not utter the words that the world needed to hear and that Americans needed to say.

Over the last half century, Presidents from both political parties have braved grave crises. They did what leaders do. They did not pass the buck. They stood and accepted responsibility, until now.

In little over 110 days, the American people will elect a new President, and leadership is fundamental to that choice.

The British historian Arnold Toynbee once said, "As human beings, we are endowed with freedom of choice, and we cannot shuffle off our responsibility upon the shoulders of God or nature. We must shoulder it ourselves. It is up to us."

Martin Luther King Junior once said, "The ultimate measure of a man is not where he stands in moments of comfort and convenience but where he stands at times of challenge and controversy."

In just over 110 days, this Nation will make the most important political decision of the next 4 years. Democrats and Republicans will argue issues, and that is expected, but fundamental to the selection of the person who leads the free world for the next 4 years is the quality of leadership. Leadership is more than a commercial or a campaign brochure. Leadership is one of the most important qualities the President must have. There is a record of what America expects and what Americans demand of their President. Leadership is at the top of the list.

The President had to be taken out twice from the White House to finally say that he was sorry for what had happened to the Arab prisoners that were held in Iraq. You have to ask yourself, does this President believe that the requirement of his job is to accept the responsibility, Mr. Speaker? Because he has not shown it yet. He never has said, "I accept responsibility."

One hundred and ten more days, Mr. Speaker.

ORDER OF BUSINESS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

GENOCIDE IN SUDAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, we have just had a very vigorous debate on the foreign policy of America. There are many issues that drew the attention of Members. Many of those issues centered around the issues of human rights and even genocide. But as we end this week I think it is important to remind Americans again that genocide does exist, and it is actively being implemented in the nation of Sudan in Africa.

Many of us have been meeting over a series of days and weeks to find an immediate resolution to this horrible and horrific crisis. I am gratified that a resolution sponsored by the gentleman from New Jersey (Mr. PAYNE) and the gentleman from Virginia (Mr. WOLF) have now been offered in the Senate by Senators BROWNBACK and CORZINE.

□ 2300

The other body is speaking, and we are likewise seeking an immediate response in the House. But even these actions are not enough, and I would hope next week that my colleagues would have the opportunity to vote on a resolution that declares that the government of Sudan is implementing and perpetrating genocide.

What is the crux of the crisis, and why do I come to the floor of the House to continuously remind Members along with others who have been in the leadership role on this issue that we cannot forget? Why? Because just a few short years ago we are reminded of the million-plus that died in Rwanda while the world simply watched. So many of us have said, "Not on my clock."

With every fabric of our bodies, we are refusing to allow the murderous act of the Janjaweed in Sudan and the Khartoum government to continue without impunity. People are dying, and we must cease and have them cease and desist.

Allow me to share some of the words of John Prendergast, who was formerly with African affairs in the Clinton administration and now with the International Crisis Group. He had a unique experience. Making note of the fact that many Members of Congress have gone to Sudan, others will be going. Secretary of State Powell has gone. Secretary General Kofi Annan has gone, but they along with others have been in areas controlled by the government. Mr. Prendergast was able to cross over to areas not controlled by the government, and this is what he saw.

He said, "Indeed, I saw numbing evidence of such a campaign in this Muslim region of Sudan which is populated by Arabs and non-Arabs. Burned villages confirmed harrowing stories we heard from Darfurians who were lucky enough to make it to the refugee camps in Chad. About 1.5 million people have been left homeless and as many as 300,000 may be dead by year's end. In village after village that I visited, the painstakingly accumulated wealth of the non-Arab population of

Darfur, their livestock, their homes, their grain stock, have been destroyed in a matter of minutes. I was not prepared for the far more sinister scene that I encountered in a ravine deep in the Darfur desert. Bodies of young men were lined up in ditches, eerily preserved by the 130 degree desert heat. The story the rebels told us seemed plausible. The dead were civilians who had been marched up a hill and executed by the Arab-led government before its troops abandoned the area the previous month. The rebels assert that there were many, many other such scenes."

The government's deadly portfolio in Darfur already includes the wanton burning and bombing of villages, the raping of women and girls, and denial of humanitarian aid. We know this is government and this is Arab Muslims against non-Arab Muslims, black Africans.

We realize that it is, plain and simple, genocide. And so we ask that there be more than tough talk. There has to be tough action. The United Nations Security Council must pass a resolution that has teeth. It must demand the immediate disarming of those Muslims or those Arab Muslims and others who are fostering this deadly attack on the black Muslims in Sudan.

The settlement of the previous actions between the West should not counter what is going on here in Darfur. It is important to note that, though we are visiting camps and refugees, we must understand that there are areas that have not yet been viewed and violence continues. We must ensure that this resolution calls for peacekeeping troops, and we must ensure that the humanitarian aid begins to flow. We must protect the humanitarian workers. We must stop the raping and killing of women, young men and boys.

We must have these individuals returned to their villages. They are frightened and refusing to return because they believe they will not be provided for. Hundreds of thousands of survivors have fallen through the cracks. Some of them say they are afraid to travel to government-controlled camps and unable to make it to the border. They are running out of food.

We can imagine 300,000 today; 400,000 tomorrow; 500,000 next month; and a million in a couple of months.

Mr. Speaker, this is now a crisis beyond our appreciation, apprehension, and maybe even recognition. But we do have a backdrop to compare this to. We have the deadly silence of Rwanda. The speechlessness, the wonderment of what to do.

We can do something now. We look forward, hopefully, with great hope, meeting with the administration to craft out the advocacy before the United Nations Security Council and all nations that sit on the Security Council, that have the privilege of sitting. None of them will be given a pass on this vote. They must join with us who believe in a civilized world to stamp out the genocide occurring in Sudan. We must do it now. The resolution must be passed, and we must stand up and send in the kind of help to provide the safety necessary to protect the people in Sudan.

30–SOMETHING DEMOCRATS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. RYAN) is recognized for half the time until midnight as the designee of the minority leader.

Mr. RYAN of Ohio. Mr. Speaker, I will not quite take our whole half hour. It has been a very long week; and we know everyone wants to get home here, especially the staff, so we will be brief.

There are a couple of issues that I want to touch upon this evening as we have wrapped up legislative business for the week. This is our normal 30–Something hour where the gentleman from Florida and I and Members of the 30–Something Caucus on the Democratic side will talk about issues. Unfortunately, I am flying solo tonight, and I am missing my wing man from Florida who is not here with me. But I am going to persevere.

There are a couple of issues that I would just like to touch upon here in the next couple of minutes. One of the issues that we have been talking about over the past few weeks and almost a few months now is the issue of voter suppression for college students. This is a major issue throughout the country, regardless of what State you live in, regarding voter suppression for these college students. And in a lot of counties, the boards of elections and the people who work at the boards of elections will tell college students that they cannot vote where they live if they are away at school. They are saying that is not a permanent residence.

The Supreme Court established in 1979 under Federal law that students who reside in dorms are allowed to vote where they live. And there have been thousands of students throughout the country who have been denied their franchise because the local boards of election said that they cannot vote there by saying that they are not permanent residents. But both Federal and State courts have clearly established that students have the right to vote where they go to school, even if they live in a dorm.

So a lot of workers would say, well, you live in a dorm. Well, you cannot vote here; or you live out of State, you cannot vote here and you are not allowed. A lot of this has to do with the local politics. But the bottom line is that if you are away at school, whether it is in your State or outside of your State, you can register to vote where you go to school. And that is very important.

The gentleman from Florida (Mr. MEEK) and I are working on this with Rock the Vote, with the different Secretary of States organizations, and this is something that should be a bipartisan issue. This is not a Democratic issue. It is not a Republican issue.

We hear a lot of complaints about why young people will not engage in the political process; but if we as legislators are not taking issue with the fact that a lot of these young students are denied their right to vote, we cannot expect them to vote. We cannot expect them to want to participate in this system.

I want to share just a couple of stories here tonight: one from Texas, one from Arkansas, and I think the last one is from Maine regarding this issue. Also in Florida. Let me share one from Texas.

□ 2310

Prairie View A&M, a predominantly black university in a white county. The local district attorney threatened to prosecute students for fraud if they voted. So the local DA is telling these students that they cannot vote and threatening them with charges of fraud.

The students organized a march on Martin Luther King Day, sued the district attorney for voter intimidation. The Secretary of State issued a statement upholding the students' right to vote, and now the students are fighting to get a polling place on campus and to have early voting. The battle continues. That was in the Houston Chronicle on January 23 of this year.

Same kind of situation in Arkansas. Students with the support of the ACLU filed an injunction that would protect their right to register their college residency, and they won the appeal. Same situation at Florida A&M, and also the same situation in Maine.

So what we want to do tonight is just let these students know across the country, contact your Secretary of State's office. Demand that they issue you a copy of this Supreme Court decision. Tell them to contact the local board of elections. Contact the board of elections where your school is now so that they have time to get the information. We cannot wait until the last few days when you cannot even register to vote and the local board of election is still denying you your right to vote.

So this is major issue. I want to share with the people at home, give us an e-mail, 30somethingdems@mail.house.gov. Send us an e-mail.

Unfortunately, we are getting stories left and right about the voter suppression, and it is something we really need to talk about and keep touching upon, but also, contact your State Secretary of State who is handling the elections because this is an issue that I think we need to engage, not only as young people but as people who are citizens of the United States of America because it is such an important issue.

I think it is an important issue for a variety of reasons. One is obviously the constitutional issue and the protection of each citizen's franchise, but another issue I think is this.

We are in a time of dramatic change in our country, and we are creating a new system. We are creating a new economic system. In many ways, we are creating a new political system and the way it should be run. Young people are vital to this process of creating a new economy, and we have talked here for many, many weeks about the importance of education, the importance of funding education, the importance of funding the Pell grants, the importance of making sure that students have access to student loans, the $25 billion that the Democratic proposal says we want to give to the States to reduce tuition costs across the country. That is vital and those programs are vital because we need to educate these kids and let them go out and create the new economy.

So, again, it is the 30somethingdems@mail.house.gov. Send us an e-mail if you have any issues regarding voter suppression at your campus. Write your local Secretary of State.

Again, this is a bipartisan issue. This is not an issue that we want to be partisan, Democrat or Republican. This is an issue about protecting, because quite frankly there are universities out there that are Republican universities, and those students should have the right there as well.

Mr. BURGESS. Mr. Speaker, will the gentleman yield?

Mr. RYAN of Ohio. I yield to the gentleman from Texas.

Mr. BURGESS. Mr. Speaker, if it is a bipartisan issue, I would point out to the gentleman, since he referenced the Texas case, for those students who wish to vote in their college town, it is going to be necessary to change their legal residence to their college dormitory. It is done all the time. You can live in a college dorm, you can live in a tent, you can live in a van by the river, but you do need to change your legal residence. Many people elect not to do that because their residence changes frequently during their college years and they stay at their parents' residence. If they do that and their parents live in Houston and they live at Prairie View, they are not going to be able to vote in that town, but if you change your legal residence in Texas 30 days before the election, you can vote, no problem. Thank you.

Mr. RYAN of Ohio. Reclaiming my time, I thank the gentleman. He is absolutely right; you are allowed by law to vote. The problem is you get, in this case, a local district attorney, or in many, many instances that we have, you have people who work at the board of elections who just say, no, you are not allowed because they just do not understand the ruling.

So we are trying to get, and I hope the gentleman will help me, we are trying to get people to contact the Secretary of State offices all around the country and let them send a copy of this 1979 Supreme Court decision to the local boards and allow them to just have the knowledge, just have the information because the Supreme Court has already ruled. I agree, if you are not willing to live and make it a residency, maybe that is another issue, but these are kids who have established permanent residency at the college campus and have been denied their franchise.

Mr. BURGESS. Mr. Speaker, if the gentleman yield, let us not make the process more complicated than it need be. We do not need to involve the Secretary of State. They simply need to change their residence.

At the University of North Texas in my district in Denton, Texas, the NAACP organized a voter drive, and it was called "Sleep Here, Vote Here." They received an award from the NAACP for their efforts. They have had no problem instituting it.

The difficulty comes if you have not changed your residence 30 days before the election. People do not realize that, and then they feel they are unfairly disenfranchised.

Again, to go to the Secretary of State to do a simple change of address is unnecessarily complicating the process, and I am afraid the gentleman will drive more people out of the process by making them call Austin or whatever the capital of Ohio is, I do not even know, but making them call the State capital to talk to the Secretary of State.

Mr. RYAN of Ohio. Reclaiming my time, Columbus is the capital of the State of Ohio, and the point I want to make, and the gentleman reiterated the point, absolutely, if you are not a permanent resident, that is one thing. But we have kids, students around the country who want to be registered as permanent residents, they want to vote at the college campus, and the local DA is saying we are going to charge you with fraud or you are not a permanent resident.

So we are saying, given those facts, you should be able to register at that college campus and vote at that college campus, and all we want to do is not complicate the process. We want the Secretary of States to issue the 1979 Supreme Court ruling to the local boards so that they know firsthand that if a college kid comes in and establishes permanent residency that they would be able to vote.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. RYAN of Ohio. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, first of all, I want to thank the distinguished gentleman from the great State of Ohio for coming forward, along with his caucus, for a very excellent presentation.

Let me just quickly say, you could not be more right, and this could not be a more vital and timely effort on behalf of college students around the Nation.

I am going to put on a lawyer's hat just for a little bit. That case came out of Prairie View A&M, Prairie View, Texas, and believe it or not, just a few short months ago, we had to march with 7,000 students and community leaders to make the very point again, because the students in Prairie View, Texas, were being denied the right to vote by the district attorney of that county.

We had to then solicit the assistance of the Secretary of State, the Department of Justice, and the governor of the State of Texas to pronounce the rights of those students, and thereby, the rights of students in Denton, Texas, and those in Corpus and those in San Antonio, maybe in Columbus, Ohio; New York City, to have the right to vote, register to vote in your place of residence.

I do not like the term "permanent residence," and the reason why I do not like that is because it suggests an onerous burden that is not true. If you declare that you are a resident of that community, for that framework, that you are not voting in another location, meaning that you have left the residency of your parents or wherever you live and you have taken up residence, because the distinguished gentleman, someone may move from where they graduate from school and become a resident of New York, but as long as they are not voting in New York and Texas then they have taken up residency in New York.

☐ 2320

And they have the right to vote.

This is an election year of the greatest moment, if you will. And that means that we are trying to encourage our young people to participate in the democratic process of elections. And what happened in Prairie View, Texas, in this year on the date of the birthday of Martin Luther King, which was the date of that particular decision, January 15, 1979, was the reason we had to march again January 15, 2004, to declare the rights of those young people to be able to vote.

So I think that the gentleman's plea today, the gentleman's request today is paramount. And all of the Secretaries of State, and it may be the Secretary of State in one State, it may be the Attorney General or it may be the Governor. But what the gentleman is suggesting is that there has to be the pronouncement that if you have taken up residence, if you have an address, if you have left the residency of your past location, family, etc., if you are not voting in two places, which none of us are arguing for. Then you have the right to vote.

Mr. Speaker, I will close on this. Intimidation is real. It has occurred. I am a living witness to listening to students who were intimidated from not only voting but even registering. There is a suggestion that in towns where you might think there is conflict between town and gown that this creates an agitation. I believe if we create an atmosphere that eliminates intimidation, we will find that our students on college campuses will be the best community citizens in various parts of communities that we could ever find.

These are young people who are vital, they are vibrant, and they simply want to participate. Many of them are volunteers, many of them participate in helping in humanitarian efforts in the community. They are good community citizens.

I would simply argue that the gentleman has an excellent point that is being made, and I want to thank the gentleman on behalf of the students of Prairie View A&M, because the gentleman is using them symbolically for the troubles we had in Texas that we had to fix, not by a simple request. And since many of us were physically meeting with that district attorney, it was not just a simple request.

We thanked that district attorney's office for conceding getting an opinion from the Attorney General and from the Secretary of State and from the Governor of the State of Texas. Because I can assure my colleague that no one would want to have every single college town have to have a march of 7,000 people to get their votes.

So I hope what the gentleman has offered today will be heard by many of our colleagues, and that we will check on our college campuses, check on our students and ensure that our election officials are very much aware of this very worthy decision and the gentleman's great leadership on this issue.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentlewoman from Texas for sharing her personal experience with us. It was obviously just something that had to be done.

Let me share so there is no confusion here. The case we were just talking about, the local district attorney threatened to prosecute students for fraud if they voted. I already mentioned this school in Arkansas.

At Florida A&M, during the 2000 general election, 5,000 students were turned away from polling locations at the Historically Black University. Students have also reported receiving two voter registration cards with different polling locations. Others were turned away and told to vote at off-campus polling sites, while more students were informed that they had never been registered.

In Maine, the same kind of situation. The town registrar of Brunswick, Maine, turned students away from the polls by using misleading questions regarding residency. Students were informed if they registered in the county of their college or university, now listen to this, that they would risk losing financial aid, health care, driver's license and/or car registration. The students began campaigning and eventually protested. They gained national media coverage, defeated the legislation with a unanimous vote because they tried to manipulate the legislative process there.

So this is really happening. It is happening in Maine, Arkansas, Texas; and it is probably happening all over the country. Send us an e-mail, let us know, contact your local Secretary of State or whoever in your State is in charge of the voting. This is a very important issue.

We are not saying we want anybody to be able, as the gentlewoman from Texas said, to be able to vote in a couple of different places; but these are students. They have the right to vote. They qualify and they should be able to participate in the political process.

So that wraps it up for the 30-Something 20 minutes this week, Mr. Speaker.

FLIPFLOPS ON IRAQ AND AL QAEDA

The SPEAKER pro tempore (Mr. KING of Iowa). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Mexico (Mr. PEARCE) is recognized for the remaining time until midnight as the designee of the majority leader.

Mr. PEARCE. Mr. Speaker, I would assume that is eastern time midnight and not time in my district midnight. We could always hope, but I will make the assumption that is eastern time.

Mr. Speaker, before I start into the text of my discussion tonight, I would like to commend the gentlewoman from Texas (Ms. JACKSON-LEE) for her comment that the U.N. Security Council must pass a resolution that has teeth. That was exactly the position many of the Members on this side of the aisle felt like 1441 should have been, a resolution that had teeth in it. But, actually, it turned out not to be, and that is unfortunate. But her point is well made that the Security Council lacks the ability to enforce things that should be enforced.

Mr. Speaker, I am joined tonight by the gentleman from Texas (Mr. BURGESS), the gentleman from Michigan (Mr. MCCOTTER), and the gentleman from Utah (Mr. BISHOP). We want to talk about Iraq and al Qaeda.

It is one thing when politicians flipflop, and we have an example now. One of the Presidential candidates, Senator KERRY, has shown a willingness to flipflop and play both sides of an issue. But it is especially reprehensible when our media begins to flipflop. As we discuss this issue tonight on Iraq and al Qaeda, we are going to show instances where the media, in 1999, 2000, and beyond, were perfectly content, under the Clinton administration, to acknowledge the ties between al Qaeda and Iraq. Yet under President Bush, they have decided that they will disaffirm that; that instead of the truth, their agenda is more important. They have elected to now say that there is no connection, when the facts clearly show that there has been a strong connection between al Qaeda and Iraq.

In reviewing this, I am reminded of the New York Times scandal where the writer from the New York Times was just simply making up stories and writing things without facts. CNN produced even an eye witness, a teenage boy, that they declared was talking about how the President had coerced him into denying pressure. When the young man was actually talked to, he explained that, no, the White House had never contacted him at all. The CNN reporter simply made up the story and was allowed to do that by her superiors.

It is this manipulation of the truth, it is this flipflopping on the issues that makes it very difficult for Americans to understand exactly what is happening.

For the first section on tonight's discussion, I would like for the gentleman from Texas (Mr. BURGESS) to discuss an account that occurred today when Iraqi women visited in this Capitol and visited with Members of Congress. The Iraqi women were being asked, should America have come to Iraq, and was the war the right thing to do.

Mr. Speaker, I would yield to the gentleman to discuss the responses that were given today.

Mr. BURGESS. Mr. Speaker, I thank the gentleman for yielding to me, and I also thank him for putting this hour together this evening.

I think this is extremely important. Some of these things that we will not ever read of in the newspapers get reported here on the floor of the House because they do not seem to come out anywhere else.

Today, on Capitol Hill, in our Subcommittee on Health Policy, we were joined by about 25 women from the country of Iraq. They had been here for about a week studying various Federal agencies and how democracy works and how the business of our government runs. And, in fact, after our policy meeting today, several of the Members of Congress had one of the Iraqi women go with them for the remainder of the morning. I took one of the participants to the Committee on Science, where we were talking about space exploration.

It was kind of ironic, because we were talking about the bravery involved in space exploration, but these women showed great bravery in coming to this country to learn about democracy, to learn how disparate peoples work together to gain a common good. They took a big chance in doing that. In fact, some of them were too concerned to come out of the briefing room, where there were television cameras, because they did not want their faces filmed, for fear that they or their families would suffer back in Iraq.

☐ 2330

Surely these women showed a lot of bravery by coming here today and they shared a lot of stories with us.

There was, of course, some question about can all of the various different groups exist in the country of Iraq. One of the spokeswomen from the group said that truly religious imbalance in that country is, in fact, propaganda. They are a tightly interwoven and interconnected country, and they have been for years. They said playing politics with ethnicity is wrong, not only in Iraq but in this country, I believe, but certainly that was the message they wanted to give us.

They were generally happy with the new Prime Minister, Dr. Alawi. Several of them said it is too early to tell a lot about that administration, but the consensus of the women was that this is an Iraqi government and, therefore, it is good.

There is a big distinction between what is Iraqi and what comes from abroad, even to the point that the situation in Fallujah, a lot of the problems that have occurred in Fallujah, according to the women, were caused by people who came from abroad, that is, people who came from other countries.

One of the ladies there who was from the city of Fallujah said, "In so many ways Iraq is much more beautiful now. For the first time in years I have the freedom to drive in a car. The situation is getting better daily."

But Fallujah remains the magnet for terrorists and for outsiders seeking to influence the outcome in Iraq. She was very emphatic about Fallujah. She said, "Please finish the job."

I promised that I would relay that information to the Secretary of Defense, so, Mr. Rumsfeld, I hope you are paying attention this evening.

They went on to say, why give them a chance? Why should we give the foreign fighters a chance in Fallujah? It should have been stopped at the beginning. We are only giving them increased determination to do what they came there to do, which is to cause trouble for the country of Iraq. Unfortunately, from Fallujah on to Karbala and Najaf, the terrorists have moved.

One of the city leaders from Karbala was very well spoken and emotional in her talk. She said no one from Karbala was involved in the insurgency in that town. In fact, all of the victims of the fighting, all of the fighters who fell in that siege taken to the hospitals, none had identification on them that identified them as natives of the city of Karbala. They were all from outside the city. Unfortunately, now the city has been destroyed.

She wound up to say that she felt that women are the best ally that civilization has in dealing with extremism. I would agree with her about that. She said that Iraqi women have suffered a lot. Discrimination was common in Iraq for the past many years. There have been over 120 Assyrian villages that are just gone, destroyed. No one knows where the people have gone. Liberation for that individual was really one of the best things that had ever happened.

In response to a question that perhaps this country went into Iraq under false pretenses and perhaps we should not have gone, a woman stood up, and really this brought out a lot of participation from the ladies in the audience. The first woman stood up and quite accusatively said, "Why did you delay?"

Again, the city leader from the city of Karbala said, "Forty-eight people in my family are gone, and I don't know where they are. I don't know whether they're dead or alive. If they're dead, I don't know where they're buried. Why would you even ask this question?"

Another woman stood up and said, "Chemical warfare was used on my family. So many have been lost. Again, we don't know where they have gone. The liberation should have begun in 1991."

"Liberation was late," another woman said, "and we were left to be tortured."

Another woman told a very touching story of having to hear on the telephone from a relative who had been in prison, had his tongue cut out and his hand cut off and he was telephoning to try to tell them what had happened to him and her story was very, very difficult to listen to, I promise you.

So did we do the right thing in Iraq? History will judge. History will tell. Certainly these women who will do a lot to restore civil society in Iraq, in this group of women today, the answer was a resounding, yes, we did the right thing. Perhaps we took too long to get it done.

Mr. PEARCE. I thank the gentleman from Texas for those comments. Liberating Iraq was the right thing to do, and these women had the courage to come here to the United States Congress and to testify about the evils that have occurred under terrorism, under Saddam Hussein.

I think the compelling question that I heard from people who attended the event was, why did the world take so long? Why did you watch millions tortured and hundreds of thousands die before we came? Forty-eight members of one woman's family just cannot be found. She does not even know where they are buried. And we in this country have a press who is trying to indicate that there was no reason to be there.

I was especially ashamed when former Vice President Al Gore was quoted as saying, "The President convinced the country with a mixture of documents that turned out to be forged and blatantly false assertions that Saddam Hussein was in league with al Qaeda." I am sorry, but Mr. Gore must not have read the comments from the 9/11 Commission Chairman Thomas Kean, the comments made on the News Hour with Jim Lehrer, June 16, this year.

Mr. Kean said, "Yes, there were contacts between Iraq and al Qaeda, a number of them, some of them a little shadowy. They were definitely there."

Richard Clarke was quoted as saying, "There's absolutely no evidence that Iraq was ever supporting al Qaeda. Ever." Mr. Clarke was the head terrorism expert under President Clinton. It appears that he is covering his own trail because, again, the Vice Chairman of the 9/11 Commission says, "I don't think there's any doubt that there were contacts between Saddam Hussein's government and al Qaeda, Osama bin Laden's people."

Lee Hamilton, the Vice Chairman, also spoke on the News Hour with Jim Lehrer on June 16, 2004. Keep in mind that Mr. Hamilton is a former Democratic Congressman from Indiana who served for 34 years in this institution, and he is the one who is saying, "I don't think there's any doubt that there were contacts between Saddam Hussein's government and al Qaeda, Osama bin Laden's people."

And so we have members of the other party who are out on the stump every day accusing the U.S. and accusing President Bush of manufacturing documents when the 9/11 Commission has been very clear that there does not seem to be any doubt that there was cooperation between al Qaeda and Saddam Hussein.

The 9/11 Commission staff statement 15 says, "Bin Laden also explored possible cooperation with Iraq during his time in Sudan, despite his opposition to Hussein's secular regime. A senior Iraqi intelligence officer reportedly made three visits to Sudan, finally meeting with bin Laden in 1994. Bin Laden is said to have requested space to establish training camps as well as assistance in procuring weapons, but Iraq apparently never responded. There have been reports that contacts between Iraq and al Qaeda also occurred after bin Laden had returned to Afghanistan, but they do not appear to have resulted in a collaborative relationship."

We have many, many examples of the cooperation and the attempted cooperation between al Qaeda and bin Laden.

The Butler report on British intelligence affirms many of the same things, just in case there are those who believe that only the U.S. 9/11 Commission is finding the cooperation. The Butler report on British intelligence says, "We have reached the conclusion that, prior to the war, the Iraqi regime, A, had the strategic intention of resuming the pursuit of prohibited weapons; B, in support of that goal was carrying out illicit research and development and procurement activities to seek to sustain its indigenous capabilities; and, C, was developing ballistic missiles with a range longer than that permitted under relevant United Nations Security Council resolutions."

The Butler report continues, "We conclude that on the basis of the intelligence assessments at the time covering both Nigeria and the Democratic Republic of Congo, the statements on Iraqi attempts to buy uranium from Africa in the government's dossier, and by the Prime Minister in the House of Commons, were well-founded. By extension, we conclude also that the statement in President Bush's State of the Union address of 28 January, 2003, where the President stated that the British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa was well-founded," the Butler Commission concludes.

Before I go on, Mr. Speaker, I yield to the gentleman from Michigan (Mr. McCOTTER) to address this issue if he would.

Mr. McCOTTER. Mr. Speaker, the timing was impeccable tonight, to have heard the previous speaker from Ohio talking about the 30-something Democratic Caucus.

□ 2340

As a 38-year-old Republican, I am disappointed his bipartisan effort has not reached this far across the aisle to include some of the rest of us. Especially people my age, we are not baby boomers. We are Generation X. We grew up through the malaise of the Carter years. We grew up watching America internationally impotent in the world. We watched friends, neighbors, family lose their jobs under stagflation.

And then we watched Ronald Reagan's administration come in. We watched America be truly respected throughout the world. We watched free market economies grow and expand to provide opportunities for us as we left our college years, and we were blessed enough to see the fall of Godless communism throughout Eastern Europe.

But then we are also very practical opinion people for another reason, because shortly after that, we got to see our generation quoting Thomas Jefferson and James Madison on the streets of Tiananmen Square being gunned down by yet another totalitarian government, and we realized early on in life that life is a struggle between good and evil and in many ways it is a perpetual one.

My generation also had some difficult lessons to learn too. We were the first ones to realize that a sexual infection which was once curable could be superseded by sexual infections that could kill people; that we would have to continue to work our lives longer and longer with even the remote chance that we would have Social Security because we were the first generation smaller than the one that went in front of us, which was never part of the plan. We have to watch our parents, who are living longer, come to us for help as we try to watch the soaring cost of tuition for our own children behind us.

And perhaps because of the realistic, practical nature of my generation and perhaps something we have gotten from our grandparents, the Greatest Generation, that I think it is time on Iraq to ask some fundamental questions, and I think they are exceedingly fair questions to ask because no one has answered them and no one has bothered to posit any answers to them.

I want to know what the plan is from the minority party. The multilateral mantra has been disproved by the U.N.'s Oil-for-Food scandal, their inability to stop genocide in the Sudan or in Rwanda prior to that, and their abject anti-Americanism in so many of their member states.

Would we like to see multilateralism work and the reconstruction of Iraq? Absolutely. But I do not think we the American taxpayers should hold our breath until the governmental entity where we pay 22 percent of their core funding decides that they do not dislike us as much as they do.

So multilateralism is also not going to work because the Democratic approach to that has been quite simple. The Democratic Presidential nominee has derided and criticized our allies whose soldiers are fighting and dying next to us in the fields of Iraq as the coalition of the bribed and the coerced, the bought, and the extorted. How do they build an international coalition attacking their allies? Whom are they trying to add? One cannot attack their allies and add their adversaries and call that a true coalition, especially if one is trying to be the Commander in Chief of the United States Armed Forces.

So then we have to ask, what is the plan? We have not heard a plan. We have to ask, on the question of weapons of mass destruction, what constitutes a significant tie with al Qaeda? If one does not believe there were significant enough ties, there were contacts, although the same intelligence which is being derided is also being used to disprove that they were collaborative, which is quite an interesting feat rhetorically. I want to know under what circumstances, what was the threshold the minority party would hold Saddam Hussein to before they would engage in defending the United States of America without a veto from the U.N. When could we unilaterally protect ourselves if necessary?

Ten tons of yellow cake from Niger, which the French Government, the Italian Government, and the British Government still stand by exclusive of the bogus material, the one bogus document. What is the threshold? What is a collaborative link? What is their standard for defending the United States against an external threat from a terrorist-sponsoring state and a terrorist-sheltering state? If they did not like President Bush's, if they do not believe he had enough, then I ask them to tell us what their standard is so as we head into this election we can have a debate on issues, not individuals, because the American people deserve to know what they are going to do to defend this country if they hold public office today and tomorrow and probably for our lifetime in this war on terror. I think those are fair questions to ask.

I think we should also ask the question about the moral equivalency that we used to see between the Soviet Union and the United States and the left in this country, I want to ask the question where did the moral equivalency go? There is more outrage over Abu Ghraib prison than there is the treatment of American soldiers that are shot and killed by the insurgents and terrorists in Iraq. The actions at Abu Ghraib were horrible, but the purpose behind them was to gather information from people who were shooting at and trying to kill our troops to protect our troops and protect the United States citizens, just as it was at Guantanamo Bay. The goal of the terrorists that are violating every civilized notion of captivity, their goal is to foist terrorism back upon Iraq and back upon the rest of the world.

It is so sad, I would not even settle for moral equivalency from the left these days that would wax nostalgic for it.

Finally, I just find it very difficult to see this debate continue and not to see a plan. I reiterate that. We are sentient human beings. We have the gift of reason if we so choose to use it. And as we head into this troubled time for our country, deeper and deeper we go, the longer and longer it takes us to come to each other with ideas to debate and discuss for the common good that can be objectively analyzed and assessed by the electorate and by each other, the worse off we are going to be.

So in the future I would just ask a simple question of anyone who has any opinion on this, on Iraqi reconstruction, on weapons of mass destruction, on the role of the United Nations in this world. It is nice to have their protestation and opinion, but show me their plan and perhaps we can proceed together.

Mr. PEARCE. Mr. Speaker, I thank the gentleman for his comments and appreciate his attention to the key questions in this conversation.

I traveled to Iraq at the end of October and the first part of November with the gentleman from Michigan, and we saw the same things each day at noon for 3 days. Each day at noon and in the evening meal we were in chow halls with 6 and 7 and 800 young men and women from America. I would wander throughout giving New Mexico flag lapel pens to young men and women. The constant question I heard from young men and women there was why do my parents not know the truth about this war and why do they not know the truth about what we are doing here, the good that we are doing in reconstruction? Those were random contacts throughout every chow hall from Kirkuk to Baghdad to Tikrit. There is no explanation why the press refuses to tell the accuracies and instead to tell just one side, often not even telling that side with truth.

To address the concepts of why the press might act in such ways, I yield to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Speaker, the State of Utah has the honor of having a higher percentage of our members in the Reserve and the National Guard involved in the Mid East conflict than any other State in the Nation, and we bear that statistic with a great deal of pride.

I have attempted to make sure I was there to visit with every group of returning Reservists and Guardsmen from the State of Utah. And almost inevitably, as those individuals were coming back and we had a chance to talk briefly with their families, the message they were telling us is that what they are seeing or their families are seeing about the situation in the Mid East is not the same thing that they experienced as soldiers serving there. One of the great Utahans, Bob Gross, who has just returned from a year as a special senior adviser to the Iraqi ministry of labor and social services, had the same message to say, that what he experienced in his time there in Baghdad was not the same thing as the message that has been given. The question has to be why is this message seeming to be so garbled. Those experiencing the situation in Iraq and those talking to us who have lived there have a different message than what we may be having over the media.

In my respected opinion, part of that problem rests in our understanding of the purpose that we have there in the media. If the Members would go back with me, when I was a legislator in the State of Utah, one year we came to the State with a total new restructuring of the State retirement system.

□ 2350

I was very excited about this system going in there, because we had come up with a program that would actually enhance the benefits of the individuals on the retirement system and cut the costs to the State at the same time, and I thought we have reached political nirvana. We will be hailed as the conquering heroes. This is going to be the greatest PR coup that could ever happen, because we have done the impossible.

As we started the discussion of that restructuring, I realized it was not being covered by any of the media. Finally, with some courage, I went to one of the senior reporters who covers the legislature and I said why are you not covering anything about our total restructuring of the State retirement system?

He said, "ROB, you know, you are right. It is probably one of the four major issues before this legislature. But let's face facts, it is retirement issues. They are boring. No one wants to read or talk about retirement."

I recognized then and there, he was right. Those issues were boring. They were dull. I also recognized that the purpose of the media is not merely to explain events, it is not to tell the truth solely, it is also to sell papers and to attract viewers. And to do so, the emphasis must be on that which is unusual, on that which is a conflict. No one is ever going to report that 100 people safely crossed the street yesterday. They will report the one person who got hit. That is the reality of the situation.

If we expect all the issues, the truth to come out from the media sources by themselves, in all respects we are asking them to do something with which they are not capable, because not necessarily of intent, but because of the situation in which they have to be in a competitive world market to sell papers and attract viewers at the same time.

We always talk about Jefferson who said, "Were it left to me to decide whether we should have government without newspapers or newspapers without government, I should not hesitate a moment to prefer the latter."

That statement was made before he was ever president, before he spent 12 years actually in Washington, eight as president.

After his experience as president, Jefferson said, "The outright suppression of the press would be no more injurious to the public good than the newspaper's abandoned prostitution to falsehood."

Later also he later said, "The man who never looks into the newspaper is better informed than he who reads them."

Now, I not going to go that far, but I am going to tell you that what I think would be wise to do is look at history as one of the guiding factors in how we view the future and where we are going.

We all know that after World War II, there were American deaths in the effort to stabilize Germany, post-World War II, after the fighting supposedly had ended.

To me the most analogous historical situation is still the Spanish-American War. Then activist Teddy Roosevelt said it was not much of a war, but it was the only one we had. Senator Chandler on the Senate floor said any war with Spain will last between 2 weeks and 90 days, and he was totally accurate, the war lasted 90 days.

As America became giddy with success in the Spanish-American War, with very little bloodshed, we realize then we had the responsibilities of stabilizing the new territory of the Philippines. That stabilization took 6 years. That is where the bitterness was, that is where the deaths took place, that is where the cost was, in an effort for that stabilization, and it did not take place until the capture of the Filipino rebel leader, Emilio Aguinaldo, at which time the now President Teddy Roosevelt declared the stabilization effort successful and the war in the Philippines was over. In fact, the fighting of the insurrection still lasted two more years. But with the capture, then the corner had been turned.

We have done the same thing in Iraq. With the capture of Saddam Hussein, the court hearing of Saddam Hussein, the turning of government control over to the Iraqis themselves, this stabilization effort in Iraq is going forward, and it will be successful.

There are some who say there is no chance whatsoever of actually turning Iraq into a democracy. They said that same thing after World War II about Japan, another area that had no democratic tradition, that had fought a bitter war. But we were successful in our efforts of reforming that area, changing the system and moving forward.

May I quote with just some words from Mr. Gross, who once again, whose returned and his experience first-hand in Iraq, by saying some people would say, "Rather than fight in Iraq, we should fight terrorism. Well, terrorism has moved to Iraq. It is the center of that war on terrorism. Iraq is the pivotal point. Terrorists had either tacit or direct support from Saddam, and the U.S. and coalition forces have created a tremendous problem for the terrorists. And now the Jordanians and the Syrians and the Saudis will have to rethink their relationship with terrorists. Iraq is the linchpin."

We are moving forward in Iraq. It is important as a key element in this fight against the war on terror. It is possible to create a democracy in Iraq, which will have immense effects on assisting the United States in our relationship in the entire Middle East, and it is one of those things that we are going to have to fight and work through looking at history, not necessarily referring only to the mass media, which has different kinds of agendas of their own.

Mr. MCCOTTER. Mr. Speaker, if the gentleman will yield further, I am most impressed by the gentleman from Utah's understanding of the Spanish-American War. In fact, I would only add that there were also front page stories about American troops and captured insurgents in that war as well.

The gentleman brings up a very good point that I would welcome the opportunity to address, as my district has many constituents who are Iraqi and Arab American and, more importantly, many of my friends are.

One of the things we have heard repeatedly throughout this debate is the Iraqi people will not take to democracy, that they have suffered too long under a totalitarian yoke.

Well, what country could you not say that about in this world? Half have suffered under totalitarianism with no history of democracy, including up until the fall of the Soviet Union, Russian people themselves? How many Eastern European countries never knew full freedom, only knew serfdom and feudalism?

So I would like to add to my list of requests for plans one final one: Those people who believe that there are some human beings that cannot take to democracy, I would like your test and your complete list of those who you deem unfit for freedom.

Mr. PEARCE. Mr. Speaker, I thank both the gentlemen from Utah and Michigan, and am always compelled to understand that this institution is inhabited by people with great insights and great skills in communicating them, and they are demonstrating that tonight.

Mr. Speaker, as we conclude our time, I would like to mention that not only do we have the 9/11 Commission that has contradicted both Richard Clarke and former Vice President Al Gore, but also the Butler Report and the Senate Intelligence report which just came out had several conclusions, and I will just briefly go through those, because we have so many things to cover in the last 5 minutes.

But Conclusion 1, Iraq was procuring dual use equipment that had potential nuclear applications, this from the U.S. Senate Permanent Select Committee on Intelligence reporting on the U.S. pre-war intelligence assessment on Iraq.

Also the intelligence reporting did support the conclusion that chemical and biological weapons were within Iraq's technological capability, that Iraq was trying to procure dual-use materials.

Conclusion 91, that the CIA assessment that Iraq had maintained ties with Palestinian terrorist groups was supported by intelligence. The CIA was also reasonable in judging that Iraq appeared to have been reaching out to more effective terrorist groups, such as Hizbollah and Hamas.

Conclusion 92, that the indicators of a possible Iraq-al Qaeda relationship was a reasonable and objective approach to the question.

Conclusion 93 was the CIA reasonably assessed that there were several likely instances of contacts between Iraq and al Qaeda throughout the 1990s.

Conclusion 94 supports it.

Conclusion 95 supports it.

But if we go back to the news media, again looking at the news media's flip-flop on this issue, back in 1999, many in the news media were publicly reporting the ties and contacts between Iraq and al Qaeda.

Newsweek Magazine, the January 11, 1999 issue entitled "Saddam plus bin Laden," which read in part, "Saddam Hussein, who has a long record of supporting terrorism, is trying to rebuild his intelligence network overseas, assets that would allow him to establish a terrorism network. U.S. sources say he is reaching out to Islamic terrorists, including some who may be linked to Osama bin Laden, the wealthy Saudi exile accused of masterminding the bombing of two U.S. embassies in Africa last summer."

That article from Newsweek, January 11, 1999.

ABC News, on January 15, 1999, reported that intelligence sources say bin Laden's long relationship with the Iraqis began as he helped Saddam's fundamentalist government in their efforts to acquire weapons of mass destruction. It continues that ABC News has learned in December an Iraqi intelligence chief named Faruq Hijazi, now Iraq's ambassador to Turkey, made a secret trip to Afghanistan to meet with bin Laden. Three intelligence agencies tell ABC News they cannot be certain what was discussed, but almost certainly they say bin Laden had been told they will be welcome in Baghdad.

NPR reporter Mike Shuster reported in an interview with Vincent Cannistraro, who was the former head of the CIA's counterterrorism center, he says that Iraq's contacts with bin Laden go back some years to at least 1994, according to one U.S. Government source. Hijaz met with him when bin Laden lived in Sudan.

Mr. Speaker, when the news agencies declare these contacts under one President and disaffirm them under another, it makes them appear to have no more credibility than the National Enquirer.

Mr. Speaker, we have got several quotes here from Senators, and I recognize that my time has drawn to a close. Liberating Iraq was the right thing to do. The war on terror, al Qaeda, have close relationships with Iraq.

We will continue the discussion next week, Mr. Speaker.

CORRECTION TO THE CONGRESSIONAL RECORD OF TUESDAY, JULY 13, 2004, AT PAGE H5617

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3575

Mr. SNYDER. Mr. Speaker, due to a clerical error, the sponsor of H.R. 3575 inadvertently added my name as cosponsor; and I ask unanimous consent to have my name removed as a cosponsor of H.R. 3575.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DOGGETT (at the request of Ms. PELOSI) for today after 1:00 p.m. on account of a death in the family.

Ms. ROYBAL-ALLARD (at the request of Ms. PELOSI) for today after 4:00 p.m. on account of personal reasons.

Mr. QUINN (at the request of Mr. DELAY) for today on account of family medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. PEARCE) to revise and extend their remarks and include extraneous material:)

Mr. BILIRAKIS, for 5 minutes, July 22.

Mr. OSBORNE, for 5 minutes, July 19.

Mr. JONES of North Carolina, for 5 minutes, July 19 and 20.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 15. An act to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

S. 1167. An act to resolve boundary conflicts in Barry and Stone Counties in the State of Missouri.

ADJOURNMENT

Mr. PEARCE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), under its previous order, the House adjourned until Monday, July 19, 2004, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9096. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Brucellosis in Cattle; State and Area Classifications; Wyoming [Docket No. 04-009-2] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9097. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Revision of User Fees for 2004 Crop Cotton Classification Services to Growers [Doc. No. CN-03-007] (RIN: 0581-AC34) received July 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9098. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Lamb Promotion, Research, and Information Program: Rules and Regulations [No. LS-02-05] received July 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9099. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Lamb Promotion, Research, and Information Program: Rules and Regulations [No. LS-02-05] received July 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9100. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Milk in the Mideast Marketing Area: Order Amending the Order [Docket No. AO-361-A35; DA-01-04] received July 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9101. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Tart Cherries Grown in the States of Michigan, et al.; Revision of Current Procedures for Handlers To Receive Exempt Use/Diversion Credit for New Product and New Market Development Activities [Docket No. FV03-930-5-IFR] received July 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9102. A communication from the President of the United States, transmitting requests for FY 2005 budget amendments for the Departments of Agriculture, Health and Human Services, Housing and Urban Development, Justice, and Labor. In addition a FY 2004 language proposal for the Departments of Housing and Urban Development; (H. Doc. No. 108—200); to the Committee on Appropriations and ordered to be printed.

9103. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Written Assurance of Technical Data Conformity [DFARS Case 2003-D104] received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9104. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Use of FAR Part 12 for Performance-Based Contracting for Services [DFARS Case 2003-D111] received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9105. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Designated Countries — New European Union Members [DFARS Case 2004-D006] received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9106. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Firefighting Services Contracts [DFARS Case 2003-D107] received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9107. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Information Assurance [DFARS Case 2002-D020] received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9108. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Community Reinvestment Act Regulations [Regulation BB; Docket No. R-1205] Department of the Treasury, Office of the Comptroller of the Currency [Docket No. 04-17] (RIN: 1557-AC86); Federal Deposit Insurance Corporation (RIN: 3064-AC82); Department of the Treasury, Office of Thrift Supervision [No. 2004-28] (RIN: 1550- AB9) received July 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9109. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Investment Advisor Codes of Ethics [Release Nos. IA-2256, IC-26492; File No. S7-04-04] (RIN: 3235-AJ08) received July 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9110. A letter from the Secretary, Department of Education, transmitting the Department's final rule — Participation in Education Department Programs by Religious Organizations; Providing for Equal Treatment of All Education Program Participants (RIN: 1890-AA11) received July 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9111. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Effective Date of Requirement for Premarket Approval for Three Class III Preamendments Devices [Docket No. 2003N-0468] received July 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9112. A letter from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's final rule — Child Restraint Systems; Anthropomorphic Test Devices; Hybrid III Six-Year-Old Weighted Child Test Dummy [Docket No. NHTSA-04-18075] (RIN: 2127-AI58) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9113. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Rule concerning disclosures regarding energy consumption and water use of certain home appliances and other products required under the Energy Policy and Conservation Act ("Appliance Labeling Rule") — received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9114. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Amendment of Rules Under the FACT Act (RIN: 3084-AA94) received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9115. A letter from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting the Department's final rule — Revisions to the Export Adminsitration Regulations to Remove Certain Regional Stability and Crime Control License Requirements to the New North Atlantic Treaty Organization (NATO) Member Countries [Docket No. 040614182-4182-01] (RIN: 0694-AD11) received July 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9116. A letter from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Securities and Exchange Commission, transmitting the Department's final rule — Revision of Export and Reexport Restrictions on Cuba [Docket No. 040610179-4179-01] (RIN: 0694-AD17) received July 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9117. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Posting Regulations (RIN: 3206-AJ73) received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9118. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Extended Assignment Incentives (RIN: 3206-AK01) received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9119. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Managment Measures; Inseason Adjustments [Docket No. 031216314-3314-01; I.D. 062304A] received July 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9120. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Bluefin Tuna Catch Limit Adjustments [I.D. 061604A] received July 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9121. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 10 [Docket No. 040210050-4166-03; I.D. 011204A] (RIN: 0648-AN16) received July 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9122. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — International Fisheries Regulations; Pacific Tuna Fisheries [Docket No. 040423129-4165-02; I.D. 041404D] (RIN: 0648-AQ22) Recieved June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9123. A letter from the Director, Regulations and Forms Services, Bureau of Immigration and Customs Enforcement, Department of Homeland Security, transmitting the Department's final rule — Authorizing Collections of the Fee Levied on F, J, and M Nonimmigrant Classifications Under Public Law 104-208, SEVIS [ICE No. 2297-03] (RIN: 1653-AA23) received July 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9124. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule — Admission and Orientation Program: Removal From Rules [BOP-1110-F] (RIN: 1120-AB08) received July 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9125. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Penalties for Non-submission of Ballast Water Management Reports [USCG-2002-13147] (RIN: 1625-AA51) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9126. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revocation of Restricted Area 2938, Horseshoe Beach; FL [Docket No. FAA-2004-17177; Airspace Docket No. 04-ASO-4] (RIN: 2120-AA66) received June 3, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9127. A letter from the Paralegal Sepcialist, FAA, Department of Transportation, transmitting the Department's final rule — Modifcation of Class E Airspace; Iowa City, IA. [Docket No. FAA-2004-17143; Airspace Docket No. 04-ACE-91] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9128. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Neodesha, KS. [Docket No. FAA-2004-16988; Airspace Docket No. 04-ACE-6] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9129. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Paola, KS. [Docket No. FAA-2004-16987; Airspace Docket No. 04-ACE-5] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9130. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Charleston, MO. [Docket No. FAA-2004-17146; Airspace Docket No. 04-ACE-12] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9131. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30408; Amdt. No. 3092] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9132. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Restricted Area 2204, Oliktok Point; AK Correction [Docket No. FAA-2003-15410; Airspace Docket No. 03-AAL-1] (RIN: 2120-AA66) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9133. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Chardron, NE. [Docket No. FAA-2004-18012; Airspace Docket No. 04-ACE-41] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9134. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30409; Amdt. No. 3093] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9135. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; NARCO Avionics Inc. AT150 Transponders [Docket No. 2002-NE-32-AD; Amendment 39-13586; AD 2004-08-16] (RIN: 2120-AA64) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9136. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Re-Issuance of NASA FAR Supplement Subchapter E (RIN: 2700-AC68) received July 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KNOLLENBERG: Committee on Appropriations. H.R. 4837. A bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–607). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON: Committee on Energy and Commerce. S. 741. An act to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes (Rept. 108–608). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 3574. A bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes; with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than July 16, 2004, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X (Rept. 108–609, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. THORNBERRY (for himself, Mr. CARTER, Mr. NEUGEBAUER, Ms. JACKSON-LEE of Texas, Mr. BURGESS, Mr. FROST, Mr. EDWARDS, Mr. TURNER of Texas, Mr. CULBERSON, Mr. PAUL, Mr. HINOJOSA, Mr. SESSIONS, Mr. HALL, Mr. LAMPSON, Mr. REYES, Mr. ORTIZ, Mr. RODRIGUEZ, Mr. STENHOLM, Mr. BELL, Mr. BARTON of Texas, Mr. BONILLA, Mr. BRADY of Texas, Mr. DELAY, Ms. GRANGER, Mr. HENSARLING, Mr. SMITH of Texas, Mr. SANDLIN, Mr. GREEN of Texas, Mr. SAM JOHNSON of Texas, Mr. MORAN of Kansas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GONZALEZ, and Mr. DOGGETT):

H.R. 4836. A bill to name the Department of Veterans Affairs medical center in Amarillo, Texas, as the "Thomas E. Creek Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. WALDEN of Oregon (for himself and Mr. UDALL of New Mexico):

H.R. 4838. A bill to establish a Healthy Forest Youth Conservation Corps to provide a means by which young adults can carry out rehabilitation and enhancement projects to prevent fire and suppress fires, rehabilitate public land affected or altered by fires, and provide disaster relief, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY (for himself and Mr. BALLENGER):

H.R. 4839. A bill to authorize the establishment of a program to provide economic and infrastructure reconstruction assistance to the Republic of Haiti, and for other purposes; to the Committee on International Relations.

By Mr. CRANE (for himself, Mr. Boehner, Mr. Doolittle, Mr. Shaw, Mr. Cantor, Mr. Rogers of Michigan, Mr. Akin, Mr. Herger, Mr. Wilson of South Carolina, Mrs. Biggert, and Mr. English):

H.R. 4840. A bill to amend the Internal Revenue Code of 1986 to simplify the taxation of businesses; to the Committee on Ways and Means.

By Mr. BURNS:

H.R. 4841. A bill to amend the Internal Revenue Code of 1986 to simplify certain tax rules for individuals; to the Committee on Ways and Means.

By Mr. DeLAY (for himself and Mr. Rangel) (both by request):

H.R. 4842. A bill to implement the United States-Morocco Free Trade Agreement; to the Committee on Ways and Means.

By Mr. BAKER (for himself, Mr. Duncan, Mr. Berry, Mr. Young of Alaska, Mr. Cannon, Mr. Tauzin, Mr. Bishop of Utah, Mr. Otter, Mr. Doolittle, Mr. Forbes, and Mr. Ose):

H.R. 4843. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. JO ANN DAVIS of Virginia (for herself and Mr. Tom Davis of Virginia):

H.R. 4844. A bill to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes; to the Committee on Government Reform.

By Mr. ENGEL:

H.R. 4845. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the termination of retiree prescription drug coverage; to the Committee on Ways and Means.

By Ms. GRANGER (for herself, Mr. Burgess, Mr. Gillmor, Mr. Paul, Ms. Harris, and Mr. Calvert):

H.R. 4846. A bill to reduce the risk of identity theft by limiting the use of Social Security account numbers on certain Government-issued identification cards and Government documents; to the Committee on Ways and Means, and in addition to the Committees on Armed Services, Energy and Commerce, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARRIS (for herself, Mr. Miller of Florida, Mr. Boyd, Ms. Corrine Brown of Florida, Mr. Crenshaw, Ms. Ginny Brown-Waite of Florida, Mr. Stearns, Mr. Mica, Mr. Keller, Mr. Bilirakis, Mr. Young of Florida, Mr. Davis of Florida, Mr. Putnam, Mr. Goss, Mr. Weldon of Florida, Mr. Foley, Mr. Meek of Florida, Mr. Wexler, Ms. Ros-Lehtinen, Mr. Deutsch, Mr. Lincoln Diaz-Balart of Florida, Mr. Shaw, Mr. Hastings of Florida, Mr. Feeney, and Mr. Mario Diaz-Balart of Florida):

H.R. 4847. A bill to designate the facility of the United States Postal Service located at 560 Bay Isles Road in Longboat Key, Florida, as the "Lieutenant General James V. Edmundson Post Office Building"; to the Committee on Government Reform.

By Mr. SMITH of New Jersey (for himself, Ms. Ros-Lehtinen, Mr. Pitts, Mr. Payne, and Mr. Pence):

H.R. 4848. A bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of centers for the treatment of obstetric fistula in developing countries; to the Committee on International Relations.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Tanner, Mr. English, and Mrs. Jones of Ohio):

H.R. 4849. A bill to amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments; to the Committee on Ways and Means.

By Mr. SMITH of Michigan:

H. Con. Res. 474. Concurrent resolution expressing the sense of Congress that the Federal Government should not give any Federal agency the power to postpone the date of Federal elections; to the Committee on House Administration.

By Mr. YOUNG of Florida:

H. Res. 719. A resolution requesting the Senate to return to the House of Representatives the bill H.R. 4766; considered and agreed to.

By Mr. COLLINS (for himself, Mr. Hayworth, Mr. Sam Johnson of Texas, Mr. Hostettler, Mr. Goode, Mr. Sullivan, Mr. Norwood, Mr. Duncan, Mr. Smith of Texas, Mr. English, Mr. King of Iowa, Mr. Miller of Florida, Mrs. Jo Ann Davis of Virginia, Mr. Gallegly, Mr. Tancredo, Mr. Jones of North Carolina, Mr. Doolittle, and Mr. Royce):

H. Res. 720. A resolution expressing the disapproval of the House of Representatives of the Social Security totalization agreement between the United States and Mexico; to the Committee on Ways and Means.

By Mr. PALLONE:

H. Res. 721. A resolution encouraging States to establish programs to award high school diplomas to veterans who left high school before receiving diplomas in order to serve in the Armed Forces during a time of war; to the Committee on Education and the Workforce.

By Mr. STUPAK (for himself, Mr. Brady of Texas, Mr. McNulty, Mr. Cardoza, Mr. Smith of Washington, Mr. Quinn, Mr. Schiff, and Mr. Engel):

H. Res. 722. A resolution requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in "National Night Out", which occurs the first Tuesday of August each year, including by supporting local efforts and community watch groups and by supporting local officials, to promote community safety and help provide homeland security; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 130: Mr. Crowley, Mr. Filner, and Mr. Oberstar.

H.R. 284: Mr. Turner of Ohio.

H.R. 299: Mr. Rangel.

H.R. 677: Mr. Tom Davis of Virginia, Mr. Simmons, Mr. Boozman, Mr. Ackerman, Mr. Allen, Mr. Baird, Ms. Baldwin, Ms. Berkley, Mr. Berman, Mr. Bishop of Georgia, Mr. Bishop of New York, Mr. Blumenauer, Mr. Boswell, Mr. Brady of Pennsylvania, Mr. Brown of Ohio, Mrs. Capps, Mr. Capuano, Mr. Clay, Mr. Clyburn, Mr. Cramer, Mr. Cummings, Mr. DeFazio, Ms. DeGette, Ms. DeLauro, Mr. Delahunt, Mr. Deutsch, Mr. Dicks, Mr. Dingell, Mr. Doggett, Mr. Doyle, Mr. Engel, Mr. Fattah, Mr. Ford, Mr. Frank of Massachusetts, Mr. Gephardt, Mr. Gonzalez, Mr. Green of Texas, Mr. Hastings of Florida, Mr. Hinchey, Mr. Hinojosa, Mr. Hoeffel, Mr. Holden, Mr. Holt, Ms. Jackson-Lee of Texas, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mrs. Jones of Ohio, Mr. Kanjorski, Ms. Kaptur, Mr. Kennedy of Rhode Island, Ms. Kilpatrick, Mr. Kleczka, Mr. Lampson, Mr. Larson of Connecticut, Mr. Levin, Mr. Lewis of Georgia, Mrs. Lowey, Mrs. Maloney, Mr. Markey, Mrs. McCarthy of New York, Mr. McNulty, Mr. Meehan, Mr. Meeks of New York, Mr. Menendez, Mr. Michaud, Mr. Mollohan, Mr. Moran of Virgina, Mr. Murtha, Mr. Nadler, Mr. Neal of Massachusetts, Mr. Oberstar, Mr. Obey, Mr. Olver, Mr. Ortiz, Mr. Owens, Mr. Pascrell, Mr. Pastor, Mr. Payne, Mr. Pomeroy, Mr. Price of North Carolina, Mr. Rahall, Mr. Reyes, Mr. Rodriguez, Mr. Rothman, Mr. Ryan of Ohio, Mr. Sabo, Mr. Sandlin, Mr. Serrano, Ms. Slaughter, Mr. Smith of Washington, Mr. Snyder, Mr. Stupak, Mr. Thompson of Mississippi, Mr. Tierney, Mr. Towns, Mr. Turner of Texas, Mr. Udall of New Mexico, Ms. Velázquez, Mr. Watt, Mr. Weiner, Mr. Crowley, Ms. McCarthy of Missouri, and Ms. McCollum.

H.R. 756: Mr. Kline.

H.R. 779: Ms. Bordallo.

H.R. 781: Mr. Leach, Mr. Allen, and Mr. Weiner.

H.R. 850: Mr. Kennedy of Rhode Island.

H.R. 852: Ms. Kaptur.

H.R. 873: Mr. McDermott.

H.R. 918: Mr. Davis of Florida and Mr. Scott of Virginia.

H.R. 1002: Mr. Chandler.

H.R. 1345: Mr. Rahall.

H.R. 1662: Mr. Duncan.

H.R. 1701: Mr. Rehberg, Mr. Baca, and Mr. Sherman.

H.R. 1755: Mr. Weldon of Pennsylvania.

H.R. 1800: Ms. Ros-Lehtinen.

H.R. 1886: Mr. Ruppersberger.

H.R. 1938: Mr. Andrews.

H.R. 2032: Mr. Ruppersberger.

H.R. 2034: Mr. Houghton and Mr. Sandlin.

H.R. 2053: Mr. Gillmor.

H.R. 2107: Mr. Meehan.

H.R. 2239: Mr. Sandlin and Mr. Matsui.

H.R. 2387: Ms. Roybal-Allard and Mr. Grijalva.

H.R. 2528: Mrs. Lowey.

H.R. 2699: Mr. Rogers of Alabama.

H.R. 2735: Mr. Hill, Mr. Cooper, Mr. Hastings of Florida, and Mr. Carson of Oklahoma.

H.R. 2787: Mr. Sandlin.

H.R. 2801: Mr. Pearce.

H.R. 2932: Ms. Lee.

H.R. 2945: Mr. Chandler.

H.R. 2950: Mr. Fossella, Mr. Hensarling, and Mr. Davis of Alabama.

H.R. 2974: Mr. Lipinski and Mr. McNulty.

H.R. 3022: Mrs. Christensen.

H.R. 3178: Mrs. Biggert and Ms. Hart.

H.R. 3193: Mr. Coble.

H.R. 3367: Mrs. Blackburn.

H.R. 3369: Mr. Norwood.

H.R. 3425: Mr. Baca.

H.R. 3545: Mr. Waxman.

H.R. 3558: Mr. Calvert.

H.R. 3574: Mr. Hoekstra.

H.R. 3609: Mr. Barrett of South Carolina.

H.R. 3767: Mr. McNulty, Mr. Lampson, Mr. Larson of Connecticut, Mr. Lantos, and Mr. Israel.

H.R. 3799: Mr. Peterson of Minnesota.

H.R. 3831: Mr. Bereuter.

H.R. 4011: Mr. Platts.

H.R. 4032: Mrs. Lowey.

H.R. 4064: Mr. McHugh, Mr. Ballenger, and Mr. Carter.

H.R. 4116: Mr. McNulty.

H.R. 4169: Mr. Royce.

H.R. 4192: Mr. Andrews and Ms. Loretta Sanchez of California.

H.R. 4209: Mr. Burgess.

H.R. 4249: Mr. Ehlers, Ms. Schakowsky, Mr. Udall of Colorado, Mr. Costello, Mr. Etheridge, Ms. Slaughter, Mr. Blumenauer, Mr. Cooper, Mr. Turner of Texas, Mr. Lampson, Mr. Hall, Mr. Pascrell, and Mr. Pastor.

H.R. 4256: Mr. Dingell.

H.R. 4263: Mr. Thompson of California, Mr. Honda, Ms. Watson, and Mr. English.

H.R. 4282: Mr. Kildee.

H.R. 4304: Mrs. Tauscher.

H.R. 4306: Mr. McHugh.

H.R. 4341: Mr. Price of North Carolina.

H.R. 4367: Ms. McCollum and Mr. Gillmor.

H.R. 4391: Mr. Gillmor and Mr. Porter.

H.R. 4445: Ms. Norton and Mr. Jackson of Illinois.

H.R. 4446: Mr. Boehlert, Mr. Case, Ms. DeLauro, Mr. Farr, Mr. Grijalva, Mr. Hinchey, Mrs. Jones of Ohio, Mr. Kind, Mr. Kleczka, Mr. Leach, Ms. Lee, Mr. McDermott, Mr. McHugh, Ms. Norton, Mr. Oberstar, Mr. Payne, Mr. Quinn, Mr. Sanders, Mr. Serrano, Ms. Slaughter, and Mr. Towns.

H.R. 4472: Mr. Gillmor.

H.R. 4474: Ms. Roybal-Allard and Mr. Schiff.

H.R. 4491: Mrs. Emerson, Mr. Gerlach, and Mr. Latham.

H.R. 4530: Mr. Platts and Mr. Bartlett of Maryland.

H.R. 4551: Mr. Sandlin.

H.R. 4571: Mr. Kline.

H.R. 4576: Ms. Pryce of Ohio and Mr. LaHood.

H.R. 4578: Mr. Serrano, Mr. Matheson, Mr. Kildee, Mrs. Tauscher, Mrs. McCarthy of New York, Mr. Conyers, Mr. Ryan of Ohio, Ms. McCarthy of Missouri, Ms. McCollum, Mr. Boucher, Mr. Becerra, Mr. Dooley of California, Mr. Davis of Illinois, Mr. Clay, Mr. Sandlin, Mr. Berman, Ms. Schakowsky, Mr. Stark, Mr. Frank of Massachusetts, Mr. George Miller of California, Mr. Capuano, Mr. Frost, Mr. Boehner, Mr. Cunningham, Mr. Kennedy of Minnesota, Mrs. Jo Ann Davis of Virginia, Mr. Hulshof, Mr. Nunes, Mrs. Christensen, Mr. Castle, Mr. Jackson of Illinois, Mr. Edwards, Mr. Skelton, Mr. Emanuel, Mr. Wolf, and Mr. Oxley.

H.R. 4633: Mr. Bishop of Georgia.

H.R. 4634: Mr. Simmons and Mr. Mica.

H.R. 4636: Mr. Ford, Mr. Larsen of Washington, Mr. Udall of Colorado, Mr. Latham, Mr. Boehlert, and Mr. Bereuter.

H.R. 4662: Mr. Ryun of Kansas and Mr. Radanovich.

H.R. 4682: Mr. Simmons, Mr. Miller of North Carolina, Mr. Emanuel, Mr. Van Hollen, Mr. Strickland, Ms. Eshoo, Mr. Allen, Mr. Green of Texas, Ms. McCollum, Mr. Larsen of Washington, Mr. Engel, Mr. Fattah, Mr. Towns, and Mr. Jackson of Illinois.

H.R. 4687: Mr. Pomeroy, Mr. King of Iowa, Mr. Stenholm, Mr. Frost, Mr. Case, Mr. Peterson of Pennsylvania, and Mrs. Christensen.

H.R. 4694: Mr. Sandlin, Ms. McCarthy of Missouri, Mrs. Christensen, and Ms. Jackson-Lee of Texas.

H.R. 4701: Ms. Woolsey and Mr. Emanuel.

H.R. 4706: Mrs. Maloney and Mr. Payne.

H.R. 4711: Mr. English, Mr. Levin, Mr. Delahunt, Mr. Grijalva, Mr. Ross, Mr. Strickland, Mr. Rodriguez, Mr. Gillmor, and Ms. Woolsey.

H.R. 4724: Mr. Jones of North Carolina, Mr. Miller of North Carolina, and Mrs. Wilson of New Mexico.

H.R. 4746: Ms. Lee, Mr. Filner, Mr. McDermott, Mr. DeFazio, Ms. Woolsey, Ms. Solis, Mr. Hinchey, Mr. Nadler, and Ms. Velázquez.

H.R. 4747: Mrs. Christensen.

H.R. 4769: Mr. Rodriguez.

H.R. 4772: Ms. Norton, Mr. Larson of Connecticut, Mr. Schiff, Mr. Lucas of Kentucky, Mr. Alexander, Mr. Stenholm, Ms. Loretta Sanchez of California, Mr. Ford, Mr. Langevin, Mr. Case, Mr. Snyder, and Mr. Chandler.

H.R. 4785: Mr. Rush, Mr. Terry, and Mr. Lipinski.

H.R. 4793: Mr. Payne, Mr. McGovern, and Mr. Rangel.

H.R. 4797: Mrs. Jo Ann Davis of Virginia.

H.R. 4799: Mr. Grijalva, Mr. Udall of New Mexico, Mr. Olver, Mr. Clay, Ms. Berkley, Mr. Ford, Mr. Kennedy of Rhode Island, Mr. McKeon, Mr. Strickland, Mr. Green of Texas, Mr. Cooper, Mr. Brown of Ohio, Mr. Wamp, and Mr. Jefferson.

H.R. 4822: Mr. Herger.

H. Con. Res. 99: Ms. Lee.

H. Con. Res. 366: Ms. Herseth.

H. Con. Res. 467: Mr. Clay and Mr. Wolf.

H. Con. Res. 469: Ms. DeLauro, Mr. McHugh, Mr. Shaw, Mr. Renzi, Mr. Cantor, and Mr. Blunt.

H. Con. Res. 471: Mrs. Maloney.

H. Res. 689: Mr. Clay, Mr. Frank of Massachusetts, Mr. Allen, Mr. Delahunt, Mr. Stark, and Mr. Van Hollen.

H. Res. 690: Ms. Solis, Mr. Cummings, Mr. Strickland, Ms. Kaptur, Mr. Berry, Ms. Kilpatrick, Mr. Clay, Mr. Allen, and Ms. Eshoo.

H. Res. 699: Mr. Clay, Mr. Frank of Massachusetts, Mr. Allen, Mr. Delahunt, Mr. Stark, and Mr. Van Hollen.

H. Res. 700: Mr. Clay, Mr. Frank of Massachusetts, Mr. Allen, Mr. Delahunt, Mr. Stark, and Mr. Van Hollen.

H. Res. 709: Mr. Miller of Florida.

H. Res. 713: Mr. Weldon of Florida, Mr. Emanuel, Mr. Buyer, Mrs. Blackburn, Mr. Meek of Florida, Mr. Flake, Mr. Weller, Mr. Garrett of New Jersey, Mr. Mario Diaz-Balart of Florida, Mr. Tancredo, Ms. Harris, Mr. Berman, Mr. Cardin, Mr. Blunt, Mr. Rothman, Mr. Andrews, Mr. LaTourette, Mr. Visclosky, Mr. Hayworth, and Mr. Deutsch.

H. Res. 714: Mr. Rodriguez.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 9, July 13, 2004, by Mr. FROST on House Resolution 696, was signed by the following Members: Martin Frost, John B. Larson, James P. McGovern, Benjamin L. Cardin, Diane E. Watson, Tom Lantos, Michael R. McNulty, John W. Olver, Rodney Alexander, Charles A. Gonzalez, Patrick J. Kennedy, Nick Lampson, Tammy Baldwin, Karen McCarthy, Carolyn McCarthy, Grace F. Napolitano, Gerald D. Kleczka, Dale E. Kildee, Tom Udall, Frank Pallone, Jr., Jim McDermott, Charles W. Stenholm, Michael H. Michaud, Joe Baca, Peter A. DeFazio, John F. Tierney, Robert E. Andrews, Lois Capps, Raul M. Grijalva, Nydia M. Velazquez, Rahm Emanuel, Bill Pascrell, Jr., Lynn C. Woolsey, Solomon P. Ortiz, Diana DeGette, Shelley Berkley, Howard L. Berman, Steny H. Hoyer, Steve Israel, C.A. Dutch Ruppersberger, Jaunita Millender-McDonald, Lane Evans, James R. Langevin, Gary L. Ackerman, Ed Case, Ben Chandler, Ellen O. Tauscher, Betty McCollum, Artur Davis, Dennis Moore, Hilda L. Solis, Jane Harman, Stephanie Herseth, James P. Moran, Mike Ross, Dennis A. Cardoza, Marcy Kaptur, Lucille Roybal-Allard, Bob Filner, Henry A. Waxman, Robert C. Scott, Elijah E. Cummings, Sanford D. Bishop, Jr., Sherrod Brown, Mark Udall, Chris Bell, Rick Larsen, Silvestre Reyes, Darlene Hooley, Eddie Bernice Johnson, Stephanie Tubbs Jones, Bart Gordon, Lincoln Davis, Chet Edwards, Major R. Owens, Timothy H. Bishop, John Lewis, Maxine Waters, Janice D. Schakowsky, Ken Lucas, Sam Farr, Peter Deutsch, Alcee L. Hastings, Adam B. Schiff, Vic Snyder, Baron P. Hill, Albert Russell Wynn, Susan A. Davis, Jim Davis, Jerry F. Costello, William O. Lipinski, Jim Turner, Sheila Jackson-Lee, Carolyn B. Maloney, Jim Marshall, Bennie G. Thompson, James E. Clyburn, Danny K. Davis, Ciro D. Rodriguez, Marion Berry, Linda T. Sanchez, Sander M. Levin, Rosa L. DeLauro, Stephen F. Lynch, Martin T. Meehan, Chris Van Hollen, Ted Strickland, Leonard L. Boswell, John M. Spratt, Jr., Nick J. Rahall II, William D. Delahunt, Edward J. Markey, Tim Ryan, Kendrick B. Meek, Jesse L. Jackson, Jr., Thomas H. Allen, Robert A. Brady, Paul E. Kanjorski, Bobby L. Rush, Bart Stupak, Ed Pastor, Anna G. Eshoo, Gene Green, Louise McIntosh Slaughter, Brad Miller, Maurice D. Hinchey, Alan B. Mollohan, Earl Blumenauer, Joseph Crowley, Nita M. Lowey, Martin Olav Sabo, Ron Kind, Eliot L. Engel, John D. Dingell, Barney Frank, John Conyers, Jr., Jim Cooper, Jose E. Serrano, Carolyn C. Kilpatrick, Ike Skelton, Gregory W. Meeks, Max Sandlin, Michael F. Doyle, James L. Oberstar, Ruben Hinojosa, Bernard Sanders, Jerrold Nadler, Robert T. Matsui, Brian Baird, Anthony D. Weiner, Luis V. Gutierrez, George Miller, Charles B. Rangel, Loretta Sanchez, Gene Taylor, Joseph M. Hoeffel, Nancy Pelosi, Norman D. Dicks, Barbara Lee, Donald M. Payne, Corrine Brown, Robert Wexler, Edolphus Towns, Richard A. Gephardt, and Harold E. Ford, Jr.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4818

Offered By: Ms. Lee

Amendment No. 22: In title II, at the end of the item relating to "CHILD SURVIVAL AND HEALTH PROGRAMS FUND", insert the following:

In addition to the amount provided in the preceding paragraph for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, $800,000,000 for such purpose, to remain available until September 30, 2006: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress).

H.R. 4818

Offered By: Mr. Otter

Amendment No. 23: At the end of the bill, before the short title, insert the following:

LIMITATION ON ASSISTANCE FOR PALISTINIAN AUTHORITY AND THE PALISTINIAN PEOPLE

Sec. . Notwithstanding any other provision of law—

(1) of the total amount of funds that are available in this Act for assistance for the Palestinian Authority (or any other Palestinian entity) or for the Palestinian people, not more than 25 percent of such amount may be obligated and expended during each quarter of fiscal year 2005; and

(2) none of the funds made available in this Act may be made available for assistance for the Palestinian Authority (or any other Palestinian entity) or for the Palestinian people during any quarter of fiscal year 2005 unless the Secretary of State determines that the Palestinian Authority has not provided support for acts of international terrorism during the 3-month period preceding the first day of that quarter.

H.R. 4818

OFFERED BY: MR. WEINER

AMENDMENT NO. 24: At the end of the bill (before the short title), insert the following:

PROHIBITION AGAINST DIRECT FUNDING FOR SAUDI ARABIA

SEC. . None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance any assistance to Saudi Arabia.

H.R. 4818

OFFERED BY: MR. GARRETT

AMENDMENT NO. 25: At the end of the bill (before the short title), insert the following:

LIMITATION ON ATTENDANCE AT CONFERENCES OUTSIDE THE UNITED STATES

SEC. . None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 Federal employees at any single conference occurring outside the United States.

EXTENSIONS OF REMARKS

AMERICA, RAY CHARLES STYLE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. RANGEL. Mr. Speaker, I commend Mr. William Raspberry on his column in the Washington Post on July 5, 2004. Mr. Raspberry described well the importance of the life and music of Mr. Ray Charles. The way Ray Charles embraced the wonderful qualities of the United States is extremely important for many African-Americans who grew up in segregated America. As Mr. Raspberry stated, many African-Americans feel like outsiders in this country, but Mr. Charles was able to embrace and celebrate the presence of brotherhood and justice as fundamental American values. The music of Ray Charles transcended barriers between black and white. His life and music will never be forgotten. I applaud Mr. Raspberry for reminding his readers of the impact this great man had on so many. I hope that my colleagues join me in honoring Ray Charles by supporting the bill I introduced, H.R. 4633, which authorizes the Secretary of the Treasury to create a gold medal honoring this great American performer.

[From the Washington Post, July 5, 2004]

AMERICA, RAY CHARLES STYLE

(By William Raspberry)

I'll know that today is the "Fourth of July" (no matter what the calendar insists) when I hear my friend's stereo pulsing out "America the Beautiful."

The Ray Charles version, of course.

Charles's recent death, at 73, brings it to mind, but I've been aware for some years now how his prayerful exaltation of America has become the virtual theme song of the Fourth of July. What did Americans have for a theme song before that? Was it all Sousa marches, with hot dogs and applause-line oratory?

Charles transformed the holiday for me—from the Norman Rockwell tableaux that never seemed to include anyone who looked like me—to a holiday for all Americans.

And how did he manage that?

Maybe I should start with what may be my one important insight: that in most controversies, thoughtful people secretly believe both sides, espousing the one and suppressing the other depending on the company it puts them in. That is why it is so hard to find white Southerners of my approximate age who will admit to having been racists back in the days of Jim Crow.

What they recall, I believe, is that they harbored misgivings about the way things were, and now they find it more comfortable to recall the misgivings than their toleration of the way things were. I always believed that segregation was wrong. . . . And they did.

I have harbored similar misgivings about the willingness of black Americans to think of this country as someone else's house—and to view it as complaining outsiders looking in. Of course there has always been ample basis for black people to feel like outsiders, at the very least to internalize W.E.B. DuBois's sense of the "twoness" of being black in America. But didn't we, perhaps, overdo the outsider-ness?

You see, I always cherished America—even if I acknowledged it only as the too-seldom played B-side of my consciousness. Charles's "America" invited me to turn the record over.

Charles could do that. He had a way of cutting through the confusions and mixed emotions and preconceptions, and reaching us at our core. The genius that made it possible for him to universalize the blues and spirituals and country—anything he touched—made it possible for him to universalize patriotism, too.

But if Ray Charles changed the Fourth of July with his "America the Beautiful," he also changed the song. "God done shed His grace on thee! He crowned thy good, yes he did, in a brotherhood."

The shift isn't merely from Katharine Lee Bates's elegant lyric to the black vernacular; it is a shift in meaning.

As Kenneth Moynihan noted in a recent commentary in the Worcester (Mass.) Telegram & Gazette, Bates penned a prayer: "[May] God shed his grace on thee and crown thy good with brotherhood." Ray made it a fait accompli.

As Moynihan put it, "A fervent hope for the future has been turned into a happy fact of the present."

It is not, Moynihan argues, an improvement.

"People much prefer to believe in their own righteousness and that of the nation than to think about their failings," he wrote. "No doubt the passionate affirmation of American brotherhood as a divine dispensation already granted accounts for a healthy share of the popularity of Mr. Charles's rather radical modification of the song."

He's right, of course. And maybe he'd be right to remind those white Southerners I talk to that they really did used to be racists. Sometimes, though, I think it's not a bad idea to let people believe that their nobler instinct represents their "true" self—that it is their greed, their envy and their bigotry that are the aberration. You know: "As a man believeth in his heart, so he is."

At least for this day, can't we imagine that we are brothers (and sisters) "from sea to shining sea"? And be grateful for that?

Ray Charles says it's all right.

* * *

PUNJAB GOVERNMENT CANCELS DEAL THAT ALLOWED DIVERSION OF WATER TO OTHER STATES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. TOWNS. Mr. Speaker, the Legislative Assembly of Punjab recently annulled a long-standing agreement that allowed the diversion of water from Punjab to other states.

According to the Tribune of Chandigarh, whose article I will be inserting in the RECORD at the end of my remarks, the Legislative Assembly asserted the sovereignty of Punjab in doing so. The newspaper reports that the bill passed by the Legislative Assembly says that "as a sovereign authority [Punjab] considered it its duty to uphold the Constitution and the laws and to protect the interests of its inhabitants."

Apparently, all parties supported this measure. We congratulate them on taking this step forward to protect the interests of the people of Punjab. I urge them to continue claiming, promoting, and establishing the sovereignty of Punjab.

Mr. Speaker, we know that the people of Punjab have been severely oppressed by the tyrannical Indian government. Over a quarter of a million Sikhs have been killed since 1984, according to the Punjab State Magistracy. The Movement Against State Repression reports that 52,268 have been taken as political prisoners, held without charge or trial, some as long as 20 years. According to the Punjab Human Rights Commission, about 50,000 Sikhs have simply been made to disappear by being arrested, tortured, killed in police custody, declared "unidentified bodies," and secretly cremated, without their remains even being given back to their families.

Similar repression has been visited on Christians, Muslims, and other minorities. Yet India continues to say that it is the world's largest democracy.

If India is truly a democracy, it will allow the will of the people to be carried out in regards to the diversion of water. It will allow the people—Sikhs, Christians, Muslims, Assamese, Bodos, Dalits, Manipuris, Tamils, and everyone living under Indian rule—to enjoy the full range of human rights. And it will allow self-determination for these sovereign states.

Until that happens, Mr. Speaker, we should not provide any aid to India. And we should take a stand for self-determination, which is the cornerstone of democracy, by supporting a free and fair plebiscite on independence in Punjab, Khalistan, in Kashmir, in predominantly Christian Nagaland, and everywhere that people seek their freedom from Indian rule. The assertion of sovereignty by the Punjab Legislative Assembly is a good first step. They should act to claim their sovereignty by severing their ties to India. We should take a stand by letting them know that when they do, we will be there with them.

Mr. Speaker, as I mentioned before, I would like to insert the Tribune article into the RECORD at this time.

PUNJAB ANNULS ALL WATER PACTS, CONG, AKALIS JOIN HANDS ON ISSUE

Chandigarh, July 12—A special session of the Punjab Vidhan Sabha today unanimously passed the Punjab Termination of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Agreements Bill, 2004, thereby "knocking down" the very basis on which the Supreme Court had passed its order on construction of SYL—Sutlej-Yamuna Link canal on June 4, last.

This Bill annuls the December 31, 1981, agreement between Punjab, Haryana and Rajasthan signed by the three Chief Ministers in the presence of the late Ms. Indira Gandhi and also all other agreements relating to the water of the rivers, Ravi and Beas. This, the Bill says, was done in "public interest". The annulment has come after 23 long years with two staunch political rivals, the Congress and the Akalis, joining hands to protect the state's riparian rights. Immediately after the Bill was passed, the Chief Minister, Capt. Amarinder Singh, accompanied by the Leader of the Opposition, Mr. Parkash Singh Badal, PPCC president, Mr. H.S. Hanspal, Ms. Rajinder Kaur Bhattal, Mr. Partap Singh Bajwa and a team of legal experts went to Raj Bhavan to meet the Governor, Justice O.P. Verma (retd.), to request him to give his assent to the Bill, as the dead-line for compliance with the Supreme Court order was July 15. The combined delegation spent an hour with the Governor. The Raj Bhavan sources said, "The Bill is being examined."

Capt. Amarinder Singh told TNS that he had not discussed the Bill with Ms. Sonia Gandhi. "Why involve her? When I go to Delhi, I shall brief her".

Presenting the Bill to the House, Capt. Amarinder Singh made an emotive speech giving facts, figures and background to the entire issue of sharing of river waters and steps taken in the recent past to protect and safeguard the interests of Punjab, particularly the farmers and save nine lakh acres going dry and barren, which would affect the livelihood of 1.5 million families.

The Bill says that Punjab was proud of its position in the Indian union, felt equal concern for its neighbours and as a sovereign authority also considered it its duty to uphold the constitution and the laws and to protect the interests of its inhabitants.

Under the 1981 agreement, flow series were changed from 1921–45 to 1921–60, which had the result of increasing the availability of Ravi-Beas waters from 15.85 MAF to 17.17 MAF. The allocation of water made to the states concerned under that Agreement was as under:

Haryana (non-riparian) 3.50 MAF, Rajasthan (non-riparian) 8.60 MAF, Delhi (non-riparian) 0.20 MAF, Punjab (riparian) 4.22 MAF and Jammu and Kashmir (riparian) 0.65 MAF. Under clause IV of this agreement, Punjab and Haryana withdrew their respective suits from the Supreme Court. But the controversy rages on. The issue has become emotive.

Referring to the broad clauses of the proposed Bill, Capt. Amarinder Singh maintained that riparian and basin principles were ignored all along and allocation of the Ravi-Beas waters had always been affected by "ad hoc decisions and agreements, dictated by prevalent circumstances". Here was a typical case involving "emotive" issue of impending transfer of water from "deficit" Ravi-Beas basin to the "surplus" Yamuna basin.

Never any reliable and scientific study of hydrological, ecological and sociological impact of such large scale trans-basin diversion from Punjab to Haryana and Rajasthan had been undertaken. Besides this transfer, diversion was even contrary to the National Water Policy guidelines, he added.

Capt. Amarinder Singh pointed out, "Non-riparian and non-basin states of Haryana and Rajasthan are not only not entitled to any Ravi-Beas waters, even their current allocation and utilisation is totally disproportionate to the areas alleged to be falling in the Indus basin. Therefore, Punjab, as a good neighbour, has accepted such utilisations by Haryana and Rajasthan as 'usages by sufferance' but not as a matter of any recognition of their rights".

He supported this hypothesis, when he posed the question, "Does Punjab have surplus water and do the claimants of our water a legal right to it? Then, he paused for effect, "The answer to this question is a resounding "no", and went on to give the following picture:

All three rivers, the Ravi, the Beas and the Sutlej, flow through the present Punjab and none through either Haryana or Rajasthan. No part of territories of these states fall within the basin areas of the Ravi and the Beas, although, according to unsubstantiated report of the Irrigation Commission, only 9,939 sq. kms. within Haryana fall in Indus basin, against 50,305 sq. kms. of Punjab.

Again, the present utilisation by Haryana was about 5.95 MAF, about 4.33 MAF from Sutlej and about 1.62 MAF from the Ravi-Beas water, through the existing systems. Also out of 17.17 MAF of "surplus" Ravi-Beas water, only 4.22 MAF was allocated to Punjab, a riparian state, against higher quantities to Haryana and Rajasthan. From the total surplus availability of 11.98 MAF of the Beas water, Punjab has been allocated 2.64 MAF.

Therefore, justifying the annulling of the December 31, 1981, agreement and all other agreements relating to the Ravi and the Beas, the Bill seeks to present the fact that ground realities have since undergone a sea change from that date and Punjab settlement of July 24, 1985, under the Rajiv-Longowal Agreement. Therefore, this had made the implementation of that 1981 agreement "onerous and injurious" to the public interest.

The availability of the Ravi-Beas water, 1717 MAF, as on December 31, 1981, has been reduced to 14.37 MAF, as per the flow series of 1981–2002. Haryana has been given 4.65 MA under the Yamuna agreement of May 12, 1994, which will be further augmented by the Sarda-Yamuna link. In the meanwhile, irrigation requirements have increased in Punjab. "The Punjab settlement, except one para 9, relating to allocation of the Ravi-Seas water, has remained unimplemented in letter and spirit, to date.

"In these circumstances, the terms of 1981 agreement were 'onerous, unfair, un-reasonable and contrary to the interests of the inhabitants of the Ravi-Beas basin, who have law-full rights to utilise water of these rivers'. Is the Bill justified? Will it tantamount to contempt of the court? In his well prepared speech, Capt. Amarinder Singh has addressed such questions, as well.

Armed with the House resolution of June 15 that aims to protect the rights of Punjab, legal opinions and all-party resolution of June 12, the Chief Minister said.

"This mandate enables the government to find ways and means to protect the people from adverse consequences of the Supreme Court judgment of June 4. The state had been advised that the obligations arising from an agreement or the contract did not fetter the powers of the legislature to enact a law in public interest.

"We have been further advised that it is a well settled law that the legislature is competent to remove or take away the basis of judgment by law and thereby it does not encroach upon the exercise of the judicial power of the judiciary and the legislative action within its competence, do not commit a contempt of court. However, final decision in all these matters lies in the court, as any law enacted by this august House is subject to a judicial review".

When the Bill had been introduced, Mr. Parkash Singh Badal stood up to express the collective anguish of the opposition that on such an important item, involving the question of "life and death" had been treated lightly by the government and till noon today "we had no idea of what the agenda was all about nor we had received copy of the Bill or what it was all about".

Mr. Badal said the traditions and conventions of the House were being eroded, day-by-day. "It was also a disgrace that even the information inviting us to meet the Governor after the House had passed the resolution was sent by the Congress president, Mr. H.S. Hanspal, who was not involved in this in any which way. How can we discuss anything at such a short notice? We are against political confrontation and are available 24 hours for any thing related to the interests of the state and are willing to support the government".

Thereafter, the Speaker, Dr. Kewal Krishan said he had received a resolution sent by four Akali MLAs, Mr. Parkash Singh Badal, Capt. Kanwaljit Singh, Mr. Gurdev Singh Badal and Mr. Manpreet Singh Badal, for the consideration of the House.

Then, he ruled that since a comprehensive Bill was being presented, they could express their views while speaking on that. Mr. Manpreet Singh Badal and Capt. Kanwaljit Singh suggested that certain provisions, including Clause 78, in the Punjab Reorganisation Act, 1966, be also annulled. BJP's Tikshan Sud, said though a "belated step", the Bill was a welcome and offered full co-operation but rued that the Opposition be given due place and respect.

On this the Captain had stated in his reply that whatever steps were required to be taken to protect Punjab's interests would be taken in consultation with the legal experts. The speakers, including Mr. Bir Devinder Singh and Mr. Jeet Mohinder Singh spoke in the context of historical background, stressing time and again on the riparian principles. Mr. Bir Devinder Singh recalled how even the British Government had sought a certificate from Punjab that it will protect its own interests under the riparian rights while selling water to Rajasthan.

Mr. Bir Devinder Singh even cautioned to be prepared following the enactment of the Act, terminating 1981 and other agreements since new situation would develop. Mr. Jeet Mohinder Singh wondered if the Bill would stop the construction of SYL. He was for adding a new amendment in the form of a clause in the Eastern Punjab Canal and Drains Act, 1873 that permission of the state Assembly should be mandatory to dig or construct any canal that carries water beyond the boundaries of the state.

RARE BONHOMIE IN HOUSE

The discussion on the Bill was, however, not without the usual political punches and colour. There were moments when some ministers and opposition members took pot shots blaming either side for having failed Punjab and messed up the water issue. Some Opposition members said had such a Bill been brought forward 23 years ago, Punjab would have been spared the agony. Even the Bill says that in the wake of large-scale militancy, the Punjab settlement was reached, which however, had remained unimplemented in letter and spirit.

For once, the House was in a serious mood. There were no political skirmishes, though usual jibes were heard. The Governor's and Speaker's galleries were packed.

But it was the Captain's day all the way. Having worked overtime to get this Bill prepared, presented and passed by the House, he responded to the collective anguish of the opposition, expressed by Mr. Badal, with utmost humility and courtesy, acknowledging all what Mr. Badal had said. But then he point by point not only explained the unusual circumstances, including race against time, under which the Bill in as prepared and thus could not be circulated earlier, giving the members a chance to prepare themselves.

Capt. Amarinder Singh was apologetic and said so repeatedly taking the wind out of the sails of the Akalis. He showed faint starchiness in his voice, when he responded to some of the observations of Capt. Kanwaljit Singh, saying, "We are together here for an important task, not for rhetoric and emotive outbursts. We cannot allow Punjab to go back into the grip of violence".

Warming up, he concluded, "We will resort to all legal and constitutional means to seek justice. Already enough bloodshed has taken place. Even all the bodies have not been counted, so far. We shall fight to the end but within the parameters of laws, rules and the constitution. I will be willing to resign, if need be, for the sake of Punjab. The time is not for blame game. We have all made mistakes in the past. We are rectifying the same after 23 years. Come, lets join hands, close ranks. I appreciate the Opposition's cooperation".

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. SHAYS. Mr. Speaker, on July 12, I was returning to Washington from the NAACP Annual Convention in Philadelphia, Pennsylvania, and, therefore, missed four recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted "no" on recorded vote number 359, "yes" on recorded vote number 360, "no" on recorded vote number 361, and "yes" on recorded vote number 362.

HELP THE CARIBBEAN FIGHT TERRORISM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. RANGEL. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial in the July 6, 2004 issue of the Carib News, which discusses the issue of improving the national security of Caribbean nations. Our own security depends on how well protected the borders of our closest neighbors are. However, the purchasing and installation of new technology is extremely costly for many of these small islands. Not only is it important that these nations are secure because of their proximity to us, but also because of the many Americans who visit these countries each year. I believe that by helping the Caribbean with appropriate funding we can help them guard against terrorism without worsening the economic conditions of these nations. I urge my colleagues to support funding for Caribbean countries to assist in protecting against the terrorist threat.

[From the Carib News, July 6, 2004]

THE PRICE OF 9/11—DEVELOPING NATIONS FORCED TO PAY UP

Who can blame Caribbean nations and their sea and airport executives if the last thing on their minds immediately after 9/11 was how much they would have to spend as a result of the tragedy, the abhorrent act by religious zealots turned terrorists.

When New York's twin towers of the World Trade Center were turned to rubble, crushing nearly 3,000 unsuspecting and innocent people, the immediate and appropriate concern was for the lost of life.

After all, with thousands taken to untimely deaths our first worry had to be about human pain and suffering.

From New York, Washington, Georgetown, Santo Domingo, Philadelphia and Chicago to Kingston. Port of Spain and Bridgetown, to mention a handful of cities, the reaction was the same as the dimensions of the nightmare sank in. Later it was determined, that the Caribbean had paid a heavy price in the form of more than 100 lives lost.

Now, there is another price, one the countries are being forced to meet and its traceable directly to those and subsequent events and to the decisions being taken in Washington, London, Geneva and elsewhere in the developed world.

How high is that price?

Prof. Ivelaw Griffith, one of the leading security scholars in the Caribbean and Latin America, put the figure at hundreds of millions of dollars, money the Caribbean can't afford.

In the end though, the region can't afford to spend the unbelievably hefty sum.

Everton Walters, President of the Caribbean Port Managers Association, didn't dispute that figure but said the total would very much depend on the level of sophistication each country may eventually decide it needs.

All of this is very important because on Thursday, the deadline set by the International Maritime Organization for countries around the world, Caribbean states included, would kick in. That's when the basic security and other requirements contained in the IMO's International Ship and Port Facility Security, ISPS, code, which was approved 18 months ago, must be met. Failure to meet the deadline may result in sanctions.

Walters told this paper that based on conversations, e-mails and other forms of communication from various port managers, most, if not all of the ports would meet the cut-off date.

Still, there is considerable anxiety throughout the Caribbean as port executives work right to the last minute to ensure that they are ship-shape.

That means we may have to wait until July 1 to know for sure which countries are in compliance and which have failed to meet their obligation.

The code is a comprehensive set of requirements which developing countries are finding to be onerous to say the least.

As a matter of fact, Erthimios Mitropolous, IMO Secretary-General, recently voiced the agency's concern about the pace of effort towards international readiness when he complained that the "status of compliance by port facilities has not yet reached satisfactory level despite repeated calls to governments to intensify their efforts."

Just the other day, Brazil made it clear that its major port, perhaps the largest in Latin America and the Caribbean, wouldn't be able to meet the deadline. To live up to the code, for instance, Trinidad and Tobago must acquire sophisticated and costly equipment, boost its security staff and incur considerable recurring expenditure that's running into millions of dollars. Trinidad and Tobago, Jamaica, Grenada, Barbados, the Dominican Republic, Haiti, the Bahamas, Guyana, Antigua, you name, are in the same boat, if you will, and must meet horrifying expenses.

But the maritime code isn't the only set of requirements Caribbean states must satisfy. Their airports must have extensive security fencing, computers, scanners and the like to pass international muster.

That's where the sum of hundreds of millions of dollars would come in. For by the time the process is completed, Caribbean, Latin American and African states would have spent at least $50–100 billion to upgrade security at its various ports of entry, both air and sea, and they must do so without much international help, Although necessary, the security measures imposed by the United Nations, the IMO, the U.S., Britain and various rich countries are major financial and technical burden which must be met if the world's poorer nations are to remain as part of the international trading community. They must have access to shipping lanes and air space if they are to feed their people, satisfy tourism and manufacturing industries and otherwise participate in the economic world.

What's troubling about all of this is that these mandates imposed on developing countries aren't being financed by any international development agency or by many donor nations. In other words these are "unfunded mandates," which were laid down by an uncaring developed world, regardless of a nation's ability to pay for them.

The international community, quite rightly, was worried about terrorism and its consequences but little attention was paid to how these mandates would be funded.

The upshot: if Antigua, Haiti, Suriname, Ghana, Costa Rica, Algeria, Jamaica or any of a host of nations in every corner of the world are to meet international security standards, then they must shift resources from education, health, services for the youth and the elderly in order to satisfy international regulations imposed elsewhere.

That, by any measure, is unfair and counter-productive. The U.S., Britain and the G–8 industrialized nations must put this matter on their agenda and agree to fund some of the equipment acquisition programs and the training necessary to keep Third World states in the international arena.

COUNCIL OF KHALISTAN WRITES TO UN HUMAN RIGHTS COMMISSION TO EXPOSE REPRESSION OF MINORITIES IN INDIA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. TOWNS. Mr. Speaker, recently Dr. Gurmit Singh Aulakh, President of the Council of Khalistan wrote to the United Nations Commission on Human Rights in Geneva to ask them to help keep the world aware of the repression of minorities, including Sikhs, Christians, Muslims, and others, in India.

The letter pointed out that over 250,000 Sikhs have been murdered by the Indian government, along with more than 300,000 Christians in Nagaland, over 88,000 Muslims in Kashmir, Muslims and Christians throughout India, and other minorities such as Dalits, the dark skinned aboriginal people of the subcontinent, Assamese, Bodos, Manipuris, Tamils, and others. Over 52,000 Sikhs and tens of thousands of other minorities are being held as political prisoners. The letter pointed out that the government has been involved in atrocities such as the massacre of Muslims in Gujarat and the massacre of Sikhs in Delhi and that it has not punished those who have carried out atrocities against Christians nor the killer of Jathedar Gurdev Singh Kaunke.

Such atrocities are unacceptable in any country, but especially in one that claims to be democratic. We must take a stand for freedom. It is time to stop our aid to India and go on record in support of self-determination for all the people seeking their freedom there.

Mr. Speaker, I would like to place Dr. Aulakh's letter to the Human Rights Commission into the RECORD at this time.

COUNCIL OF KHALISTAN,
Washington, DC, July 13, 2004.

Madam Justice LOUISE ARBOUR,
High Commissioner, United Nations Commission on Human Rights, Plaise des Nations, Geneva, Switzerland.

DEAR JUSTICE ABROUR: As the Chief Prosecutor for the International Court of Justice, you helped to bring the persons who committed massacres, genocide, and pogroms on the innocent people of Bosnia to justice. Your work for human rights around the world is well known and we salute you for it. It is because of that record that I am writing to you today about the plight of the Sikhs and other minorities in India. The plight of the Sikhs and other minorities in India is deplorable. India claims to be "the world's largest democracy" and claims that it is a secular country, but in practice it is not. As Narinder Singh, a spokesman for the Golden Temple, told America's National Public Radio, "The Indian government, all the time they boast that they are democratic, that they are secular, but they have nothing to do with a democracy, nothing to do with a secularism. They just kill Sikhs just to please the majority." Unfortunately, Sikhs are not the only victims of this brutality. Other minorities such as Christians, Muslims, even the Dalits (called "Untouchables") are persecuted in India.

The Indian government has murdered over 250,000 Sikhs since 1984, more than 300,000 Christians in Nagaland since 1947, over 88,000 Kashmiri Muslims since 1988. Christians and Muslims have been murdered in other parts of the country as well, along with tens of thousands of Assamese, Bodos, Dalits, Manipuri's, Tamils, and other minorities. According to the Movement Against State Repression (MASR), 52,268 Sikhs are being held as political prisoners under the repressive TADA law, which expired in 1995. Amnesty International reports that tens of thousands of other minorities are also being held as political prisoners. These prisoners are held without charge or trial in "the world's largest democracy," some of them since 1984! That is 20 years in illegal detention. Their whereabouts are unknown. They might have been killed while in police custody.

Sardar Jaswant Singh Khalra looked at the records of the cremation grounds at Patti, Tam Taran, and Durgiana Mandar and documented at least 6,018 secret cremations of young Sikh men ages 20–30. These young Sikhs were arrested by the police, tortured, murdered, then declared unidentified and secretly cremated. Their bodies were not even returned to their families. They have never officially been accounted for. The Punjab Human Rights Commission estimates that about 50,000 such secret cremations have occurred.

For exposing this horrendous atrocity, Sardar Khalra was abducted by the police on September 6, 1995 while he was washing his car, then murdered in police custody. The only witness to his kidnapping, Rajiv Singh Randhawa, has been repeatedly harassed by the police. Once he was arrested for trying to hand a petition to the then-British Home Minister, Jack Straw, in front of the Golden Temple in Amritsar.

Police SSP Swaran Singh Ghotna tortured and murdered Akal Takht Jathedar Gurdev Singh Kaunke and has never been punished for doing so. K.P.S. Gill, who was responsible for the murders of over 150,000 Sikhs in his time as Director General of Police, is still walking around scot-free. He was even involved in leading the Indian Olympic field hockey team. His trip to the Atlanta Olympics in 1996 was protested by the Sikh community in the United States, which is over half a million strong, but he was allowed to come to the Olympics on an Olympic Committee visa. Immediately after the Olympic hockey game, he was shipped back to Punjab as a threat to peace and an affront to the Sikh community. 50 members of the U.S. Congress from both parties wrote to the President protesting his appearance in the United States.

In addition to this, the Indian government attacked the Golden Temple in Amritsar, the center and seat of the Sikh religion, in June 1984, as well as 224 other Gurdwaras (Sikh places of worship) throughout Punjab. Sikh leaders Sant Jarnail Singh Bhindranwale, General Shabeg Singh, and others, as well as over 20,000 Sikhs were killed in these attacks. The Sikh holy scripture, the Guru Granth Sahib, written in the time of the Sikh Gurus, was shot full of bullet holes by the Indian Army. Over 100 young Sikh boys ages 8 to 13 were taken out into the courtyard and asked if they supported Khalistan, the independent Sikh state. When they answered with the Sikh religious incantation "Bole So Nihal" they were summarily shot to death.

Unfortunately, other minorities have also suffered greatly under the boot of Indian repression. In March 2002, 5,000 Muslims were killed in Gujarat while police were ordered to stand by and let the carnage happen, in an eerie parallel to the Delhi massacre of Sikhs in November 1984 in which Sikh police officers were locked in their barracks while the state-run television and radio called for more Sikh blood.

Christians have suffered under a wave of repression since Christmas 1998. An Australian missionary, Graham Staines, and his two young sons, ages 8 and 10, were burned to death while they slept in their jeep by a mob of Hindu militants connected with the Rashtriya Swayamsewak Sangh (RSS), an organization formed in support of the Fascists. The mob surrounded the burning jeep and chanted "Victory to Hannuman," a Hindu god. None of the mob has ever been brought to justice; instead the crime has been blamed on one scapegoat. Mr. Staines's widow was thrown out of the country after the incident. An American missionary, Joseph Cooper of Pennsylvania, was expelled from India after being beaten so severely that he had to spend a week in the hospital. None of the persons responsible for beating Mr. Cooper has been prosecuted. Churches have been burned, Christian schools and prayer halls have been attacked and vandalized, priests have been murdered, nuns have been raped, all with impunity. Police broke up a Christian religious festival with gunfire.

Amnesty International has not been allowed into Punjab since 1978. Even Castro's Cuba has allowed Amnesty into the country more recently. What is India hiding?

My organization, the Council of Khalistan, is leading the Sikh struggle for freedom and sovereignty. Working with the Congress of the United States, we have internationalized the struggle for freedom for the Sikhs and all the people of South Asia since the Council of Khalistan's inception on October 7, 1987, the day that the Sikh Nation declared its independence from India. We have worked to preserve the accurate history of the Sikhs and the repression of minorities by India by preserving the information in the Congressional Record. We continue to work for freedom for the Sikh Nation. Self-determination is the essence of democracy.

On behalf of the Sikh Nation, I am asking the Human Rights Commission to expose India's reign of terror to the international community. It is time for India to be held to account for its tyrannical rule covered by a veneer of democracy. Please do not let India hide behind a false claim of democracy and secularism. By shining the light on India's terroristic rule, you can help bring freedom and basic human rights to all the people of the subcontinent.

Thank you in advance for your attention to this situation and for helping the people of South Asia.

Sincerely,

DR. GURMIT SINGH AULAKH,
President, Council of Khalistan.

150TH ANNIVERSARY OF PENN STATE

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. PLATTS. Mr. Speaker, I would like to take this opportunity to recognize a great institution of higher learning, the Pennsylvania State University, as a leader in post-secondary education. On July 1, 2004, Penn State began a year-long celebration of its 150th Anniversary, marking the historic achievements it has made in Pennsylvania, the Nation, and around the world.

Penn State, known at its inception in 1855 as "the Farmers" High School," was born at the behest of the State's Agriculture Society. The Society members recognized the need to base the growing field of agriculture in sound sciences. College President Evan Pugh rose to the challenge, uniquely combining classical studies with practical application. Pugh's vision soon became the foundation of the institution's mission: to provide "instruction, research, outreach and extension".

As student and business interest grew over the following decades, Penn State grew along with it. Recognizing the limitations the Depression placed on households in the 1930's, Penn State began opening satellite campuses throughout the state. Penn State began renting classroom space in York, Pennsylvania, which is in my Congressional District, as early as 1926.

In 1955, the Penn State York campus officially opened and began offering courses to students at its current location. The campus was much-admired for having one of the highest concentrations of students enrolled in technical courses and studying the field of engineering on a satellite campus. As a student who studied engineering at the Penn State York Campus, I can attest to the high quality education provided to Penn State students. Continuing its mission for outreach and extension, Penn State merged with the Dickinson School of Law in 1997, also located in my Congressional District in Carlisle, Pennsylvania.

There can be no doubt that Penn State has played a strong and vitally important role in the education of students around the world. With three members of my staff, both past and present, as Penn State alumni, I can attest to the quality education Penn State provides. Even as the proud son of a University of Pittsburgh graduate, a known "rival" of Penn State, I wish to congratulate the Pennsylvania State University on its successful 150 years, and extend best wishes for continued successes in the years to come.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. ANDREWS. Mr. Speaker, I was not present on July 12, 2004, due to a train and bad weather. Had I been present, I would have voted "yes" on Holt Amendment to the Legislative Appropriations bill (rollcall 359), "no" on the Hefley Amendment to the Legislative Appropriations bill (rollcall 360), "yes" on the Motion to Recommit (rollcall 361), and "yes" on final passage of the Legislative Branch Appropriations Bill (rollcall 362).

IN RECOGNITION OF LAURA DOMINGUEZ

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. GONZALEZ. Mr. Speaker, I rise today in recognition of Laura Dominguez, a very special young woman whose life can teach us all about the power of perseverance and love. Laura is a bit quiet until you get to know her, but once you do, you find that she is smart, witty, and brave. You also learn of her loving family: her parents, Rosie and Abel, and her older brother Abel Aaron.

In July 2001, Laura and her brother were driving home from summer school. There was an oil slick in the road that made the car uncontrollable. Laura broke her neck at the C–6 level, qualifying her as a quadriplegic. At that time, doctors told her that she would never walk again. Laura was undaunted by this prognosis.

Ever since that day, Laura and her family have demonstrated an unbelievable amount of fortitude and perseverance. They have consulted with a number of spinal cord specialists with the hope of watching Laura walk again. Laura spent six months in St. Louis and one year in California so that she could receive the best treatment available. It was in California that the Dominguez family learned of a surgery being done in Portugal in which tissue from one's sinus area is transplanted into the spinal cord at the injury sight. In March 2003, Laura traveled to Portugal and became the tenth person in the world, and only the second American, to undergo this surgery.

By July 2003, 70% of the lesion in Laura's spinal cord looked like normal spinal cord tissue. Since that phenomenal surgery, Laura has also regained feeling down to her hip level and she has begun to regain some feeling and movement in her legs. Now Laura, once seen as a lost cause by some members of the medical community, has regained her ability to stand with the use of a walker.

Laura is in Washington, D.C., today to share her story, so that we may put a face to the abstract debates that occur in Congress regarding the benefits of stem cell research. Laura is also a living symbol of hope for the more than 200,000 people in the United States who are living with a spinal cord injury. Her story demonstrates the seemingly unattainable feats that can be accomplished when one has faith in oneself, and the unwavering love and support from family and friends.

I wish Laura and her family many blessings as she continues to push her body and her mind to overcome her physical challenges.

HONORING JAN PERKINS, CITY MANAGER FOR THE CITY OF FREMONT, CALIFORNIA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Jan Perkins, City Manager for the City of Fremont, California, a community of 208,000 people. Jan has provided exemplary service during her more than 26 years in city management. She will soon retire from her position as Fremont's City Manager and she will be sorely missed.

In addition to serving Fremont, Jan's city management included Morgan Hill as City Manager, Santa Ana as Assistant City Manager, and as Assistant City Manager in Grand Rapids and Adrian, Michigan.

Jan received her Bachelor of Arts in Sociology and a Masters in Public Administration from the University of Kansas. She also received a certification for the Program for Senior Executives in State & Local Government from the acclaimed John F. Kennedy School of Government at Harvard University.

A member of the International City Managers Association, Jan has chaired several committees within the Association, including the International Committee, the Awards Committee, Innovations Advisory Committee, and Conference Planning Committee. She is President of the California City Management Foundation, is a member of the Executive Board of the City Manager's Department of the League of California Cities, a Fellow with the national Academy for Public Administration and a member of the Niles Rotary Club in Fremont.

Jan's dedication, expertise in city management, and her proficient leadership abilities have greatly benefited the city of Fremont and beyond. I applaud Jan Perkins for her contributions and wish her well in her future endeavors.

IN HONOR OF COLENIA CANFIELD

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor the hard work and dedication of Colenia Canfield who has spent the last four years hand crocheting lap robes for veterans at the Michael E. DeBakey VA Medical Center (MEDVAMC).

The Michael E. DeBakey VA Center is one of the best veteran health centers in the nation. Last year alone they logged over 650,000 outpatient visits. Most of these dedicated veterans are from Houston and south-east Texas.

As a member of the American Legion Auxiliary Unit 305 of American Legion Post 305 in The Woodlands, TX. Ms. Canfield wanted to express her appreciation for the service these veterans have rendered to this country. She wanted them to know that she and thousands of the others in our community are grateful for their sacrifice that has kept our country free.

A good friend suggested Colenia should use her talent to crochet as a way to bless area veterans. In October 2000, she started to crochet lap robes for the veterans receiving care at the DeBakey Medical Center. Colenia hasn't stopped crocheting since.

Colenia Canfield completed her first robe on October 14, 2000 and has recently completed her 200th robe. Each robe consists of 81 squares that are eight inches by eight inches and takes 80 hours of hand crochet labor each to complete. She intends to make the lap robes as long as we have veterans. Colenia Canfield's dedication and love of this country and the brave veterans who have dedicated their lives to defending it should be an inspiration to us all.

Mr. Speaker, please join me today in honoring Colenia Canfield. All of the residents of The Woodlands, Texas, and the 8th Congressional District are grateful for her dedication and service to our nation's veterans.

PERSONAL EXPLANATION

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. FOSSELLA. Mr. Speaker, I am not recorded on rollcall numbers 359, 360, 361 and 362. I was unavoidably detained and was not present to vote. Had I been present, I would have voted "no" on rollcall numbers 359, 360, 361 and 362.

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. MENENDEZ. Mr. Speaker, I rise to offer a personal explanation. On Monday, July 12, I was unavoidably detained on Amtrak for over 7 hours, due to bad weather, while traveling back for votes on rollcall Nos. 359–362. Had I been present, I would have voted "yea" on rollcall vote 359, "no" on rollcall vote 360, and "yea" on rollcall votes 361 and 362.

PERSONAL EXPLANATION

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. PASCRELL. Mr. Speaker, I rise to offer a personal explanation. I was unavoidably detained on rollcall votes 359–362 due to a prior obligation. Had I been present, I would have voted "yea" on rollcall 359, "no" on rollcall 360, "yea" on rollcall 361, and "yea" on rollcall 362.

HONORING THE LEGACY OF CHIEF JUSTICE JOHN MARSHALL

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. LARSON of Connecticut. I rise today in strong support of the resolution to honor the United States' fourth Supreme Court Chief Justice John Marshall by issuing 400,000 commemorative coins for the 250th anniversary of his birth. Chief Justice Marshall served in each of the three branches of government and, as the fourth Supreme Court Justice, was one of the most influential forces in building the federal government as we know it today.

John Marshall began his service to our country as a member of the Continental Army under George Washington. He fought alongside Washington in battles in New Jersey, New York, and Pennsylvania and endured the harsh winter at Valley Forge. After the war Mr. Marshall became a lawyer and began his political career. He was elected to the Virginia House of Delegates and then to the U.S. Congress as the Representative from the Richmond District in Virginia. His superior understanding of the law earned him the position of Secretary of State under the Adams' Administration. It was from here where he rose to Chief Justice of the Supreme Court.

It was in the Supreme Court that John Marshall made the greatest contributions to American history. Having served for 34 years, Chief Justice Marshall remains the longest serving Chief Justice. He has offered over 500 opinions and presided over such landmark cases as McCulloch v. Maryland and Marbury v. Madison, which established the power of judicial review and was the first decision to declare an Act of Congress unconstitutional. The opinions delivered from the Marshall Court have shaped the basic fundamentals of the legislative, executive, and judicial branches of government.

I believe that Chief Justice John Marshall's life-long legacy should be recognized. Therefore, I urge my fellow Members to vote with me in support of H.R. 2768 and honor Justice Marshal as one of the most influential figures in American history.

A TRIBUTE TO THE LIFE OF JUDGE H. A. TAYLOR

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. ROSS. Mr. Speaker, I rise today to honor the life and legacy of Circuit Court Judge H. A. Taylor who died on May 21, 2004 at the age of 63 in Little Rock.

Judge Taylor was originally from Jefferson County and had an impressive career which spanned over the course of three decades. Graduating from Pine Bluff High in 1958, Judge Taylor went on to earn his bachelor of science and his law degree in 1965 from the University of Arkansas. Judge Taylor was elected to office in 1975 to the 2nd Division Circuit Court Judge for the 11th Judicial District West, serving Jefferson and Lincoln counties for 29 years.

Judge Taylor had a distinguished military career, serving in the Vietnam War and earning both the Bronze Star and Army Commendation Medals.

I am deeply saddened by Judge Taylor's death and offer my heartfelt condolences to his wife, Marcy Taylor. His legacy will live on through the lives he touched and by those who knew him and counted him as a friend.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. KIND. Mr. Chairman, I rise in favor of H.R. 4766. While I intend to vote for this bill, I support my friend and colleague, JOHN PETERSON's request that conferees work to increase the producer value added grants program and the rural broadband loans program. These two programs are extremely important to the future of rural areas like those found in my district of western Wisconsin.

Furthermore, I strongly urge conferees to do more to meet the funding needs of voluntary conservation programs that serve farmers and ranchers while also helping to improve soil, water and air quality, and provide critical wildlife and fish habitat.

Farmers and ranchers, especially those from regions who may not benefit from the estimated $130 billion in crop subsidies, rely on U.S. Department of Agriculture conservation assistance to provide much-needed financial support as well as meet critical environmental challenges.

Unfortunately, this bill would set a $1.01 billion limit on the environmental quality incentives program—compared to a FY2005 level of $1.2 billion set in the farm bill. Likewise, the farmland protection program is set at $112 million, $13 million less than the budget request. Lastly, the wetlands reserve program will enroll 175,000 acres, which are 25,000 less than prescribed in the farm bill.

I am pleased, however, that this bill rejects the Bush administration's proposed sharp cuts in natural resources conservation service programs. It will provide $993 million for the five NRCS conservation programs, $176 million more than the administration's request.

Secondly, I appreciate that the Appropriations Committee acted on the request made by myself and other members of the Congressional Sportsmen's Caucus Chronic Wasting Disease taskforce in providing $18.589 million in aid to states' fight against CWD—a fatal neurological disease found amongst our Nation's populations of wild and captive cervids. I'm particularly pleased to note $1.75 million will go directly to Wisconsin, which has been especially hard hit by this devastating disease. These federal funds are crucial to help authorities continue to monitor this deadly disease in order to avoid future outbreaks.

RECOGNIZING RICK GONZALES, SR. FOR HIS OUTSTANDING SERVICE AND DEDICATION TO HIS COMMUNITY

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to commend the service of Rick Gonzales, Sr., who has been a respected community leader in Yolo County for more than 50 years.

Rick Gonzales was born in Saguache, Colorado in 1919 and raised in Elko, Nevada. Drafted into World War II, he served in Okinawa during the Pacific campaign. After being discharged he settled in San Francisco where he attended barber school and met Angela Duran. In 1949 they married and moved to Woodland, California, where they operated several barbershops and raised four sons, La Verne, Garry, Rick Jr. and Jerry.

Rick Gonzales founded the Pan American Club, an organization that gave Latino youth an opportunity to play sports and attend social activities. Rick Gonzales has served on numerous boards and commissions that advocate for the youth and disenfranchised in the community. As a result of these efforts, he twice received the Yolo County Bar Association's Liberty Bell award. He is the only individual to be honored twice.

Rick is one of the founders of the Mexican American Concilio of Yolo County. In 1983 the Concilio started its annual dinner-dance to recognize individuals who have made a contribution to the Latino community. Now a signature community event, the Concilio's dinner-dance provides a growing number of scholarships and awards to students and adults throughout Yolo County.

Over the years Rick Gonzales endured insults and recriminations but his commitment to justice prevailed. His work helped to increase diversity in the local workforce. On June 22, 2004, in recognition of his service, the Yolo County Department of Employment and Social Services was named for Rick Gonzales. The dedication plaque reads, "Rick Gonzales has dedicated his life to giving a voice to the poor and disenfranchised of Yolo County and ensuring equal opportunities for all."

Mr. Speaker, Rick Gonzales Sr. has had a far-reaching and enduring impact on his community. His outstanding leadership and commitment to community service has significantly benefited the people of Woodland and has contributed to making Yolo County the vibrant and culturally rich community that is it today. It is appropriate that we acknowledge him today.

HONORING PFC WESLEY SWANSON

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor a true American hero, Private First Class Wesley Swanson of Greeley, Colorado.

In 1999, Wesley graduated from Greeley West High School and soon after attended Aims Community College as well as the University of Northern Colorado. After the tragedy of September 11, 2001 Wesley signed up for the University of Northern Colorado Reserve Officer Training Corp.

Wesley joined the Army and was sent over to Iraq in October of 2003. While in Iraq, he served as a 21 Bravo Combat Engineer. His mission was to clear an area for vehicles and troops by using high explosives.

While Wesley was in Balad, which is about 30 miles north of Baghdad, a bomb exploded and a suicide bomber rammed into his HMMWV vehicle, knocking Wesley off of the gun position on top. He was taken to the hospital for treatment of torn muscles and ligaments in his neck and shoulder.

Since then, Wesley has spent the past several months at Fort Carson with his wife, Jennifer, who is pregnant with their first child. He is currently working as a recruiter, but wants to make the Army his career so he plans on re-enlisting.

Wesley comes from a military family. His grandfather served in World War II and his uncle died while serving in Vietnam.

I am proud to honor Wesley for his courage and sacrifice on behalf of all Americans. Wesley's courage has helped to protect our democracy and keep our homeland safe. I urge all of my fellow colleagues to applaud Wesley for his service to our great Nation.

MISSION FIRST, PEOPLE ALWAYS

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. MEEHAN. Mr. Speaker, I rise today to honor the brave men and women in our armed forces who are serving courageously in Iraq, Afghanistan, and throughout the world. Our Nation owes these brave troops a debt of gratitude for the sacrifices they have endured to make this world a safer place.

I particularly want to salute our reservists, who have transformed from a supporting role to become a critical part of the backbone of our military. More than 40% of our troops now deployed to Iraq and Afghanistan draw from the Reserve Component. Many of them have served multiple tours, been called up with less than five days' notice, and had their deployments extended well beyond the promised "12 months boots on the ground."

Now the Defense Department has announced that it will activate 5,600 members of the Individual Ready Reserve, a pool of former soldiers that have completed their active or reserve duty but still have time left on their contracts. And the next troop rotation for Iraq and Afghanistan will only increase the burden on the Reserve Component, who will soon make up 43% of our deployed troops beginning in February of 2005.

Tonight, I would like to highlight the harrowing story of the 94th Military Police Company, the longest activated reserve unit to date. Roughly one-third of the 94th's members live in Massachusetts, and I have had the opportunity to speak with many of their family members in recent months.

The 94th Military Police Company first deployed to Iraq in April of 2003 after fulfilling a mission in Bosnia. The unit has seen its deployment extended twice—first by six months, then by four more. On Easter weekend of this year, members of the 94th loaded onto a bus in Kuwait to finally come home. Just as they were about to depart, they were turned back by their commanders and told they would have to serve another 120 days because there simply wasn't enough trained MPs to replace them. Now, just a few weeks before they are expected to return home for good, they have been sent out on another convoy mission.

While we are indebted to their service, the story of the 94th MP Company shows that this country can't continue to place the burden of war squarely on the back of our Reserve Component. If we ask these men and women to put themselves in harm's way in Iraq for extended periods of time, we must ensure that they are given the same fair treatment as their active duty counterparts. If we do not, we will face a serious recruitment and retention crisis.

What we need is a committed strategy to restructure our weary and overstretched Army.

First and foremost, we must expand the active duty endstrength of our military. I applaud my colleagues on the Armed Services Committee on both sides of the aisle for recognizing this need. We have authorized an increase of 30,000 soldiers and 9,000 marines over three years as part of this year's defense authorization bill. I am disappointed that the Pentagon has chosen to overstretch our current forces instead of expanding our pool of manpower.

Second, I am concerned that the occupational specialties most in demand—such as military police, intelligence analysts and engineers—are highly concentrated in the Reserve Component. Instead of calling up the Individual Ready Reserve, we need to ensure that we have an adequate pool of specialists within the active-duty force. This requires an aggressive recruitment and training program backed by incentives to attract people with the right skills.

Third, we need to lay out a transparent, equitable rotation schedule for our reservists that allows members and their families to predict when they will be activated. This administration has treated Guard and Reserve families with arrogance and a lack of respect. They have notified members of the Army Reserves and National Guard just days before deploying them to Iraq, broken promises that they would only serve for twelve months boots on the ground, and issued sweeping stop-loss orders to prevent members from retiring when they have fulfilled their service.

The Administration's policies aren't pro-family or pro-military. Our troops and their families deserve better. If we don't treat our Reserve Component with the respect they deserve, our military's readiness will suffer. That has consequences for all of us.

As our troops say, "Mission first, people always." Our reservists are fighting on the front lines of the battlefield to protect our security, freedom, and democracy. We need to stand up for them and provide them with the respect they deserve.

RECOGNIZING THE ACCOMPLISHMENTS OF THE BOARD OF DIRECTORS, MEMBERS AND STAFF OF INDOOR RECREATION OF ORLEANS COUNTY

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. SANDERS. Mr. Speaker, I would like to recognize the accomplishments of a very special group of volunteers who hail from Vermont's Northeast Kingdom—the tri-county area of Caledonia, Essex, and Orleans Counties. I rise to honor the dedicated men and women who have formed and are building Indoor Recreation of Orleans County, more generally known as IROC.

Dr. Robert E. Smith, a resident of Newport, chairs the IROC Board of Directors. Dr. Smith and the IROC Board are supported by a 50-member President's Advisory Council, a group of community leaders whose guidance has been invaluable all along the way.

James G. Davis directs IROC's day-by-day operations for the Board of Directors. Mr. Davis is a native Vermonter whose vision for the organization has been inspirational.

IROC's three-fold mission addresses key regional issues: To improve the quality of life and develop healthy lifestyles for Northeast Kingdom area residents—especially youth—through educational and recreational activities; to develop community-centered facilities and programs that foster a safe environment and inclusive programs to all participants; and, to deliver its services and programs at the lowest cost possible.

IROC will have five distinct facility emphases: (1) an aquatic center; (2) a multi-purpose recreation arena; (3) a fitness center; (4) a community room, and (5) an educational/technology center. Within each of these areas, multiple activities have been identified for further development.

The Aquatic Center (Main Level) will focus not only on general swimming but also on competitive swimming, rehabilitation, and other types of water activities. North Country Hospital and Health Center, Inc. has committed to using the Aquatic Center on a regular basis for those patients whose rehabilitation program would benefit from hydrotherapy.

The Multi-purpose Recreation Arena (Main Level) has been designed specifically to allow for flexibility in activities. The floor plan for this area includes three regulation-size high school basketball courts that can be converted (almost instantaneously) to accommodate indoor soccer, in-line skating, lacrosse, volleyball, tennis and badminton. The multi-purpose area includes seating for 500 spectators and will serve the anticipated demand for general recreation as well as league and tournament play. A walking track will surround the multi-purpose floor area. The design of the multi-purpose area will allow for specialty shows (home, garden, auto, for example) and concerts.

A 2,100 sq. ft. Fitness Center will offer cardiovascular training and exercise, aerobics instruction, fitness training, muscle toning, and body building activities to interested individuals on a membership basis. North Country Hospital and Health Center, Inc. has also committed to using the Fitness Center on a regular basis for its rehabilitation and wellness programs.

IROC's Mezzanine Level will contain a 4,200 square foot multi-purpose Lloyd Selby Community Room designed to accommodate meetings, dances, special events, educational programs and seminars, and other community-based activities.

The Mezzanine Level will also house an Educational/Technology Center equipped with state-of-the-art computers and other multimedia materials. Designed for such educational purposes as after-school tutoring, computer training, employment and training seminars, and other related activities, the programs in the Technology Center will focus on youth.

In addition, the Mezzanine Level will contain a Meeting Room that will be made available, as needed and as a public service, to area non-profit organizations in need of meeting space.

To date, the IROC Board of Directors has been able to secure and purchase a ten-acre parcel of land in Derby, Vermont, erect a 54,000 square foot steel building on the site, and initiate the interior build-out of the facility. All of this has been made possible through the generosity of local northeastern Vermonters, whose cash and in-kind contributions to date total over $2.5 million, a remarkable achievement, given the region's poor economy.

As you all know, Vermont is a beautiful state, and the Northeast Kingdom represents one of its loveliest regions. All of the natural beauty in the area provides a wonderful place to live and a special place to spend a vacation. After our many summer visitors leave, however, and before the snow arrives, our year-round residents settle into their fall and winter routines. Off-season unemployment rebounds, and local residents look for activities to occupy the long cold nights and short days.

There is an international ice youth hockey program—Border Minor Hockey—and there is, of course, the usual array of school-based sports programs. But those programs reach only a small percentage of the population. Youth, working adults, and the community beyond school age are largely left out of the picture. The residents of the Northeast Kingdom have recognized this need; they have organized themselves; and they are supporting IROC to respond to the region's needs.

When the facility is opened later this year, IROC will deliver indoor recreation, educational opportunities, rehabilitation services, and many related community activities to the citizens of Vermont. When IROC is fully operational, over 30 full-time equivalent jobs will have been created in a region that is sorely in need of increased employment opportunities.

This has not happened overnight. In fact, it has taken nearly 16 years for IROC to get where it is today. I am pleased to report, however, that as we stand here today, the process that began in 1988 is nearly complete.

Funds are still being raised to finish the interior as originally designed, and program grant proposals are being written to fund the educational and community activities that will take place in the building. I am proud to say that my office has been able to secure almost $340,000 in federal funding to support IROC through the Economic Development Initiative at the Department of Housing & Urban Development and the Department of Justice's Office of Juvenile Justice

Mr. Speaker, IROC is an organization that is having an immensely positive effect on this area of Vermont. Once this community center is built, it should serve as a national model for building indoor community recreation centers throughout Vermont and the rest of the country. To accomplish that goal, I have introduced H.R. 1022, the Urban and Rural Disease Prevention and Health Promotion Act. H.R. 1022 would provide $100 million in federal funding for the construction of community centers in rural and urban areas to reduce obesity and prevent disease and currently has over 20 cosponsors.

The residents of this most rural area of the state have shown true Vermont spirit by supporting this project through their financial and in-kind investments and through their extraordinary volunteer activities. The Vermont National Guard contributed over a week of in-kind labor (valued at $200,000) to help with building construction. Local businesses have provided materials and labor as gifts. The community raised over $226,000 in a three-week period in response to a challenge grant made in 2003 by a former area resident. And these are only a few examples of how the community has participated in building IROC!

The final fund raising efforts for the Aquatic Center and rehabilitation area are going forward. The facility will open in the fall, and memberships will soon be available. Built on a sound business model, IROC will be self-supporting, and this exemplary organization represents just one more example of the "we can grow our own" spirit of the hardy residents of Caledonia, Essex, and Orleans counties.

Mr. Speaker, Esteemed Colleagues, please join me as I commend and recognize the members of the Board of Directors, staff, and other citizens of Vermont who have made this project possible.

2004–2005 BOARD OF DIRECTORS

Officers: Robert E. Smith, PhD, President (Newport, Vermont), RE Smith Consulting, Inc.; Edmond A. Cantwell, Vice President (Newport, Vermont), Corporal, Vermont State Police; Terrie McQuillen, Treasurer (Derby, Vermont), Vice President, Community National Bank; Laurie Stewart, RN, Secretary (Newport, Vermont), Occupational Therapist, North Country Hospital System, Inc.

Members: Dawn Brainard (Holland, Vermont), Owner/President, Memphremagog Press Printers, Inc.; Anita Gariepy (Newport, Vermont), Homemaker; Conrad Grims (Derby, Vermont), Wilson & White, LLC; Harold Limlaw (Newport, Vermont), Newport Center Elementary School; Patrick Martell (Newport, Vermont), Co-Owner, Al's Snowmobile, Inc. & President, Newport Chamber of Commerce; Ronald Quigley (Newport, Vermont), Consultant, Former CEO, Butterfield's, Inc.

Staff: James G. Davis (Lyndonville, Vermont), Executive Director; Patricia Chmielecki (Irasburg, Vermont), Administrative Assistant.

IN MEMORY OF GARY SAGE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. FARR. Mr. Speaker, I rise today to honor Gary Sage, who recently passed away. His contributions to both the City of Carmel as well as the international music community made him a truly commendable figure that will be greatly missed.

Born in Carmel, California, Gary was born into a musical family. His father, A. Lee Sage, and his mother, Emma Joanne Sage, played important roles in the founding of the Monterey Jazz Festival. The lineage of Gary's family can be traced back to Sir David of Wales, an ancient King who was purportedly the uncle of King Arthur. Gary is survived by his former wife Katherine Cameron Sage and his son Elijah Merlin David Sage who is continuing the musical legacy that his father left behind.

Gary proved his own musical genius as early as age fourteen, and is considered to be one of the best stride jazz pianists of the past few decades. He is also known as the preeminent piano restorer both in Carmel, and in the worldwide musical community.

Gary was approached throughout his life by such notable piano companies as Steinway and Sons for his expertise in piano restoration. He was of the few craftsmen who knew the intricacies of piano building and made the restoration and construction of pianos into an art form.

Mr. Speaker, I would like to recognize Gary Sage for the indelible impression he left in the music world. I join his community, friends and family in honoring Gary, and have no doubt that his contributions as a musician and as a craftsman will live on for future generations.

PERSONAL EXPLANATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. BEREUTER. Mr. Speaker, this Member unavoidably was off the Hill and missed the final series of votes on H.R. 4766, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for fiscal year 2005. If this Member had been present, he would have voted as follows:

Rollcall No. 366, the Baca amendment—"no"; rollcall No. 367, the Tancredo amendment—"aye"; rollcall No. 368, the Chabot amendment—"no"; rollcall No. 369, the Kaptur amendment—"yes"; and rollcall No. 370, final passage on H.R. 4766—"aye."

HONORING PETER J. HANLON

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. TAYLOR of North Carolina. Mr. Speaker, on Saturday evening, July 3, 2004, Peter J. Hanlon died at the age of 98. A resident of Chambersburg, Pennsylvania, Hanlon was supervisor of North Carolina's national forests for 10 years before retiring from the U.S. Forest Service in 1970 after 36 years of distinguished service.

Hanlon's career with the Forest Service began in the 1930s on the Allegheny National Forest. His career was then briefly interrupted by service in the region's CCC camps. Prior to dissolution of these camps Hanlon was superintendent of CCC Camp Thornwood in Pocahontas County, WV. As World War II began, Hanlon rejoined the Forest Service in the capacity of forest ranger for the Greenbrier Ranger District on West Virginia's Monongahela National Forest, as well as staff officer for Virginia's George Washington National Forest and the regional forester in Upper Darby.

As Supervisor of North Carolina's national forests, Hanlon frequently advocated for sustainable land use practices that accommodated recreational activities, wildlife habitats, timber harvests and general preservation. His belief that the land could and should be used in a responsible manner, balancing these practices, allowed him to ensure that no single interest outweighed or endangered another. Even as he believed in preservation, he understood the benefits of well-managed clear cutting and neither interest was ever allowed to jeopardize equal land use. Throughout his 35 year retirement, Hanlon continued to echo these noble principles.

Not only did Hanlon manage land use with exceptional expertise, he also secured the expansion of North Carolina's national forests by acquiring new lands. The most notable acquisition was that of the Nantahala River Gorge. Hanlon's role in creating the Cradle of Forestry, a museum located off U.S. 276, just south of the Blue Ridge Parkway, was pivotal and earned him an honorary doctorate degree from the Biltmore School of Forestry. In 1970, then Governor Terry Sanford designated Hanlon as North Carolina's Conservationist of the Year. This recognition only enhances his legacy as a celebrated figure of North Carolina's rich history.

PAYING TRIBUTE TO CATHERINE ROBERTSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. McINNIS. Mr. Speaker, it is my privilege to pay tribute to Catherine Robertson and thank her for her work as the Grand Junction Field Office Manager with the Bureau of Land Management (BLM). Her years of commitment and dedication as a public servant are certainly commendable and worthy of recognition before this body of Congress and this Nation today. I, along with my fellow Americans am grateful for all that she has accomplished during her years of service.

Catherine began her distinguished career with the BLM as a Community Planner student intern for the Pacific Continental Shelf office in 1980. After a transfer to the Washington office as part of a management development program she moved again in 1984 to the Colorado State Office where she became the Oil and Gas Program Coordinator and later the Fluid Minerals Branch Chief. Her diligent work ethic enabled her to assume the post of Clear Lake Resource Area Manager in the Ukiah District, California. Catherine received her bachelor's degree in Political Science and Public Administration from California State University and her master's degree in Natural Resources Management from the University of California, Los Angeles.

During my tenure in the United States Congress, Catherine provided exceptional service to constituents of the 3rd Congressional District of Colorado. Catherine worked hard to ensure that inquiries on behalf of my constituents submitted to Bureau of Land Management were addressed in a timely manner and thorough in their content. Catherine routinely demonstrated a willingness to assist beyond the standard response, demonstrating a genuine concern for the constituent while upholding the policies of the Bureau of Land Management.

Mr. Speaker, it is clear that Catherine Robertson has been an invaluable resource to the organization and it is my honor to recognize her service and dedication before this body of Congress and this Nation. I am grateful for the opportunity to work with devoted public servants like Catherine Robertson. On behalf of the citizens that have benefited from the hard work and commitment she has given to the Bureau of Land Management and constituents it serves, I extend my appreciation for her years of enthusiastic service.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mrs. MALONEY. Mr. Speaker, on July 12, 2004, I was unavoidably detained and missed rollcall votes number 359, 360, 361, and 362. Rollcall vote 359 was on the Holt amendment to H.R. 4755, the FY05 Legislative Branch Appropriations Act; rollcall vote 360 was on the Hefley amendment to H.R. 4755; rollcall vote 361 was on the motion to recommit to H.R. 4755; and rollcall vote 362 was on final passage of H.R. 4755.

Had I been present I would have voted "yea" on rollcall votes 359, 361, and 362, and "no" on rollcall vote 360.

PAYING TRIBUTE TO MATT GLASGOW

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. McINNIS. Mr. Speaker, it is my privilege to pay tribute to Matt Glasgow and thank him for his work as Public Affairs Director for the Grand Mesa, Uncompahgre, and Gunnison National Forest. His years of commitment and dedication as a public servant are certainly commendable and worthy of recognition before this body of Congress and this nation today. I, along with my fellow Americans am grateful for all that he has accomplished during his years of service.

Matt has dutifully served this nation with twenty years of military service in the Army. He carried out three tours in Vietnam, and was awarded numerous accolades including the Vietnam Cross of Gallantry; the Army Commendation Medal; and the Bronze Star for his courageous efforts.

Matt served the Department of the Army as a Master Sergeant in the public affairs arena before transferring to the Grand Mesa, Uncompahgre and Gunnison National Forest Public Affairs Director in 1987. As the current Public Affairs Director for Grand Mesa, Uncompahgre, and Gunnison National Forest, he serves as the primary contact on constituent issues. He responds quickly in an effort to provide assistance, works diligently to foster and maintain positive working relationships to improve services, and he is an effective and responsive communicator with the people he serves.

Mr. Speaker, it is clear that Matt Glasgow has been an invaluable resource to the organization. It is my honor to recognize his service and dedication before this body of Congress and this nation. I am grateful for the opportunity to work with dedicated public servants like Matt. On behalf of the citizens that have benefited from the hard work and commitment he has given to the U.S. Forest Service and the constituents it serves, I extend my appreciation for his years of dedicated service.

COMMENDING THE SALEM ART ASSOCIATION

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to commend the Salem Art Association for its many years of success in promoting the arts in Oregon's mid-Willamette Valley.

This weekend, over 100,000 people from all over Oregon and around the country will congregate in Salem's historic Bush Pasture Park for the three days of art, food, and music that make up the Salem Art Fair.

For 85 years, the Salem Art Association has pursued its goal of strengthening and promoting art education, art enjoyment, and historic preservation in Oregon's capital city of Salem and surrounding communities. With a dedicated staff, hard-working volunteers, and a strong board providing leadership and support, the Salem Art Association has grown into one of the largest community arts organizations in the state, and the services they provide to the community are both impressive and important.

In addition to running an art gallery and museum, the organization operates the Visual ARTS Center, which offers arts education opportunities for all ages, including classes in ceramics, painting, drawing, mixed media, crafts and more. The Salem Art Association also provides an Arts in Education Program, giving hands-on art opportunities for children by bringing the arts to more than 10,000 students in local schools.

I have seen the fruits of arts education through my work with the Congressional Arts Competition, which I co-chaired last year. Just this week I had the pleasure of hosting Ashley Fanning of Dallas, Oregon at the Congressional Arts Competition at our nation's Capitol. Ashley, who benefitted from her high school's strong arts program, won the competition I held in my district earlier this year. Ashley's success reminds me that arts education is an integral part of celebrating the creative spirit of young adults and helping our children become productive citizens.

The Salem Art Association, its staff, volunteers, and board provides the public with an outstanding service. The collective talent, dedication, and hard work of this association has played a vital role in fostering vibrant, livable communities that celebrate art and creativity.

PAYING TRIBUTE TO VERONICA VASQUEZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to Veronica Vasquez and thank her for her years of service she has given to the Colorado school system. At the end of this year she will retire after devoting thirty years of her life to educating students in Alamosa Colorado. As she celebrates her retirement, I would like to take this opportunity to recognize her distinguished career before this body of Congress and this nation today.

Veronica decided on a career in teaching after thinking about pursuing a career as a reporter or a social worker. She began as a substitute teacher in the Alamosa School District before taking her first full time teaching position as a bilingual kindergarten through fourth grade teacher. She was employed at several of the elementary schools in Alamosa until she was offered a five-year position as a parent community liaison, where she worked with at risk families and students coordinating crisis prevention and intervention teams. After her five-year position she went back to teaching for three years before becoming Principal of Polston Primary School.

Mr. Speaker, it is my honor to recognize Veronica Vasquez before this body of Congress and this nation. Veronica's willingness to provide her time and experience to Alamosa's children is something truly special and worthy of recognition before this body of Congress and this nation today. I wish you all the best in your future endeavors.

CONGRATULATING THE LAKE OSWEGO DYNAMO BLUE BOYS TEAM AS THEY ADVANCE TO NATIONALS

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to recognize and congratulate the Lake Oswego Soccer Club's Dynamo Blue boys' team who will be competing in the U–12 bracket of the U.S. Club Soccer Nationals tournament held in Cary, North Carolina July 22 through July 25, 2004.

These Lake Oswego Soccer Club members will represent the region of Oregon, Washington, Idaho and Northern California: Ryogo Asai, Cale Begelow, Brandon Blackmore, Jacob Campbell, Jack Cowan, Kyle DeVos, Ben Dugoni, Alex Haagenson, Ben Handy, Thomas Iwasaki, Erik McAdams, Nick Nelson, Bennett Savage, Luke Thompson, and Tyler Webster and are coached by Michael Harn.

As a former physical education teacher and coach, I know the positive benefits of giving students the opportunity to participate in team sports. Whether working together as a team, exercising good sportsmanship skills or developing pride in playing one's best, team sports teach our children valued lessons they will carry throughout life.

We also know that childhood activity improves child health which, in turn, is beneficial to adult health. When children have the opportunity to live an active life through programs such as soccer, children have a much higher propensity to live as active adults which reduces their health risks.

I would also like to commend U.S. Club Soccer, a non-profit organization, committed exclusively to the support and development of competitive soccer clubs. With close to 8 million youth soccer players in our country and growing, it is safe to say that U.S. soccer players pose a significant challenge on the world's playing field.

Again, good luck to the Dynamo Blue boys' team from Lake Oswego. I know that you will play your best and carry the pride of representing our community, our state and the region at Nationals.

PAYING TRIBUTE TO COLONEL MICHAEL V. PALATAS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the life and passing of Colonel Michael Palatas of Pueblo, Colorado. Michael was one of Colorado's most decorated veterans and as his family mourns his passing, I think it is appropriate to remember his life of dedicated service before this body of Congress and this nation.

Michael bravely answered his nation's call to service in 1941, when he enlisted in the

United States Marine Corps. As a Second Lieutenant, he fought battles in the Pacific theater during World War II. During the Korean War he served as a platoon leader in five major battles. A few years later, Michael served as a commanding officer for the 1st Battalion, 9th Marines and later an executive officer for the 9th Marine Regiment in the Vietnam War. In recognition of his valiant actions on the battlefield, Michael received several awards from the military, including: a Silver Star, a Legion of Merit, a Bronze Star, two Purple Hearts, six Presidential Unit Citations, a Combat Action Ribbon, a Good Conduct Medal, two Navy Unit Commendations and a Meritorious Unit Commendation. After thirty-four years of dedicated service, he and his family settled on his ranch in Lake George, Colorado. Later, they moved to Colorado Springs and eventually to Rye, Colorado. Outside his military life, he actively participated in his church.

Mr. Speaker, Michael Palatas was a pillar of his community and he will be sorely missed. His pride for his nation was demonstrated in the many years he spent in active duty for our nation's military. At this difficult time of bereavement, I express my deepest regrets and sympathies to the family and friends of Michael Palatas.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2005

SPEECH OF

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4755) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes:

Mrs. MALONEY. Mr. Chairman, I rise in opposition to this rule.

Unlike most appropriations bills that this House debates, this bill will be considered by a structured rule that had blocked me from offering two amendments.

Two amendments that, according to the parliamentarian, were germane and not subject to a point of order. In other words, if this appropriations bill was any other appropriations bill, I would of had the opportunity to offer my amendments.

My first amendment would have prohibited the use of funds on any vote that last longer than 17 minutes.

It is not bad enough that they will hold the vote open long enough to have it their way. What is worst is that they would not even let us debate the amendment in the first place. What are they so afraid of?

The second Amendment would have required conference committees to meet before the House can vote on a conference report.

Since they did not allow me to offer my amendment, I plan to introduce a bill to restore democracy to the House of Representative. Some of the key sections of the bill deal with what my amendments would have also addressed.

In all, this legislation will offer ten specific changes to the way this House has been operating under the Republican Majority. Like my amendments, these changes will help restore democracy to the United States Congress.

PAYING TRIBUTE TO LOU ROLLENHAGEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. McINNIS. Mr. Speaker, I would like to pay tribute to Lou Rollenhagen, and thank him for his dedication toward educating our youth in the Palisade, Colorado community. As the principal of Palisade High School, he has guided thousands of students toward their future aspirations. It is with great satisfaction and pride that I pay tribute to Lou for his many contributions to his community and state.

Lou attended Michigan State University and then went on to Western State College, where he became certified as a teacher. He took his first job at Palisade High School teaching Life Science before going on to become the counselor, the assistant principal, and the head football, wrestling, and basketball coach.

He has served as the Principal for over fifteen years and has succeeded in making many improvements for the school including the addition of advanced placement classes and upgrading the music and athletics programs.

Mr. Speaker, Lou Rollenhagen maintains that the greatest reward in his job was knowing that his career has produced good teachers and students. He has demonstrated a love for public service that resonates in his compassionate and selfless service to the Palisade High School community. Lou's enthusiasm and commitment certainly deserve the recognition of this body of Congress and this nation. Thanks for all your hard work Lou, and I wish you all the best in your future endeavors.

IN HONOR OF THE TEXAS DELEGATION TO THE 2004 YMCA YOUTH CONFERENCE ON NATIONAL AFFAIRS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. SESSIONS. Mr. Speaker, I rise to honor the Texas delegation to the 2004 YMCA Youth Conference on National Affairs. The Youth Conference on National Affairs brings together the best and brightest students from across the country that was involved in the YMCA Youth and Government program. Youth and Government seeks to teach teenagers the process of learning about government through hands-on experiences and in-depth learning.

The YMCA Youth Conference on National Affairs was held last week in Black Mountain, NC, and I am proud of each and every one of the delegates that did a wonderful job in representing the Lone Star State: Nathan Ball of Sugar Land, Skylar Brogdon of Fort Worth, Gina Bullock of Fort Worth, Spencer Colglazier of North Richland Hills, Rashad Deckard of Palestine, Whitney Ferguson of Houston, Delores "DeDee" Fowler of Beaumont, Michael Foley of Palestine, Garret Gibson of Damon, Morgan Gibson of Damon, Nathan Gonzalez of Benbrook, Kathleen Gulley of Sugar Land, Stephanie Hinds of Houston, Jacob Holt of Katy, Melissa Hooper of Midland, Joshua Jemente of Ft. Worth, Robby Johnston of Roanoke, Cody Kielmeyer of Azle, Michelle McClathy of Ft. Worth, Holly Nichols of Sugar Land, Hunter Patterson of Garland, Anna Peters of Houston, Jillian Sheridan of Weatherford.

I would also like to sincerely thank the adult advisors that are accompanying the delegates at the conference. Without the kind service of these adults that give up so much of their free time, the conference would not be the stunning success that it is year in and year out. I would like to thank the Texas YMCA Youth and Government State Director Suzanne Mabie, John Reyes of the Houston YMCA, and Sue Six of Lake Country Christian School.

PAYING TRIBUTE TO MARGIE WILBUR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the life and memory of Margie Wilbur who recently passed away. Margie was a devoted mother, and a valuable citizen to her Meeker, Colorado community. As her family and community mourn her passing, I believe it is appropriate to recognize the life of this exceptional woman, and her many contributions to the community in which she lived.

After attending college Margie became a nurse and served during World War II. On a 1944 trip, stopping through Meeker, Colorado, she met George Robert Wilber and were married a year later. After moving to Meeker and giving birth to three daughters, Margie went to work for the Rio Blanco County Clerks Office. In her twenty-eight years working for the courthouse, she was both a deputy county clerk and county vital statistician.

Margie was a very active and devoted member of her community. During her life she was an active member of the St. James Church, and a past president of both the Meeker Woman's Club, and the Moffat District of the Federated Woman's Clubs. Margie served as president of the Rio Blanco County Historical Society. She worked tirelessly on the Meeker Community Concert Board, was a board chairman for the Last Frontier Group and a member the Meeker Library Board, as well as the Three Rivers Library System.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life and memory of Margie Wilbur. My heart goes out to her family and friends during this difficult time of bereavement. Margie lived an extraordinary life and she will be sorely missed.

IN HONOR OF LA SOCIEDAD HIJOS DE PALMEIRA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor La Sociedad Hijos de Palmeira for its numerous contributions to the community, and its dedication to the City of Palmeira, Spain. On Wednesday, July 14, 2004, the members of La Sociedad Hijos de Palmeira will celebrate the 75th anniversary by traveling to the City of Palmeira, Spain.

La Sociedad Hijos de Palmeira was established in April 1929 by a group of immigrants from Palmeira, Spain. The original members of the organization were: D. Andres Paisal Ramos, President; Vicente Franco Paisal, Vice-President; Jesus Gonzalez, Secretary; Andres Santiago Gomez, Vice-Secretary; Antonio Rodriguez Martinez, Treasurer; and Pedro Gomez Pazos, Andres Santiago Rodriguez, Andres Gago Fernandez, and Francisco Blanco. La Sociedad Hijos de Palmeira was founded to establish a support network for those who had made the journey from Palmeira, Spain to the United States, and also to preserve their culture and customs.

In its 75 years of existence, La Sociedad Hijos de Palmeira has been a pillar of community service throughout Newark. As the city continues to diversify, La Sociedad Hijos de Palmeira has served as a center for promoting Spanish culture, and has provided a place to keep Spanish cultural and traditions alive.

La Sociedad Hijos de Palmeira has not only been active in the United States, but also in Palmeira, Spain. Through the hard work and dedication of the past and present members, La Sociedad Hijos de Palmeira was able to establish a state of the art recreational center in their native city. This center has provided the City of Palmeira with resources that were previously not available to its residents.

Today, I ask my colleagues to join me in honoring La Sociedad Hijos de Palmeira for its distinguished public service, its dedication to promoting Spanish culture in the City of Newark, and its continued efforts to assist the people of Palmeira, Spain.

PAYING TRIBUTE TO RALPH WADLEIGH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. McINNIS. Mr. Speaker, it is a privilege to rise and pay tribute today to Otero Judge Ralph Wadleigh of La Junta, Colorado. After sixteen years of dedicated service, Judge Wadleigh is retiring from the bench. I would like to join my colleagues in honoring Ralph's work before this body of Congress and this Nation.

Although he will be remembered for his time spent overseeing the law as a county judge, he spent many years prior to his tenure on the bench as a faithful civil servant. He previously worked as the deputy district attorney, the city attorney, and the attorney representing the local school board. Recently he announced he would step down from full time service as an Otero County Judge, but Ralph still desires to remain an active civil servant. He has accepted a part-time position to serve as a senior judge for parts of southeastern Colorado. This position will provide him an opportunity to serve sixty days per year, where he will work as a substitute presiding judge for several counties throughout his area.

Mr. Speaker, Ralph's dedication to justice and the people of Otero County certainly deserves recognition before this body of Congress and this nation. Over the years, he has shown he is a friend of justice, and I am grateful for his commitment to his fellow citizens. I wish him all the best in his future endeavors.

SUPPORT VOTER FREEDOM ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. PAUL. Mr. Speaker, political operatives across the country are using state ballot access laws to deny voters the opportunity to support independent presidential candidate Ralph Nader. For example, one New York election lawyer has publicly stated that partisan election lawyers should take advantage of New York's complex and costly ballot access procedures to keep Mr. Nader off the New York ballot. Meanwhile, a state party chairman in Arizona has hired a team of lawyers for the sole purpose of keeping Mr. Nader off the Arizona ballot.

The effort to keep Mr. Nader off the ballot shows how ballot access laws preserve the two party monopoly over the political system by effectively disenfranchising supporters of third parties and independent candidates. While the campaign against Mr. Nader is an extreme case, supporters of the two party monopoly regularly use ballot access laws to keep third party and independent candidates off ballots. Even candidates able to comply with onerous ballot access rules must devote so many resources to simply getting on the ballot that their ability to communicate their ideas to the general public is severely limited. Perhaps the ballot access laws are one reason why voter turnout has been declining over the past few decades. After all, almost 42% of eligible voters have either not registered to vote or have registered as something other than Democrat or Republican.

The United States Constitution gives Congress the authority to regulate the time, place, and manner of federal elections. Thus, ballot access is one of the few areas where Congress has explicit Constitutional authority to establish national standards. In order to open up the political process, I have introduced the Voter Freedom Act (HR 1941). HR 1941 established uniform standards for ballot access so third party and independent candidates can at last compete on a level playing field.

The blatant attempt by a major party to keep Ralph Nader off state ballots demonstrates how restrictive ballot access laws are used to preserve a political monopoly, limit voters' choices, and deny the rights of millions of Americans who support third parties and independent candidates an opportunity to effectively participate in the political process. I call upon my colleagues to remedy this situation by supporting my Voter Freedom Act.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent for votes in this chamber on July 12, 2004. I would like the record to show that, had I been present, I would have voted "yea" on rollcall votes 359, 361 and 362 and "no" on rollcall vote 360.

HONORING PORT OF OAKLAND EXECUTIVE DIRECTOR TAY YOSHITANI

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. LEE. Mr. Speaker, I rise today to honor the exceptional achievements of retiring Port of Oakland Executive Director Tay Yoshitani.

Since his graduation from the United States Military Academy and the Harvard Graduate School of Business Administration; Mr. Yoshitani's distinguished career has included the direction of the ports of several major cities. After serving as the Deputy Director of the Port of Los Angeles for six years, he became the Director of the Port of Maryland Administration in 1995. There he served with distinction until joining the Port of Oakland in 1998 as Deputy Executive Director, and later becoming Executive Director in October 2001.

As the Executive Director of the Port of Oakland, Mr. Yoshitani directed a staff of over six hundred employees and oversaw the management of the Oakland International Airport, the Oakland Seaport, and the historic Jack London Square. He has done an outstanding job managing not only the functions of the Port itself, but has also consistently demonstrated his commitment to sustainable development as a business goal through his pursuit of social equity and environmental responsibility in addition to economic vitality. In keeping with these principles, he established a new division at the Port, the Social Responsibility Division, which ensures greater access to jobs and business opportunities for the local community. Furthermore, Mr. Yoshitani is responsible for the establishment of a variety of other ground-breaking initiatives, such as the Public Art Program and Policy, the Port's sustainability Task Force, and the Annual Good Neighbor Awards, which recognize individuals and organizations delivering outstanding community service.

During his tenure as Executive Director, Mr. Yoshitani has also presided over the completion of a number of infrastructural improvements to all three Port divisions. In addition to supporting the Estuary Plan by initiating real estate and waterfront development in underutilized areas, he also presided over the completion of enlarged marine terminals, as well as the initiation of the construction of the Oakland International Airport's Terminal Improvement Program, the largest aviation project in the airport's 77-year history. Furthermore, under Mr. Yoshitani's direction, the Port has received over one hundred million dollars in Federal funding for various infrastructural improvements.

On July 14, 2004, Mr. Yoshitani will be honored in Oakland, California on the occasion of his retirement. I would like to take this opportunity to commend his exceptional achievements not only in the areas of Port economic growth and development, but also for his role as a leader in the areas of social responsibility and sustainable business practices. Mr. Yoshitani has distinguished himself as an exceptional business and civic leader, whose contributions have greatly enriched our community.

IN MEMORY OF EDILITH ECKART

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Edilith Eckart, who died June 16, 2004 in Humboldt County, California at the age of eighty-four.

Edilith Eckart was born in Brooklyn, the daughter of Norwegian immigrants. She was a teacher prior to World War II then served her country in the U.S. Navy as a WAVE Lieutenant Junior Grade during that war. After the war she moved to New Orleans with her family where she began her lifelong vocation as an activist for peace and civil rights. She was an ardent and effective environmentalist who was often called as an expert witness in court cases.

Her belief in the concept of a peaceful world was absolute. She was an activist extraordinaire, a Veteran for Peace, a columnist, a citizen diplomat, a member of Women in Black, a biologist, a devoted parent, grandparent and world traveler. She led fifteen trips to the Soviet Union, visited Israel and Palestine several times and in 1995 she went to Japan for ceremonies marking the 50th anniversary of the bombing of Hiroshima and Nagasaki.

Characteristically, she engaged in civil disobedience and joined international organizations to help deliver $4 million worth of medicines to Iraqi hospitals following the first Gulf War. She was the co-chair of the Veterans for Peace "Iraq Water Project," which resulted in the building of a number of water treatment plants in rural Iraq.

She believed in the power of individuals to forcefully speak out for peace and justice, connect with the people of other countries in the pursuit of those ideals and she worked valiantly to relieve suffering wherever she found it.

Referring to herself as a contemplative activist, her garden was listed with the Sanctuary Garden Project, a nation wide network of back yard sanctuaries.

Edilith Eckart received many national awards for her friendship building in the Soviet Union, Palestine, Iraq, as well as the Veterans for Peace Presidents Award. She was also awarded the Physician's for Social Responsibility "Broad Street Pump Award." The American Association of University Women honored her during Women's History Month in 1998.

She was an inspiration; a humanitarian and she left a distinguished legacy to us all.

Mr. Speaker, it is appropriate at this time that we recognize Edilith Eckart for her unwavering commitment to the ideals and values that sustain our great country.

IN HONOR OF THE BRAVERY OF THE NIAGARA FALLS FIRE DEPARTMENT AND THE NEW YORK STATE PARK POLICE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today to honor the heroes of the Niagara Falls Fire Department and the New York State Park Police. Last Sunday evening, these brave first responders rescued a woman on the verge of ending her own life at the edge of the vast Niagara Falls. Without hesitation, these men put their own lives in danger to save another.

Niagara Falls is one of the greatest natural treasures on earth. One of the largest waterfalls in the world, Niagara Falls plunges a dramatic 180 feet, or 16 stories. It is a wondrous site that attracts millions of tourists every year. But with its immense beauty comes immense dangers. Over the years, police and fire personnel in Niagara Falls have performed daring rescues to save people who have gotten too close to the edge.

On Sunday evening, a suicidal woman ventured out to a ledge just a few feet from the edge of the mighty falls. Responding first to the scene, New York State Park Police officers Scott Durham and Timothy Coulombe kept the woman calm until rescue personnel from the Niagara Falls Fire Department arrived.

State Park Police Lieutenant Patrick Moriarty, Niagara Falls Fire Battalion Chief John Jacoby, and Niagara Falls firefighters Gary Carella and David Beahen all made their way out onto the ledge, just feet from the edge. Mr. Carella spoke to the woman with Mr. Beahen securing him from behind. As the woman suddenly began to slide towards the falls, Mr. Carella lunged to seize her, while Mr. Beahen lunged to catch him. They safely brought the woman to shore amid the cheers of dozens of onlookers who had gathered to watch this dramatic rescue.

I want to thank these men, and the personnel from Engine 8, Engine 4, Truck 1 and Rescue 1 who assisted them, for their astounding courage. The rescue only reaffirms what we already know: that the first responders of Niagara County are some of the finest. We should all feel safer knowing that that these brave men and women do such a stellar job, around the clock. I applaud and admire their valor and altruism.

TRIBUTE TO LI-PEI WU

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. BERMAN. Mr. Speaker, Mr. SHERMAN, Mr. WU and I rise today to ask our colleagues to join in saluting Mr. Li-Pei Wu, Chairman Emeritus and Director of GBC Bancorp, and the new Presidential Policy Advisor to Taiwan's President Chen Shu-Bian. He is a remarkable man with a myriad of accomplishments.

Mr. Wu has enjoyed a distinguished and successful career as a banking executive. He served as CFO of the National Bank of Alaska and President of Alaska National Bank of the North. In 1982, Mr. Wu took the helm of General Bank in Los Angeles. Under his able leadership, both General Bank and its holding company, GBC Bancorp, developed into industry leaders.

Mr. Wu was born in Changhwa, Taiwan, one of the poorest communities in Taiwan. Despite facing political oppression, he earned a B.A. in Economics from National Taiwan University and taught at the Kwanglon Business School. After his brother was sent to prison by members of the Nationalist Party, Wu left Taiwan to earn his MBA at Fort Hays State University. He struggled with the English language, but his determination and business acumen soon landed him important positions in Alaska's largest financial institution, the National Bank of Alaska.

Li-Pei Wu's accomplishments go far beyond the business world. For more than 35 years he has dedicated his time and energy to advocate for democracy and human rights in Taiwan. He is the founder and chairman of the Formosa Foundation, a non-profit, non-partisan public interest group that seeks to foster an environment of peace and stability across the Taiwan Strait, while also promoting understanding and friendship between Taiwan and the United States. He was the founding president of the Taiwanese American Citizen League, which has grown from one to twelve chapters nationwide. He has worked tirelessly to help Taiwanese-Americans achieve success and leadership opportunities in American politics, culture, and society. In addition, he serves as an honorary member of the Pacific Council on International Policy and as a Board of Advisors member for the Asia Society of Los Angeles.

Mr. Wu's commitment to human rights, peace, and economic success has been widely recognized. He is the proud recipient of the 1998 Ernst & Young Greater Los Angeles Entrepreneur of the Year Award and has been asked to teach at the University of Cambridge as a Distinguished Guest Lecturer in the school's Department of Oriental Studies. He has served as a delegate to Taiwan's National Affairs Summit at the direct invitation of Taiwan's President Lee Tung-hui. In 1990, he was the recipient of the Outstanding Entrepreneur Award bestowed on him by the National Association of Investment Companies.

Mr. Speaker, we ask our colleagues to join us in honoring and thanking Mr. Li-Pei Wu for his outstanding contributions to our community and for his steadfast commitment to human rights and strong relations between the United States and Taiwan.

HONORING COLONEL DANIEL E. FURTADO

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. HONDA. Mr. Speaker, I rise today to honor the many contributions and accomplishments of Colonel Daniel E. Furtado on his retirement from the U.S. Army Reserve, after 38 years of devoted service including the prestigious command of the 5th Brigade, 104th Division. Colonel Furtado has dedicated over 30 years to his community and our nation.

Colonel Furtado is a native of Campbell, California and has been very active in civic and community affairs, having served both as mayor and city councilmember of Campbell. Through his many contributions to education, health, and national security, Colonel Furtado has impacted the lives of many and recently was selected as Citizen of the Year for the City of Campbell for the year 2000.

Colonel Daniel Furtado enlisted in the U.S. Army in September 1963, while enrolled in ROTC. After completing a Bachelor of Arts degree from San Jose State University in Applied Arts and Sciences, Colonel Furtado received a Doctor of Pharmacy degree from the University of California and a Master of Public Administration degree from the University of San Francisco. From 1969 to 1971, he worked in Houston, Texas as Chief of the Pharmacology Section at the Academy of Health Sciences, Fort Sam. Later he worked in Palo Alto, CA as clinical coordinator for the Veterans Administration Medical Center. Colonel Furtado was Co-Director of the Pharmacy at O'Connor Hospital at Campbell, CA from 1979 to 1980, when he was appointed Associated Director of the Primary Care Associate Program at Stanford University School of Medicine. He still teaches pharmacology and is currently Senior Lecturer in Medicine at Stanford and Associate Clinical Professor of Pharmacy at the University of California.

Colonel Furtado has been a volunteer for the American Heart Association for over 25 years, and has served as President and on the Board of Directors of the Santa Clara County Chapter. His significant public service record is exemplified through the multitude of service awards that he has received, including the Meritorious Service Medal with two Oak Leaf Clusters, the Armed Forces Reserve Medal with Gold Hourglass Device, and the Army Service Ribbon. Colonel Furtado is a member of the Emergency Preparedness Council of Santa Clara County and the Immediate Past Chairs of both the West Valley Sanitation District Board of Directors and the County Library Joint Powers Authority. Miraculously, Colonel Furtado also finds time to serve on the Homeland Security Task Force, the Public Safety Committee of the National League of Cities, and the Public Safety Committee of the League of California Cities.

Colonel Furtado's engaged assistance to the community and his many contributions to society have made him a distinguished member of Santa Clara County. His hard work and dedication toward the protection of our nation through military service make him a role model for our youth.

Mr. Speaker, I commend Colonel Daniel E. Furtado for his ongoing efforts on behalf of his community and for his numerous accomplishments in the fields of education, health, community and military service.

A TRIBUTE TO RICHARD JONES JR.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of Richard Jones Jr. in recognition of contributions to the community through his professional work and civic endeavors.

Richard is a police officer in the New York City Police Department and is assigned to the Transit Division's Kings County Task Force. He is also an independent associate for Prepaid Legal Services.

A Bedford Stuyvesant resident, Richard is the father of three lovely children. Shawntice is an honor student. His two active sons are Sirrichard and Khaliq. Richard's devotion to his family is unmatched.

Richard is a founding member of the civic association; "Black Men Who Care Inc.," which was founded in 1998 to creatively occupy the spare time of the youths residing in Brooklyn. During the winter, the organization developed a mentorship program to help youth after school. This program targeted young men between the ages of 12 and 15. In spite of the organization's name, it has come to include members of all races and both genders.

Richard is the Treasurer and Director of Sports and Recreation. Each week, he spends many hours with the organization, planning and coordinating future activities. The organization emphasizes etiquette, self-respect, respect for one's neighborhood, and respect for elders. For his continued community service, Richard received the Isaac Liberman Service Award in 1999 from the Hundred Year Association of New York.

As an independent associate with Pre-paid Legal Services, Richard is providing an opportunity for hard working middle class people to obtain quality legal services. With the help of Richard's efforts, more people, regardless of their income status, will have access to quality attorneys.

Mr. Speaker, Richard Jones Jr. has dedicated his time to improving the community as a member of law enforcement and a civic leader. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. BISHOP of Georgia. Mr. Chairman, today I rise on behalf of the hard-working farm families of Southwest Georgia who have more than earned the economic assistance that a tobacco buy-out would provide.

By introducing this amendment, my colleagues seek to make a statement about the tobacco industry as a whole. In reality they are punishing American farmers who have already suffered the loss of more than fifty percent of their income. A tobacco buyout does not provide an incentive to grow tobacco nor does it get the U.S. Government out of the tobacco growing industry, rather it provides our farmers with an honest chance to survive.

Those of us representing American tobacco growers are in the best position to understand the unique importance of tobacco reform. We have been working on a bipartisan basis for over two years to end the depression-era price support system that, despite severe cuts in quotas and the even greater economic losses of our farm families, has not been touched in nearly 18 years. This amendment obstructs our reform efforts and complicates the chances of any real solution. Our farmers deserve better.

I urge my colleagues not to support this amendment.

A TRIBUTE TO JOHN C. WHITEHEAD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of John C. Whitehead for his continued dedication to public service.

John was born in East New York and raised in Bedford Stuyvesant by his loving parents, Jesse and Mary. The ninth of twelve children, he was educated in the New York public school system.

John previously served his country proudly as a member of the United States Army and Reserves.

He has vast experience with many civic groups and community-based organizations. John is a founding member of the youth organization Black Men Who Care. He is the Chief Executive Officer and an Executive Board Member. He is a member of the Men's Caucus for Congressman ED TOWNS where he is a Congressional diplomat and Chairman of this year's awards dinner. John is also an executive board member of Community Board No. 5 which serves East New York.

John is deeply involved with a number of community organizations. He is an Advisory Board Member of NIA Theatrical Production Company and New York City Works, a Special Advisor to the Committee To Honor Black Heroes, and a member of Black Watch. John has served as a supervisor and youth counselor for the Vanguard Urban Improvement Association, which was founded by Albert Vann (City Councilman and Former Assemblyman), and is the former vice-president of the Spring Creek Tenants Association.

John is currently employed by the New York City Department of Sanitation as well as being a licensed paralegal. He has served as Vice-President of the United States Steel Workers Local No. 2, and has worked as a security supervisor for Burns Security.

John is a single parent of six wonderful children: John Jr., Jeffrey, Jatina, Dakeem, Jay and Justin. By his example of community service, love of neighbor and a strong work ethic, he strives to teach his children that they can be successful in any endeavor they undertake. John's greatest focus and concern is to be the voice for those hard-working taxpayers who are not being heard. They need and deserve someone to ensure the delivery of quality services to their community.

Mr. Speaker, John C. Whitehead has continued to strengthen and improve the community through his wide array of civic activities. As such, he is more than worthy of receiving our recognition today, and I urge my colleagues to join me in honoring this truly remarkable person.

IN HONOR OF VIRGIL BLANCO

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Virgil Blanco on being selected as a Fulbright Scholar for 2004. For his remarkable achievement, Mr. Blanco was honored by the Board of Chosen Freeholders on Thursday, May 20, 2004, at Middlesex County Administration Building in New Brunswick, NJ.

Mr. Blanco, a professor of modern languages and department chairman and director of the Center for International Education at Middlesex County Community College, has been selected as a 2004 Fulbright Scholar Program recipient. The Fulbright Scholar Program is an honor bestowed upon only 800 American faculty and professionals, by the Bureau of Educational and Cultural Affairs in the U.S. Department of State. Mr. Blanco recently spent 3 weeks visiting French and German post-secondary educational institutions, learning in-depth their educational system. He also lectured about community colleges and immigrant students in the United States.

Mr. Blanco has been an active member in his community. He was founder and chairman of the New Jersey Collegiate Consortium for International Education, and also served as chairman of the New Jersey World Trade Association, co-chairman of the New Jersey World Trade Conference, and member of the State Advisory Committee on Bilingual Education.

For his outstanding research and dedicated community service, Mr. Blanco has been the recipient of numerous awards and grants, such as the N.J. World Trade Council Education Award, the Above and Beyond Award for Teaching Excellence, and the N.J. Department of Labor and Industry Research Grant.

Mr. Blanco received his bachelor's degree from the University of Miami, a master's degree from Fairleigh Dickinson University, and his post-doctorate degree from the University of Madrid.

Today, I ask my colleagues to join me in honoring Virgil Blanco for his continued pursuit of educational excellence, and for his dedicated service to the students of Middlesex County Community College.

A TRIBUTE TO CONSTANTINE LINCOLN STEWART

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of Constantine Lincoln Stewart for his public service for the City of New York and his volunteer efforts to educate our children.

Lincoln, as he is more affectionately known, currently serves as a senior policy advisor in the Office of Policy Management with the New York City Comptroller's Office. As a Senior Policy Advisor, he conducts research and analyzes public policy issues affecting education, the infrastructure, public safety, and technology. He has worked in the Comptroller's Office for the last 17 years.

Lincoln is also an adjunct professor at York College in Jamaica, New York. He tutors students of all ages throughout the city. He enjoys the opportunity to be a positive influence on young people. Lincoln especially likes working with students in the areas of math and science. These areas are traditionally viewed as problematic for women and people of color. Lincoln emphasizes that it is the student's duty to take responsibility for his or her own education. He often tells his students that the international community is providing opportunities for ambitious African-American, Latino, female and immigrant youths.

Lincoln was born in Jamaica. He is the second of Samuel and Lethe's five children. He received his degree in Chemical Engineering from the University of the West Indies. After graduating, he immigrated to Brooklyn in 1980. He quickly resettled in West Texas after accepting an offer as a chemical engineer with the Phillips Petroleum Company. Two years later, he returned to Brooklyn and attended Baruch College where he earned his Masters of Business Administration.

Lincoln is the loving husband of Charmanie Harris Stewart, his wife, partner, and friend for 17 years. He is the proud father of three gifted children: Lincoln, Jr. is currently serving in the U.S. Marine Corps; Anika is an honors student; and Din, his youngest son, attends St. Raymond's Catholic School.

Mr. Speaker, Constantine Lincoln Stewart has dedicated his professional career to serving his community while still finding time to tutor children throughout the area. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

IN MEMORY OF LEDA JELINEK

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. FARR. Mr. Speaker, I rise today to honor Col. Leda Jelinek who passed away June 7, 2004. She served the country as a distinguished member of the Army Nurse Corps for 30 years until her retirement at Fort Ord in 1971. Col. Jelinek is survived by her sister, Veva Fitzgerald of Monterey and many friends who loved her.

Born in Bonesteel, South Dakota, Leda entered nurse's training at the Hospital of St. Vincent's in Sioux City, Iowa. After completing the program with distinction, Leda began a long and remarkable nursing career. She was commissioned by the Army Nurses Corps in 1941 and subsequently served at a plethora of Army hospitals throughout the United States. In addition, she served in Korea, Germany and Japan. General George Marshall was one of her many patients on the VIP floor of Walter Reed Hospital in 1953. She was a Chief Nurse Anesthetist before her promotion to Major whence she became the Director of the Advanced Medical Specialist School at Fort Bragg. Upon her retirement and during her distinguished career Leda received the Army of Occupation Medal (Japan), American Campaign Medal, the National Defense Service Medal, World War II Victory Medal, Legion of Merit, the American Defense Service Medal and the Meritorious Service Medal.

Col. Jelinek was an ardent supporter of the Democratic Party and was a Jimmy Carter delegate at the National Democratic Convention of 1976. Former Congressman Leon Panetta had her as a campaign worker on numerous campaigns. She was affiliated with Monterey County Democratic Party and the Women's Democratic Club.

Mr. Speaker, I applaud Leda's many accomplishments, and I commend her for her lifelong dedication to her community and friends. She was a remarkable figure, and her memory will live on in the many people whose lives she has touched. I join the Monterey Bay community, and friends and family in honoring this truly admirable woman and friend for all of her lifelong achievements.

A TRIBUTE TO NORMA CIRINO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of Norma Cirino in recognition of her public service and volunteer efforts to strengthen the community.

Norma has worked for the New York City Department of Probation for five years. In this short time, she has made an unforgettable mark on the Department and the East New York community. She was born and raised in East New York.

Norma is well known in her "home neighborhood" of East New York. She attends all of the 75th Precinct Council, Community Board #5, and Cabinet meetings. She serves on several boards of community organizations. In 2000, she created the annual Department of Probation "East New York Family Day." This event gathers law enforcement, elected officials and community residents at Thomas Jefferson Field for a great day of family fun. This event has drawn over 1,000 participants each year. More than 150 sponsors and many community organizations have made this event possible at no cost to the public. Norma has also developed "Afternoon with Santa." This event is held during the Christmas season and involves probation officers reading stories and distributing toys to the children of the Cypress Hills Housing Development.

Norma consistently conducts community outreach and develops affiliations with community organizations and residents. Hundreds of East New Yorkers have been employed, received health services or educational opportunities through referrals received from Norma.

Norma has linked community-based organizations to community service work, crews. The work performed by these crews has improved the quality of life in East New York. She has also increased the community's voice in the criminal justice system by helping people report crimes and connecting them with criminal justice services. Finally, she has helped change the community's perception of law enforcement through her affiliation with the U.S. Department of Justice's Weed and Seed program.

Norma graduated from Maxwell High School. She takes pride in the East New York community where she lives with her daughter Stephanie, who is the light of her eyes. Her sisters, Lydia and Rosa, her brother, Anthony, all of her nieces and nephews, and her mother live in the community as well.

Mr. Speaker, Norma Cirino has dedicated her time to improving the community through both her professional and volunteer efforts. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

PERSONAL EXPLANATION

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained in my district. Had I been present, I would have voted no on rollcalls 359 and 360. I would have voted yes on rollcalls 361 and 362.

TAX REFORM

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mrs. JONES of Ohio. Mr. Speaker, public distrust. That is the main reason why we urgently need fundamental tax reform.

More and more Americans distrust the current tax system because they perceive it as unfair. Are they wrong? No. Lower and middle class Americans bear a disproportionate tax burden. Small businesses bear a great compliance burden. That is unfair.

Does fairness in our tax system matter? Yes, it matters because tax collection depends on voluntary compliance. And in a democracy like ours, people contribute private resources to provide the public goods and services we deem appropriate as a community, including helping those not able fend for themselves.

In America, paying taxes embodies a civic relationship of mutual responsibility, and people's obligation to pay them is as legitimate as any other public duty.

So, I am glad that we are beginning this discussion of comprehensive tax reform—an issue that will only become more important for us in Congress.

Let me offer the following five points to consider as we discuss this important issue:

First, fundamental tax reform is a necessity. The current tax system is complicated, inefficient, and unfair. Its unpopularity is warranted, and that is a problem because that breeds distrust.

The tax code must be simplified in order to eliminate wasted time and money spent on compliance. For example, the average taxpayer with a self-employed status has the greatest compliance burden in terms of tax preparation—59 hours.

Furthermore, the complexity of the tax code is evident by the fact that small businesses overpaid their taxes by $18 billion in 2000 and 2001 because of return errors, according to a GAO report. Small businesses unfairly bear the burden of the tax code's complexity simply because they do not have the financial resources to hire sophisticated tax advisors.

Second, simplification can occur only with fundamental tax reform. This is clear after decades of incrementalism. We know that tax reform cannot be done in a piecemeal fashion. The current tax system is flawed at its root. Hard-working, middle-income class people bear the largest burden in our current tax system.

Third, fundamental tax reform must focus on the tax base. Our tax base is derived from total income. However, this is complicated by the bewildering array of adjustments, deductions, credits, omissions, and mismeasurements. This undermines the fairness of our tax system. Therefore, fundamental tax reform must focus on the issue of the tax base in order to achieve equity, efficiency, simplicity, and accountability.

Fourth, the tax code must encourage entrepreneurship. Small businesses provide our economy's foundation. They need a tax system that frees resources for investment and ensures affordable capital. We must support small businesses, which make up the backbone of our economy.

Fifth, fundamental tax reform is possible. Tax reform is not an easy task. However, the American public demands it. They see our tax system as unfair, and they are right. As it was in the mid-1980s, the time is ripe to begin taking serious steps towards achieving fundamental tax reform. We must listen to our constituents and be up to task to implementing a fair tax system.

TAX REFORM

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. LANGEVIN. Mr. Speaker, today I rise to highlight the increasing complexity in the tax code that bogs down small businesses in my district.

Shortly after President Bush took office in 2001, he declared, "Americans want our tax code to be reasonable and simple and fair. These are goals that unite our country, and these are goals that have shaped my plan." I could not agree more with the President's words, but unfortunately his actions have not matched his rhetoric.

Over the past three and a half years, the federal income tax code has grown by more than 10,000 pages due to 227 changes, not including the 109 proposed tax changes in the manufacturing tax bill that recently passed the House. Instead of helping small businesses create jobs in America, this legislation actually encourages companies to move workers abroad.

According to the IRS, small businesses and self-employed taxpayers now spend an average of nearly 60 hours on tax preparation. That means a business owner or employee uses more than a full work week compiling information and filling out tax forms rather than working to grow the business.

A recent GAO study concluded that small businesses overpay their taxes by billions of dollars per year because of tax return errors. Even tax preparation professionals make errors because the code is too complicated to know about every single available deduction.

Republicans have been so preoccupied with cutting taxes that they have not taken into account the burden this new complexity causes for taxpayers. We need a simpler tax code that allows companies to spend less time filling out forms and more time on business.

While Republicans continuously speak about making tax simplification a reality, they have done nothing but add to the misunderstanding and complexity. I urge the adoption of legislation to reduce the paperwork burden on our small businesses so that they can concentrate on their work, not deciphering the tax code.

SENATE—*Friday, July 16, 2004*

The Senate met at 10:01 a.m. and was called to order by the Honorable ELIZABETH DOLE, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

O God who brings unity from division and order from chaos, the Earth belongs to You and the universe is Your throne.

With one voice we offer You praise and thanksgiving. Empower people everywhere to seek and find You.

Sustain the Members of our Nation's legislative branch with Your presence and wisdom. Guide them on the safe road that they may be instruments of Your glory. Help them to restrain the wrong and encourage the good in a world challenged by evil.

Bless our military and all who fight for freedom. Comfort those who mourn.

We give thanks to You today, our Maker, Nourisher, Guardian, Governor, Healer, Benefactor, and Protector.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable ELIZABETH DOLE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 16, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ELIZABETH DOLE, a Senator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mrs. DOLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, we will be in a period of morning business. Last night, we were able to complete our work on the Australia Free Trade Agreement. We also finished the process for sending the JOBS bill, FSC/ETI bill, to conference; therefore, we will have no rollcall votes today.

I do not anticipate a long session today, but several colleagues have asked that we be in morning business so that they have an opportunity to discuss certain issues.

We have one piece of business on the Executive Calendar. We have tried to reach a time agreement on the judicial nomination of William Myers to be a U.S. circuit judge for the Ninth Circuit. It appears unlikely that the other side will agree to a time limitation, and, therefore, I intend to file cloture on that nomination today. That vote will occur sometime early Tuesday afternoon at a time to be determined, which we will set certainly before the close of today's business.

AIDS IN AFRICA

Mr. FRIST. Mr. President, I want to briefly comment on a headline from an article from the U.K. Daily Independent. It could have been really from any periodical, but the headline says, "AIDS reduces African life expectancy to 33." That is 33 years of age. In my office this morning, I came across this, and it hits me that this little virus we have lived with since the early 1980s, when it was first described and detected in this country—in this country nobody had died of this little virus, but then 5 people died, 100 died, and now thousands of people in this country have died; and then it killed about 500,000 people, and then a million, and then 5 million, and then 23 million people have died. It is destroying the continent of Africa, where the life expectancy is 33 years of age.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the UK Independent, July 16, 2004]

AIDS REDUCES AFRICAN LIFE EXPECTANCY TO 33

(By Elizabeth Davies)

The AIDS pandemic is ravaging countries in sub-Saharan Africa, drastically reducing life expectancy in some parts to less than 33 years, a new UN report said yesterday.

The devastating impact of the crisis can be seen most clearly in seven African countries, including Malawi and Mozambique, where babies born in 2002 are not expected to live past 40 years because of the prevalence of HIV. Children in Zambia, where 17 per cent of the population are infected with the virus, are predicted to live just 32 years. The seven countries have, between them, seen an average drop in life expectancy of 13.5 years since 1990, the UN human development report said.

"In all these countries, AIDS is reversing the hard-won development gains of recent decades," said Elizabeth Lwanga, the deputy director of the United Nations Development Programme (UNDP) for Africa. "We need an unprecedented response to this crisis, which is taking a devastating toll on our communities."

With almost a quarter of its population infected with the virus, Zimbabwe has been the country most dramatically affected. Life expectancy there has plummeted from 57 years in 1990 to 34 in 2002.

In Swaziland, where one in three people between the ages of 15 and 49 are AIDS sufferers, life expectancy has dropped by almost 20 years, and in Botswana, where the disease affects 37 per cent of the population, people can expect to live 16 years less now than in 1970.

Sub-Saharan Africa is home to just over 10 per cent of the world's population—and to almost two-thirds of all people living with HIV. In 2003, an estimated three million people in the area became infected for the first time, while 2.2 million died. As a result, many of the countries are considerably poorer than they were a decade ago; 13 of them are virtually the first countries in the UNDP report's history to have suffered a reversal in living standards.

The UNDP administrator, Mark Malloch Brown, said that the virus caused such destruction because it affected all aspects of life. Those who fell victim to the disease left behind them countries struggling to cope with the loss of such a large proportion of the workforce.

"The AIDS crisis cripples states at all levels, because the disease attacks people in their most productive years," said Mr. Malloch Brown. "It tears apart the foundation of everything, from public administration and health care to the family structures."

Mohga Kamal-Smith a health policy adviser for Oxfam, pointed to the failure of the international community as one of the main reasons for the devastation. "As the epidemic spread, the donor contributions from richer countries went down," she said. "Hardly any of the governments have achieved the 0.7 per cent GDP contribution that they committed to."

The UNDP's annual report shows the drop in contributions from the highest-ranked countries in the list, particularly from Norway and the United States.

The lead author of the report, Sakiko Fukada-Parr, acknowledged that the most afflicted countries face enormous problems but said she believed that solutions may be found.

"AIDS is currently presenting a very basic problem in human development," she said. "But other countries, like Senegal and Brazil, have achieved partial success in fighting the disease, due to easily accessible medicine and all elements of the countries getting involved."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. FRIST. Madam President, in part, the second paragraph in the article says:

> The devastating impact of the crisis can be seen most clearly in seven African countries, including Malawi and Mozambique, where babies born in 2002 are not expected to live past 40 years because of the prevalence of HIV.

Without going into details of the causes, that dramatic impact demands, for a moral reason, a strong international response. I am proud that the United States is leading that moral response. This crisis is one of the great moral, humanitarian public health crises of our times. We need to address that.

Mr. REID. Madam President, will the Senator yield?

Mr. FRIST. Yes.

Mr. REID. Senator DASCHLE and I traveled to Africa a couple years ago this August. I was stunned then to go to Botswana where the average life expectancy is 39 years. Since then, it has dropped even lower. As we speak, people are dying. They are losing about 7,500 a day on the continent of Africa. So I am very glad that the majority leader, who is a physician, is following this. This is something that I don't know what we can do about. We are trying, and we have joined with the administration to try to do something about it.

Later in the day, would the leader be in a position to tell us more regarding what we are going to do next week?

Mr. FRIST. Madam President, yes, I certainly will. There are a number of issues, and we will talk about it later this morning. We will be in next week, including Monday. I would like to have the Myers vote early Tuesday afternoon. We have the Defense Appropriations bill which will be coming back from the House. As soon as it comes back, that very important bill we have acted on in the Senate will be addressed certainly next week. In addition, the Democratic leadership and the Republican leadership have begun discussions. There is likely to be another conference report coming back from the House with regard to a tax package. Nobody in the conference has to determine what the package actually is, but it will focus on issues like the 10-percent tax bracket, extension of the child tax credit, marriage penalty relief, those sorts of issues that I suspect will be addressed on the floor of the Senate next week. We can discuss other business. Next week will be a busy one. It will be our last week before going on a very long recess.

Finally, on Botswana, the Senator from Nevada mentioned two things. First of all, Senator DASCHLE and your delegation went about a year and a half ago. We followed that the next year with another bipartisan delegation to very similar countries. It takes that sort of direct participation on our part to go and see the travesty, the devastation, and to see that a large portion of these societies has been wiped out by this little virus which we can cure eventually. I am confident. It takes that participation on our part. I encourage our colleagues, even though people say Senators need to stay right here in the United States, to do traveling, interaction, dialog, observation. Since those two journeys, we have been able to come back and we can, with pride, say we are the world leader in addressing this moral public health challenge. That comes from action here, translated into action on the floor, which is what we have done.

In Botswana, if we compare 1970 to today—and this article points it out—someone born in 1970 would have lived 16 more years if this virus had not been around. So it has cut 16 years, comparing 1970 to today, off someone's life expectancy in Botswana, where the assistant Democratic leader and I visited. It is a tough problem, one we can address together.

Mr. REID. Madam President, Botswana is a model democracy, a great country, great leadership, no corruption. I will respond briefly to the distinguished majority leader.

My last trip to Africa was a life-changing experience. I had been to other places, but to see the spread of AIDS was a life-changing experience for me, to see the orphans. The orphans are an epidemic in Africa. All these little kids have no parents, both parents having died from AIDS. To see the personal devastation of communities being wiped out and people not being educated is a terrible situation.

Having come to this body from the House of Representatives, I served there on the Foreign Affairs Committee. I agree with the distinguished majority leader, part of our job is to find out what is going on in the rest of the world, and I think our taxpayers are well paid by what we do here by our going and seeing what is going on in other parts of the world. We have responsibilities being the only superpower in the world. I am glad to see the majority leader does not cringe from the fact he has traveled, and he is trying to find out what is going on in other parts of the world. I believe, without any reservation or question, that those Senators who choose not to travel—and it is a personal decision, but I think it is a bad decision.

Mr. FRIST. Madam President, we were talking about Africa, but this little virus right here in Washington, DC, is killing people every day. When we talk about Africa, we use that as a model, at least for me. It could equally be Russia where the rate is probably the fastest growing in the world, or Haiti. Senator DEWINE constantly reminds us how Haiti has been devastated.

When we talk Africa, HIV/AIDS, we are really talking about a virus that knows no boundaries—Washington, DC, Nashville, TN, across the world—and that is important to research and development. If we kill the little virus, it helps people here in the District, it helps people across this country, Haiti, India, Russia, and that is why it is so important; that is why we are pulling together the great science we have today. Once we get rid of the virus, it goes away across the world.

I did not intend to talk about this little virus except that it is so devastating.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business, for statements only, with Senators permitted to speak for up to 10 minutes each.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. I thank the Presiding Officer.

MIDDLE-CLASS SQUEEZE

Mr. DASCHLE. Madam President, over the course of the last several weeks, many of us have come to the floor to talk about the question raised by our former President, Ronald Reagan, back in the 1980 Presidential campaign. His question at that time, which we are told was paraphrased from a question posed by Franklin Roosevelt in 1934, was: "Are you better off than you were four years ago?"

Unfortunately, in 2004, the answer to that question is all too clear for most middle-class Americans. Four years ago, our economy was booming. The stock market had reached record heights. Twenty-two million jobs had been created in 8 years. We built a record Federal surplus. And millions of American families enjoyed newfound prosperity and felt the optimism of even better times ahead.

Four years later, we have lost nearly 2 million private sector jobs, the stock market has dropped, record surpluses have turned to record deficits, and middle-class families are truly being squeezed.

This chart tells the story. Since President Bush came to office, wages have been stagnant. Average weekly earnings have not increased in the last 4 years, but the costs facing Americans have skyrocketed. Gas prices have increased 23 percent; college tuition has gone up 28 percent; and family health care premiums, as we can see from the chart, have actually increased 36 percent.

All that has come out of average weekly earnings, which have been stagnant.

This is not what was predicted. This certainly is not what the White House said would happen under its economic policies.

In his annual economic report released in February, the President predicted the economy would create 3.8 million jobs in 2004.

As of today, we are still 2.5 million jobs short of that goal. Even more troubling, the jobs being created today pay less than the jobs we have lost. And even Americans who have been fortunate enough to keep their jobs have failed to see the pay raises they need and they deserve.

Just this morning we received confirmation from the Department of Labor that working Americans are still being squeezed by this economy. In fact, the new numbers indicate the squeeze is actually getting worse. According to the Labor Department, real earnings in June fell $2.16, the second largest monthly drop in 14 years.

The Labor Department report also reveals what has happened over the past year. As this chart shows, the real earnings of our working people over this last year have actually decreased by 1.4 percent. They have less purchasing power today than they did in June 2003. But a typical commodity, a grocery that most families buy every week, milk, has gone up 30 percent. All this money is coming out of weekly earnings.

As people across the country know, gas prices have also risen dramatically. There was an article on the front page of the Wall Street Journal about this development. It concluded that at current prices, the average driver will pay nearly $300 more for gasoline this year than last year. And the story only gets worse when it comes to prescription drugs.

According to a recent report by the AARP, drug companies raised their prices for the top 200 brand-name drugs at nearly three times the rate of inflation in the first 3 months of 2004. Some of my colleagues on the other side of the aisle think these increases are less important to American families than the rise of gross domestic product, GDP. But Americans don't live on GDP, they live on earnings. That is what they use to pay for milk, gas, medicine, health insurance, and tuition. They live on earnings, and those earnings clearly are not keeping up with the costs they are facing today.

Remarkably, the administration's response to this problem has been to further undermine wages by limiting overtime rights. This week, an independent study showed that the White House's new overtime regulation, which goes into effect next month, will strip 6 million workers of their right to overtime. That is unacceptable. Democrats continue to fight at every opportunity to reverse the administration's misguided policy. Middle-class Americans are being squeezed, and the last thing they need is for their Government to make it worse.

What Congress should do is raise the minimum wage. It has been 8 years since we last voted to raise it. In that time it has become nearly impossible for minimum wage workers to make ends meet, especially when they are trying to raise a family. In my home State of South Dakota, a worker earning the minimum wage has to work 82 hours a week to afford rent for a two-bedroom apartment. And that is without taking into account other family costs, such as clothing, groceries, and health care.

Of course, not everyone in America is feeling the pinch. As this chart shows, while workers continue to struggle, our big corporations are thriving. In just the past year, corporate profits have risen 30 percent. The White House likes to talk about how we are now in an economic recovery. That is true for corporate America. But American workers are being left behind. As the New York Times recently reported, take-home pay, as a share of the economy, is at its lowest level since the Government started keeping track in 1929.

Economic policies that lead to these kinds of results don't do right by middle-class families, and they don't do right by America.

The good news is, we can do right by America. We proved during the Clinton administration that we can create millions of jobs, raise wages, and increase the quality of life for families all through the country. We did right by America then, and we can do it again.

With the help of the American people, and with some resolve by this body, we will do it again.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEAK INVESTIGATION

Mr. HARKIN. Madam President, I have taken the last several days on a daily basis to come to the Senate floor to talk about the treacherous and damaging leak of the identity of a covert CIA operative by the name of Valerie Plame, leaked to a columnist by the name of Robert Novak, reportedly by high-ranking White House officials. I spoke a number of times last year when the events occurred. I spoke about it before a special prosecutor was assigned to investigate. After that special prosecutor was assigned, I did not say much more because I believed things would take their course, the special prosecutor would do his job, and we would get to the bottom of this.

July 14 marked 1 year, and this being July 16, it is now 1 year and 2 days since we first learned of the exposing or the outing of Valerie Plame as a covert CIA operative.

That was the date 1 year ago when this columnist, Robert Novak, publicly exposed Ms. Plame. This was done in an act of political retribution because her husband, former Ambassador Joseph Wilson, published a column in the New York Times that questioned one of the key administration justifications for the war in Iraq; namely, that Iraq sought to buy yellow cake uranium ore from Niger.

Sadly, Republicans are still at it. They are fixated on Mr. Wilson. They are intent upon destroying his credibility. In columns and editorials and floor statements, the smear campaign continues. Their reason is they want to deflect and distract from the fact someone in the White House—high ranking—appears to have committed a crime, a treacherous crime.

I am not here to defend or criticize Joe Wilson. I have tried to follow the debate over his findings and statements and all that. Obviously, we are all concerned about finding out the facts about whether Saddam Hussein's government did try to obtain yellow cake uranium ore from Africa, the country of Niger, in the 1990s. That is a question of importance. But none of that has anything to do with the way we judge an illegal White House action that was used to undermine and endanger human intelligence resources, and was done only to disparage Mr. Wilson.

Here is the statute, and it is clear, 50 U.S.C., section 421. It says:

> Any person who has access to classified information that identifies a covert agent and intentionally discloses that information to an unauthorized person, knowing that the Government is seeking to keep the agent's identity concealed, shall be fined under Title 18 or imprisoned not more than 10 years, or both.

Robert Novak said it in his column. He said it was high-ranking White

House officials who gave him the information. We know that one or two high-ranking White House officials called, I think, up to six reporters to give them that information. Interestingly enough, it was only Mr. Novak who published this in a column.

Mr. Novak has been around this town a long time. He also had to know this was a violation of law to come out with the name of a covert CIA agent. Yet Mr. Novak put that name in his column. Shame on Mr. Novak. I am not certain that it is totally unclear as to whether he could also be prosecuted under the same provisions of law, 50 U.S.C., section 421. He also identified a covert agent.

Now, under the law, there is no exception for cases where a spouse of the agent has questioned administration policy. It doesn't say in the law that a person could be fined under title 18 or imprisoned for not more than 10 years, or both, unless the spouse of the agent questioned the administration policy. It doesn't say that in the law.

I understand the ongoing investigation by prosecutor Fitzgerald has been somewhat thorough. However, I have repeatedly criticized the President and Vice President for refusing to settle the matter quickly, which they could have done a year ago. Again, I am calling for the special prosecutor to put the President and the Vice President under oath—put them under oath and film it.

This is what they did to President Clinton. The special prosecutor put him under oath and filmed it. We sat here in the Senate and watched it. That had to do with actually something, I guess, that wasn't even a crime. It may have been immoral, but it wasn't a crime—certain indiscretions committed by the President in the White House.

What are we talking about here? We are talking about the exposure of the identity of a covert CIA agent, destroying her credibility, putting at risk all of her contacts and people she had worked with around the world. And, as we have learned from other retired CIA agents, this also puts a cloud over all other covert CIA operatives who may think that sometime in the future they too could be outed. What about all of their contacts who may think that, well, gee, I know someone who was giving information to Ms. Plame. Now, they may know that person was giving information, and I may have another contact. Well, I guess I better not get involved in that because they may out my source or my contact, also.

I cannot emphasize enough the seriousness of this crime. Yet the President treated it rather cavalierly when he was asked about it. He said: You know, there are leaks all over the White House. It is a big administration. We may never find out who did it. And he smiled, as if this was not a big deal. It is a very big deal. Someone in the White House—to this Senator's thinking—committed treason. The number of people in the White House with access to this kind of information can be counted on one hand—OK, maybe two hands. Maybe there are 10 people. But what the President should have done was call them into his office, have them sign a piece of paper that they did not do this, put them under oath.

The President could have solved this in 24 hours. Yet he sort of dismissed it out of hand, as though it was not a big deal.

Well, that is why I think the President and the Vice President must be put under oath and asked about this. Perhaps they do know. Perhaps the President does know who leaked this information and is just covering it up. Perhaps the Vice President also knows and he is just covering it up.

You have to look at what happened and how this whole thing progressed, and why the administration obviously is trying to deflect this onto Mr. Wilson and others, because the chronology of events shows that the administration clearly knew these claims were not real. So you have to look at the chronology.

Let me summarize it and then I will go through it. Even after CIA Director Tenet told the White House not to use this information in a speech, and even after the State Department later came out and said that some of these documents were forgeries, even after the same individual who had talked to Director Tenet in October and had taken the words out of the speech—that same individual put those words back in the President's State of the Union Message 3 months later. Curious, very curious.

By the fall of 2002—let me put it more succinctly. In October of 2002, the White House sought to include the claim that Iraq had tried to buy uranium from Africa in a policy speech by the President in Cincinnati.

What did the CIA do? Here is the chronology. In February 2002, Joseph Wilson travels to Niger to find out whether Iraq had attempted to buy uranium ore. On October 5, 2002, after the President indicated he was going to give a speech in Cincinnati and these claims were in the speech, the CIA sends a memo to the National Security Council concerned about these uranium claims in the Cincinnati speech. That is October 5.

They must have clearly felt they were not being taken seriously, because the following day a second memo was sent that urged that the information be deleted because the evidence was weak and the CIA had told Congress that "the Africa story was overblown, and this is one of the two issues where we differed with the British."

They must have been still pretty seriously concerned because CIA Director Tenet personally calls Deputy National Security Adviser Stephen Hadley. He personally called him.

Get this, they send a memo on the 5th, they send a memo on the 6th, and the Director himself calls on the 6th. So obviously they were very concerned about it. Guess what. Mr. Stephen Hadley—keep that name in mind—Deputy National Security Adviser Stephen Hadley takes the claims out of the speech the President gives in Cincinnati.

Then on October 16, the State Department gets copies of uranium purchase documents and forwards them to the CIA. I am told this came from the Italians. I don't know if that is right or not, but that is what I was told. This is what they claim were forgeries. This is what our State Department analyst tells the CIA later on, that the documents are likely forgeries.

On January 13, 2 weeks before the State of the Union, a State Department analyst sent an e-mail to the CIA about the documents, outlining his reasons why the uranium purchase agreement is probably a hoax. This is a State Department analyst who sends an e-mail to the CIA saying these are probably a hoax, forgeries.

So between the Cincinnati speech in October and the State of the Union speech in January, there is even more reason to doubt the credibility of these uranium purchase claims. Nonetheless, these mysterious 16 words—"The British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa"—were left in the State of the Union speech.

Here is where we come full circle. Who is the individual responsible for vetting national security issues before the State of the Union speech? Mr. Stephen Hadley oversees the State of the Union speech. Mr. Hadley was vetting national security concerns.

Let's loop back. It was Mr. Hadley who talked to Director Tenet in October and who got these memos saying these claims were not real. Stephen Hadley in October took them out of the Cincinnati speech. Mr. Hadley in January leaves them in the State of the Union speech. It is the same individual. He could not have forgotten this. He had to have known this.

Why, I ask, was this left in the State of the Union Message? Was it left in to help the President make his case for an invasion of Iraq? After being told it was dubious by the CIA Director himself, after the State Department said these were probably forgeries, the issue is, Why the White House still has not been held accountable for breaking the law and betraying the intelligence community by exposing Valerie Plame, all done in an attempt to discredit her husband Joseph Wilson and his criticism of the uranium claim.

The President says he did not know anything about it. Ken Lay of Enron last week claimed he did not know anything about what was going on in his company, either. He is the CEO, and what is his defense? "I didn't know it was going on." Either the CEO of a corporation knows what is going on and he is not being truthful or he did not know anything about it. Either way, it is inexcusable. If the President of the United States says he did not know anything about it, that is inexcusable. If the President did know about it and left that claim in his State of the Union Message, that is inexcusable. Either way, the buck stops on President Bush's desk. It is time to quit passing the buck. It is time for the American people to learn who committed these crimes and to have these people prosecuted.

What is going to happen in the future if this is swept under the rug? Does that mean some other administration, the next one, whatever it may be, Democratic or Republican, that a President or his people under him in the White House can break the law and not be held accountable?

Again, I take you back several years to when President Clinton was put under oath and filmed. We watched it right here on the Senate floor during the impeachment proceedings. Regardless of how one may have felt about that, it sent a very powerful message to the American people: No President is above the law; no President is above the law, neither Mr. Clinton nor Mr. Bush.

So I ask, Why hasn't President Bush, why hasn't Vice President CHENEY been put under oath and asked these questions under oath? Again we will let the American people know that no President is above the law and no one who works for a President is above the law.

This is serious business. I see that in a column by Mr. Novak of July 15—Mr. Novak's whole column is about Joe Wilson—he said:

> It's as though the Niger question and Joe Wilson have vanished from the Earth.

No, they have not, Mr. Novak; no, they have not. But Mr. Novak is all on whether Mr. Wilson was telling the truth, whether he was misinterpreted, whether his wife recommended that he be sent to Niger. Nowhere is it claimed Ms. Plame was in a position of authority to actually send him to Niger, but Mr. Novak goes on about how a State Department analyst told the committee about an interagency meeting in 2002 by Wilson's wife who had recommended that he go there because he had contacts there.

What does all this mean? It means what Mr. Novak is trying to do is to take the focus off of a clear violation of the law by individuals in the White House in exposing a covert agent's identity; take it off that and focus it on all this stuff about whether she recommended her husband, or whether her husband gave an honest analysis. I am sorry, Mr. Novak, that is not the issue. The issue is, someone in the White House broke the law, clearly, unequivocally. The point is, the President of the United States has expressed not one iota of outrage. The point is, the President and the Vice President, neither one, have sought to get to the bottom of this. Neither the President nor the Vice President have been put under oath to be questioned about this.

The point is, Mr. Novak, a year and 2 days have passed, and this lawbreaking activity in the White House has not been dealt with. No one is saying Ms. Plame broke any law, violated any ethics. No one is claiming Mr. Wilson broke any law or violated any ethics. You can say they may have made a mistake, he may have been wrong, he may have been wrong in his analysis—fine. I am not saying he was right or wrong. I don't know. What I do know is, two individuals in the White House broke the law—to my way of thinking, basically committed treason—and no one is getting to the bottom of it. And Mr. Novak continues to try to deflect the attention from that, to try to talk about whether Mr. Wilson was right in his analysis.

That is not the point. You can debate that issue if you want. What is not debatable is that someone in the White House broke the law, and they should be held accountable.

As I took the floor yesterday and the day before and the day before, I take the floor today, and I will every day that we are in session, to ask that simple question: Why isn't the President coming clean? Why isn't he getting to the bottom of this? Why, 1 year and 2 days later, has nothing happened in the White House to find the identity of these lawbreakers? The sooner we get to the bottom of it, the sooner we can allow the criminal justice system to do its job.

I call upon the President and the Vice President to get to the bottom of this. I call upon the special prosecutor to put them under oath and to ask them these questions. That may be the only way we get to the bottom of it.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

OBESITY IN AMERICA

Mr. FRIST. Mr. President, in a few minutes we will be closing out for the weekend. I will briefly comment on a couple of current issues before addressing some of the business before the Senate.

The first issue is a brief comment on President Bush's decision or his administration's decision yesterday to have the Federal Medicare Program recognize obesity as a disease.

Earlier today, we were talking about public health issues, and I mentioned in some African countries, because of an HIV/AIDS virus, the total length of life will be 33 years of age. In Botswana, if you were born in 1970, you would live 17 years longer than if you are born today because of that little virus. I mentioned that. That has gotten worse over the last 30 years, which we probably did not know anything about in this country until about 20 years ago. And it is getting much worse.

Another problem, very similar to that, is one that is apparent to anybody who has kids today and picks them up from school. If you just watch, you see the kids are much heavier than 20 years ago, 30 years ago. And that has lifelong consequences. It comes down to obesity.

There are many reasons for obesity, and I am not going to address all the reasons now. But there are things we can do, and we have a real obligation to do.

It is a brand-new problem—or new in the last 20 years. It is getting worse and worse, and it condemns these kids to a life of poorer quality and shorter length. It is something we absolutely must address.

I applaud the administration's decision yesterday. What they did is said obesity—which before was this kind of vague syndrome or observation—is a disease, and when you call it a disease, people recognize it as a disease, and then you start looking at prevention, care, and treatment to reverse it. That is the significance.

Two things: First, for the first time, a major Federal health program recognizes obesity as a disease. It is a treatable disease—preventable but also treatable. The second is that it demonstrates, once again, that Secretary Thompson and the administration are taking extremely seriously the obesity epidemic which is occurring in this country.

The administration is attacking obesity on a multitude of fronts. It is needed. In my mind, it is long overdue that this Nation address this new but rapidly growing epidemic.

The Centers for Disease Control and Prevention—or the CDC, as we all know it—reports that because of poor nutrition and lack of physical activity, obesity is on its way of surpassing smoking as the leading killer in the United States of America. Obesity is on its way of surpassing smoking as the leading killer in the United States of America.

Obesity contributes to other diseases, the diseases in which I specialize; that is, heart conditions, heart disease. It also affects a whole range of issues: orthopedic, pulmonary injuries as well.

The immediate impact will be twofold. First of all, it will be easier for Medicare beneficiaries and individuals with disabilities who are Medicare beneficiaries to get treatment. The barrier to treatment will be lowered.

When Medicare makes a decision, it has a spillover impact to the private sector. I think the spillover impact will be substantial, although the private sector has already moved ahead. They have already increased reimbursement for appropriate treatment for obesity in many areas. But the fact that the Federal Government speaks with a loud voice will have an impact on the private sector.

The public and private sector have to be very cautious. We talk about this on the floor of the Senate every time there is a new definition of something that needs to be treated. We have to be very cautious in deciding which specific treatments to cover. We need to make sure the interventions are effective, but we need to also make sure they are cost effective.

There are several treatments now for obesity that are available. Science will allow us to determine which of these treatment modalities are most effective and which are most cost effective.

Also—this applies to the HIV/AIDS virus, which I mentioned earlier today, and to obesity, which I mention now—prevention is a critically important aspect of the equation. Early intervention, especially among children, is the key to preventing lifelong obesity and obesity-related illnesses.

Nonetheless, I want to applaud the administration for this bold step. It will help prevent obesity and greatly improve strategies for helping not only seniors and individuals with disabilities but all Americans.

SUDAN

Mr. FRIST. Mr. President, there is a second issue I want to mention that I addressed 2 weeks ago on the floor of the Senate and want to follow up on. It has to do with a tragic situation in Sudan, in the western part of Sudan in the three states of Darfur, Sudan.

The situation there, even over the last 3 weeks, has steadily deteriorated. We have hundreds of thousands of refugees that are currently at risk. We are entering the rainy season there, and that makes the delivery of relief supplies very difficult.

Since my comments on the floor of the Senate, Secretary of State Powell, in the first week of this month, went to the Darfur region and made observations and certain requests. At about the same time, Secretary General Kofi Annan also visited the region and made certain requests. Senator BROWNBACK, our distinguished colleague from Kansas, subsequent to their visit, also visited the region and made observations and with a video camera took some traumatic footage of the devastation going on there. Another delegation from the House will be going shortly.

We have to take action to address this humanitarian problem. The administration is working hard to get relief to these people who are suffering, but there is systematic violence that is going on against the civilian populations in Darfur by the government and by the militias that are supported by the government. That violence must come to an end.

I spend a lot of time in the Sudan and each year go to southern Sudan as part of medical mission work that I do. In the coming weeks or months, I will be returning to Sudan as part of this medical mission work. I look forward at that point in time to seeing if we are having an impact in both the southern part of the Sudan but also in the Darfur region and will report back to this body. Hopefully we will be able to report that we are making progress. Two million people are being affected by this crisis, so it is a large crisis. I do ask the Government of Sudan to take immediate steps to end the violence in that part of the world.

RETIREMENT OF POLICE CHIEF JERRY HOOVER

Mr. REID. Mr. President, I rise today to express my congratulations to Reno Police Chief Jerry Hoover on his retirement. The City of Reno and the State of Nevada owe this public servant a tremendous debt of gratitude for his hard work and strong dedication to law enforcement and the public safety.

Although Mr. Hoover spent 36 years in law enforcement, his service to our Nation in fact began with his combat service in Vietnam with the 101st Airborne Division. Since then he has dedicated his life to making our Nation's communities safer and has served admirably the people of San Diego, CA; Boulder, CO; St. Joseph, MO; and Reno, NV.

Chief Hoover provided strong and innovative leadership during a very challenging time for the Reno Police Department. Like police agencies throughout the country, the department under Chief Hoover's leadership has significantly expanded its responsibilities in recent years to meet our Nation's homeland security needs.

Reno's police officers have met this new challenge while also policing one of our Nation's fastest-growing metropolitan areas.

During his tenure, Chief Hoover helped create the Reno Model PTO training program that provides post-Academy police training with an emphasis on critical thinking and problem-solving. He also effectively drew on the resources of the entire Reno community to meet the city's law enforcement and public safety needs by initiating the Senior Auxiliary Volunteer Effort program, which trains volunteers 50 and older to assist with park and school patrols and special community projects.

Despite the demands of his position, Chief Hoover still found time to help train the next generation of law enforcement professionals through classes at the University of Nevada, Reno, and Nevada State College in Henderson. Even after his retirement from the Reno department, Chief Hoover will continue his lifelong commitment to effective law enforcement as a consultant to police agencies throughout the country.

Chief Hoover has led a distinguished career marked by generous service. Please join me in congratulating him on his retirement from the Reno Police Department and in wishing him luck in all his future endeavors.

HUMAN TRAFFICKING

Mrs. CLINTON. Mr. President, I rise today to highlight the scourge of human trafficking. Every day, in countries around the world and right here in the United States, people desperate for economic opportunity and seeking to follow their dreams of a better life are lured from home by the promises of jobs and security. Sadly, though, all too often they find themselves trapped in a nightmare, imprisoned by violent criminals, abused, violated, deceived, bought, and sold as chattel. Some of these victims of trafficking disappear, never seen nor heard from again.

Every year, traffickers strip thousands of people of their freedom and imprison them in the dark underworld of prostitution, domestic servitude, sweat shops, and agricultural labor.

Trapped in debt bondage and faced with threats of physical harm to themselves or their families, trafficked persons have little choice but to try to work off their ballooning debts. Women forced into domestic servitude or sweatshop labor toil each day in abysmal, even dangerous conditions, earning no money and suffering physical and psychological abuse. And women and children trafficked into the sex industry constantly risk exposure to deadly diseases such as HIV and AIDS. Their only "escape" from the traffickers coming, if at all, is when the criminals discard them in the streets to die. This human trafficking is nothing short of modern day slavery.

Each year the United States publishes a report ranking countries for their failure to combat trafficking. Improvements have been made, but still the 2004 Trafficking In Persons Report estimates that 600,000–800,000 men, women, and children are trafficked worldwide across international borders; 14,500–17,500 are trafficked annually into the United States. This is even more chilling when one understands that these are new victims added each year to those whom traffickers have already ensnared. We must do better.

Last week, the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights focused on the most fundamental of all civil rights in their July 7 hearing "Examining U.S. Efforts to Combat Human Trafficking and Slavery." And this week, representatives from NGOs and the Bush administration, including the Departments of Justice, State, and Homeland Security, are convening in Florida for the "National Conference on Human Trafficking." It is heartening to see the work begun by the Clinton Administration continues to grow and strengthen.

The scourge of trafficking in women and children was a priority for me as First Lady and continues to be a priority for me as a U.S. Senator. I will do everything in my power to shine a light on this dark world that is so contrary to human dignity. Since the United Nations Fourth World Conference on Women in 1995, I have been working to raise awareness of the heinous practice of buying and selling women and children like commodities. I have seen the devastation it causes, and the lives and families it ruins. I remember very well crouching down by the chair of a 12-year-old girl who had been sold into prostitution by her own parents desperate for the income from that sale, only to have the child return home within a year, dying of AIDS. I have met other families who spend their nights at home worrying about what has happened to the daughter they haven't heard from since she went to the discotheque, or answered the ad to be a nanny or a clerk.

In the summer of 1997, I met with women leaders from Eastern and Central Europe, as well as victims' family members who, with tears in their eyes, pleaded with me for help in dealing with this growing problem. Later that year, in Lviv, Ukraine, I launched a new information campaign designed to warn young women about the dangers posed by traffickers. And in the fall of 1999, at the meeting of the Organization for Security and Cooperation in Europe held in Istanbul, Turkey, I announced a $1 million U.S. commitment to combat trafficking, and I called for greater economic opportunities to prevent young women from being driven into the hands of traffickers.

In recent years, beginning with the leadership of the Clinton administration, the U.S. has made great strides in understanding the horrors of trafficking. We have worked with other nations to combat those who try to reap profits from this horrible practice. In 1997, the United States, along with the European Union, formally launched a campaign to combat trafficking of women and girls and to warn potential victims of the risks. In March of 1998, President Clinton condemned human trafficking as a fundamental human rights violation and a growing organized crime problem. I joined the President, Secretary of State Albright, Attorney General Reno, U.N. Secretary General Kofi Annan, and a high-ranking member of the Thai government for a White House announcement of the first presidential directive to prevent and deter trafficking and to protect victims. At that time, the President directed his interagency Council on Women to coordinate the development and implementation of a three-part strategy that would: first, prevent trafficking; second, provide protection and assistance for trafficking victims; and third, prosecute traffickers. This comprehensive strategic framework later guided the development of the anti-trafficking legislation passed by Congress.

The Clinton administration's State Department began raising the issue with foreign governments at the highest levels. Formal and informal working partnerships were forged with several foreign governments to address this international crisis, including the Ukraine and Finland. At the G–8 meeting in 1997, Secretary of State Madeleine Albright initiated discussions that resulted in 1998 with President Clinton and Italian Prime Minister Prodi formally signing the first bilateral agreement to cooperate on such anti-trafficking efforts as data collection and information sharing, prevention, assistance and law enforcement. We began the first U.S. funding of anti-trafficking programs in countries such as the Philippines and Bangladesh. Back then, no anti-trafficking legislation had passed so these were necessarily modest amounts by comparison to U.S. funding now, but it was a needed start.

There was more. Embassies were tasked with reporting on human trafficking for the first time. And these assessments were included in the Department's annual Country Reports on Human Rights Practices. Prevention efforts included publishing awareness pamphlets that were translated into multiple languages and distributed in many consular offices around the world. At the same time, the U.S. undertook the first official estimates of the magnitude of human trafficking world-wide and domestically, and funded the creation of a database on U.S. and international legislation on trafficking. Law enforcement training was initiated at the International Law Enforcement Academy in Bangkok and Budapest and in countries such as Thailand, Bulgaria, Romania and Bosnia.

The Attorney General and the Secretary of Labor established an interagency Task Force to coordinate investigations and prosecutions of trafficking cases. Even prior to the passage of the 2000 anti-trafficking law, the Department of Justice used the legal tools available to successfully prosecute human traffickers. In 1995, the Department brought the seminal case of United States v. Manasurangkun against traffickers who enticed seventy-one women from Thailand to travel to the United States by promising them good wages, good working hours, and a better life. Upon their arrival in El Monte, CA, they were held in slavery behind barbed wire and forced to work up to twenty hour days and under the watch of guards. Women were imprisoned for up to 7 years before being rescued. This case was followed by other landmark cases such as United States v. Paoletti, United States v. Flores, United States v. Cadena and United States v. Mishulovich. These and other cases successfully prosecuted by the Justice Department ranging from sexual slavery to forced labor demonstrated the many manifestations of human trafficking, all of which must be addressed. Investigations resulting from the Justice Department's creation of the first national telephone line to receive calls to assist trafficking victims anywhere in the United States led to growing prosecutions. I am pleased that since the anti-trafficking legislation was passed and signed into law in 2000, prosecutions have continued to increase. Again, though, we need to do more to support increasing the capacity to undertake the investigations and prosecutions of these cases.

Just as the Clinton administration and international organizations were beginning to highlight trafficking in persons as an international crisis, Senator Paul Wellstone—one of the greatest champions of civil rights to sit in this chamber—also recognized this growing abuse of human rights. He introduced, with Senator DIANNE FEINSTEIN, a resolution in 1998 that called trafficking a global human rights problem and directed the State Department to review it and report its findings to Congress. Congresswoman LOUISE SLAUGHTER introduced a companion resolution and the led the charge in the House to bring attention to this issue.

The Clinton administration worked with Senator Wellstone, his Republican co-sponsor, Senator BROWNBACK, and Congressman CHRIS SMITH and former Congressman Sam Gejdenson in the House, to introduce the first comprehensive anti-trafficking bill in Congress. This culminated in the passage of the Victims of Trafficking and Violence Protection Act of 2000.

I supported adoption of the strongest possible legislation to eradicate trafficking in persons, and I was personally invested in the effort. The Clinton administration worked continuously with Congress on a bi-partisan basis to craft a bill to achieve this objective. We sought to institutionalize the comprehensive strategic framework—the "3 Ps"—that the Administration had been implementing as the core of the legislation. The resulting legislation incorporated prevention mechanisms and better and stronger prosecution, protection, and victim assistance tools. Upon its passage, President Clinton congratulated Congress and noted that this new law would lay the groundwork for future administrations to carry this important work forward, and would ensure that trafficking of persons assumes the prominent place on the world's agenda that it deserves until we put an end to this horrible practice. I believed then, and I believe now, that this is one of the Clinton administrations greatest achievements and one of the most important parts of Senator Wellstone's legacy. That law means the difference between freedom and enslavement for unknown numbers of potential trafficking victims for years to come.

I was also proud to support and work with Senator BROWNBACK on the passage of the Trafficking Victims Protection Reauthorization Act of 2003. I know that Senator Wellstone would welcome our work in the Senate, and CHRIS SMITH's continuing leadership in the House, as we fight one of the most egregious human rights violations, which Paul so passionately sought to bring to an end.

Looking forward, we must pursue concrete and pragmatic approaches to combating this evil. Our rhetoric must be matched by our actions so that the United States government's seven year record of progress and success can continue and intensify. The fight against trafficking, like the fight against all forms of violence, must be supported with comprehensive strategies effectively implemented and appropriately funded here and abroad. There is still much to be done.

The United States must do more to combat trafficking within our own shores. Trafficking victims exist in our midst, in towns large and small. We must target resources on training and equipping law enforcement authorities to identify trafficking victims, victims too often mischaracterized as "illegal migrants" and deported. And we must provide funds for NGOs working on the front lines in the United States to provide care and legal assistance to victims of all forms of trafficking.

I applaud and support State initiatives to combat trafficking. However, we must ensure that State and Federal authorities work cooperatively to combat this scourge. These welcome state efforts must augment the ongoing Federal fight against human trafficking. The Federal Government cannot retreat, but must do more to focus on victims nationwide. We must ensure that our Federal law enforcement authorities continue to have the financial and human resources necessary to investigate these crimes. We must further support our Federal, State, and local law enforcement, investigators, and prosecutors in efforts to mobilize in an integrated and coherent way to respond appropriately to the organized criminal enterprises of human trafficking who still operate with relative impunity here and around the world. We must ensure that we adopt a consistent and coordinated national response to these human rights violations.

Without witness protection and an appreciation of the risks that trafficking victims face in testifying against the perpetrators of these horrible crimes, the prosecution record will not improve. Conferences are a beginning, but not an end in themselves.

We must do more to tailor specific responses to the special needs of the children who are trafficked, especially in terms of care and protection. Root causes such as economic deprivation demand and warrant growing attention. There are no short-term fixes. The incidence of retrafficking among children, many who have attempted to flee homes of violence and abuse or have been sold by their families, must be addressed.

Finally, the Senate must ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the U.N. Convention against Transnational Organized Crime. The United States played a major role in developing this new international law on trafficking. Through the annual TIP reports we have communicated our expectation to the world that all countries will join in our fight against human trafficking. Now, for the sake of our own credibility abroad, we must show our own commitment to abide by international norms on trafficking.

The TIP report is a powerful tool for combating trafficking around the world. The threat of economic sanctions has inspired many countries to ramp up their efforts to combat trafficking within and across their borders. We must work closely in partnership with countries who are striving to do better and maintain the pressure on countries who are not. Meeting minimum standards is not enough. We must not shy away from ranking as Tier 3 those countries that fail to do their part in the global fight against trafficking.

The simple fact is that we must do better in terms of demanding effectiveness of our programs and the significant funds that are spent by our government in the U.S. and around the world. There is no question that we are making progress, but we must do better for the sake of the victims of trafficking who try to endure, waiting and praying for our intervention in their nightmare. Every day, more women and girls are being sold into the sex industry, domestic servitude, sweatshop labor, debt bondage, and other forms of modern-day slavery. And more and more men, women, and children are being forced into various forms of manual labor, without any pay or any protection. These crimes are violations of human rights and human dignity, and the United States will not rest until they are stopped.

I am pleased that President Bush has carried on our country's commitment to combat human trafficking. The progress we have made to date has been the result of strong bipartisan efforts that brought the horrors of trafficking to light. I hope we will continue to address this challenge in a bipartisan way.

With the passage of important legislation and Congress's appropriation of much-needed funds to address this problem we have the opportunity to accomplish many things around the world and here at home to reduce human trafficking that we could only dream of before. The administration has declared its intention to spend $150 million over the next two years to reduce human trafficking. Support for these efforts is needed now more than ever because of the stark reality that in the four years since the legislation was signed into law there nevertheless remains no evidence that human trafficking is diminishing.

It was Senator Wellstone who observed that despite some progress on human trafficking we must be impatient for better results. I believe that the need to be impatient is now more urgent than ever. In the fight against trafficking in persons, patience simply is not an option. We are making progress, but there is still so much more that needs to be done.

No country has done more than the United States to bring worldwide trafficking out of the shadows and into the glare of public attention, and I am committed to doing whatever I can to help continue that leadership. I look forward to working with the administration and both sides of the aisle on additional improvements to the current legislation and effective strategies for implementing it internationally and domestically.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2828. An act to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 2678. A bill to ensure that Members of Congress do not receive better prescription drug benefits than medicare beneficiaries.

S. 2679. A bill to strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 16, 2004, she had presented to the President of the United States the following enrolled billed:

S. 15. An act to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute and with an amended preamble:

S.J. Res. 41. A joint resolution commemorating the opening of the National Museum of the American Indian.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 108–10 Convention on International Interests in Mobile Equipment and Protocol to Convention on International Interests in Mobile Equipment (Exec. Rept. No. 108–14)]

TEXT OF COMMITTEE-REPORTED RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION TO THE TREATY

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO DECLARATIONS.

The Senate advises and consents to the ratification of the Convention on International Interests in Mobile Equipment (hereafter in this resolution referred to as the "Convention") and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment (hereafter in this resolution referred to as the "Protocol"), concluded at Cape Town, South Africa, November 16, 2001 (T. Doc. 108–10), subject to the declarations of section 2 and section 3.

SEC. 2. DECLARATIONS RELATIVE TO THE CONVENTION

The advice and consent of the Senate under section 1 is subject to the following declarations relative to the Convention:

(1) Pursuant to Article 39 of the Convention—

(A) all categories of non-consensual rights or interests which under United States law have and will in the future have priority over an interest in an object equivalent to that of the holder of a registered international interest shall to that extent have priority over a registered international interest, whether in or outside insolvency proceedings; and

(B) nothing in the Convention shall affect the right of the United States or that of any entity thereof, any intergovernmental organization in which the United States is a member State, or other private provider of public services in the United States to arrest or detain an aircraft object under United States law for payment of amounts owed to any such entity, organization, or provider directly relating to the services provided by it in respect of that object or another object.

(2) Pursuant to Article 54 of the Convention, all remedies available to the creditor under the Convention or Protocol which are not expressed under the relevant provision thereof to require application to the court may be exercised, in accordance with United States law, without leave of the court.

SEC. 3. DECLARATIONS RELATIVE TO THE PROTOCOL.

The advice and consent of the Senate under section 1 is subject to the following declarations relative to the Protocol:

(1) Pursuant to Article XXX of the Protocol—

(A) the United States will apply Article VIII of the Protocol;

(B) the United States will apply Article XII of the Protocol; and

(C) the United States will apply Article XIII of the Protocol.

(2)(A) Pursuant to Article XIX of the Protocol—

(i) the Federal Aviation Administration, acting through its Aircraft Registry, FAA Aeronautical Center, 6400 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125, shall be the entry point at which information required for registration in respect of airframes or helicopters pertaining to civil aircraft of the United States or aircraft to become a civil aircraft of the United States shall be transmitted, and in respect of aircraft engines may be transmitted, to the International Registry; and

(ii) the requirements of chapter 441 of title 49, United States Code, and part 49 of title 14, Code of Federal Regulations, shall be fully complied with before such information is transmitted at the Federal Aviation Administration to the International Registry.

(B) For purposes of the designation in subparagraph (A)(i) and the requirements in subparagraph (A)(ii), information is transmitted at the Federal Aviation Administration in accordance with procedures established under United States law.

(C) In this paragraph, the term "civil aircraft of the United States" has the meaning given that term in section 40102(17) of title 49, United States Code.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DAYTON:

S. 2678. A bill to ensure that Members of Congress do not receive better prescription drug benefits than medicare beneficiaries; read the first time.

By Mr. KYL (for himself, Mr. CORNYN, Mr. NICKLES, Mr. CHAMBLISS, Mr. SESSIONS, Mr. FRIST, and Mr. MCCONNELL):

S. 2679. A bill to strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses, and for other purposes; read the first time.

By Mr. FITZGERALD (for himself and Mr. AKAKA):

S. 2680. A bill to provide for certain financial reporting requirements to apply to certain small executive branch agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SANTORUM (for himself and Mr. CORNYN):

S. 2681. A bill to establish a program to support a transition to democracy in Iran; to the Committee on Foreign Relations.

By Mr. ALLARD:

S. 2682. A bill to designate the facility of the United States Postal Service located at 222 West 8th Street, Durango, Colorado, as the "Ben Nighthorse Campbell Post Office Building"; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1801

At the request of Mrs. MURRAY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1801, a bill to promote the economic security and safety of victims of domestic and sexual violence, and for other purposes.

S. 2280

At the request of Mr. STEVENS, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2280, a bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration.

S. 2382

At the request of Mr. INOUYE, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2382, a bill to establish grant programs for the development of telecommunications capacities in Indian country.

S. 2411

At the request of Mr. DODD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2411, a bill to amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies, achieve greater equity for departments serving large jurisdictions, and for other purposes.

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2411, supra.

S. 2488

At the request of Mr. INOUYE, the name of the Senator from Louisiana

(Mr. BREAUX) was added as a cosponsor of S. 2488, a bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.

S. 2528

At the request of Mr. KENNEDY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2528, a bill to restore civil liberties under the First Amendment, the Immigration and Nationality Act, and the Foreign Intelligence Surveillance Act, and for other purposes.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2628

At the request of Mr. AKAKA, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2628, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 2639

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2639, a bill to reauthorize the Congressional Award Act.

S. 2657

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2657, a bill to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANTORUM (for himself and Mr. CORNYN):

S. 2681. A bill to establish a program to support a transition to democracy in Iran; to the Committee on Foreign Relations.

Mr. SANTORUM. Mr. President, I rise today to offer remarks about a bill that Senator CORNYN of Texas and I have introduced, the Iran Freedom and Support Act of 2004. This legislation seeks to promote the transformation of the Islamic Republic of Iran to a democratic form of government.

Our bill expresses the sense of the Congress that it should be the policy of the United States to support regime change in Iran and that the U.S. government should promote the transition to a new democratic Iranian government. In addition, so as to help make this transition possible, our bill authorizes the President to provide up to $10 million in assistance to qualified foreign and domestic pro-democracy groups opposed to the non-democratic government of Iran. To maximize the efforts of these pro-democracy groups, our bill authorizes activities such as aid to pro-democracy radio and television broadcasting organizations as a way of directly reaching the people of Iran.

For many years now, the people of Iran have dramatically demonstrated their desire for greater social and political freedoms. Literally millions of Iranians have massed in the streets of the major cities, demanding the right to choose their form of government and their own leaders. Even public opinion polls conducted by the dictatorial regime show upwards of seventy percent of Iranians want democratic change. But Iran remains in the grip of a brutal tyranny that has silenced dissident voices by arbitrary arrests, closure of newspapers and magazines, destruction of satellite television dishes, widespread torture and the second-highest execution rate in the world.

Our bill seeks to help the Iranian people achieve freedom by supporting pro-democracy groups and enabling freedom-supporting Farsi language radio and television broadcasting stations to broadcast information directly to Iran.

The current leaders of the Islamic Republic of Iran are not only brutal tyrants. Their support of anti-American elements and terrorist organizations poses a direct threat to the interests of the United States and our allies. For two decades, the Department of State has identified Iran as THE leading sponsor of international terrorism. Iran has been linked to the deaths of United States military personnel in Beirut, Lebanon, and Saudi Arabia. Iran has long provided financial and operational assistance to Hezbollah and is presently the leading state sponsor of Hamas and Islamic Jihad, who conduct lethal attacks against the citizens of Israel.

Finally, Iran may be engaged in a crash program to develop nuclear weapons. In October 2003, after strong and concerted pressure by the international community, Iran agreed to sign an agreement to suspend uranium enrichment and open its nuclear facilities to more intrusive international inspections. Despite this pledge, Iran has repeatedly withheld key information and documentation about its clandestine nuclear efforts. In February 2004, blueprints containing instructions for building a type of gas centrifuge known as the P2, a super-efficient machine used in producing enriched uranium, were discovered. The Iranians had not revealed these plans.

Additionally, the International Atomic Energy Agency (IAEA) has found multiple traces of highly-enriched uranium, with no civilian use, at a Kalaye Electric Company workshop in Tehran and at the Natanz pilot fuel enrichment plant 150 miles south of the Iranian capital. To the best of my knowledge, Iran has not offered a satisfactory explanation as to the IAEA's discovery of this materiel.

Reports are that Iran has sought magnets for thousands of such gas centrifuges. Also, Iran has not been able to explain experiments with polonium-210, a radioactive element primarily useful as a bomb trigger. Finally, Iranian government officials have barred access to selected sites for a period of time while—as recent satellite imagery shows—they almost certainly sanitized them of incriminating evidence.

I believe it urgent for the United States to support regime change in Iran. Without regime change, Iran will soon constitute the world's leading supporter of terrorism armed with nuclear weapons. That would be a great catastrophe for the Middle East, and for the United States and our democratic allies everywhere.

The bill I have introduced with Senator CORNYN will facilitate this change by reaching out to the people of Iran and supporting what President Bush and Secretary of State Powell have called the legitimate desire of the Iranian people to be free.

By Mr. ALLARD:

S. 2682. A bill to designate the facility of the United States Postal Service located at 222 West 8th Street, Durango, Colorado, as the "Ben Nighthorse Campbell Post Office Building"; to the Committee on Governmental Affairs.

Mr. ALLARD. Mr. President, I send to the desk legislation designate the U.S. Post Office located at 222 West 8th Street in Durango, CO, as the Ben Nighthorse Campbell Post Office Building.

My dear friend and colleague, BEN NIGHTHORSE CAMPBELL was born in Auburn, CA on April 13, 1933. His mother, Mary Vierra, was a Portuguese immigrant, and his father, Albert Campbell, was a Northern Cheyenne Indian.

At a young age, BEN developed a passion for the then newly budding sport of judo. Overcoming numerous, seemingly insurmountable obstacles as a youngster, in college he became the youngest person in the United States to hold the fourth degree black belt. He went on to study in Japan with the most respected judo masters. BEN was never short on determination. One student in particular, was a menacing opponent. He kept his photo on the wall of his room, and shouted to it often, "I will beat you!"—and he finally did.

BEN was named to the U.S. Olympic Judo team in 1964, but an injury caused him to collapse on the floor during the match, which yielded his opponent the bronze medal by default. BEN went on to bring the sport of judo into a specialized system for kids, teaching them self discipline, self control and self respect, as he established one of the first successful clubs for kids.

With CAMPBELL's determination and magnanimous spirit, it was only natural that he enter the political arena where his perseverance has in fact left its mark on American history. CAMPBELL likes to view himself as a person of passion and this passion has rattled more than a few formidable foes. As the only American Indian in Congress he found himself, de facto, the representative of all Indians throughout the United States. In his time on the Indian Affairs Committee, he got more legislation passed for Indians than anyone in the Nation's history.

BEN is also a renowned jewelry designer, athlete, former truck driver, and trainer of champion quarter horses. He has been married to his wife, Linda, for more than 35 years. He is the father of two grown children, Colin Campbell and Shanan Longfellow. He is a proud grandfather to Luke and Saylor Longfellow and Lauren Campbell.

BEN has been one of the most fascinating figures on the political scene, and will be deeply missed when he retires. I am proud to call him friend. It is only fitting that we can honor his legacy by naming this post office after him.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BEN NIGHTHORSE CAMPBELL POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 222 West 8th Street, Durango, Colorado, shall be known and designated as the "Ben Nighthorse Campbell Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Ben Nighthorse Campbell Post Office Building".

By Mr. FITZGERALD (for himself and Mr. AKAKA):

S. 2680. A bill to provide for certain financial reporting requirements to apply to certain small executive branch agencies, and for other purposes; to the Committee on Governmental Affairs.

Mr. FITZGERALD. Mr. President, I am joined today by Senator DANIEL K. AKAKA in introducing the Financial Accountability Expansion Act of 2004, which would ensure the fiscal accountability of Federal entities. This bill would strengthen Federal financial management by subjecting all Federal entities in the Executive Branch to the stringent financial audit requirements that currently apply to most cabinet level departments and major agencies.

Congressional efforts to improve financial management and to reduce the waste, fraud, and abuse of taxpayer dollars began almost 25 years ago with the enactment of the Federal Managers Financial Integrity Act of 1982, which intended to strengthen internal controls and accounting systems. Another important financial management reform initiative was the Chief Financial Officers Act (CFO) of 1990. Among other things, the CFO Act created 24 CFO and deputy CFO positions in cabinet departments and major Executive Branch agencies, and required the annual preparation and audit of financial statements.

I would briefly like to mention that the Department of Homeland Security, which is now the third largest Federal department, is the only cabinet level department that is not subject to the CFO Act. Therefore, on August 1, 2003, Senator AKAKA and I introduced S. 1567, the Department of Homeland Security Financial Accountability Act, that would subject the Department to the same financial management practices currently required of all other major Federal agencies. We are pleased that the Senate passed this bill, as amended, and the House of Representatives is expected to pass its version of the bill in the near future.

The CFO Act improved the financial management of cabinet departments and major Federal agencies; however, it did not address the fiscal policies and practices of the rest of the Executive Branch. Therefore, in 2002, I was the Senate sponsor of the Accountability of Tax Dollars Act (ATDA). This Act, which became law on November 7, 2002, amended the CFO Act to require agencies with budget authority of over $25 million to prepare annual financial statements and have them independently audited. Due to the enactment of the ATDA, an additional 76 agencies are now subject to requirements for annually audited financial statements.

The ATDA also provided authority to the Director of the Office of Management and Budget (OMB) to waive or exempt certain agencies from the Act's requirements. The OMB Director may waive these requirements during the first two years of implementation if an agency lacks the budgeted resources or requires additional time to develop financial management practices and systems. The OMB Director may exempt agencies with budget authority under $25 million if it is determined that there is an absence of risk associated with the agency's operations.

To improve upon the legislative changes Congress passed in 2002, the Financial Accountability Expansion Act of 2004 would further expand the audit requirements of the CFO Act to every remaining Federal entity in the Executive Branch. Each Executive Branch agency or entity, regardless of its size or budget authority, would be subject to the financial oversight and accountability that annual audits of financial statements provide. In order to assist small agencies that may not have adequate financial resources or personnel to comply with these requirements, this bill would authorize the Secretary of the Treasury to enter into one or more contracts on behalf of the agency, or multiple agencies through "bundling," for the preparation and independent audit of the financial statement.

The bill also would require OMB to conduct a thorough assessment and submit a report to Congress regarding those Federal entities not currently required to prepare financial statements and have them independently audited. This study is necessary to ensure that OMB and Congress have an accurate and complete picture of the breadth and depth of the gaps in the financial accountability of the Executive Branch.

Senator AKAKA and I have long had an interest in ensuring that the Federal Government operates effectively and efficiently, and does not waste taxpayer dollars through poor fiscal management. The independent audits of financial statements that this bill would require of the entire Executive Branch would strengthen the fiscal accountability of the entire Federal Government and reduce the opportunities for waste, fraud, and abuse.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Accountability Expansion Act of 2004".

SEC. 2. FINANCIAL STATEMENT REQUIREMENT FOR CERTAIN SMALL AGENCIES.

(a) IN GENERAL.—Section 3515 of title 31, United States Code, is amended—

(1) in subsection (a), by striking "(1)"; and

(2) by striking subsection (e) and inserting the following:

"(e) The Director of the Office of Management and Budget shall determine which covered executive agencies have size or budgetary limitations that do not support the internal preparation of a financial statement required under this section. The Director of the Office of Management and Budget shall inform the Secretary of the Treasury of such determination, and for such agencies, the Secretary of the Treasury shall prepare the financial statement, or enter into a contract for the preparation of such statement, and shall enter into a contract with 1 or more independent auditors to audit the financial statement required under this section. All requirements of this section shall apply with respect to audited financial statements prepared under this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 2 of the Accountability of Tax Dollars Act of 2002 (31 U.S.C. 3515 note; Public Law 107–289) is amended by striking subsection (b).

SEC. 3. CERTAIN FEDERAL ENTITIES WITHOUT ANNUAL AUDITED FINANCIAL STATEMENT REQUIREMENTS.

(a) DEFINITION.—In this section, the term "Federal entity" means any entity established in the executive branch, including such an entity that administers a special purpose program or any other entity established by presidential or departmental directive that is not required to prepare an annual audited financial statement.

(b) ANNUALLY AUDITED FINANCIAL STATEMENTS.—The Office of Management and Budget shall require each Federal entity that is not statutorily required to prepare an annual financial statement and have the statement independently audited, to submit an annually audited financial statement prepared in accordance with United States generally accepted auditing principles to the Office of Management and Budget.

(c) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report described under paragraph (2) to the—

(A) Committee on Governmental Affairs of the Senate; and

(B) Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The report under paragraph (1) shall include—

(A) a list of each Federal entity as defined under subsection (a); and

(B) actions taken by the Office of Management and Budget to implement subsection (b).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act in fiscal year 2005, and each fiscal year thereafter.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3565. Mr. FRIST (for Mr. DEWINE (for himself and Mr. GRAHAM of Florida)) proposed an amendment to the bill S. 2261, to expand certain preferential trade treatment for Haiti.

TEXT OF AMENDMENTS

SA 3565. Mr. FRIST (for Mr. DEWINE (for himself and Mr. GRAHAM of Florida)) proposed an amendment to the bill S. 2261, to expand certain preferential trade treatment for Haiti, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Haiti Economic Recovery Opportunity Act of 2004".

SEC. 2. TRADE BENEFITS TO HAITI.

(a) IN GENERAL.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 213 the following new section:

"SEC. 213A. SPECIAL RULE FOR HAITI.

"(a) IN GENERAL.—In addition to any other preferential treatment under this Act, beginning on October 1, 2003, and in each of the 7 succeeding 1-year periods, apparel articles described in subsection (b) that are imported directly into the customs territory of the United States from Haiti shall enter the United States free of duty, subject to the limitations described in subsections (b) and (c), if Haiti has satisfied the requirements and conditions set forth in subsections (d) and (e).

"(b) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this subsection are apparel articles that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns without regard to the country of origin of the fabrics, components, or yarns.

"(c) PREFERENTIAL TREATMENT.—The preferential treatment described in subsection (a), shall be extended—

"(1) during the 12-month period beginning on October 1, 2003, to a quantity of apparel articles that is equal to 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during the 12-month period beginning October 1, 2002; and

"(2) during the 12-month period beginning on October 1 of each succeeding year, to a quantity of apparel articles that is equal to the product of—

"(A) the percentage applicable during the previous 12-month period plus 0.5 percent (but not over 3.5 percent); and

"(B) the aggregate square meter equivalents of all apparel articles imported into the United States during the 12-month period that ends on September 30 of that year.

"(d) ELIGIBILITY REQUIREMENTS.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti is meeting the conditions of subsection (e) and that Haiti—

"(1) has established, or is making continual progress toward establishing—

"(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

"(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

"(C) the elimination of barriers to United States trade and investment, including by—

"(i) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

"(ii) the protection of intellectual property; and

"(iii) the resolution of bilateral trade and investment disputes;

"(D) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

"(E) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

"(F) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

"(2) does not engage in activities that undermine United States national security or foreign policy interests; and

"(3) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

"(e) CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.—

"(1) IN GENERAL.—The preferential treatment under subsection (b) shall not apply unless the President certifies to Congress that Haiti is meeting the following conditions:

"(A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.

"(B) Haiti has enacted legislation or promulgated regulations that would permit the Bureau of Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

"(C) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.

"(D) Haiti agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention.

"(E) Haiti agrees to require all producers and exporters of articles described in subsection (b) in that country to maintain complete records of the production and the export of the articles, including materials used in the production, for at least 2 years after the production or export (as the case may be).

"(F) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, documentation establishing the country of origin of articles described in subsection (b) as used by that country in implementing an effective visa system.

"(2) DEFINITIONS.—In this subsection:

"(A) CIRCUMVENTION.—The term 'circumvention' means any action involving the provision of a false declaration or false information for the purpose of, or with the effect of, violating or evading existing customs, country of origin labeling, or trade laws of the United States or Haiti relating to imports of textile and apparel goods, if such action results—

"(i) in the avoidance of tariffs, quotas, embargoes, prohibitions, restrictions, trade remedies, including antidumping or countervailing duties, or safeguard measures; or

"(ii) in obtaining preferential tariff treatment.".

"(B) TRANSSHIPMENT.—The term 'transshipment' has the meaning given such term under section 213(b)(2)(D)(iii).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2003.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption, of any goods described in the amendment made by subsection (a)—

(A) that was made on or after October 1, 2003, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Ramey Ko of my staff be granted the privilege of the floor for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN JOBS CREATION ACT OF 2004

On Thursday, July 15, 2004, the Senate passed H.R. 4520, as follows:

H.R. 4520

Resolved, That the bill from the House of Representatives (H.R. 4520) entitled "An Act to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Jumpstart Our Business Strength (JOBS) Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.
Sec. 102. Deduction relating to income attributable to United States production activities.
Sec. 103. Deduction for United States production activities includes income related to certain architectural and engineering services.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

Sec. 201. 20-year foreign tax credit carryover; 1-year foreign tax credit carryback.
Sec. 202. Look-thru rules to apply to dividends from noncontrolled section 902 corporations.
Sec. 203. Foreign tax credit under alternative minimum tax.
Sec. 204. Recharacterization of overall domestic loss.
Sec. 205. Interest expense allocation rules.
Sec. 206. Determination of foreign personal holding company income with respect to transactions in commodities.

Subtitle B—International Tax Simplification

Sec. 211. Repeal of foreign personal holding company rules and foreign investment company rules.
Sec. 212. Expansion of de minimis rule under subpart F.
Sec. 213. Attribution of stock ownership through partnerships to apply in determining section 902 and 960 credits.
Sec. 214. Application of uniform capitalization rules to foreign persons.
Sec. 215. Repeal of withholding tax on dividends from certain foreign corporations.
Sec. 216. Repeal of special capital gains tax on aliens present in the United States for 183 days or more.

Subtitle C—Additional International Tax Provisions

Sec. 221. Active leasing income from aircraft and vessels.
Sec. 222. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.
Sec. 223. Look-thru treatment for sales of partnership interests.
Sec. 224. Election not to use average exchange rate for foreign tax paid other than in functional currency.
Sec. 225. Treatment of income tax base differences.
Sec. 226. Modification of exceptions under subpart F for active financing.
Sec. 227. United States property not to include certain assets of controlled foreign corporation.
Sec. 228. Provide equal treatment for interest paid by foreign partnerships and foreign corporations.
Sec. 229. Clarification of treatment of certain transfers of intangible property.
Sec. 230. Modification of the treatment of certain REIT distributions attributable to gain from sales or exchanges of United States real property interests.
Sec. 231. Toll tax on excess qualified foreign distribution amount.
Sec. 232. Exclusion of income derived from certain wagers on horse races and dog races from gross income of nonresident alien individuals.
Sec. 233. Limitation of withholding tax for Puerto Rico corporations.
Sec. 234. Report on WTO dispute settlement panels and the appellate body.
Sec. 235. Study of impact of international tax laws on taxpayers other than large corporations.
Sec. 236. Delay in effective date of final regulations governing exclusion of income from international operation of ships or aircraft.
Sec. 237. Interest payments deductible where disqualified guarantee has no economic effect.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

Sec. 301. Expansion of qualified small-issue bond program.
Sec. 302. Expensing of broadband Internet access expenditures.
Sec. 303. Exemption of natural aging process in determination of production period for distilled spirits under section 263A.
Sec. 304. Modification of active business definition under section 355.
Sec. 305. Modified taxation of imported archery products.
Sec. 306. Modification to cooperative marketing rules to include value added processing involving animals.
Sec. 307. Extension of declaratory judgment procedures to farmers' cooperative organizations.
Sec. 308. Temporary suspension of personal holding company tax.
Sec. 309. Increase in section 179 expensing.
Sec. 310. Five-year carryback of net operating losses.
Sec. 311. Extension and modification of research credit.
Sec. 312. Expansion of research credit.
Sec. 313. Manufacturer's jobs credit.
Sec. 314. Brownfields Demonstration Program for qualified green building and sustainable design projects.

Subtitle B—Manufacturing Relating to Films

Sec. 321. Special rules for certain film and television productions.
Sec. 322. Modification of application of income forecast method of depreciation.

Subtitle C—Manufacturing Relating to Timber

Sec. 331. Expensing of certain reforestation expenditures.
Sec. 332. Election to treat cutting of timber as a sale or exchange.
Sec. 333. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
Sec. 334. Modification of safe harbor rules for timber REITS.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 401. Clarification of economic substance doctrine.
Sec. 402. Penalty for failing to disclose reportable transaction.
Sec. 403. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 404. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 405. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 406. Tax shelter exception to confidentiality privileges relating to taxpayer communications.

Sec. 407. Disclosure of reportable transactions.
Sec. 408. Modifications to penalty for failure to register tax shelters.
Sec. 409. Modification of penalty for failure to maintain lists of investors.
Sec. 410. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 411. Understatement of taxpayer's liability by income tax return preparer.
Sec. 412. Penalty on failure to report interests in foreign financial accounts.
Sec. 413. Frivolous tax submissions.
Sec. 414. Regulation of individuals practicing before the Department of Treasury.
Sec. 415. Penalty for promoting abusive tax shelters.
Sec. 416. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 417. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 418. Authorization of appropriations for tax law enforcement.
Sec. 419. Penalty for aiding and abetting the understatement of tax liability.
Sec. 420. Study on information sharing among law enforcement agencies.

Subtitle B—Other Corporate Governance Provisions

Sec. 421. Affirmation of consolidated return regulation authority.
Sec. 422. Declaration by chief executive officer relating to Federal annual income tax return of a corporation.
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TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking "114 or".

(4) Section 275(a) is amended—

(A) by inserting "or" at the end of paragraph (4)(A), by striking "or" at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

"(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of"; and inserting:

"(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of", and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking "114, 164(a)," and inserting "164(a)".

(7) Section 999(c)(1) is amended by striking "941(a)(5),".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term "current FSC/ETI beneficiary" means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	**The phaseout percentage is:**
2005	80
2006	60.

(ii) SPECIAL RULE FOR 2004.—The phaseout percentage for 2004 shall be the amount that bears the same ratio to 80 percent as the number of days after the date of the enactment of this Act bears to 366.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the average FSC/ETI benefit for the taxpayer's taxable years beginning in calendar years 2000, 2001, and 2002.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term "FSC/ETI benefit" means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2004 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2004, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

"(2) PHASEIN.—In the case of taxable years beginning in 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	**The transition percentage is:**
2004, 2005, or 2006	5
2007	6
2008	7.

"(b) DEDUCTION LIMITED TO WAGES PAID.—

"(1) IN GENERAL.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

"(2) W–2 WAGES.—For purposes of paragraph (1), the term 'W–2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

"(3) SPECIAL RULES.—

"(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level. The preceding sentence shall not apply to any entity all of the ownership interests of which are held directly or indirectly by members of the same expanded affiliated group.

"(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

"(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

"(2) REDUCTION FOR TAXABLE YEARS BEGINNING BEFORE 2013.—The amount otherwise determined under paragraph (1) (the 'unreduced amount') shall not exceed—

"(A) in the case of taxable years beginning before 2010, the product of the unreduced amount and the domestic/worldwide fraction, and

"(B) in the case of taxable years beginning in 2010, 2011, or 2012, an amount equal to the sum of—

"(i) the product of the unreduced amount and the domestic/worldwide fraction, plus

"(ii) the applicable percentage of an amount equal to the unreduced amount minus the amount determined under clause (i).

For purposes of subparagraph (B)(ii), the applicable percentage is 25 percent for 2010, 50 percent for 2011, and 75 percent for 2012.

"(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

"(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

"(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

"(B) the sum of—

"(i) the costs of goods sold that are allocable to such receipts,

"(ii) other deductions, expenses, or losses directly allocable to such receipts, and

"(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

"(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

"(3) SPECIAL RULES FOR DETERMINING COSTS.—

"(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

"(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

"(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

"(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

"(A) any sale, exchange, or other disposition of, or

"(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

"(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

"(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

"(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

"(3) GROSS RECEIPTS FROM USE OF FILMS AND VIDEO TAPE.—In the case of any qualifying production property which is property described in section 168(f)(3) produced in whole or in significant part by the taxpayer within the United States (determined after application of paragraph (2)), domestic production gross receipts shall include gross receipts derived by the taxpayer from the use of the property by the taxpayer.

“(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term ‘qualifying production property’ means—

“(A) any tangible personal property,

“(B) any computer software, and

“(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

“(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term ‘qualifying production property’ shall not include—

“(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

“(B) oil or gas,

“(C) electricity,

“(D) water supplied by pipeline to the consumer,

“(E) utility services, or

“(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

Subparagraph (F) shall not apply to property described in section 168(f)(3) to the extent of the gross receipts from the use of the property to which subsection (e)(3) applies (determined after application of this sentence).

“(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘domestic/worldwide fraction’ means a fraction (not greater than 1)—

“(A) the numerator of which is the value of the domestic production of the taxpayer, and

“(B) the denominator of which is the value of the worldwide production of the taxpayer.

“(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

“(A) the domestic production gross receipts, over

“(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

“(3) PURCHASED INPUTS.—

“(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

“(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

“(ii) Items consumed in connection with such activities.

“(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

“(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

“(4) VALUE OF WORLDWIDE PRODUCTION.—

“(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

“(i) worldwide production gross receipts shall be taken into account, and

“(ii) paragraph (3)(B) shall not apply.

“(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

“(h) DEFINITIONS AND SPECIAL RULES.—

“(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

“(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

“(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

“(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

“(ii) additional reporting requirements.

“(2) PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

“(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

“(i) is received by a person from an organization to which part I of subchapter T applies which is engaged—

“(I) in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product, or

“(II) in the marketing of agricultural or horticultural products, and

“(ii) is allocable to the portion of the qualified production activities income of the organization which, but for this paragraph, would be deductible under subsection (a) by the organization and is designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed a deduction under subsection (a) with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

“(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

“(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

“(ii) in the case of an organization described in subparagraph (A)(i)(II), the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

“(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

“(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

“(B) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a), determined—

“(i) by substituting ‘50 percent’ for ‘80 percent’ each place it appears, and

“(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

“(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

“(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

“(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

“(7) POSSESSIONS, ETC.—

“(A) IN GENERAL.—For purposes of subsections (d) and (e), the term ‘United States’ includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

“(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

“(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

“(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

“(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

“(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

“(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.

“(9) SEPARATE APPLICATION TO FILMS AND VIDEOTAPE.—

“(A) IN GENERAL.—In the case of qualifying production property described in section 168(f)(3), the deduction under this section shall be determined separately with respect to qualified production activities income of the taxpayer allocable to each of the following markets with respect to such property:

“(i) Theatrical.

“(ii) Broadcast television (including cable, foreign, pay-per-view, and syndication).

“(iii) Home video.

“(B) RULES FOR SEPARATE DETERMINATION.—Except as provided in subparagraph (C)—

“(i) any computation required to determine the amount of the deduction with respect to any of the markets described in subparagraph (A) shall be made by only taking into account items properly allocable to such market, including the computation of qualified production activities income, modified taxable income, and the domestic/worldwide fraction, and

“(ii) such items shall not be taken into account in determining the deduction with respect to either of the other 2 markets or with respect to qualified production activities income of the taxpayer not allocable to any of such markets.

“(C) WAGE LIMITATION.—This paragraph shall not apply for purposes of subsection (b) and subsection (b) shall be applied after the application of this paragraph.”

(b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

“(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.”.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

“Sec. 199. Income attributable to domestic production activities.”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

SEC. 103. DEDUCTION FOR UNITED STATES PRODUCTION ACTIVITIES INCLUDES INCOME RELATED TO CERTAIN ARCHITECTURAL AND ENGINEERING SERVICES.

(a) IN GENERAL.—Paragraph (1) of section 199(e) (relating to domestic production gross receipts), as added by section 102, is amended to read as follows:

"(1) IN GENERAL.—

"(A) RECEIPTS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

"(i) any sale, exchange, or other disposition of, or

"(ii) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

"(B) RECEIPTS FROM CERTAIN SERVICES.—

"(i) IN GENERAL.—Such term also includes the applicable percentage of gross receipts of the taxpayer which are derived from any engineering or architectural services performed in the United States for construction projects in the United States.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined under the following table:

"In the case of any taxable year beginning in—	***The applicable percentage is—***
2004, 2005, 2006, 2007, or 2008	*25*
2009, 2010, 2011, or 2012	*50*
2013 or thereafter	*100.*

(b) LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES WITH RESPECT TO COVERED EMPLOYEES.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

"(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities—

"(A) in the case of a covered employee (within the meaning of section 162(m)(3)), to the extent that the expenses do not exceed the amount of the expenses treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to such covered employee on the taxpayer's return of tax under this chapter and as wages to such covered employee for purposes of chapter 24 (relating to withholding of income tax at source on wages), and

"(B) in the case of any other employee, to the extent that the expenses are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to such employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act, and section 15 of the Internal Revenue Code of 1986 shall apply to the amendment made by this subsection as if it were a change in the rate of tax.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to expenses incurred after the date of the enactment of this Act and before January 1, 2006.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

SEC. 201. 20-YEAR FOREIGN TAX CREDIT CARRYOVER; 1-YEAR FOREIGN TAX CREDIT CARRYBACK.

(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking ", and in the first, second, third, fourth, or fifth" and inserting "and in any of the first 20".

(b) EXCESS EXTRACTION TAXES.—Paragraph (1) of section 907(f) is amended—

(1) by striking "in the second preceding taxable year,",

(2) by striking ", and in the first, second, third, fourth, or fifth" and inserting "and in any of the first 20", and

(3) by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) CARRYBACK.—The amendments made by subsections (a)(1) and (b)(1) shall apply to excess foreign taxes arising in taxable years beginning after the date of the enactment of this Act.

(2) CARRYOVER.—The amendments made by subsections (a)(2) and (b)(2) shall apply to excess foreign taxes which (without regard to the amendments made by this section) may be carried to any taxable year ending after the date of the enactment of this Act.

SEC. 202. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

(a) IN GENERAL.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

"(4) LOOK-THRU APPLIES TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.—

"(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income described in a subparagraph of paragraph (1) in proportion to the ratio of—

"(i) the portion of earnings and profits attributable to income described in such subparagraph, to

"(ii) the total amount of earnings and profits.

"(B) EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.—In the case of any distribution from a controlled foreign corporation to a United States shareholder, rules similar to the rules of subparagraph (A) shall apply in determining the extent to which earnings and profits of the controlled foreign corporation which are attributable to dividends received from a noncontrolled section 902 corporation may be treated as income in a separate category.

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) EARNINGS AND PROFITS.—

"(I) IN GENERAL.—The rules of section 316 shall apply.

"(II) REGULATIONS.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

"(ii) INADEQUATE SUBSTANTIATION.—If the Secretary determines that the proper subparagraph of paragraph (1) in which a dividend is described has not been substantiated, such dividend shall be treated as income described in paragraph (1)(A).

"(iii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—Rules similar to the rules of paragraph (3)(F) shall apply for purposes of this paragraph.

"(iv) LOOK-THRU WITH RESPECT TO CARRYOVER OF CREDIT.—Rules similar to subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer. The Secretary may by regulations provide for the allocation of any carryback of tax allocable to a dividend from a noncontrolled section 902 corporation to such a taxable year for purposes of allocating such dividend among the separate categories in effect for such taxable year.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 904(d)(1) is hereby repealed.

(2) Section 904(d)(2)(C)(iii) is amended by adding "and" at the end of subclause (I), by striking subclause (II), and by redesignating subclause (III) as subclause (II).

(3) The last sentence of section 904(d)(2)(D) is amended to read as follows: "Such term does not include any financial services income.".

(4) Section 904(d)(2)(E) is amended—

(A) by inserting "or (4)" after "paragraph (3)" in clause (i), and

(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

(5) Section 904(d)(3)(F) is amended by striking "(D), or (E)" and inserting "or (D)".

(6) Section 864(d)(5)(A)(i) is amended by striking "(C)(iii)(III)" and inserting "(C)(iii)(II)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 203. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking "and if section 59(a)(2) did not apply".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

(a) GENERAL RULE.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

"(g) RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.—

"(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 2006, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

"(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

"(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

"(2) OVERALL DOMESTIC LOSS DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'overall domestic loss' means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without

regard to any carryback from a subsequent taxable year).

"(B) TAXPAYER MUST HAVE ELECTED FOREIGN TAX CREDIT FOR YEAR OF LOSS.—The term 'overall domestic loss' shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

"(3) CHARACTERIZATION OF SUBSEQUENT INCOME.—

"(A) IN GENERAL.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

"(B) INCOME CATEGORY.—For purposes of this paragraph, the term 'income category' has the meaning given such term by subsection (f)(5)(E)(i).

"(4) COORDINATION WITH SUBSECTION (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).".

(b) CONFORMING AMENDMENTS.—

(1) Section 535(d)(2) is amended by striking "section 904(g)(6)" and inserting "section 904(h)(6)".

(2) Subparagraph (A) of section 936(a)(2) is amended by striking "section 904(f)" and inserting "subsections (f) and (g) of section 904".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 2006.

SEC. 205. INTEREST EXPENSE ALLOCATION RULES.

(a) ELECTION TO ALLOCATE ON WORLDWIDE BASIS.—Section 864 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) ELECTION TO ALLOCATE INTEREST, ETC. ON WORLDWIDE BASIS.—For purposes of this subchapter, at the election of the worldwide affiliated group—

"(1) ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE.—

"(A) IN GENERAL.—The taxable income of each domestic corporation which is a member of a worldwide affiliated group shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

"(B) TREATMENT OF WORLDWIDE AFFILIATED GROUP.—The taxable income of the domestic members of a worldwide affiliated group from sources outside the United States shall be determined by allocating and apportioning the interest expense of such domestic members to such income in an amount equal to the excess (if any) of—

"(i) the total interest expense of the worldwide affiliated group multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to all the assets of the worldwide affiliated group, over

"(ii) the interest expense of all foreign corporations which are members of the worldwide affiliated group to the extent such interest expense of such foreign corporations would have been allocated and apportioned to foreign source income if this subsection were applied to a group consisting of all the foreign corporations in such worldwide affiliated group.

"(C) WORLDWIDE AFFILIATED GROUP.—For purposes of this paragraph, the term 'worldwide affiliated group' means a group consisting of—

"(i) the includible members of an affiliated group (as defined in section 1504(a), determined without regard to paragraphs (2) and (4) of section 1504(b)), and

"(ii) all controlled foreign corporations in which such members in the aggregate meet the ownership requirements of section 1504(a)(2) either directly or indirectly through applying paragraph (2) of section 958(a) or through applying rules similar to the rules of such paragraph to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

"(2) ALLOCATION AND APPORTIONMENT OF OTHER EXPENSES.—Expenses other than interest which are not directly allocable or apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

"(3) TREATMENT OF TAX-EXEMPT ASSETS; BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS.—The rules of paragraphs (3) and (4) of subsection (e) shall apply for purposes of this subsection, except that paragraph (4) shall be applied on a worldwide affiliated group basis.

"(4) TREATMENT OF CERTAIN FINANCIAL INSTITUTIONS.—

"(A) IN GENERAL.—For purposes of paragraph (1), any corporation described in subparagraph (B) shall be treated as an includible corporation for purposes of section 1504 only for purposes of applying this subsection separately to corporations so described.

"(B) DESCRIPTION.—A corporation is described in this subparagraph if—

"(i) such corporation is a financial institution described in section 581 or 591,

"(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and

"(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

"(C) TREATMENT OF BANK AND FINANCIAL HOLDING COMPANIES.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)),

"(ii) a financial holding company (within the meaning of section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)), and

"(iii) any subsidiary of a financial institution described in section 581 or 591, or of any such bank or financial holding company, if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (B).

"(5) ELECTION TO EXPAND FINANCIAL INSTITUTION GROUP OF WORLDWIDE GROUP.—

"(A) IN GENERAL.—If a worldwide affiliated group elects the application of this subsection, all financial corporations which—

"(i) are members of such worldwide affiliated group, but

"(ii) are not corporations described in paragraph (4)(B),

shall be treated as described in paragraph (4)(B) for purposes of applying paragraph (4)(A). This subsection (other than this paragraph) shall apply to any such group in the same manner as this subsection (other than this paragraph) applies to the pre-election worldwide affiliated group of which such group is a part.

"(B) FINANCIAL CORPORATION.—For purposes of this paragraph, the term 'financial corporation' means any corporation if at least 80 percent of its gross income is income described in section 904(d)(2)(C)(ii) and the regulations thereunder which is derived from transactions with persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the corporation. For purposes of the preceding sentence, there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of any corporation as a financial corporation.

"(C) ANTIABUSE RULES.—In the case of a corporation which is a member of an electing financial institution group, to the extent that such corporation—

"(i) distributes dividends or makes other distributions with respect to its stock after the date of the enactment of this paragraph to any member of the pre-election worldwide affiliated group (other than to a member of the electing financial institution group) in excess of the greater of—

"(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable-year period ending with the taxable year preceding the taxable year, or

"(II) 25 percent of its average annual earnings and profits for such 5-taxable-year period, or

"(ii) deals with any person in any manner not clearly reflecting the income of the corporation (as determined under principles similar to the principles of section 482),

an amount of indebtedness of the electing financial institution group equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized (for the taxable year and subsequent taxable years) for purposes of this paragraph as indebtedness of the worldwide affiliated group (excluding the electing financial institution group). If a corporation has not been in existence for 5 taxable years, this subparagraph shall be applied with respect to the period it was in existence.

"(D) ELECTION.—An election under this paragraph with respect to any financial institution group may be made only by the common parent of the pre-election worldwide affiliated group and may be made only for the first taxable year beginning after December 31, 2008, in which such affiliated group includes 1 or more financial corporations. Such an election, once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

"(E) DEFINITIONS RELATING TO GROUPS.—For purposes of this paragraph—

"(i) PRE-ELECTION WORLDWIDE AFFILIATED GROUP.—The term 'pre-election worldwide affiliated group' means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

"(ii) ELECTING FINANCIAL INSTITUTION GROUP.—The term 'electing financial institution group' means the group of corporations to which this subsection applies separately by reason of the application of paragraph (4)(A) and which includes financial corporations by reason of an election under subparagraph (A).

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations—

"(i) providing for the direct allocation of interest expense in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection,

"(ii) preventing assets or interest expense from being taken into account more than once, and

"(iii) dealing with changes in members of any group (through acquisitions or otherwise) treated under this paragraph as an affiliated group for purposes of this subsection.

"(6) ELECTION.—An election to have this subsection apply with respect to any worldwide affiliated group may be made only by the common parent of the domestic affiliated group referred to in paragraph (1)(C) and may be made only for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group exists which includes such affiliated group and at least 1 foreign corporation. Such an election, once made, shall apply to such common parent and all other corporations which are members of such worldwide affiliated group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.''.

(b) Expansion of Regulatory Authority.—Paragraph (7) of section 864(e) is amended—

(1) by inserting before the comma at the end of subparagraph (B) ''and in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection'', and

(2) by striking ''and'' at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

''(F) preventing assets or interest expense from being taken into account more than once, and''.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 206. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) In General.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

''(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),

''(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or''.

(b) Definition and Special Rules.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

''(4) Definition and special rules relating to commodity transactions.—

''(A) Commodity hedging transactions.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

''(i) is a hedging transaction as defined in section 1221(b)(2), determined—

''(I) without regard to subparagraph (A)(ii) thereof,

''(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

''(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

''(ii) is clearly identified as such in accordance with section 1221(a)(7).

''(B) Treatment of dealer activities under paragraph (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation's foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

''(C) Regulations.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.''.

(c) Modification of Exception for Dealers.—Clause (i) of section 954(c)(2)(C) is amended by inserting ''and transactions involving physical settlement'' after ''(including hedging transactions''.

(d) Effective Date.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

Subtitle B—International Tax Simplification

SEC. 211. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) Exemption of Foreign Corporations From Personal Holding Company Rules.—

(1) In general.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

''(5) a foreign corporation,'',

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting ''and'' at the end of paragraph (7) (as so redesignated), and

(D) by striking ''; and'' at the end of paragraph (8) (as so redesignated) and inserting a period.

(2) Treatment of income from personal service contracts.—Paragraph (1) of section 954(c) is amended by adding at the end the following new subparagraph:

''(I) Personal service contracts.—

''(i) Amounts received under a contract under which the corporation is to furnish personal services if—

''(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

''(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

''(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.''..

(c) Conforming Amendments.—

(1) Section 1(h) is amended—

(A) in paragraph (10), by inserting ''and'' at the end of subparagraph (F), by striking subparagraph (G), and by redesignating subparagraph (H) as subparagraph (G), and

(B) by striking ''a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or'' in paragraph (11)(C)(iii).

(2) Section 163(e)(3)(B), as amended by section 453(a) of this Act, is amended by striking ''which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or'' and inserting ''which is a controlled foreign corporation (as defined in section 957) or''.

(3) Paragraph (2) of section 171(c) is amended—

(A) by striking '', or by a foreign personal holding company, as defined in section 552'', and

(B) by striking '', or foreign personal holding company''.

(4) Paragraph (2) of section 245(a) is amended by striking ''foreign personal holding company or''.

(5) Section 267(a)(3)(B), as amended by section 453(a) of this Act, is amended by striking ''to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or'' and inserting ''to a controlled foreign corporation (as defined in section 957) or''.

(6) Section 312 is amended by striking subsection (j).

(7) Subsection (m) of section 312 is amended by striking '', a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)''.

(8) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(9) Subparagraph (B) of section 465(c)(7) is amended by adding ''or'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(10) Paragraph (1) of section 543(b) is amended by inserting ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(11) Paragraph (1) of section 562(b) is amended by striking ''or a foreign personal holding company described in section 552''.

(12) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking ''subsection (a), (b), or (c)'' in subsection (c) (as so redesignated) and inserting ''subsection (a) or (b)''.

(13) Subsection (d) of section 751 is amended by adding ''and'' at the end of paragraph (2), by striking paragraph (3), by redesignating paragraph (4) as paragraph (3), and by striking ''paragraph (1), (2), or (3)'' in paragraph (3) (as so redesignated) and inserting ''paragraph (1) or (2)''.

(14) Paragraph (2) of section 864(d) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(15)(A) Subparagraph (A) of section 898(b)(1) is amended to read as follows:

''(A) which is treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, and''.

(B) Subparagraph (B) of section 898(b)(2) is amended by striking ''and sections 551(f) and 554, whichever are applicable,''.

(C) Paragraph (3) of section 898(b) is amended to read as follows:

''(3) United states shareholder.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).''.

(D) Subsection (c) of section 898 is amended to read as follows:

''(c) Determination of Required Year.—

''(1) In general.—The required year is—

''(A) the majority U.S. shareholder year, or

''(B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

''(2) 1-month deferral allowed.—A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

''(3) Majority U.S. shareholder year.—

''(A) In general.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

"(i) each United States shareholder described in subsection (b)(2)(A), and

"(ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

"(B) TESTING DAY.—The testing days shall be—

"(i) the first day of the corporation's taxable year (determined without regard to this section), or

"(ii) the days during such representative period as the Secretary may prescribe.".

(16) Clause (ii) of section 904(d)(2)(A) is amended to read as follows:

"(ii) CERTAIN AMOUNTS INCLUDED.—Except as provided in clause (iii), the term 'passive income' includes, except as provided in subparagraph (E)(iii) or paragraph (3)(I), any amount includible in gross income under section 1293 (relating to certain passive foreign investment companies).".

(17)(A) Subparagraph (A) of section 904(g)(1), as redesignated by section 204, is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(B) The paragraph heading of paragraph (2) of section 904(g), as so redesignated, is amended by striking "FOREIGN PERSONAL HOLDING OR".

(18) Section 951 is amended by striking subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(19) Paragraph (3) of section 989(b) is amended by striking ", 551(a),".

(20) Paragraph (5) of section 1014(b) is amended by inserting "and before January 1, 2005," after "August 26, 1937,".

(21) Subsection (a) of section 1016 is amended by striking paragraph (13).

(22)(A) Paragraph (3) of section 1212(a) is amended to read as follows:

"(3) SPECIAL RULES ON CARRYBACKS.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

"(A) for which it is a regulated investment company (as defined in section 851), or

"(B) for which it is a real estate investment trust (as defined in section 856).".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 2004.

(23) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(24) Subsection (d) of section 1248 is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(25) Paragraph (2) of section 1260(c) is amended by striking subparagraphs (H) and (I) and by redesignating subparagraph (J) as subparagraph (H).

(26)(A) Subparagraph (F) of section 1291(b)(3) is amended by striking "551(d), 959(a)," and inserting "959(a)".

(B) Subsection (e) of section 1291 is amended by inserting "(as in effect on the day before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act)" after "section 1246".

(27) Paragraph (2) of section 1294(a) is amended to read as follows:

"(2) ELECTION NOT PERMITTED WHERE AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year.".

(28) Section 6035 is hereby repealed.

(29) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(30) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.".

(31) Subsection (a) of section 6679 is amended—

(A) by striking "6035, 6046, and 6046A" in paragraph (1) and inserting "6046 and 6046A", and

(B) by striking paragraph (3).

(32) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(33) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(34) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(35) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6035.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) SUBSECTION (c)(29).—The amendments made by subsection (c)(29) shall apply to disclosures of return or return information with respect to taxable years beginning after December 31, 2004.

SEC. 212. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

(a) IN GENERAL.—Clause (ii) of section 954(b)(3)(A) (relating to de minimis, etc., rules) is amended by striking "$1,000,000" and inserting "$5,000,000".

(b) TECHNICAL AMENDMENTS.—

(1) Clause (ii) of section 864(d)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

(2) Clause (i) of section 881(c)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 213. ATTRIBUTION OF STOCK OWNERSHIP THROUGH PARTNERSHIPS TO APPLY IN DETERMINING SECTION 902 AND 960 CREDITS.

(a) IN GENERAL.—Subsection (c) of section 902 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) CONSTRUCTIVE OWNERSHIP THROUGH PARTNERSHIPS.—Stock owned, directly or indirectly, by or for a partnership shall be considered as being owned proportionately by its partners. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person. The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including rules to account for special partnership allocations of dividends, credits, and other incidents of ownership of stock in determining proportionate ownership.".

(b) CLARIFICATION OF COMPARABLE ATTRIBUTION UNDER SECTION 901(b)(5).—Paragraph (5) of section 901(b) is amended by striking "any individual" and inserting "any person".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of the enactment of this Act.

SEC. 214. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(7) FOREIGN PERSONS.—Except for purposes of applying sections 871(b)(1) and 882(a)(1), this section shall not apply to any taxpayer who is not a United States person if such taxpayer capitalizes costs of produced property or property acquired for resale by applying the method used to ascertain the income, profit, or loss for purposes of reports or statements to shareholders, partners, other proprietors, or beneficiaries, or for credit purposes.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after December 31, 2004—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first year.

SEC. 215. REPEAL OF WITHHOLDING TAX ON DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (2) of section 871(i) (relating to tax not to apply to certain interest and dividends) is amended by adding at the end the following new subparagraph:

"(D) Dividends paid by a foreign corporation which are treated under section 861(a)(2)(B) as income from sources within the United States.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2004.

SEC. 216. REPEAL OF SPECIAL CAPITAL GAINS TAX ON ALIENS PRESENT IN THE UNITED STATES FOR 183 DAYS OR MORE.

(a) IN GENERAL.—Subsection (a) of section 871 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) CONFORMING AMENDMENT.—Section 1441(g) is amended is amended by striking "section 871(a)(3)" and inserting "section 871(a)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Subtitle C—Additional International Tax Provisions

SEC. 221. ACTIVE LEASING INCOME FROM AIRCRAFT AND VESSELS.

(a) IN GENERAL.—Section 954(c)(2) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN RENTS, ETC.—

"(i) IN GENERAL.—Foreign personal holding company income shall not include qualified leasing income derived from or in connection with the leasing or rental of any aircraft or vessel.

"(ii) QUALIFIED LEASING INCOME.—For purposes of this subparagraph, the term 'qualified *leasing income' means rents and gains derived in the active conduct of a trade or business of leasing with respect to which the controlled foreign corporation conducts substantial activity, but only if—*

"(I) the leased property is used by the lessee or other end-user in foreign commerce and predominantly outside the United States, and

"(II) the lessee or other end-user is not a related person (as defined in subsection (d)(3)).

Any amount not treated as foreign personal holding income under this subparagraph shall not be treated as foreign base company shipping income.".

(b) Conforming Amendment.—Section 954(c)(1)(B) is amended by inserting "or (2)(D)" after "paragraph (2)(A)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2005, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 222. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY INCOME RULES.

(a) In General.—Subsection (c) of section 954, as amended by this Act, is amended by adding after paragraph (4) the following new paragraph:

"(5) Look-thru in the case of related controlled foreign corporations.—For purposes of this subsection, dividends, interest, rents, and royalties received or accrued from a controlled foreign corporation which is a related person (as defined in subsection (b)(9)) shall not be treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which is not subpart F income (as defined in section 952). For purposes of this paragraph, interest shall include factoring income which is treated as income equivalent to interest for purposes of paragraph (1)(E). The Secretary shall prescribe such regulations as may be appropriate to prevent the abuse of the purposes of this paragraph.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 223. LOOK-THRU TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) In General.—Section 954(c) (defining foreign personal holding company income), as amended by this Act, is amended by adding after paragraph (5) the following new paragraph:

"(6) Look-thru rule for certain partnership sales.—

"(A) In general.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations providing for coordination of this paragraph with the provisions of subchapter K.

"(B) 25-percent owner.—For purposes of this paragraph, the term '25-percent owner' means a controlled foreign corporation which owns directly 25 percent or more of the capital or profits interest in a partnership. For purposes of the preceding sentence, if a controlled foreign corporation is a shareholder or partner of a corporation or partnership, the controlled foreign corporation shall be treated as owning directly its proportionate share of any such capital or profits interest held directly or indirectly by such corporation or partnership".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 224. ELECTION NOT TO USE AVERAGE EXCHANGE RATE FOR FOREIGN TAX PAID OTHER THAN IN FUNCTIONAL CURRENCY.

(a) In General.—Paragraph (1) of section 986(a) (relating to determination of foreign taxes and foreign corporation's earnings and profits) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) Elective exception for taxes paid other than in functional currency.—

"(i) In general.—At the election of the taxpayer, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency other than in the taxpayer's functional currency.

"(ii) Application to qualified business units.—An election under this subparagraph may apply to foreign income taxes attributable to a qualified business unit in accordance with regulations prescribed by the Secretary.

"(iii) Election.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 225. TREATMENT OF INCOME TAX BASE DIFFERENCES.

(a) In General.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) Treatment of income tax base differences.—

"(i) In general.—A taxpayer may elect to treat tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles as tax imposed on income described in subparagraph (C) or (I) of paragraph (1).

"(ii) Election irrevocable.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 226. MODIFICATION OF EXCEPTIONS UNDER SUBPART F FOR ACTIVE FINANCING.

(a) In General.—Section 954(h)(3) is amended by adding at the end the following:

"(E) Direct conduct of activities.—For purposes of subparagraph (A)(ii)(II), an activity shall be treated as conducted directly by an eligible controlled foreign corporation or qualified business unit in its home country if the activity is performed by employees of a related person and—

"(i) the related person is an eligible controlled foreign corporation the home country of which is the same as the home country of the corporation or unit to which subparagraph (A)(ii)(II) is being applied,

"(ii) the activity is performed in the home country of the related person, and

"(iii) the related person is compensated on an arm's-length basis for the performance of the activity by its employees and such compensation is treated as earned by such person in its home country for purposes of the home country's tax laws.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of such foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of such foreign corporations end.

SEC. 227. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS OF CONTROLLED FOREIGN CORPORATION.

(a) In General.—Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting a semicolon, and by adding at the end the following new subparagraphs:

"(L) securities acquired and held by a controlled foreign corporation in the ordinary course of its business as a dealer in securities if—

"(i) the dealer accounts for the securities as securities held primarily for sale to customers in the ordinary course of business, and

"(ii) the dealer disposes of the securities (or such securities mature while held by the dealer) within a period consistent with the holding of securities for sale to customers in the ordinary course of business; and

"(M) an obligation of a United States person which—

"(i) is not a domestic corporation, and

"(ii) is not—

"(I) a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation, or

"(II) a partnership, estate, or trust in which the controlled foreign corporation, or any related person (as defined in section 954(d)(3)), is a partner, beneficiary, or trustee immediately after the acquisition of any obligation of such partnership, estate, or trust by the controlled foreign corporation.".

(b) Conforming Amendment.—Section 956(c)(2) is amended by striking "and (K)" in the last sentence and inserting ", (K), and (L)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 228. PROVIDE EQUAL TREATMENT FOR INTEREST PAID BY FOREIGN PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) In General.—Paragraph (1) of section 861(a) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) in the case of a foreign partnership, which is predominantly engaged in the active conduct of a trade or business outside the United States, any interest not paid by a trade or business engaged in by the partnership in the United States and not allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 229. CLARIFICATION OF TREATMENT OF CERTAIN TRANSFERS OF INTANGIBLE PROPERTY.

(a) In General.—Subparagraph (C) of section 367(d)(2) is amended by adding at the end the following new sentence: "For purposes of applying section 904(d), any such amount shall be treated in the same manner as if such amount were a royalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts treated as received pursuant to section 367(d)(2) of the Internal Revenue Code of 1986 on or after August 5, 1997.

SEC. 230. MODIFICATION OF THE TREATMENT OF CERTAIN REIT DISTRIBUTIONS ATTRIBUTABLE TO GAIN FROM SALES OR EXCHANGES OF UNITED STATES REAL PROPERTY INTERESTS.

(a) IN GENERAL.—Paragraph (1) of section 897(h) (relating to look-through of distributions) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, any distribution by a REIT with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the taxable year.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by adding at the end the following new subparagraph:

"(F) CERTAIN DISTRIBUTIONS.—In the case of a shareholder of a real estate investment trust to whom section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be included in computing long-term capital gains for such shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

"(i) shall not be included in computing such shareholder's long-term capital gains, and

"(ii) shall be included in such shareholder's gross income as a dividend from the real estate investment trust.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 231. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

"SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

"(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

"(1) the taxpayer's excess qualified foreign distribution amount, and

"(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed,in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for the taxable year.

"(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

"(A) the aggregate dividends received by the taxpayer during the taxable year which are—

"(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

"(ii) described in a domestic reinvestment plan which—

"(I) is approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, and

"(II) provides for the reinvestment of such dividends in the United States (other than as payment for executive compensation), including as a source for the funding of worker hiring and training, infrastructure, research and development, capital investments, or the financial stabilization of the corporation for the purposes of job retention or creation, over

"(B) the base dividend amount.

"(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

"(3) FIXED BASE PERIOD.—

"(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

"(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

"(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

"(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall include all the taxable years of the taxpayer ending on or before December 31, 2002.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DIVIDENDS.—The term 'dividend' has the meaning given such term by section 316, except that the term shall include amounts described in section 951(a)(1)(B), but shall not include amounts described in sections 78 and 959.

"(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' has the meaning given such term by section 957(a) and the term 'United States shareholder' has the meaning given such term by section 951(b).

"(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent. No deduction shall be allowed under this chapter for the portion of any tax for which credit is not allowable by reason of the preceding sentence.

"(4) FOREIGN TAX CREDIT LIMITATION.—For purposes of section 904, there shall be disregarded 85 percent of—

"(A) the excess qualified foreign distribution amount,

"(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

"(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

"(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

"(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer for purposes of this section.

"(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

"(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

"(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

"(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

"(d) ELECTION.—

"(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

"(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

"(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer and shall apply to all members of the affiliated group.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

SEC. 232. EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES AND DOG RACES FROM GROSS INCOME OF NONRESIDENT ALIEN INDIVIDUALS.

(a) IN GENERAL.—Subsection (b) of section 872 (relating to exclusions) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

"(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race or dog race in the United States.".

(b) CONFORMING AMENDMENT.—Section 883(a)(4) is amended by striking "(5), (6), and (7)" and inserting "(6), (7), and (8)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to wagers made after the date of the enactment of this Act.

SEC. 233. LIMITATION OF WITHHOLDING TAX FOR PUERTO RICO CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 881 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

"(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

"(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of paragraph (1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.".

(b) WITHHOLDING.—Subsection (c) of section 1442 (relating to withholding of tax on foreign corporations) is amended—

(1) by striking "For purposes" and inserting the following:

"(1) GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

"(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

"(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 881 is amended by striking "GUAM AND VIRGIN ISLANDS CORPORATIONS" in the heading and inserting "POSSESSIONS".

(2) Paragraph (1) of section 881(b) is amended by striking "IN GENERAL" in the heading and inserting "GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid after the date of the enactment of this Act.

SEC. 234. REPORT ON WTO DISPUTE SETTLEMENT PANELS AND THE APPELLATE BODY.

Not later than March 31, 2004, the Secretary of Commerce, in consultation with the United States Trade Representative, shall transmit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, regarding whether dispute settlement panels and the Appellate Body of the World Trade Organization have—

(1) added to or diminished the rights of the United States by imposing obligations or restrictions on the use of antidumping, countervailing, and safeguard measures not agreed to under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards;

(2) appropriately applied the standard of review contained in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994; or

(3) exceeded their authority or terms of reference under the Agreements referred to in paragraph (1).

SEC. 235. STUDY OF IMPACT OF INTERNATIONAL TAX LAWS ON TAXPAYERS OTHER THAN LARGE CORPORATIONS.

(a) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study of the impact of Federal international tax rules on taxpayers other than large corporations, including the burdens placed on such taxpayers in complying with such rules.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a), including any recommendations for legislative or administrative changes to reduce the compliance burden on taxpayers other than large corporations and for such other purposes as the Secretary determines appropriate.

SEC. 236. DELAY IN EFFECTIVE DATE OF FINAL REGULATIONS GOVERNING EXCLUSION OF INCOME FROM INTERNATIONAL OPERATION OF SHIPS OR AIRCRAFT.

Notwithstanding the provisions of Treasury regulation §1.883-5, the final regulations issued by the Secretary of the Treasury relating to income derived by foreign corporations from the international operation of ships or aircraft (Treasury regulations §1.883-1 through §1.883-5) shall apply to taxable years of a foreign corporation seeking qualified foreign corporation status beginning after December 31, 2004.

SEC. 237. INTEREST PAYMENTS DEDUCTIBLE WHERE DISQUALIFIED GUARANTEE HAS NO ECONOMIC EFFECT.

(a) IN GENERAL.—Section 163(j)(6)(D)(ii) (relating to exceptions to disqualified guarantee) is amended—

(1) by striking "or" at the end of subclause (I),

(2) by striking the period at the end of subclause (II) and inserting ", or",

(3) by inserting after subclause (II) the following new subclause:

"(III) in the case of a guarantee by a foreign person, to the extent of the amount that the taxpayer establishes to the satisfaction of the Secretary that the taxpayer could have borrowed from an unrelated person without the guarantee.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees issued on or after the date of the enactment of this Act.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

SEC. 301. EXPANSION OF QUALIFIED SMALL-ISSUE BOND PROGRAM.

(a) IN GENERAL.—Subparagraph (F) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended to read as follows:

"(F) ADDITIONAL CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—With respect to any issue, in addition to any capital expenditure described in subparagraph (C), capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 302. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

"SEC. 191. BROADBAND EXPENDITURES.

"(a) TREATMENT OF EXPENDITURES.—

"(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

"(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to—

"(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

"(B) the connection of such qualified equipment to any qualified subscriber.

"(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

"(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

"(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

"(A) current generation broadband services are provided through such equipment to qualified subscribers, or

"(B) next generation broadband services are provided through such equipment to qualified subscribers.

"(2) LIMITATION.—

"(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

"(i) the original use of which commences with the taxpayer, and

"(ii) which is placed in service, after the date of the enactment of this Act.

"(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

"(i) is originally placed in service after the date of the enactment of this Act by any person, and

"(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

"(d) SPECIAL ALLOCATION RULES.—

"(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

"(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount *of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—*

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the ease of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber.

''(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(16) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber

population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

"(23) UNDERSERVED AREA.—The term 'underserved area' means—

"(A) any census tract which is located in—

"(i) an empowerment zone or enterprise community designated under section 1391, or

"(ii) the District of Columbia Enterprise Zone established under section 1400, or

"(B) any census tract—

"(i) the poverty level of which is at least 30 percent (based on the most recent census data), and

"(ii) the median family income of which does not exceed—

"(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

"(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

"(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

"(f) SPECIAL RULES.—

"(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

"(2) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).".

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(29).".

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) (relating to capital expenditures) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 191.".

(2) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 191(f)(2).".

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

"Sec. 191. Broadband expenditures.".

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act and before the date which is 12 months after the date of the enactment of this Act.

SEC. 303. EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS UNDER SECTION 263A.

(a) IN GENERAL.—Section 263A(f) of the Internal Revenue Code of 1986 (relating to general exceptions) is amended by adding at the end the following new paragraph:

"(5) EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS.—For purposes of this subsection, the production period for distilled spirits shall be determined without regard to any period allocated to the natural aging process.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production periods beginning after the date of the enactment of this Act.

SEC. 304. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.

(a) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

"(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation's separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

"(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as one distributee corporation.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

"(A) it is engaged in the active conduct of a trade or business,".

(2) Section 355(b)(2) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to distributions after the date of the enactment of this Act, and

(B) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by subsection (b)(1)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) ELECTION TO HAVE AMENDMENTS APPLY.—Paragraph (2) shall not apply if the distributing corporation elects not to have such paragraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

SEC. 305. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) ARROWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "ARROWS.—" in the heading and inserting "ARROW COMPONENTS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date which is 30 days after the date of the enactment of this Act.

SEC. 306. MODIFICATION TO COOPERATIVE MARKETING RULES TO INCLUDE VALUE ADDED PROCESSING INVOLVING ANIMALS.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(k) COOPERATIVE MARKETING INCLUDES VALUE-ADDED PROCESSING INVOLVING ANIMALS.—For purposes of section 521 and this subchapter, the marketing of the products of members or other producers shall include the feeding of such products to cattle, hogs, fish, chickens, or other animals and the sale of the resulting animals or animal products.".

(b) CONFORMING AMENDMENT.—Section 521(b) is amended by adding at the end the following new paragraph:

"(7) CROSS REFERENCE.—

"For treatment of value-added processing involving animals, see section 1388(k).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 307. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking "or" at the end of subparagraph (B) and by adding at the end the following new subparagraph:

"(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleadings filed after the date of the enactment of this Act.

SEC. 308. TEMPORARY SUSPENSION OF PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Section 541 (relating to imposition of personal holding company tax) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply with respect to any taxable year to which section 1(h)(11) (as in effect on the date of the enactment of this sentence) applies.".

(b) COORDINATION WITH ACCUMULATED EARNINGS TAX.—Section 532(b) is amended by adding at the end the following flush sentence:

"Paragraph (1) shall not apply to any taxable year to which section 541 does not apply."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 309. INCREASE IN SECTION 179 EXPENSING.

(a) IN GENERAL.—Section 179(b)(2) (relating to reduction in limitation) is amended by inserting "50 percent of" before "the amount".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 310. FIVE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended—

(1) by inserting "5-YEAR CARRYBACK OF CERTAIN LOSSES.—" after "(H)", and

(2) by striking "or 2002" and inserting "; 2002, or 2003".

(b) RULES RELATING TO CERTAIN EXTENDED NET OPERATING LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) RULES RELATING TO CERTAIN EXTENDED NET OPERATING LOSSES.—In the case of a taxpayer which has a net operating loss for any taxable year ending during 2003 and does not make an election under subsection (j), such taxpayer shall be treated as having made an election under paragraphs (4)(E) and (2)(C)(iii) of section 168(k) with respect to all classes of property for such taxable year.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(1) by striking "or 2002" and inserting ", 2002, or 2003", and

(2) by striking "and 2002" and inserting ", 2002, and 2003".

(d) TECHNICAL CORRECTIONS.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking "a taxpayer which has".

(2) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147) is amended by striking "before January 1, 2003" and inserting "after December 31, 1990".

(3)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking "attributable to carryovers".

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking "for taxable years" and inserting "from taxable years", and

(ii) by striking "carryforwards" and inserting "carryovers".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2002.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (d) shall take effect as if included in the amendments made by section 102 of the Job Creation and Worker Assistance Act of 2002.

(3) ELECTION.—In the case of a net operating loss for a taxable year ending during 2003—

(A) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before November 15, 2004, and

(B) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 15, 2004.

(4) SPECIAL RULE FOR TAXPAYERS WITH TAXABLE YEARS ENDING DURING JANUARY.—Any taxpayer which has a taxable year ending during January may elect under this paragraph to apply section 172(b)(1)(H) of the Internal Revenue Code of 1986 (as amended by this section) to its taxable year ending in 2004 rather than its taxable year ending in 2003. If such election is made, then section 172(k) of such Code (as added by this section) shall be applied to the taxpayer's taxable year ending in 2004. Such election shall be made in such manner and at such time as may be prescribed by the Secretary of the Treasury. Such election, once made, shall be irrevocable.

SEC. 311. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking "2.65 percent" and inserting "3 percent",

(2) by striking "3.2 percent" and inserting "4 percent", and

(3) by striking "3.75 percent" and inserting "5 percent".

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

"(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

"(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

"(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies."

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: "An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies."

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by paragraph (1)) for such year.

(f) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to amounts paid or incurred after the date of the enactment of this Act.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2004.

SEC. 312. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a research consortium.".

(2) RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) RESEARCH CONSORTIUM.—

"(A) IN GENERAL.—The term 'research consortium' means any organization—

"(i) which is—

"(I) described in section 501(c)(3) or 501(c)(6) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct research, or

"(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

"(ii) which is not a private foundation,

"(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for research, and

"(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for research.

"(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).".

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting "(other than a research consortium)" after "organization".

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

"(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

"(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

"(I) an eligible small business,

"(II) an institution of higher education (as defined in section 3304(f)), or

"(III) an organization which is a Federal laboratory,

for qualified research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

"(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

"(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

"(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

"(iii) SMALL BUSINESS.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

"(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

"(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2004.

SEC. 313. MANUFACTURER'S JOBS CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45S. MANUFACTURER'S JOBS CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the manufacturer's jobs credit determined under this section is an amount equal to 50 percent of the lesser of the following:

"(1) The excess of the W–2 wages paid by the taxpayer during the taxable year over the W–2 wages paid by the taxpayer during the preceding taxable year.

"(2) The W–2 wages paid by the taxpayer during the taxable year to any employee who is an eligible TAA recipient (as defined in section 35(c)(2)) for any month during such taxable year.

"(3) 22.4 percent of the W–2 wages paid by the taxpayer during the taxable year.

"(b) LIMITATION.—

"(1) IN GENERAL.—If there is an excess described in paragraph (2)(A) for any taxable year, the amount of credit determined under subsection (a) (without regard to this subsection)—

"(A) if the value of domestic production determined under section 199(g)(2) for the taxable year does not exceed such value for the preceding taxable year, shall be zero, and

"(B) if subparagraph (A) does not apply, shall be reduced (but not below zero) by the applicable percentage of such amount.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any taxable year, the percentage equal to a fraction—

"(A) the numerator of which is the excess (if any) of the modified value of worldwide production of the taxpayer for the taxable year over such modified value for the preceding taxable year, and

"(B) the denominator of which is the excess (if any) of the value of worldwide production of the taxpayer for the taxable year over such value for the preceding taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) VALUE OF WORLDWIDE PRODUCTION.—The value of worldwide production for any taxable year shall be determined under section 199(g)(4).

"(B) MODIFIED VALUE.—The term 'modified value of worldwide production' means the value of worldwide production determined by not taking into account any item taken into account in determining the value of domestic production under section 199(g)(2).

"(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any taxpayer—

"(1) which has domestic production gross receipts for the taxable year and the preceding taxable year, and

"(2) which is not treated at any time during the taxable year as an inverted domestic corporation under section 7874.

"(d) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 199 shall have the meaning given such term by section 199.

"(2) SPECIAL RULE FOR W–2 WAGES.—Notwithstanding paragraph (1), the amount of W–2 wages taken into account with respect to any employee for any taxable year shall not exceed $50,000.

"(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

"(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2005.".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", plus", and by adding at the end the following:

"(31) the manufacturer's jobs credit determined under section 45S.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following:

"Sec. 45S. Manufacturer's jobs credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 314. BROWNFIELDS DEMONSTRATION PROGRAM FOR QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to the definition of exempt facility bond) is amended by striking "or" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", or", and by inserting at the end the following new paragraph:

"(14) qualified green building and sustainable design projects.".

(b) QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.—Section 142 (relating to exempt facility bonds) is amended by adding at the end thereof the following new subsection:

"(l) QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(14), the term 'qualified green building and sustainable design project' means any project which is designated by the Secretary, after consultation with the Administrator of the Environmental Protection Agency, as a qualified green building and sustainable design project and which meets the requirements of clauses (i), (ii), (iii), and (iv) of paragraph (4)(A).

"(2) DESIGNATIONS.—

"(A) IN GENERAL.—Within 60 days after the end of the application period described in paragraph (3)(A), the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall designate qualified green building and sustainable design projects. At least one of the projects designated shall be located in, or within a 10-mile radius of, an empowerment zone as designated pursuant to section 1391, and at least one of the projects designated shall be located in a rural State. No more than one project shall be designated in a State. A project shall not be designated if such project includes a stadium or arena for professional sports exhibitions or games.

"(B) MINIMUM CONSERVATION AND TECHNOLOGY INNOVATION OBJECTIVES.—The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall ensure that, in the aggregate, the projects designated shall—

"(i) reduce electric consumption by more than 150 megawatts annually as compared to conventional generation,

"(ii) reduce daily sulfur dioxide emissions by at least 10 tons compared to coal generation power,

"(iii) expand by 75 percent the domestic solar photovoltaic market in the United States (measured in megawatts) as compared to the expansion of that market from 2001 to 2002, and

"(iv) use at least 25 megawatts of fuel cell energy generation.

"(3) LIMITED DESIGNATIONS.—A project may not be designated under this subsection unless—

"(A) the project is nominated by a State or local government within 180 days of the enactment of this subsection, and

"(B) such State or local government provides written assurances that the project will satisfy the eligibility criteria described in paragraph (4).

"(4) APPLICATION.—

"(A) IN GENERAL.—A project may not be designated under this subsection unless the application for such designation includes a project proposal which describes the energy efficiency, renewable energy, and sustainable design features of the project and demonstrates that the project satisfies the following eligibility criteria:

"(i) GREEN BUILDING AND SUSTAINABLE DESIGN.—At least 75 percent of the square footage of commercial buildings which are part of the project is registered for United States Green Building Council's LEED certification and is reasonably expected (at the time of the designation) to receive such certification. For purposes of determining LEED certification as required under this clause, points shall be credited by using the following:

"(I) For wood products, certification under the Sustainable Forestry Initiative Program and the American Tree Farm System.

"(II) For renewable wood products, as credited for recycled content otherwise provided under LEED certification.

"(III) For composite wood products, certification under standards established by the American National Standards Institute, or such other voluntary standards as published in the Federal Register by the Administrator of the Environmental Protection Agency.

"(ii) BROWNFIELD REDEVELOPMENT.—The project includes a brownfield site as defined by section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), including a site described in subparagraph (D)(ii)(II)(aa) thereof.

"(iii) STATE AND LOCAL SUPPORT.—The project receives specific State or local government resources which will support the project in an amount equal to at least $5,000,000. For purposes of the preceding sentence, the term 'resources' includes tax abatement benefits and contributions in kind.

"(iv) SIZE.—The project includes at least one of the following:

"(I) At least 1,000,000 square feet of building.

"(II) At least 20 acres.

"(v) USE OF TAX BENEFIT.—The project proposal includes a description of the net benefit of the tax-exempt financing provided under this subsection which will be allocated for financing of one or more of the following:

"(I) The purchase, construction, integration, or other use of energy efficiency, renewable energy, and sustainable design features of the project.

"(II) Compliance with certification standards cited under clause (i).

"(III) The purchase, remediation, and foundation construction and preparation of the brownfields site.

"(vi) PROHIBITED FACILITIES.—An issue shall not be treated as an issue described in subsection (a)(14) if any proceeds of such issue are used to provide any facility the principal business of which is the sale of food or alcoholic beverages for consumption on the premises.

"(vii) EMPLOYMENT.—The project is projected to provide permanent employment of at least 1,500 full time equivalents (150 full time equivalents in rural States) when completed and construction employment of at least 1,000 full time equivalents (100 full time equivalents in rural States).

The application shall include an independent analysis which describes the project's economic impact, including the amount of projected employment.

"(B) PROJECT DESCRIPTION.—Each application described in subparagraph (A) shall contain for each project a description of—

"(i) the amount of electric consumption reduced as compared to conventional construction,

"(ii) the amount of sulfur dioxide daily emissions reduced compared to coal generation,

"(iii) the amount of the gross installed capacity of the project's solar photovoltaic capacity measured in megawatts, and

"(iv) the amount, in megawatts, of the project's fuel cell energy generation.

"(5) CERTIFICATION OF USE OF TAX BENEFIT.—No later than 30 days after the completion of the project, each project must certify to the Secretary that the net benefit of the tax-exempt financing was used for the purposes described in paragraph (4).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) RURAL STATE.—The term 'rural State' means any State which has—

"(i) a population of less than 4,500,000 according to the 2000 census,

"(ii) a population density of less than 150 people per square mile according to the 2000 census, and

"(iii) increased in population by less than half the rate of the national increase between the 1990 and 2000 censuses.

"(B) LOCAL GOVERNMENT.—The term 'local government' has the meaning given such term by section 1393(a)(5).

"(C) NET BENEFIT OF TAX-EXEMPT FINANCING.—The term 'net benefit of tax-exempt financing' means the present value of the interest savings (determined by a calculation established by the Secretary) which result from the tax-exempt status of the bonds.

"(7) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

"(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(14) if the aggregate face amount of bonds issued by the State or local government pursuant thereto for a project (when added to the aggregate face amount of bonds previously so issued for such project) exceeds an amount designated by the Secretary as part of the designation.

"(B) LIMITATION ON AMOUNT OF BONDS.—The Secretary may not allocate authority to issue qualified green building and sustainable design project bonds in an aggregate face amount exceeding $2,000,000,000.

"(8) TERMINATION.—Subsection (a)(14) shall not apply with respect to any bond issued after September 30, 2009.

"(9) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (7)(B) and (8) shall not apply to any bond (or series of bonds) issued to refund a bond issued under subsection (a)(14) before October 1, 2009, if—

"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

"(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A).".

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking "or (13)" and inserting "(13), or (14)", and

(2) by striking "and qualified public educational facilities" and inserting "qualified public educational facilities, and qualified green building and sustainable design projects".

(d) ACCOUNTABILITY.—Each issuer shall maintain, on behalf of each project, an interest bearing reserve account equal to 1 percent of the net proceeds of any bond issued under this section for such project. Not later than 5 years after the date of issuance, the Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall determine whether the project financed with such bonds has substantially complied with the terms and conditions described in section 142(l)(4) of the Internal Revenue Code of 1986 (as added by this section). If the Secretary, after such consultation, certifies that the project has substantially complied with such terms and conditions and meets the commitments set forth in the application for such project described in section 142(l)(4) of such Code, amounts in the reserve account, including all interest, shall be released to the project. If the Secretary determines that the project has not substantially complied with such terms and conditions, amounts in the reserve account, including all interest, shall be paid to the United States Treasury.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2004.

Subtitle B—Manufacturing Relating to Films

SEC. 321. SPECIAL RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 180 the following new section:

“SEC. 181. TREATMENT OF QUALIFIED FILM AND TELEVISION PRODUCTIONS.

“(a) ELECTION TO TREAT CERTAIN COSTS OF QUALIFIED FILM AND TELEVISION PRODUCTIONS AS EXPENSES.—

“(1) IN GENERAL.—A taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction.

“(2) DOLLAR LIMITATION.—

“(A) IN GENERAL.—The aggregate cost which may be taken into account under paragraph (1) with respect to each qualified film or television production shall not exceed $15,000,000.

“(B) HIGHER DOLLAR LIMITATION FOR PRODUCTIONS IN CERTAIN AREAS.—In the case of any qualified film or television production the aggregate cost of which is significantly incurred in an area eligible for designation as—

“(i) a low-income community under section 45D, or

“(ii) a distressed county or isolated area of distress by the Delta Regional Authority established under section 2009aa–1 of title 7, United States Code,

subparagraph (A) shall be applied by substituting ‘$20,000,000’ for ‘$15,000,000’.

“(b) AMORTIZATION OF REMAINING COSTS.—

“(1) IN GENERAL.—If an election is made under subsection (a) with respect to any qualified film or television production, that portion of the basis of such production in excess of the amount taken into account under subsection (a) shall be allowed as a deduction ratably over the 36-month period beginning with the month in which such production is placed in service.

“(2) NO OTHER DEDUCTION OR AMORTIZATION DEDUCTION ALLOWABLE.—With respect to the basis of any qualified film or television production described in paragraph (1), no other depreciation or amortization deduction shall be allowable.

“(c) ELECTION.—

“(1) IN GENERAL.—An election under subsection (a) with respect to any qualified film or television production shall be made in such manner as prescribed by the Secretary and by the due date (including extensions) for filing the taxpayer’s return of tax under this chapter for the taxable year in which costs of the production are first incurred.

“(2) REVOCATION OF ELECTION.—Any election made under subsection (a) may not be revoked without the consent of the Secretary.

“(d) QUALIFIED FILM OR TELEVISION PRODUCTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified film or television production’ means any production described in paragraph (2) if 75 percent of the total compensation of the production is qualified compensation.

“(2) PRODUCTION.—

“(A) IN GENERAL.—A production is described in this paragraph if such production is property described in section 168(f)(3). For purposes of a television series, only the first 44 episodes of such series may be taken into account.

“(B) EXCEPTION.—A production is not described in this paragraph if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production.

“(3) QUALIFIED COMPENSATION.—For purposes of paragraph (1)—

“(A) IN GENERAL.—The term ‘qualified compensation’ means compensation for services performed in the United States by actors, directors, producers, and other relevant production personnel.

“(B) PARTICIPATIONS AND RESIDUALS EXCLUDED.—The term ‘compensation’ does not include participations and residuals (as defined in section 167(g)(7)(B)).

“(e) APPLICATION OF CERTAIN OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (b)(2) and (c)(4) of section 194 shall apply.

“(f) TERMINATION.—This section shall not apply to qualified film and television productions commencing after December 31, 2008.”.

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 180 the following new item:

“Sec. 181. Treatment of qualified film and television productions.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified film and television productions (as defined in section 181(d)(1) of the Internal Revenue Code of 1986, as added by this section) commencing after the date of the enactment of this Act.

SEC. 322. MODIFICATION OF APPLICATION OF INCOME FORECAST METHOD OF DEPRECIATION.

(a) IN GENERAL.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

“(7) TREATMENT OF PARTICIPATIONS AND RESIDUALS.—

“(A) IN GENERAL.—For purposes of determining the depreciation deduction allowable with respect to a property under this subsection, the taxpayer may include participations and residuals with respect to such property in the adjusted basis of such property for the taxable year in which the property is placed in service, but only to the extent that such participations and residuals relate to income estimated (for purposes of this subsection) to be earned in connection with the property before the close of the 10th taxable year referred to in paragraph (1)(A).

“(B) PARTICIPATIONS AND RESIDUALS.—For purposes of this paragraph, the term ‘participations and residuals’ means, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property.

“(C) SPECIAL RULES RELATING TO RECOMPUTATION YEARS.—If the adjusted basis of any property is determined under this paragraph, paragraph (4) shall be applied by substituting ‘for each taxable year in such period’ for ‘for such period’.

“(D) OTHER SPECIAL RULES.—

“(i) PARTICIPATIONS AND RESIDUALS.—Notwithstanding subparagraph (A), the taxpayer may exclude participations and residuals from the adjusted basis of such property and deduct such participations and residuals in the taxable year that such participations and residuals are paid.

“(ii) COORDINATION WITH OTHER RULES.—Deductions computed in accordance with this paragraph shall be allowable notwithstanding paragraph (1)(B) or sections 263, 263A, 404, 419, or 461(h).

“(E) AUTHORITY TO MAKE ADJUSTMENTS.—The Secretary shall prescribe appropriate adjustments to the basis of property and to the look-back method for the additional amounts allowable as a deduction solely by reason of this paragraph.”.

(b) DETERMINATION OF INCOME.—Section 167(g)(5) (relating to special rules) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following new subparagraph:

“(E) TREATMENT OF DISTRIBUTION COSTS.—For purposes of this subsection, the income with respect to any property shall be the taxpayer’s gross income from such property.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle C—Manufacturing Relating to Timber

SEC. 331. EXPENSING OF CERTAIN REFORESTATION EXPENDITURES.

(a) IN GENERAL.—So much of subsection (b) of section 194 (relating to amortization of reforestation expenditures) as precedes paragraph (2) is amended to read as follows:

“(b) TREATMENT AS EXPENSES.—

“(1) ELECTION TO TREAT CERTAIN REFORESTATION EXPENDITURES AS EXPENSES.—

“(A) IN GENERAL.—In the case of any qualified timber property with respect to which the taxpayer has made (in accordance with regulations prescribed by the Secretary) an election under this subsection, the taxpayer shall treat reforestation expenditures which are paid or incurred during the taxable year with respect to such property as an expense which is not chargeable to capital account. The reforestation expenditures so treated shall be allowed as a deduction.

“(B) DOLLAR LIMITATION.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed $10,000 ($5,000 in the case of a separate return by a married individual (as defined in section 7703)).”.

(b) NET AMORTIZABLE BASIS.—Section 194(c)(2) (defining amortizable basis) is amended by inserting “which have not been taken into account under subsection (b)” after “expenditures”.

(c) CONFORMING AMENDMENTS.—

(1) Section 194(b) is amended by striking paragraphs (3) and (4).

(2) Section 194(b)(2) is amended by striking “paragraph (1)” both places it appears and inserting “paragraph (1)(B)”.

(3) Section 194(c) is amended by striking paragraph (4) and inserting the following new paragraphs:

“(4) TREATMENT OF TRUSTS AND ESTATES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), this section shall not apply to trusts and estates.

“(B) AMORTIZATION DEDUCTION ALLOWED TO ESTATES.—The benefit of the deduction for amortization provided by subsection (a) shall be allowed to estates in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiary and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account for purposes of determining the amount allowable as a deduction under subsection (a) to such beneficiary.

“(5) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under any other provision of this chapter with respect to any expenditure with respect to which a deduction is allowed or allowable under this section to the taxpayer.”.

*(4) The heading for section 194 is amended by striking “**AMORTIZATION**” and inserting “**TREATMENT**”.*

(5) The item relating to section 194 in the table of sections for part VI of subchapter B of chapter 1 is amended by striking “Amortization” and inserting “Treatment”.

(d) REPEAL OF REFORESTATION CREDIT.—

(1) IN GENERAL.—Section 46 (relating to amount of credit) is amended—

(A) by adding “and” at the end of paragraph (1),

(B) by striking “, and” at the end of paragraph (2) and inserting a period, and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Section 48 is amended—

(i) by striking subsection (b),

(ii) by striking "this subsection" in paragraph (5) of subsection (a) and inserting "subsection (a)", and

(iii) by redesignating such paragraph (5) as subsection (b).

*(B) The heading for section 48 is amended by striking "**REFORESTATION CREDIT**".*

(C) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking ", reforestation credit".

(D) Section 50(c)(3) is amended by striking "or reforestation credit".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to expenditures paid or incurred after the date of the enactment of this Act.

SEC. 332. ELECTION TO TREAT CUTTING OF TIMBER AS A SALE OR EXCHANGE.

Any election under section 631(a) of the Internal Revenue Code of 1986 made for a taxable year ending on or before the date of the enactment of this Act may be revoked by the taxpayer for any taxable year ending after such date. For purposes of determining whether the taxpayer may make a further election under such section, such election (and any revocation under this section) shall not be taken into account.

SEC. 333. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) IN GENERAL.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking "retains an economic interest in such timber" and inserting "either retains an economic interest in such timber or makes an outright sale of such timber".

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 631(b) is amended by striking "The date of disposal" and inserting "In the case of disposal of timber with a retained economic interest, the date of disposal".

(2) The heading for section 631(b) is amended by striking "WITH A RETAINED ECONOMIC INTEREST".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 334. MODIFICATION OF SAFE HARBOR RULES FOR TIMBER REITS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

"(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

"(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

"(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

"(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property,

"(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

"(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

"(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

"(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

"(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

"(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

"(vi) the sales price of the property sold by the trust is not based in whole or in part on income or profits, including income or profits derived from the sale or operation of such property.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS:—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 402. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) DISCLOSURE BY SECRETARY.—

(1) IN GENERAL.—Section 6103 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) DISCLOSURE RELATING TO PAYMENTS OF CERTAIN PENALTIES.—Notwithstanding any other provision of this section, the Secretary shall make public the name of any person required to pay a penalty described in section 6707A(e)(2) and the amount of the penalty.".

(2) RECORDS.—Section 6103(p)(3)(A) is amended by striking "or (n)" and inserting "(n), or (q)".

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 403. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained,

"(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

"(V) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts,

"(IV) is not signed by all individuals who are principal authors of the opinion, or

"(V) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.
"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 404. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the *penalty imposed by this section shall be in addition to any other penalty imposed by this title.*

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 405. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 406. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 407. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case *of an intentional failure or act described in subsection (a).*

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 409. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 410. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, which is—

"(1) subject to penalty under section 6700, 6701, 6707, or 6708, or

"(2) in violation of any requirement under regulations issued under section 320 of title 31, United States Code.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

> *"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".*

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 411. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 412. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $100,000, or

"(II) 50 percent of the amount determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 413. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 414. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 415. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking "a penalty" and all that follows through the period in the first sentence of subsection (a) and inserting "a penalty determined under subsection (b)", and

(3) by inserting after subsection (a) the following new subsections:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

"(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

SEC. 419. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting "the tax liability or" after "respect to," in paragraph (1),

(2) by inserting "aid, assistance, procurement, or advice with respect to such" before "portion" both places it appears in paragraphs (2) and (3), and

(3) by inserting "instance of aid, assistance, procurement, or advice or each such" before "document" in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.".

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

"(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 420. STUDY ON INFORMATION SHARING AMONG LAW ENFORCEMENT AGENCIES.

(a) STUDY.—The Secretary of the Treasury shall, jointly with the Attorney General, the Securities and Exchange Commission, and the Commissioner of Internal Revenue, study the effectiveness of, and ways to improve, the sharing of information related to the promotion of prohibited tax shelters or tax avoidance schemes and other potential violations of Federal laws.

(b) REPORT.—The Secretary shall, not later than 1 year after the date of the enactment of this Act, report to the appropriate committees of the Congress the results of the study under subsection (a), including any recommendations for legislation.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 422. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL INCOME TAX RETURN OF A CORPORATION.

(a) IN GENERAL.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures to ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to the Federal annual tax return of a corporation with respect to income for taxable years ending after the date of the enactment of this Act.

SEC. 423. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 424. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(C) by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 425. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATIONS ON BUILT-IN LOSSES.—

"(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.

"(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

"(A) IN GENERAL.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions after December 31, 2003.

(2) LIQUIDATIONS.—The amendment made by subsection (b) shall apply to liquidations after December 31, 2003.

SEC. 432. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

"(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 433. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of this subparagraph.".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking "or a FASIT".

(12) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by inserting "or equity held by *the issuer (or any related party) in any other person" after "or a related party".*

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(d) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

"(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

"(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

"(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

"(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

"(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

"(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

"(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

"(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

"(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

"(A) CORPORATE EXPATRIATION TRANSACTION.—The term 'corporate expatriation transaction' means any transaction, or series of related transactions, described in subsection (a) or (b) of section 7874 of the Internal Revenue Code of 1986.

"(A) DOMESTIC ISSUER.—The term 'domestic issuer' means an issuer created or organized in the United States or under the law of the United States or of any State."

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by this subsection) shall apply with respect to corporate

expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) EXCLUSION FOR CERTAIN GAIN.—

"(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after January 1, 2004.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after January 1, 2004.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after January 1, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

"CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

"Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

"SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

"(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

"(b) VALUE.—For purposes of subsection (a)—

"(1) IN GENERAL.—The value of specified stock compensation shall be—

"(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

"(B) in any other case, the fair market value of such compensation.

"(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

"(A) in the case of specified stock compensation held on the inversion date, on such date,

"(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

"(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

"(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

"(d) Exception Where Gain Recognized on Compensation.—Subsection (a) shall not apply to—

"(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

"(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

"(e) Definitions.—For purposes of this section—

"(1) Disqualified individual.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

"(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

"(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

"(2) Inverted corporation; inversion date.—

"(A) Inverted corporation.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

"(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

"(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

"(B) Inversion date.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

"(3) Specified stock compensation.—

"(A) In general.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

"(B) Exceptions.—Such term shall not include—

"(i) any option to which part II of subchapter D of chapter 1 applies, or

"(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

"(4) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) Special Rules.—For purposes of this section—

"(1) Cancellation of restriction.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) Payment or reimbursement of tax by corporation treated as specified stock compensation.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) Certain restrictions ignored.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) Property transfers.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) Other administrative provisions.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Denial of Deduction.—

(1) In general.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 limit on deductible compensation reduced by payment of excise tax on specified stock compensation.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) Coordination with excise tax on specified stock compensation.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) Conforming Amendments.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) Effective Date.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) In General.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) Effective Date.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) In General.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

"SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

"(a) In General.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

"(1) a description of the acquisition,

"(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

"(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

"(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

"(b) Nominee Reporting.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

"(c) Taxable Acquisition.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

"(d) Statements To Be Furnished to Shareholders.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such shareholder, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.".

(b) Assessable Penalties.—

(1) Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by redesignating clauses (ii) through (xviii) as clauses (iii) through (xix), respectively, and by inserting after clause (i) the following new clause:

"(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),".

(2) Paragraph (2) of section 6724(d) (relating to definitions) is amended by redesignating subparagraphs (F) through (BB) as subparagraphs (G) through (CC), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).".

(c) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

"Sec. 6043A. Returns relating to taxable mergers and acquisitions.".

(d) Effective Date.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) In General.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

"(A) obligations of the United States, money, or deposits with persons described in paragraph (4);".

(b) Eligible Persons.—Section 956(c) (relating to exceptions to definition of United States property) is amended by adding at the end the following new paragraph:

"(4) Financial services providers.—

"(A) In general.—For purposes of paragraph (2)(A), a person is described in this paragraph if *at least 80 percent of the person's income is income described in section 904(d)(2)(C)(ii) (and the regulations thereunder) which is derived from persons who are not related persons.*

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all related persons shall be treated as 1 person in applying the 80-percent test, and

"(ii) there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of a person as a person described in this paragraph.

"(C) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given such term by section 954(d)(3).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

"(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

"(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

"(A) subsection (a) and section 331 shall not apply to such distribution, and

"(B) such distribution shall be treated as a distribution to which section 301 applies.

"(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

"(i) which is a common parent of an affiliated group,

"(ii) stock of which is directly owned by the distributee foreign corporation,

"(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

"(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

"(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) 0f section 1504(b)).

"(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

"(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount (reduced by properly allowable deductions and qualified deficits under section 952(c)(1)(B)) is includible during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.".

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking "The Secretary" and inserting: "(A) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new subparagraph:

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of any item payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent that an amount attributable to such item (reduced by properly allowable deductions and qualified deficits under section 952(c)(1)(B)) is includible during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

"Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

"(D) APPLICATION TO CERTAIN DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATION.—

"(i) IN GENERAL.—This paragraph shall apply to an applicable disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.

"(ii) APPLICABLE DISPOSITION.—For purposes of clause (i), the term 'applicable disposition' means any disposition of any share of stock in a controlled foreign corporation in a transaction or series of transactions if, immediately before such transaction or series of transactions, the taxpayer owned more than 50 percent (by vote or value) of the stock of the controlled foreign corporation.

"(iii) EXCEPTION.—A disposition shall not be treated as an applicable disposition under clause (ii) if it is part of a transaction or series of transactions—

"(I) to which section 351 or 721 applies, or under which the transferor receives stock in a foreign corporation in exchange for the stock in the controlled foreign corporation and the stock received is exchanged basis property (as defined in section 7701(a)(44)), and

"(II) immediately after which, the transferor owns (by vote or value) at least the same percentage of stock in the controlled foreign corporation (or, if the controlled foreign corporation is not in existence after such transaction or series of transactions, in another foreign corporation stock in which was received by the transferor in exchange for stock in the controlled foreign corporation) as the percentage of stock in the controlled foreign corporation which the taxpayer owned immediately before such transaction or series of transactions.

Clause (i) shall apply to any gain recognized on any disposition to which this clause applies.

"(iv) CONTROLLED FOREIGN CORPORATION.—For purposes of this subparagraph, the term 'controlled foreign corporation' has the meaning given such term by section 957.

"(v) STOCK OWNERSHIP.—For purposes of this subparagraph, ownership of stock shall be determined under the rules of subsections (a) and (b) of section 958.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

"(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

"(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

"(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

"(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

"(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) DEALER.—For purposes of subparagraph (A), the term 'dealer' means—

"(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

"(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

"(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

"(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

"(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.".

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting "ON DIVIDENDS" after "TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) CROSS REFERENCE.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE C CORPORATIONS.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

"(A) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(B) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.".

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Paragraph (3) of section 1092(d) (relating to definitions and special rules) is amended to read as follows:

"(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'personal property' includes—

"(i) any stock which is a part of a straddle at least 1 of the offsetting positions of which is a position with respect to such stock or substantially similar or related property, or

"(ii) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

"(B) RULE FOR APPLICATION.—For purposes of determining whether subsection (e) applies to any transaction with respect to stock described in subparagraph (A)(ii), all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.".

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) MODIFICATIONS OF QUALIFIED COVERED CALL EXCEPTION.—

(1) MARKETS ON WHICH OPTIONS MAY BE TRADED.—

(A) IN GENERAL.—Section 1092(c)(4)(B)(i) is amended by striking "or other market which the Secretary determines has rules adequate to carry out the purposes of this paragraph".

(B) Regulations.—Section 1092(c)(4)(H) is amended by adding at the end the following new sentence: "Such regulations shall not add any exchange or market not described in subparagraph (B)(i) to the exchanges or markets on which qualified covered call options may be traded."

(2) Holding period for dividend exclusion.—The last sentence of section 246(c) is amended by inserting: ", other than a qualified covered call option to which section 1092(f) applies" before the period at the end.

(e) Effective Date.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) In General.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) Effective Date.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) In General.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) Liabilities in Excess of Basis.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) Effective Date.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) In General.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) In General.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) Application of Existing Rules to Other Code Provisions.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) Brother-sister controlled group definition for provisions other than this part.—

"(A) In general.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

"'(2) Brother-sister controlled group.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

"'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

"'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) Applicable provision.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) In General.—Section 754 is repealed.

(b) Adjustment to Basis of Undistributed Partnership Property.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking "**OPTIONAL**" in the heading.

(c) Adjustment to Basis of Partnership Property.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) Election To Adjust Basis for Transfers Upon Death of Partner.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

(4) by striking "**OPTIONAL**" in the heading.

(d) Conforming Amendments.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 755(c), as added by this Act, is amended by striking "section 734(b)" and inserting "section 734(a)".

(4) Section 761(e)(2) is amended by striking "optional".

(5) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(6) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(7) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) Repeal of section 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) In General.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) Conforming Amendments.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) Section 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) Gas Utility Property.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) Electric Utility Property.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-year property.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) Conforming Amendments.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 473. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle—

"(I) which is primarily designed or which can be used to carry passengers over public streets, roads, or highways (except any vehicle operated exclusively on a rail or rails),

"(II) which is not subject to section 280F, and

"(III) which is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) is designed to have a seating capacity of more than 9 persons behind the driver's seat,

"(II) is equipped with a cargo area of at least 6 feet in interior length which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment, or

"(III) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the uctive trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking "AMORTIZE" and inserting "DEDUCT" in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking "AMORTIZATION" and inserting "DEDUCTION" in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 475. REFORM OF TAX TREATMENT OF LEASING OPERATIONS.

(a) CLARIFICATION OF RECOVERY PERIOD FOR TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—Subparagraph (A) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting "(notwithstanding any other subparagraph of this paragraph)" after "shall".

(b) LIMITATION ON DEPRECIATION PERIOD FOR SOFTWARE LEASED TO TAX-EXEMPT ENTITY.—Paragraph (1) of section 167(f) is amended by adding at the end the following new subparagraph:

"(C) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of computer software which would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to computer software, the useful life under subparagraph (A) shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3))."

(c) LEASE TERM TO INCLUDE RELATED SERVICE CONTRACTS.—Subparagraph (A) of section 168(i)(3) (relating to lease term) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

"(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

"(II) which is with respect to the property subject to the lease or substantially similar property, and".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

"SEC. 470. LIMITATIONS ON LOSSES FROM TAX-EXEMPT USE PROPERTY.

"(a) LIMITATION ON LOSSES.—Except as otherwise provided in this section, a tax-exempt use loss for any taxable year shall not be allowed.

"(b) DISALLOWED LOSS CARRIED TO NEXT YEAR.—Any tax-exempt use loss with respect to any tax-exempt use property which is disallowed under subsection (a) for any taxable year shall be treated as a deduction with respect to such property in the next taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) TAX-EXEMPT USE LOSS.—The term 'tax-exempt use loss' means, with respect to any taxable year, the amount (if any) by which—

"(A) the sum of—

"(i) the aggregate deductions (other than interest) directly allocable to a tax-exempt use property, plus

"(ii) the aggregate deductions for interest properly allocable to such property, exceed

"(B) the aggregate income from such property.

"(2) TAX-EXEMPT USE PROPERTY.—The term 'tax-exempt use property' has the meaning given to such term by section 168(h) (without regard to paragraph (1)(C) or (3) thereof and determined as if property described in section 167(f)(1)(B) were tangible property). Such term shall not include property with respect to which the credit under section 42 is allowed and which, but for this sentence, would be tax-exempt property solely by reason of section 168(h)(6).

"(d) EXCEPTION FOR CERTAIN LEASES.—This section shall not apply to any lease of property which meets the requirements of all of the following paragraphs:

"(1) PROPERTY NOT FINANCED WITH TAX-EXEMPT BONDS OR FEDERAL FUNDS.—A lease of property meets the requirements of this paragraph if no part of the property was financed (directly or indirectly) from—

"(A) the proceeds of an obligation the interest on which is exempt from tax under section 103(a) and which (or any refunding bond of which) is outstanding when the lease is entered into, or

"(B) Federal funds.

The Secretary may by regulations provide for a de minimis exception from this paragraph.

"(2) AVAILABILITY OF FUNDS.—

"(A) IN GENERAL.—A lease of property meets the requirements of this paragraph if (at any time during the lease term) not more than an allowable amount of funds are—

"(i) subject to any arrangement referred to in subparagraph (B), or

"(ii) set aside or expected to be set aside,

to or for the benefit of the lessor or a lender, or to or for the benefit of the lessee to satisfy the lessee's obligations or options under the lease. Funds shall be treated as described in clause (ii) only if a reasonable person would conclude, based on the facts and circumstances, that such funds are so described.

"(B) ARRANGEMENTS.—The arrangements referred to in this subparagraph are—

"(i) a defeasance arrangement, a loan by the lessee to the lessor or a lender, a deposit arrangement, a letter of credit collateralized with cash or cash equivalents, a payment undertaking agreement, a lease prepayment, a sinking fund arrangement, or any similar arrangement (whether or not such arrangement provides credit support), and

"(ii) any other arrangement identified by the Secretary in regulations.

"(C) ALLOWABLE AMOUNT.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'allowable amount' means an amount equal to 20 percent of the lessor's adjusted basis in the property at the time the lease is entered into.

"(ii) HIGHER AMOUNT PERMITTED IN CERTAIN CASES.—To the extent provided in regulations, a higher percentage shall be permitted under clause (i) where necessary because of the creditworthiness of the lessee. In no event may such regulations permit a percentage of more than 50 percent.

"(iii) OPTION TO PURCHASE.—If under the lease the lessee has the option to purchase the property for a fixed price or for other than the fair market value of the property (determined at the time of exercise), the allowable amount at the time such option may be exercised may not exceed 50 percent of the price at which such option may be exercised.

"(iv) NO ALLOWABLE AMOUNT FOR CERTAIN ARRANGEMENTS.—The allowable amount shall be zero in the case of any arrangement which involves—

"(I) a loan from the lessee to the lessor or a lender,

"(II) any deposit, letter of credit, or payment undertaking agreement involving a lender, or

"(III) any credit support made available to the lessor in which a lender (if any) does not have a claim which is senior to the lessor.

For purposes of subclause (I), the term 'loan' shall not include any amount treated as a loan under section 467 with respect to a section 467 rental agreement.

"(3) LESSOR MUST MAKE SUBSTANTIAL EQUITY INVESTMENT.—A lease of property meets the requirements of this paragraph if—

"(A) the lessor—

"(i) has at the time the lease is entered into an unconditional at-risk equity investment (as determined by the Secretary) in the property of at least 20 percent of the lessor's adjusted basis in the property as of that time, and

"(ii) maintains such investment throughout the term of the lease, and

"(B) the fair market value of the property at the end of the lease term is reasonably expected to be equal to at least 20 percent of such basis.

Subparagraphs (A)(ii) and (B) shall not apply if the lease term is described in section 168(h)(1)(C)(ii), or in the case of qualified technological equipment, is described in section 168(h)(3). For purposes of subparagraph (B), the fair market value at the end of the lease term shall be reduced to the extent that a person other than the lessor bears a risk of loss in the value of the property.

"(4) LESSEE MAY NOT BEAR MORE THAN MINIMAL RISK OF LOSS.—

"(A) IN GENERAL.—A lease of property meets the requirements of this paragraph if there is no arrangement under which more than a minimal risk of loss (as determined under regulations) in the value of the property is borne by the lessee.

"(B) CERTAIN ARRANGEMENTS FAIL REQUIREMENT.—In no event will the requirements of this paragraph be met if there is any arrangement under which the lessee bears—

"(i) any portion of the loss that would occur if the fair market value of the leased property were 25 percent less than its reasonably expected fair market value at the time the lease is terminated, or

"(ii) more than 50 percent of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were zero.

"(5) PROPERTY WITH MORE THAN 7-YEAR CLASS LIFE.—In the case of a lease—

"(A) of property with a class life (as defined in section 168(i)(1)) of more than 7 years, and

"(B) under which the lessee has the option to purchase the property,

the lease meets the requirements of this paragraph only if the purchase price under the option equals the fair market value of the property (determined at the time of exercise).

"(6) REGULATORY REQUIREMENTS.—A lease of property meets the requirements of this paragraph if such lease of property meets such requirements as the Secretary may prescribe by regulations.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF FORMER TAX-EXEMPT USE PROPERTY.—

"(A) IN GENERAL.—In the case of any former tax-exempt use property—

"(i) any deduction allowable under subsection (b) with respect to such property for any taxable year shall be allowed only to the extent of any net income (without regard to such deduction) from such property for such taxable year, and

"(ii) any portion of such unused deduction remaining after application of clause (i) shall be treated as allowable under subsection (b) with respect to such property in the next taxable year.

"(B) FORMER TAX-EXEMPT USE PROPERTY.—For purposes of this subsection, the term 'former tax-exempt use property' means any property which—

"(i) is not tax-exempt use property for the taxable year, but

"(ii) was tax-exempt use property for any prior taxable year.

"(2) DISPOSITION OF ENTIRE INTEREST IN PROPERTY.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property (or former tax-exempt use property), rules similar to the rules of section 469(g) shall apply for purposes of this section.

"(3) COORDINATION WITH SECTION 469.—This section shall be applied before the application of section 469.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) RELATED PARTIES.—The terms 'lessor', 'lessee', and 'lender' include any related party (within the meaning of section 197(f)(9)(C)(i)).

"(2) LEASE TERM.—The term 'lease term' has the meaning given to such term by section 168(i)(3).

"(3) LENDER.—The term 'lender' means, with respect to any lease, a person that makes a loan to the lessor which is secured (or economically similar to being secured) by the lease or the leased property.

"(4) LOAN.—The term 'loan' includes any similar arrangement.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulation which—

"(1) allow in appropriate cases the aggregation of property subject to the same lease, and

"(2) provide for the determination of the allocation of interest expense for purposes of this section."

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

"Sec. 470. Limitations on losses from tax-exempt use property.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to leases entered into after November 18, 2003.

(2) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this section shall apply to taxable years beginning after January 31, 2004, with respect to leases entered into on or before November 18, 2003.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement to which any initiative described in paragraph (2) applied, or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (2), shall be made without regard to section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term "applicable taxpayer" means a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A).

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) Participation.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 1, 2005" and inserting "September 30, 2013".

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) Other definitions.—For purposes of paragraph (2)—

"(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) Use of Deposits.—

"(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under revenue procedure 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) Contract Requirements.—

(1) In general.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

"SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

"(a) In General.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

"(b) Qualified Tax Collection Contract.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

"(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

"(A) to locate and contact any taxpayer specified by the Secretary,

"(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

"(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

"(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

"(3) prohibits subcontractors from—

"(A) having contacts with taxpayers,

"(B) providing quality assurance services, and

"(C) composing debt collection notices, and

"(4) permits subcontractors to perform other services only with the approval of the Secretary.

"(c) Fees and Expenses.—The Secretary may retain and use—

"(1) an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract, and

"(2) an amount not in excess of 25 percent of such amount collected for collection enforcement activities of the Internal Revenue Service.

The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

"(d) No Federal Liability.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

"(e) Application of Fair Debt Collection Practices Act.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

"(f) Application of Section.—In no event may the term of any qualified tax collection contract extend beyond the date which is 5 years after the date of the enactment of this section.

"(g) Cross References.—

"(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

"(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).".

(2) Conforming amendments.—

(A) Section 7809(a) is amended by inserting "6306," before "7651".

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

"Sec. 6306. Qualified Tax Collection Contracts.".

(b) Civil Damages for Certain Unauthorized Collection Actions by Persons Performing Services Under Qualified Tax Collection Contracts.—

(1) In general.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

"SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

"(a) In General.—Subject to the modifications provided by subsection (b), section 7433

shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

"(b) MODIFICATIONS.—For purposes of subsection (a)—

"(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

"(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

"(3) Such civil action shall not be an exclusive remedy with respect to such person.

"(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

"Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.".

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

"(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.".

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

"(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.".

(e) BIENNIAL REPORT.—The Secretary of the Treasury shall biennially submit (beginning in 2005) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report with respect to qualified tax collection contracts under section 6306 of the Internal Revenue Code of 1986 (as added by this section) which includes—

(1) a complete cost benefit analysis,

(2) the impact of such contracts on collection enforcement staff levels in the Internal Revenue Service,

(3) the amounts collected and the collection costs incurred (directly and indirectly),

(4) an evaluation of contractor performance,

(5) a disclosure safeguard report in a form similar to that required under section 6103(p)(5) of such Code, and

(6) a measurement plan which includes a comparison of the best practices used by the private collectors with the Internal Revenue Service's own collection techniques) and mechanisms to identify and capture information on successful collection techniques used by the contractors which could be adopted by the Internal Revenue Service.

(f) EFFECTIVE DATE.—The amendments made to this section shall take effect on the date of the enactment of this Act.

SEC. 488. WHISTLEBLOWER REFORMS.

(a) IN GENERAL.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(1) by striking "The Secretary" and inserting "(a) IN GENERAL.—The Secretary",

(2) by striking "and" at the end of paragraph (1) and inserting "or",

(3) by striking "(other than interest)", and

(4) by adding at the end the following new subsections:

"(b) AWARDS TO WHISTLEBLOWERS.—

"(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

"(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

"(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

"(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

"(3) APPEAL OF AWARD DETERMINATION.—Any determination regarding an award under paragraph (1) or (2) shall be subject to the filing by the individual described in such paragraph of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute) and such review shall be subject to the rules under section 7461(b)(1).

"(4) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

"(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

"(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $20,000.

"(5) ADDITIONAL RULES.—

"(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

"(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

"(C) AWARD NOT SUBJECT TO INDIVIDUAL ALTERNATIVE MINIMUM TAX.—No award received under this subsection shall be included in gross income for purposes of determining alternative minimum taxable income.

"(c) WHISTLEBLOWER OFFICE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

"(A) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

"(B) shall monitor any action taken with respect to such matter,

"(C) shall inform such individual that it has accepted the individual's information for further review,

"(D) may require such individual and any legal representative of such individual to not disclose any information so provided,

"(E) may ask for additional assistance from such individual or any legal representative of such individual, and

"(F) shall determine the amount to be awarded to such individual under subsection (b).

"(2) FUNDING FOR OFFICE.—From the amounts available for expenditure under subsection (a), the Whistleblower Office shall be credited with an amount equal to the awards made under subsection (b). These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

"(3) REQUEST FOR ASSISTANCE.—

"(A) IN GENERAL.—Any assistance requested under paragraph (1)(E) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). To the extent the disclosure of any returns or return information to the individual or legal representative is required for the performance of such assistance, such disclosure shall be pursuant to a contract entered into between the Secretary and the recipients of such disclosure subject to section 6103(n).

"(B) FUNDING OF ASSISTANCE.—From the funds made available to the Whistleblower Office under paragraph (2), the Whistleblower Office may reimburse the costs incurred by any legal representative in providing assistance described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

SEC. 489. PROTECTION OF OVERTIME PAY.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

"(k)(1) The Secretary shall not promulgate any rule under subsection (a)(1) that exempts from the overtime pay provisions of section 7 any employee who earns less than $23,660 per year.

"(2) The Secretary shall not promulgate any rule under subsection (a)(1) concerning the right to overtime pay that is not as protective, or more protective, of the overtime pay rights of employees in the occupations or job classifications described in paragraph (3) as the protections provided for such employees under the regulations in effect under such subsection on March 31, 2003.

"(3) The occupations or job classifications described in this paragraph are as follows:

"(A) Any worker paid on an hourly basis.

"(B) Blue collar workers.

"(C) Any worker provided overtime under a collective bargaining agreement.

"(D) Team leaders.

"(E) Computer programmers.

"(F) Registered nurses.

"(G) Licensed practical nurses.

"(H) Nurse midwives.

"(I) Nursery school teachers.

"(J) Oil and gas pipeline workers.

"(K) Oil and gas field workers.

"(L) Oil and gas platform workers.

"(M) Refinery workers.

"(N) Steel workers.

"(O) Shipyard and ship scrapping workers.

"(P) Teachers.

"(Q) Technicians.

"(R) Journalists.

"(S) Chefs.

"(T) Cooks.

"(U) Police officers.

"(V) Firefighters.

"(W) Fire sergeants.

"(X) Police sergeants.

"(Y) Emergency medical technicians.

"(Z) Paramedics.

"(AA) Waste disposal workers.

"(BB) Day care workers.

"(CC) Maintenance employees.

"(DD) Production line employees.

"(EE) Construction employees.

"(FF) Carpenters.

"(GG) Mechanics.

"(HH) Plumbers.

"(II) Iron workers.

"(JJ) Craftsmen.

"(KK) Operating engineers.

"(LL) Laborers.

"(MM) Painters.

"(NN) Cement masons.

"(OO) Stone and brick masons.

"(PP) Sheet metal workers.

"(QQ) Utility workers.

"(RR) Longshoremen.

"(SS) Stationary engineers.

"(TT) Welders.

"(UU) Boilermakers.

"(VV) Funeral directors.

"(WW) Athletic trainers.

"(XX) Outside sales employees.

"(YY) Inside sales employees.

"(ZZ) Grocery store managers.

"(AAA) Financial services industry workers.

"(BBB) Route drivers.

"(CCC) Assistant retail managers.

"(4) Any portion of a rule promulgated under subsection (a)(1) after March 31, 2003, that modifies the overtime pay provisions of section 7 in a manner that is inconsistent with paragraphs (2) and (3) shall have no force or effect as it relates to the occupation or job classification involved.".

SEC. 490. PROTECTION OF OVERTIME PAY.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

"(k) Notwithstanding the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) or any other provision of law, any portion of the final rule promulgated on April 23, 2004, revising part 541 of title 29, Code of Federal Regulations, that exempts from the overtime pay provisions of section 7 any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003 remained in effect, shall have no force or effect and that portion of such regulations (as in effect on March 31, 2003) that would prevent such employee from being exempt shall remain in effect. Notwithstanding the preceding sentence, the increased salary requirements provided for in such final rule at section 541.600 of such title 29, shall remain in effect.".

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) Conforming Amendment.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act".

(c) Effective Date.—

(1) Sales, etc.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) In General.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) Property acquired in like-kind exchange.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.".

(b) Effective Date.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 493. MODIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) Premiums as Percentage of Gross Receipts Increased.—Section 501(c)(15)(A)(i)(II) is amended by striking "50 percent" and inserting "60 percent".

(b) Limitation on Net Written Premiums Increased.—Section 831(b)(2) (relating to companies to which this subsection applies) is amended—

(1) by striking "$1,200,000" and inserting "$1,890,000", and

(2) by adding at the end the following new subparagraph:

"(C) Inflation adjustments.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 2005, the dollar amount in subparagraph (A)(i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) Rounding.—If the amount in subparagraph (A)(i) as increased under clause (i) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.".

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) Transition rule for companies in receivership or liquidation.—In the case of a company or association which—

(A) for the taxable year which includes April 1, 2004, meets the requirements of section 501(c)(15)(A) of the Internal Revenue Code of 1986, as in effect for the last taxable year beginning before January 1, 2004, and

(B) on April 1, 2004, is in a receivership, liquidation, or similar proceeding under the supervision of a State court,

the amendments made by this section shall apply to taxable years beginning after the earlier of the date such proceeding ends (or, if later, December 31, 2004) or December 31, 2007.

SEC. 494. TREATMENT OF CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) In General.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software (other than software described in section 197(e)(3)(A)(i)), or similar property, or applications or registrations of such property,".

(b) Additional Deduction for Certain Contributions of Patents and Similar Property.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) Additional deduction for certain contributions of patents and similar property.—

"(A) In general.—In the case of a charitable contribution of any property described in paragraph (1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in paragraph (1)(B)(ii)), if—

"(i) the lesser of—

"(I) 5 percent of the fair market value of such property (determined at the time of such contribution), or

"(II) $1,000,000, exceeds

"(ii) the amount of such contribution as determined under paragraph (1),

then the amount of the charitable contribution of such property otherwise taken into account under this section shall equal the amount determined under clause (i).".

(c) Certain Donee Income From Intellectual Property Treated as an Additional Charitable Contribution.—Section 170 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Certain Donee Income From Intellectual Property Treated as an Additional Charitable Contribution.—

"(1) Treatment as additional contribution.—In the case of a taxpayer who makes a qualified intellectual property contribution, the deduction allowed under subsection (a) for each taxable year of the taxpayer ending on or after the date of such contribution shall be increased (subject to the limitations under subsection (b)) by the applicable percentage of qualified donee income with respect to such contribution which is properly allocable to such year under this subsection.

"(2) Qualified donee income.—For purposes of this subsection, the term 'qualified donee income' means any net income received by or accrued to the donee which is properly allocable to the qualified intellectual property.

"(3) Allocation of qualified donee income to taxable years of donor.—For purposes of this subsection, qualified donee income shall be treated as properly allocable to a taxable year of the donor if such income is received by or accrued to the donee for the taxable year of the donee which ends within or with such taxable year of the donor.

"(4) 10-YEAR LIMITATION.—Income shall not be treated as properly allocable to qualified intellectual property for purposes of this subsection if such income is received by or accrued to the donee after the 10-year period beginning on the date of the contribution of such property.

"(5) BENEFIT LIMITED TO LIFE OF INTELLECTUAL PROPERTY.—Income shall not be treated as properly allocable to qualified intellectual property for purposes of this subsection if such income is received by or accrued to the donee after the expiration of the legal life of such property.

"(6) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined under the following table which corresponds to a taxable year of the donor ending on or after the date of the qualified intellectual property contribution:

"Taxable Year of Donor Ending On or After Date of Contribution:	Applicable Percentage:
1st or 2d	100
3rd	90
4th	80
5th	70
6th	60
7th	50
8th	40
9th	30
10th	20
11th or 12th	10.

"(7) QUALIFIED INTELLECTUAL PROPERTY CONTRIBUTION.—For purposes of this subsection, the term 'qualified intellectual property contribution' means any charitable contribution of qualified intellectual property—

"(A) the amount of which taken into account under this section—

"(i) is reduced by reason of subsection (e)(1), or

"(ii) determined under subsection (e)(7), and

"(B) with respect to which the donor informs the donee at the time of such contribution that the donor intends to treat such contribution as a qualified intellectual property contribution for purposes of this subsection and section 6050L.

"(8) QUALIFIED INTELLECTUAL PROPERTY.—For purposes of this subsection, the term 'qualified intellectual property' means property described in subsection (e)(1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in subsection (e)(1)(B)(ii)).

"(9) OTHER SPECIAL RULES.—

"(A) APPLICATION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—Any increase under this subsection of the deduction provided under subparagraph (a) shall be treated for purposes of subsection (b) as a deduction which is attributable to a charitable contribution to the donee to which such increase relates.

"(B) NET INCOME DETERMINED BY DONEE.—The net income taken into account under paragraph (2) shall not exceed the amount of such income reported under section 6050L(b)(1).

"(C) DEDUCTION LIMITED TO 12 TAXABLE YEARS.—Except as may be provided under subparagraph (D)(i), this subsection shall not apply with respect to any qualified intellectual property contribution for any taxable year of the donor after the 12th taxable year of the donor which ends on or after the date of such contribution.

"(D) REGULATIONS.—The Secretary may issue regulations or other guidance to carry out the purposes of this subsection, including regulations or guidance—

"(i) modifying the application of this subsection in the case of a donor or donee with a short taxable year, and

"(ii) providing for the determination of an amount to be treated as net income of the donee which is properly allocable to qualified intellectual property in the case of a donee who uses such property to further a purpose or function constituting the basis of the donee's exemption under section 501 (or, in the case of a governmental unit, any purpose described in section 170(c)) and does not possess a right to receive any payment from a third party with respect to such property.".

(d) REPORTING REQUIREMENTS.—Section 6050L (relating to returns relating to certain dispositions of donated property) is amended to read as follows:

"SEC. 6050L. RETURNS RELATING TO CERTAIN DONATED PROPERTY.

"(a) DISPOSITIONS OF DONATED PROPERTY.—

"(1) IN GENERAL.—If the donee of any charitable deduction property sells, exchanges, or otherwise disposes of such property within 2 years after its receipt, the donee shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(A) the name, address, and TIN of the donor,

"(B) a description of the property,

"(C) the date of the contribution,

"(D) the amount received on the disposition, and

"(E) the date of such disposition.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE DEDUCTION PROPERTY.—The term 'charitable deduction property' means any property (other than publicly traded securities) contributed in a contribution for which a deduction was claimed under section 170 if the claimed value of such property (plus the claimed value of all similar items of property donated by the donor to 1 or more donees) exceeds $5,000.

"(B) PUBLICLY TRADED SECURITIES.—The term 'publicly traded securities' means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

"(b) QUALIFIED INTELLECTUAL PROPERTY CONTRIBUTIONS.—

"(1) IN GENERAL.—Each donee with respect to a qualified intellectual property contribution shall make a return (at such time and in such form and manner as the Secretary may by regulations prescribe) with respect to each specified taxable year of the donee showing—

"(A) the name, address, and TIN of the donor,

"(B) a description of the qualified intellectual property contributed,

"(C) the date of the contribution, and

"(D) the amount of net income of the donee for the taxable year which is properly allocable to the qualified intellectual property (determined without regard to paragraph (9)(B) of section 170(m) and with the modifications described in paragraphs (4) and (5) of such section).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) IN GENERAL.—Terms used in this subsection which are also used in section 170(m) have the respective meanings given such terms in such section.

"(B) SPECIFIED TAXABLE YEAR.—The term 'specified taxable year' means, with respect to any qualified intellectual property contribution, any taxable year of the donee any portion of which is part of the 10-year period beginning on the date of such contribution.

"(c) STATEMENT TO BE FURNISHED TO DONORS.—Every person making a return under subsection (a) or (b) shall furnish a copy of such return to the donor at such time and in such manner as the Secretary may by regulations prescribe.".

(e) PROCESSING FEE.—Section 170, as amended by subsection (b), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) PROCESSING FEE.—In the case of a deduction allowed for any taxable year under this section with respect to a charitable contribution of any property described in subsection (e)(1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in subsection (e)(1)(B)(ii)), the taxpayer shall include, with the taxpayer's return of tax including such deduction, a fee equal to 1 percent of the amount of such deduction. Such fee shall be credited by the Secretary to the operations of the Exempt Organizations unit within the Internal Revenue Service.".

(f) MODIFICATION OF SUBSTANTIAL VALUATIONS MISSTATEMENT PENALTY FOR CHARITABLE CONTRIBUTIONS OF PROPERTY.—

(1) SUBSTANTIAL MISSTATEMENTS.—Section 6662(e)(1)(A) (relating to substantial valuation misstatements under chapter 1) is amended by inserting "(50 percent or more in the case of a charitable contribution of any property described in section 170(e)(1)(B)(iii))" after "200 percent or more".

(2) GROSS MISSTATEMENTS.—Section 6662(h)(2)(A) (defining gross valuation misstatements) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) '100 percent or more' for '50 percent or more',

"(iii) '25 percent or less' for '50 percent or less', and".

(g) ANTI-ABUSE RULES.—The Secretary of the Treasury—

(1) may prescribe such regulations or other guidance as may be necessary or appropriate to prevent the avoidance of the purposes of paragraphs (1)(B)(iii) and (7) of section 170(e) of the Internal Revenue Code of 1986 (as added by subsections (a) and (b)), including preventing—

(A) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(B) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(C) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply, and

(2) shall prescribe guidance on appraisal standards for contributions of property described in section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by this section).

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 495. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking "age 14" and inserting "age 18".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 496. HOLDING PERIOD FOR PREFERRED STOCK.

(a) IN GENERAL.—Section 1(h)(11)(B)(iii)(I) is amended to read as follows:

"(I) with respect to which the holding period requirements of section 246(c) are not met, determined by substituting '60 days' for '45' days each place it appears, by substituting '120-day' for '90-day' each place it appears, and by substituting '120 days' for '90 days' and '240-day' for '180-day' in paragraph (2)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 497. SUBSTANTIAL PRESENCE TEST REQUIRED TO DETERMINE BONA FIDE RESIDENCE IN UNITED STATES POSSESSIONS.

(a) SUBSTANTIAL PRESENCE TEST.—

(1) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 (relating to possessions of the United States) is amended by adding at the end the following new section:

"SEC. 937. BONA FIDE RESIDENT.

"For purposes of this subpart, section 865(g)(3), section 876, section 881(b), paragraphs (2) and (3) of section 901(b), section 957(c), section 3401(a)(8)(C), and section 7654(a), the term 'bona fide resident' means a person who satisfies a test, determined by the Secretary, similar to the substantial presence test under section 7701(b)(3) with respect to Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands, as the case may be.".

(2) CONFORMING AMENDMENTS.—

(A) The following provisions are amended by striking "during the entire taxable year" and inserting "for the taxable year":

(i) Paragraph (3) of section 865(g).

(ii) Subsection (a) of section 876(a).

(iii) Paragraphs (2) and (3) of section 901(b).

(iv) Subsection (a) of section 931.

(v) Paragraphs (1) and (2) of section 933.

(B) Section 931(d) is amended by striking paragraph (3).

(C) Section 932 is amended by striking "at the close of the taxable year" and inserting "for the taxable year" each place it appears.

(3) CLERICAL AMENDMENT.—The table of sections of subpart D of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 937. Bona fide resident.".

(b) REPORTING REQUIREMENTS FOR BONA FIDE RESIDENTS OF THE VIRGIN ISLANDS.—Paragraph (2) of section 932(c) (relating to treatment of Virgin Islands residents) is amended to read as follows:

"(2) FILING REQUIREMENTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), each individual to whom this subsection applies for the taxable year shall file an income tax return for the taxable year with—

"(i) the Virgin Islands, and

"(ii) the United States.

"(B) FILING FEE.—The Secretary shall charge a processing fee with respect to the return filed under subparagraph (A)(ii) of an amount appropriate to cover the administrative costs of the requirements of subparagraph (A)(ii) and the enforcement of the purposes of subparagraph (A)(ii).".

(c) PENALTIES.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 is amended by adding at the end the following new section:

"SEC. 6717. FAILURE OF VIRGIN ISLANDS RESIDENTS TO FILE RETURNS WITH THE UNITED STATES.

"(a) PENALTY AUTHORIZED.—The Secretary may impose a civil money penalty on any person who violates, or causes any violation of, the requirements of section 932(c)(2)(A)(ii).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in subsection (c), the amount of any civil penalty imposed under subsection (a) shall not exceed $5,000.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subsection (a) with respect to any violation if such violation was due to reasonable cause and the taxpayer acted in good faith.

"(c) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any requirement of section 932(c)(2)(A)(ii)—

"(1) the maximum penalty under subsection (b)(1) shall be increased to $25,000 and

"(2) subsection (b)(2) shall not apply.".

(2) CLERICAL AMENDMENT.—The table of sections for Part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6717. Failure of Virgin Islands residents to file returns with the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE V—PROTECTION OF UNITED STATES WORKERS FROM COMPETITION OF FOREIGN WORKFORCES

SEC. 501. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"SEC. 42. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

"(a) CONVERSIONS TO CONTRACTOR PERFORMANCE OF FEDERAL ACTIVITIES.—An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor or any subcontractor at a location outside the United States except to the extent that such activity or function was previously performed by Federal Government employees outside the United States.

"(b) OTHER FEDERAL CONTRACTS.—(1) A contract that is entered into by the head of an executive agency may not be performed outside the United States except to meet a requirement of the executive agency for the contract to be performed specifically at a location outside the United States.

"(2) The prohibition in paragraph (1) does not apply in the case of a contract of an executive agency if—

"(A) the President determines in writing that it is necessary in the national security interests of the United States for the contract to be performed outside the United States; or

"(B) the head of such executive agency makes a determination and reports such determination on a timely basis to the Director of the Office of Management and Budget that—

"(i) the property or services needed by the executive agency are available only by means of performance of the contract outside the United States; and

"(ii) no property or services available by means of performance of the contract inside the United States would satisfy the executive agency's need.

"(3) Paragraph (1) does not apply to the performance of a contract outside the United States under the exception provided in subsection (a).

"(c) STATE CONTRACTS.—(1) Except as provided in paragraph (2), funds appropriated for financial assistance for a State may not be disbursed to or for such State during a fiscal year unless the chief executive of that State has transmitted to the Administrator for Federal Procurement Policy, not later than April 1 of the preceding fiscal year, a written certification that none of such funds will be expended for the performance outside the United States of contracts entered into by such State.

"(2) The prohibition on disbursement of funds to or for a State under paragraph (1) does not apply with respect to the performance of a State contract outside the United States if—

"(A) the chief executive of such State—

"(i) determines that the property or services needed by the State are available only by means of performance of the contract outside the United States and no property or services available by means of performance of the contract inside the United States would satisfy the State's need; and

"(ii) transmits a notification of such determination to the head of the executive agency of the United States that administers the authority under which such funds are disbursed to or for the State; and

"(B) the head of the executive agency receiving the notification of such determination—

"(i) confirms that the facts warrant the determination;

"(ii) approves the determination; and

"(iii) transmits a notification of the approval of the determination to the Director of the Office of Management and Budget.

"(3) In this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(d) Subsections (b) and (c) shall not apply to procurement covered by the World Trade Organization Government Procurement Agreement.

"(e) NATIONAL SECURITY EXEMPTION.—Subsection (b) shall not apply to any procurement for national security purposes entered into by—

"(1) the Department of Defense or any agency or entity thereof;

"(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

"(3) the Department of Homeland Security;

"(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

"(5) any element of the intelligence community.

"(f) RESPONSIBILITIES OF OMB.—The Director of the Office of Management and Budget shall—

"(1) maintain—

"(A) the waivers granted under subsection (b)(2), together with the determinations and certifications on which such waivers were based; and

"(B) the notifications received under subsection (c)(2)(B)(iii); and

"(2) submit to Congress promptly after the end of each quarter of each fiscal year a report that sets forth—

"(A) the waivers that were granted under subsection (b)(2) during such quarter; and

"(B) the notifications that were received under subsection (c)(2)(B)(iii) during such quarter.

"(g) ANNUAL GAO REVIEW.—The Comptroller General shall—

"(1) review, each fiscal year, the waivers granted during such fiscal year under subsection (b)(2) and the disbursements of funds authorized pursuant to the exceptions in subsections (c)(2) and (e); and

"(2) promptly after the end of such fiscal year, transmit to Congress a report containing a list of the contracts covered by such waivers and exception together with a brief description of the performance of each such contract to the maximum extent feasible outside the United States.".

(2) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

"Sec. 42. Limitations on off-shore performance of contracts.".

(b) INAPPLICABILITY TO STATES DURING FIRST TWO FISCAL YEARS.—Section 42(c) of the Office of Federal Procurement Policy Act (as added by subsection (a)) shall not apply to disbursements of funds to a State during the fiscal year in which this Act is enacted and the next fiscal year.

SEC. 502. REPEAL OF SUPERSEDED LAW.

Section 647 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) is amended by striking subsection (e).

SEC. 503. EFFECTIVE DATE AND APPLICABILITY.

(a) In General.—This title and the amendments made by this title shall take effect 30 days after the Secretary of Commerce certifies that the amendments made by this title will not result in the loss of more jobs than it will protect and will not cause harm to the United States economy. The initial certification shall be made by the Secretary of Commerce no later than 90 days after the enactment of this Act. Such certification must be renewed on or before January 1 of each year in order for the amendments made by this title to be in effect for that year.

(b) Consistency With International Agreements.—The provisions of this title shall not apply to the extent that they may be inconsistent with obligations under international agreements. Within 90 days of this legislation, the Office of Management and Budget, in consultation with the Office of the United States Trade Representative, shall develop guidelines for the implementation of this provision.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Relating to Housing

SEC. 601. TREATMENT OF QUALIFIED MORTGAGE BONDS.

(a) Year Holiday.—Section 143(a)(2)(A)(iv) of the Internal Revenue Code of 1986 shall not apply to amounts received during the 1-year period beginning on the date of the enactment of this Act with respect to any bond outstanding on such date.

(b) Repeal of Required Use of Certain Principal Repayments on Mortgage Subsidy Bond Financings To Redeem Bonds.—

(1) In general.—Subparagraph (A) of section 143(a)(2) (defining qualified mortgage issue) is amended by adding "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(2) Conforming amendment.—Clause (ii) of section 143(a)(2)(D) is amended by striking "(and clause (iv) of subparagraph (A))".

(3) Effective date.—The amendments made by this subsection shall apply to bonds originally issued after the date of the enactment of this Act.

SEC. 602. PREMIUMS FOR MORTGAGE INSURANCE.

(a) In General.—Paragraph (3) of section 163(h) (relating to qualified residence interest) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) Mortgage insurance premiums treated as interest.—

"(i) In general.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this subsection as qualified residence interest.

"(ii) Phaseout.—The amount otherwise allowable as a deduction under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).".

(b) Definition and Special Rules.—Paragraph (4) of section 163(h) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

"(E) Qualified mortgage insurance.—The term 'qualified mortgage insurance' means—

"(i) the Home Loan Guaranty Program of the Department of Veterans Affairs, and mortgage insurance provided by the Federal Housing Administration or the Rural Housing Administration, and

"(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

"(F) Special rules for prepaid qualified mortgage insurance.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Department of Veterans Affairs or the Rural Housing Administration.".

(c) Information Returns Relating to Mortgage Insurance.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

"(h) Returns Relating to Mortgage Insurance Premiums.—

"(1) In general.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

"(2) Statement to be furnished to individuals with respect to whom information is required.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

"(3) Special rules.—For purposes of this subsection—

"(A) rules similar to the rules of subsection (c) shall apply, and

"(B) the term 'mortgage insurance' means—

"(i) the Home Loan Guaranty Program of the Department of Veterans Affairs, and mortgage insurance provided by the Federal Housing Administration or the Rural Housing Administration, and

"(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).".

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or accrued in taxable years beginning after December 31, 2004, and ending before January 1, 2006.

SEC. 603. INCREASE IN HISTORIC REHABILITATION CREDIT FOR CERTAIN LOW-INCOME HOUSING FOR THE ELDERLY.

(a) In General.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

"(e) Special Rule Regarding Certain Historic Structures.—In the case of any qualified rehabilitation expenditure with respect to any certified historic structure—

"(1) which is placed in service after the date of the enactment of this subsection,

"(2) which is part of a qualified low-income building with respect to which a credit under section 42 is allowed, and

"(3) substantially all of the residential rental units of which are used for tenants who have attained the age of 65,

subsection (a)(2) shall be applied by substituting '25 percent' for '20 percent'.".

(b) Application of MACRS.—The Internal Revenue Code of 1986 shall be applied and administered as if paragraph (4)(X) of section 251(d) of the Tax Reform Act of 1986 as applied to the amendments made by section 201 of such Act had not been enacted with respect to any property described in such paragraph and placed in service after the date of the enactment of this Act.

(c) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Bonds

SEC. 611. EXPANSION OF NEW YORK LIBERTY ZONE TAX BENEFITS.

(a) Additional Extension of Tax-Exempt Bond Financing.—Section 1400L(d)(2)(D), as amended by this Act, is amended by striking "2006" and inserting "2010".

(b) Extension of Advance Refundings.—Section 1400L(e)(1) is amended by striking "2005" and inserting "2006".

SEC. 612. MODIFICATIONS OF TREATMENT OF QUALIFIED ZONE ACADEMY BONDS.

(a) Proceeds of Bonds May Be Used for Construction and Land Acquisition.—Paragraph (5) of section 1397E(d) (defining qualified purpose) is amended—

(1) by striking "rehabilitating or repairing" in subparagraph (A) and inserting "constructing, rehabilitating, or repairing", and

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following:

"(B) acquiring the land on which the facility is to be constructed,".

(b) Effective Date.—The amendments made by this section shall apply to obligations issued after December 31, 2003.

SEC. 613. MODIFICATIONS OF AUTHORITY OF INDIAN TRIBAL GOVERNMENTS TO ISSUE TAX-EXEMPT BONDS.

(a) In General.—Paragraph (1) of section 7871(c) (relating to Indian tribal governments treated as States for certain purposes) is amended to read as follows:

"(1) In general.—Subsection (a) of section 103 shall apply to any obligation issued by an Indian tribal government (or subdivision thereof) only if—

"(A) such obligation—

"(i) is part of an issue 95 percent or more of the net proceeds of which are to be used to finance any facility located on an Indian reservation, and

"(ii) is issued before January 1, 2006, or

"(B) such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.".

(b) Special Rules and Definitions.—Subsection (c) of section 7871 is amended by inserting at the end the following new paragraph:

"(4) Special rules and definitions.—

"(A) Exclusion of gaming.—An obligation described in subparagraph (A) or (B) of paragraph (1) may not be used to finance any portion of a building in which class II or III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2702)) is conducted or housed.

"(B) INDIAN RESERVATION.—For purposes of paragraph (1), the term 'Indian reservation' means—

"(i) a reservation, as defined in section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), and

"(ii) lands held under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by a Native corporation as defined in section 3(m) of such Act (43 U.S.C. 1602(m)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 614. DEFINITION OF MANUFACTURING FACILITY FOR SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(12) (relating to termination dates) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) MANUFACTURING FACILITY.—For purposes of this paragraph, the term 'manufacturing facility' means any facility which is used in—

"(i) the manufacture of tangible personal property (including processing which results in a change in the condition of such property),

"(ii) the manufacture or development of any software product or process if—

"(I) it takes more than 6 months to manufacture or develop such product,

"(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months, and

"(III) the software product or process comprises programs, routines, and attendant documentation developed and maintained for use in computer and telecommunications technology, or

"(iii) the manufacture or development of any biobased product or bioenergy if—

"(I) it takes more than 6 months to manufacture or develop, and

"(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months.

"(D) RELATED FACILITIES.—For purposes of subparagraph (C), the term 'manufacturing facility' includes a facility which is directly and functionally related to a manufacturing facility (determined without regard to subparagraph (C)) if—

"(i) such facility, including an office facility and a research and development facility, is located on the same site as the manufacturing facility, and

"(ii) not more than 40 percent of the net proceeds of the issue are used to provide such facility.

"(E) OTHER DEFINITIONS.—For purposes of subparagraph (C)(iii)—

"(i) BIOBASED PRODUCT.—The term 'biobased product' means a commercial or industrial product (other than food or feed) which utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

"(ii) BIOENERGY.—The term 'bioenergy' means biomass used in the production of energy, including liquid, solid, or gaseous fuels, electricity, and heat.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 615. CONSERVATION BONDS.

(a) TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) QUALIFIED FOREST CONSERVATION BOND.—For purposes of this section, the term "qualified forest conservation bond" means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is issued for a qualified organization, and

(C) such bond is issued before December 31, 2006.

(3) LIMITATION ON AGGREGATE AMOUNT ISSUED.—

(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be issued under this subsection shall not exceed $1,500,000,000 for all projects (excluding refunding bonds).

(B) ALLOCATION OF LIMITATION.—The limitation described in subparagraph (A) shall be allocated by the Secretary of the Treasury among qualified organizations based on criteria established by the Secretary not later than 180 days after the date of the enactment of this section, after consultation with the Chief of the Forest Service.

(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection, the term "qualified project costs" means the sum of—

(A) the cost of acquisition by the qualified organization from an unrelated person of forests and forest land which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) SPECIAL RULES.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before December 31, 2006, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued on or after the date which is 180 days after the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by a qualified organization shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) LIMITATION.—The amount of income excluded from gross income under paragraph (1) for any taxable year shall not exceed the amount used by the qualified organization to make debt service payments during such taxable year for qualified forest conservation bonds.

(3) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term "qualified harvesting activity" means the sale, lease, or harvesting, of standing timber—

(i) on land owned by a qualified organization which was acquired with proceeds of qualified forest conservation bonds,

(ii) with respect to which a written acknowledgement has been obtained by the qualified organization from the State or local governments with jurisdiction over such land that the acquisition lessens the burdens of such government with respect to such land, and

(iii) pursuant to a qualified conservation plan adopted by the qualified organization.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting for any period during which the organization ceases to qualify as a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land or,

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to post-fire restoration and rehabilitation or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack.

(4) TERMINATION.—This subsection shall not apply to any qualified harvesting activity of a qualified organization occurring after the date on which there is no outstanding qualified forest conservation bond with respect to such qualified organization or any such bond ceases to be a tax-exempt bond.

(5) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (3)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary of the Treasury, by the sum of the tax benefits attributable to such excess and interest at the underpayment rate under section 6621 of such Code for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term "qualified conservation plan" means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land, and

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the region's ecotype,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat, or

(v) enhancing research opportunities in sustainable renewable resource uses.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the qualified organization to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term "qualified organization" means an organization—

(A) which is a nonprofit organization substantially all the activities of which are charitable, scientific, or educational, including acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific and public benefit,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has at all times a board of directors—

(i) at least 20 percent of the members of which represent the holders of the conservation restriction described in paragraph (2),

(ii) at least 20 percent of the members of which are public officials, and

(iii) not more than one-third of the members of which are individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the qualified organization has a contractual or other financial arrangement,

(E) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation plan and any change thereto, and

(F) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) UNRELATED PERSON.—The term "unrelated person" means a person who is not a related person.

(5) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting "25 percent" for "50 percent" each place it appears therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

SEC. 616. INDIAN SCHOOL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term "Bureau" means the Bureau of Indian Affairs of the Department.

(2) DEPARTMENT.—The term "Department" means the Department of the Interior.

(3) ESCROW ACCOUNT.—The term "escrow account" means the tribal school modernization escrow account established under subsection (b)(6)(B)(i).

(4) INDIAN.—The term "Indian" means any individual who is a member of an Indian tribe.

(5) INDIAN TRIBE.—

(A) IN GENERAL.—The term "Indian tribe" has the meaning given the term "Indian tribal government" by section 7701(a)(40) of the Internal Revenue Code of 1986 (including the application of section 7871(d) of that Code).

(B) INCLUSION.—The term "Indian tribe" includes a consortium of Indian tribes approved by the Secretary.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) TRIBAL SCHOOL.—The term "tribal school" means an elementary school, secondary school, or dormitory that—

(A) is operated by a tribal organization or the Bureau for the education of Indian children; and

(B) under a contract, a grant, or an agreement, or for a Bureau-operated school, receives financial assistance to pay the costs of operation from funds made available under—

(i) section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), 458d); or

(ii) the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.).

(b) ISSUANCE OF BONDS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program under which eligible Indian tribes may issue qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools (including the advance planning and design of tribal schools).

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), an Indian tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed by the bond will be used primarily for elementary and secondary educational purposes for not less than the period during which the bond remains outstanding.

(B) PLAN OF CONSTRUCTION.—A plan of construction referred to in subparagraph (A)(i) meets the requirements of this subparagraph if the plan—

(i) contains a description of the construction to be carried out with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been completed to determine the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

(iv) contains a response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

(v) contains any other reasonable and related information determined to be appropriate by the Secretary.

(C) PRIORITY.—In determining whether an Indian tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to an Indian tribe that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List, as of fiscal year 2000, of the Bureau (65 Fed. Reg. 4623);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) that meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

(D) ADVANCE PLANNING AND DESIGN FUNDING.—

(i) IN GENERAL.—An Indian tribe may propose in the plan of construction of the Indian tribe to receive advance planning and design funding from the escrow account.

(ii) CONDITIONS ON ALLOCATION OF FUNDS.—As a condition to the allocation to an Indian tribe of advance planning and design funds from the escrow account under clause (i), the Indian tribe shall agree—

(I) to issue qualified tribal school modernization bonds after the date of receipt of the funds; and

(II) as a condition of each bond issuance, that the Indian tribe will deposit into the escrow account, or a fund managed by the trustee as described in paragraph (4)(C), an amount equal to the amount of funds received from the escrow account.

(3) PERMISSIBLE ACTIVITIES.—In addition to the use of funds permitted under paragraph (1), an Indian tribe may use amounts received through the issuance of a qualified tribal school modernization bond—

(A) to enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms—

(i) to determine the needs of the tribal school; and

(ii) for the design and engineering of the tribal school;

(B) enter into and make payments under contracts with financial advisers, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance to the Indian tribe in issuing bonds; and

(C) carry out other activities determined to be appropriate by the Secretary.

(4) BOND TRUSTEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by an Indian tribe under this subsection shall be subject to a trust agreement between the Indian tribe and a trustee.

(B) TRUSTEE.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) CONTENT OF TRUST AGREEMENT.—A trust agreement entered into by an Indian tribe under this paragraph shall specify that the trustee, with respect to any bond issued under this subsection, shall—

(i) act as a repository for the proceeds of the bond;

(ii) make payments to bondholders;

(iii) receive, as a condition to the issuance of the bond, a transfer of funds from the escrow account, or from other funds furnished by or on behalf of the Indian tribe, in an amount that (including interest earnings from the investment of the funds in obligations of, or fully guaranteed by, the United States, or from other investments authorized by paragraph (10)) will produce funds sufficient to timely pay in full the entire principal amount of the bond on the stated maturity date of the bond;

(iv) invest the funds transferred under clause (iii) in an investment described in that clause; and

(v)(I) hold and invest the funds transferred under clause (iii) in a segregated fund or account under the agreement; and

(II) use the fund or account solely for payment of the costs of items described in paragraph (3).

(D) REQUIREMENTS FOR MAKING DIRECT PAYMENTS.—

(i) PAYMENTS.—

(I) IN GENERAL.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with such requirements as the Indian tribe shall prescribe in the trust agreement entered into under subparagraph (C).

(II) INSPECTION.—Before making a payment for a project to a contractor under subparagraph (C)(v), to ensure completion of the project, the trustee shall require an inspection of the project by—

(aa) a local financial institution; or

(bb) an independent inspecting architect or engineer.

(ii) CONTRACTS.—Each contract referred to in paragraph (3) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) PAYMENTS OF PRINCIPAL AND INTEREST.—

(A) PRINCIPAL.—

(i) IN GENERAL.—No principal payment on any qualified tribal school modernization bond shall be required under this subsection until the final, stated date on which the bond reaches maturity.

(ii) MATURITY; OUTSTANDING PRINCIPAL.—With respect to a qualified tribal school modernization bond issued under this subsection—

(I) the bond shall reach maturity not later than 15 years after the date of issuance of the bond; and

(II) on the date on which the bond reaches maturity, the entire outstanding principal under the bond shall become due and payable.

(B) INTEREST.—There shall be awarded a tax credit under section 1400M of the Internal Revenue Code of 1986 in lieu of interest on a qualified tribal school modernization bond issued under this subsection.

(6) BOND GUARANTEES.—

(A) IN GENERAL.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) ESTABLISHMENT OF ACCOUNT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may—

(I) establish a tribal school modernization escrow account; and

(II) beginning in fiscal year 2005, from amounts made available for school replacement under the construction account of the Bureau, deposit not more than $30,000,000 for each fiscal year into the escrow account.

(ii) TRANSFERS OF EXCESS PROCEEDS.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (iii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the escrow account.

(iii) PAYMENTS.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (ii)—

(I) to make payments to trustees appointed and acting in accordance with paragraph (4); or

(II) to make payments described in paragraph (2)(D).

(7) LIMITATIONS.—

(A) OBLIGATION TO REPAY.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the principal amount on any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds provided under paragraph (4)(C)(iii).

(ii) NO GUARANTEE.—No qualified tribal school modernization bond issued by an Indian tribe under this subsection shall be an obligation of, and no payment of the principal of such a bond shall be guaranteed by—

(I) the United States;

(II) the Indian tribe; or

(III) the tribal school for which the bond was issued.

(B) LAND AND FACILITIES.—No land or facility purchased or improved with amounts derived from a qualified tribal school modernization bond issued under this subsection shall be mortgaged or used as collateral for the bond.

(8) SALE OF BONDS.—A qualified tribal school modernization bond may be sold at a purchase price equal to, in excess of, or at a discount from, the par amount of the bond.

(9) TREATMENT OF TRUST AGREEMENT EARNINGS.—No amount, earned through the investment of funds under the control of a trustee under any trust agreement described in paragraph (4) shall be subject to Federal income taxation.

(10) INVESTMENT OF SINKING FUNDS.—A sinking fund established for the purpose of the payment of principal on a qualified tribal school modernization bond issued under this subsection shall be invested in—

(A) obligations issued by or guaranteed by the United States; or

(B) such other assets as the Secretary of the Treasury may by regulation allow.

(c) EXPANSION OF INCENTIVES FOR TRIBAL SCHOOLS.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Z—Tribal School Modernization Provisions

"Sec. 1400M. Credit to holders of qualified tribal school modernization bonds.

"SEC. 1400M. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the date of sale of the issue) on outstanding long-term corporate obligations (as determined by the Secretary).

"(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND; OTHER DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND.—

"(A) IN GENERAL.—The term 'qualified tribal school modernization bond' means, subject to subparagraph (B), any bond issued as part of an issue under section 616(b) of the Jumpstart Our Business Strength (JOBS) Act, as in effect on the date of the enactment of this section, if—

"(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(ii) the bond is issued by an Indian tribe,

"(iii) the issuer designates such bond for purposes of this section, and

"(iv) the term of each bond which is part of such issue does not exceed 15 years.

"(B) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(i) NATIONAL LIMITATION.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

"(I) $200,000,000 for 2005,

"(II) $200,000,000 for 2006, and

"(III) zero after 2006.

"(ii) ALLOCATION OF LIMITATION.—The national qualified tribal school modernization bond limitation shall be allocated to Indian tribes by the Secretary of the Interior subject to the provisions of section 616 of the Jumpstart Our Business Strength (JOBS) Act, as in effect on the date of the enactment of this section.

"(iii) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any Indian tribe shall not exceed the limitation amount allocated to such government under clause (ii) for such calendar year.

"(iv) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(I) the limitation amount under this subparagraph, exceeds

"(II) the amount of qualified tribal school modernization bonds issued during such year,

the limitation amount under this subparagraph for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2012.

"(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(3) BOND.—The term 'bond' includes any obligation.

"(4) TRIBE.—The term 'tribe' has the meaning given the term 'Indian tribal government' by section 7701(a)(40), including the application of section 7871(d). Such term includes any consortium of tribes approved by the Secretary of the Interior.

"(e) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(f) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified tribal school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(g) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified tribal school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(h) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

"(i) REPORTING.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e).".

(d) CONFORMING AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"SUBCHAPTER Z. Tribal school modernization provisions.".

(e) ADDITIONAL PROVISIONS.—

(1) SOVEREIGN IMMUNITY.—This section and the amendments made by this section shall not be construed to impact, limit, or affect the sovereign immunity of the Federal Government or any State or tribal government.

(2) APPLICATION.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act with respect to bonds issued after December 31, 2004, regardless of the status of regulations promulgated thereunder.

Subtitle C—Provisions Relating to Depreciation

SEC. 621. SPECIAL PLACED IN SERVICE RULE FOR BONUS DEPRECIATION PROPERTY.

(a) IN GENERAL.—Section 168(k)(2)(D) (relating to special rules) is amended by adding at the end the following new clause:

"(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

"(I) property is originally placed in service after September 10, 2001, by the lessor of such property,

"(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date so placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

"(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale, so long as no previous owner of such property elects the application of this subsection with respect to such property.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 622. MODIFICATION OF DEPRECIATION ALLOWANCE FOR AIRCRAFT.

(a) AIRCRAFT TREATED AS QUALIFIED PROPERTY.—

(1) IN GENERAL.—Paragraph (2) of section 168(k) is amended by redesignating subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) CERTAIN AIRCRAFT.—The term 'qualified property' includes property—

"(i) which meets the requirements of clauses (ii) and (iii) of subparagraph (A),

"(ii) which is an aircraft which is not a transportation property (as defined in subparagraph (B)(iii)) other than for agricultural or firefighting purposes,

"(iii) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of—

"(I) 10 percent of the cost, or

"(II) $100,000, and

"(iv) which has—

"(I) an estimated production period exceeding 4 months, and

"(II) a cost exceeding $200,000.".

(2) PLACED IN SERVICE DATE.—Clause (iv) of section 168(k)(2)(A) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(b) CONFORMING AMENDMENTS.—

(1) Section 168(k)(2)(B) is amended by adding at the end the following new clause:

"(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall not apply to any property which is described in subparagraph (C).".

(2) Section 168(k)(4)(A)(ii) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(3) Section 168(k)(4)(B)(iii) is amended by inserting "and paragraph (2)(C)" after "of this paragraph)".

(4) Section 168(k)(4)(C) is amended by striking "subparagraphs (B) and (D)" and inserting "subparagraphs (B), (C), and (E)".

(5) Section 168(k)(4)(D) is amended by striking "Paragraph (2)(E)" and inserting "Paragraph (2)(F)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 623. MODIFICATION OF CLASS LIFE FOR CERTAIN TRACK FACILITIES.

(a) 7-YEAR PROPERTY.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) any motorsports entertainment complex, and".

(b) DEFINITION.—Section 168(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(15) MOTORSPORTS ENTERTAINMENT COMPLEX.—

"(A) IN GENERAL.—The term 'motorsports entertainment complex' means a racing track facility which—

"(i) is permanently situated on land, and

"(ii) during the 36-month period following the first day of the month in which the asset is placed in service, is scheduled to host 1 or more racing events for automobiles (of any type), trucks, or motorcycles which are open to the public for the price of admission.

"(B) ANCILLARY AND SUPPORT FACILITIES.—Such term shall include, if owned by the complex and provided for the benefit of patrons of the complex—

"(i) ancillary grounds and facilities and land improvements in support of the complex's activities (including parking lots, sidewalks, waterways, bridges, fences, and landscaping),

"(ii) support facilities (including food and beverage retailing, souvenir vending, and other nonlodging accommodations), and

"(iii) appurtenances associated with such facilities and related attractions and amusements (including ticket booths, race track surfaces, suites and hospitality facilities, grandstands and viewing structures, props, walls, facilities that support the delivery of entertainment services, other special purpose structures, facades, shop interiors, and buildings).

"(C) EXCEPTION.—Such term shall not include any transportation equipment, administrative services assets, warehouses, administrative buildings, hotels, or motels.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any property placed in service after the date of the enactment of this Act and before January 1, 2008.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to affect the treatment of expenses incurred on or before the date of the enactment of this Act.

SEC. 624. MINIMUM TAX RELIEF FOR CERTAIN TAXPAYERS.

(a) ELECTION TO INCREASE MINIMUM TAX CREDIT LIMITATION IN LIEU OF BONUS DEPRECIATION.—

(1) IN GENERAL.—Section 53 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

"(e) ADDITIONAL CREDIT IN LIEU OF BONUS DEPRECIATION.—

"(1) IN GENERAL.—In the case of a corporation making an election under this subsection for a taxable year, the limitation under subsection (c) shall be increased by an amount equal to 50 percent of the bonus depreciation amount.

"(2) BONUS DEPRECIATION AMOUNT.—For purposes of paragraph (1), the bonus depreciation amount for any taxable year is an amount (not in excess of $25,000,000) equal to the product of—

"(A) 30 percent, and

"(B) the excess (if any) of—

"(i) the aggregate amount of depreciation which would be determined under section 168 for property placed in service during such taxable year if no election under this subsection were made, over

"(ii) the aggregate allowance for depreciation allowable with respect to such property placed in service for such taxable year.

"(3) AGGREGATION RULE.—All members of the same controlled group of corporations shall be treated as 1 corporation for purposes of this subsection.

"(4) ELECTION.—Sections 168(k) (other than paragraph (2)(F) thereof) shall not apply to any property placed in service during a taxable year by a corporation making an election under this subsection for such taxable year. An election under this subsection may only be revoked with the consent of the Secretary.

"(5) CREDIT REFUNDABLE.—The aggregate increase in the credit allowed by this section for any taxable year by reason of this subsection shall for purposes of this title (other than subsection (b)(2) of this section) be treated as a credit allowed to the taxpayer under subpart C.".

(2) CONFORMING AMENDMENTS.—Subsection (k) of section 168 is amended by adding at the end the following new paragraph:

"(5) CROSS REFERENCE.—For an election to claim certain minimum tax credits in lieu of the *allowance determined under this subsection, see section 53(e).".*

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2003.

(b) USE OF GENERAL BUSINESS CREDITS AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitations based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR 2004.—Notwithstanding the preceding provisions of this paragraph, in the case of any taxable year beginning in 2004, the credit allowed under subsection (a) shall not exceed the greater of—

"(A) the amount determined under this subsection without regard to this paragraph, or

"(B) 50 percent of the lesser of—

"(i) the amount which would be determined under this subsection if the tentative minimum tax were treated as being zero in applying paragraph (1) to such credit, or

"(ii) the amount of the current year business credit.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning in 2004.

Subtitle D—Expansion of Business Credit

SEC. 631. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by redesignating sections 45E and 45F as sections 45F and 45G, respectively, and by inserting after section 45D the following new section:

"SEC. 45E. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the Native American new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the reservation development entity for such investment at its original issue.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) 5 percent with respect to the first 3 credit allowance dates, and

"(B) 6 percent with respect to the remainder of the credit allowance dates.

"(3) CREDIT ALLOWANCE DATE.—For purposes of paragraph (1), the term 'credit allowance date' means, with respect to any qualified equity investment—

"(A) the date on which such investment is initially made, and

"(B) each of the 6 anniversary dates of such date thereafter.

"(b) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a reservation development entity if—

"(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

"(B) substantially all of such cash is used by the reservation development entity to make qualified low-income reservation investments, and

"(C) such investment is designated for purposes of this section by the reservation development entity.

Such term shall not include any equity investment issued by a reservation development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

"(2) LIMITATION.—The maximum amount of equity investments issued by a reservation development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

"(3) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the reservation development entity are invested in qualified low-income reservation investments.

"(4) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified equity investment' includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

"(5) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

"(6) EQUITY INVESTMENT.—The term 'equity investment' means—

"(A) any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity which is a corporation, and

"(B) any capital interest in an entity which is a partnership.

"(c) RESERVATION DEVELOPMENT ENTITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'reservation development entity' means any domestic corporation or partnership if—

"(A) the primary mission of the entity is serving, or providing investment capital for, low-income reservations,

"(B) the entity maintains accountability to residents of low-income reservations through their representation on any governing board of the entity or on any advisory board to the entity, and

"(C) the entity is certified by the Secretary for purposes of this section as being a reservation development entity.

"(2) EXCEPTION.—For purposes of subparagraph (C) of paragraph (1), the Secretary shall not certify an entity as a reservation development entity if such entity is also certified as a qualified community development entity under section 45D(c).

"(d) QUALIFIED LOW-INCOME RESERVATION INVESTMENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified low-income reservation investment' means—

"(A) any capital or equity investment in, or loan to, any qualified active low-income reservation business,

"(B) the purchase from another reservation development entity of any loan made by such entity which is a qualified low-income reservation investment,

"(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income reservations, and

"(D) any equity investment in, or loan to, any reservation development entity.

"(2) QUALIFIED ACTIVE LOW-INCOME RESERVATION BUSINESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified active low-income reservation business' means, with respect to any taxable year, any corporation (including a nonprofit corporation) or partnership if for such year—

"(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income reservation,

"(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income reservation,

"(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income reservation,

"(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

"(B) PROPRIETORSHIP.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

"(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME RESERVATION BUSINESS.—The term 'qualified active low-income reservation business' includes any trades or businesses which would qualify as a qualified active low-income reservation business if such trades or businesses were separately incorporated.

"(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 45D(d)(3).

"(e) LOW-INCOME RESERVATION.—For purposes of this section, the term 'low-income reservation' means any Indian reservation (as defined in section 168(j)(6)) which has a poverty rate of at least 40 percent.

"(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

"(1) IN GENERAL.—There is a Native American new markets tax credit limitation of $50,000,000 for each of calendar years 2004 through 2007.

"(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among reservation development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to any entity—

"(A) with a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities, or

"(B) which intends to satisfy the requirement under subsection (b)(1)(B) by making qualified low-income reservation investments in 1 or more businesses in which persons unrelated to such entity (within the meaning of section 267(b) or 707(b)(1)) hold the majority equity interest.

"(3) CARRYOVER OF UNUSED LIMITATION.—If the Native American new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2014.

"(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

"(1) IN GENERAL.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a reservation development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

"(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

"(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

"(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior

taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

"(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a reservation development entity if—

"(A) such entity ceases to be a reservation development entity,

"(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

"(C) such investment is redeemed by such entity.

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment. This subsection shall not apply for purposes of sections 1202, 1400B, and 1400F.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

"(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal tax benefits (including the credit under section 42 and the exclusion from gross income under section 103),

"(2) which prevent the abuse of the purposes of this section,

"(3) which provide rules for determining whether the requirement of subsection (b)(1)(B) is treated as met,

"(4) which impose appropriate reporting requirements, and

"(5) which apply the provisions of this section to newly formed entities.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 is amended by redesignating paragraphs (14) and (15) as paragraphs (15) and (16), respectively, and by inserting after paragraph (13) the following new paragraph:

"(14) the Native American new markets tax credit determined under section 45E(a).".

(2) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) NO CARRYBACK OF NATIVE AMERICAN NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2004.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2004.".

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by redesignating paragraph (10) as paragraph (11), by striking "and" at the end of paragraph (9), and by inserting after paragraph (9) the following new paragraph:

"(10) the Native American new markets tax credit determined under section 45E(a), and".

(d) CONFORMING AMENDMENTS.—

(1) Section 38(b)(15), as redesignated by subsection (b)(1), is amended—

(A) by striking "45E(c)" and inserting "45F(c)", and

(B) by striking "45E(a)" and inserting "45F(a)".

(2) Section 38(b)(16), as redesignated by subsection (b)(1), is amended by striking "45F(a)" and inserting "45G(a)".

(3) Section 39(d)(11), as redesignated by subsection (b)(2), is amended by striking "section 45E" and inserting "section 45F".

(4) Section 196(c)(11), as redesignated by subsection (c), is amended by striking "45E(a)" and inserting "45F(a)".

(5) Section 1016(a)(28) is amended—

(A) by striking "under section 45F" and inserting "under section 45G", and

(B) by striking "section 45F(f)(1)" and inserting "section 45G(f)(1)".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the items relating to sections 45E and 45F and inserting the following:

"Sec. 45E. New markets tax credit for Native American reservations.

"Sec. 45F. Small employer pension plan startup costs.

"Sec. 45G. Employer-provided child care credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 2003.

(f) GUIDANCE ON ALLOCATION OF NATIONAL LIMITATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall issue guidance which specifies—

(1) how entities shall apply for an allocation under section 45E(f)(2) of the Internal Revenue Code of 1986, as added by this section;

(2) the competitive procedure through which such allocations are made; and

(3) the actions that such Secretary or delegate shall take to ensure that such allocations are properly made to appropriate entities.

(g) AUDIT AND REPORT.—Not later than January 31 of 2007 and 2010, the Comptroller General of the United States shall, pursuant to an audit of the Native American new markets tax credit program established under section 45E of the Internal Revenue Code of 1986 (as added by subsection (a)), report to Congress on such program, including all reservation development entities that receive an allocation under the Native American new markets credit under such section.

(h) GRANTS IN COORDINATION WITH CREDIT.—

(1) IN GENERAL.—The Secretary of the Treasury is authorized to award a grant of not more than $1,000,000 to the First Nations Oweesta Corporation.

(2) USE OF FUNDS.—The grant awarded under paragraph (1) may be used—

(A) to enhance the capacity of people living on low-income reservations (within the meaning of section 45E(e) of the Internal Revenue Code of 1986, as added by this section) to access, apply, control, create, leverage, utilize, and retain the financial benefits to such low-income reservations which are attributable to qualified low-income reservation investments (within the meaning of section 45E(d) of such Code), and

(B) to provide access to appropriate financial capital for the development of such low-income reservations.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal years 2004 through 2014 to carry out the provisions of this subsection.

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT AND READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of an employer is an amount equal to 50 percent of the lesser of—

"(1) the actual compensation amount with respect to such employee for such taxable year, or

"(2) $30,000.

"(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

"(c) LIMITATIONS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

"(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

"(B) hospitalization incident to such duty.

"(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

"(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

"(e) PORTION OF CREDIT REFUNDABLE.—

"(1) IN GENERAL.—In the case of an employer of a qualified first responder, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

"(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

"(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

"(2) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

"(i) section 3111(b), and

"(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

"(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

"(3) QUALIFIED FIRST RESPONDER.—For purposes of this subsection, the term 'qualified first responder' means any person who is—

"(A) employed as a law enforcement official, a firefighter, or a paramedic, and

"(B) a Ready Reserve-National Guard employee.".

(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following:

"(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).".

(3) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting "45H(a)," after "45A(a),".

(4) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45G the following:

"Sec. 45H. Ready Reserve-National Guard employee credit.".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(b) READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding after section 30C the following new section:

"SEC. 30D. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the sum of the employment credits for each qualified replacement employee under this section.

"(2) EMPLOYMENT CREDIT.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 50 percent of the lesser of—

"(A) the individual's qualified compensation attributable to service rendered as a qualified replacement employee, or

"(B) $12,000.

"(b) QUALIFIED COMPENSATION.—The term 'qualified compensation' means—

"(1) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

"(2) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

"(3) group health plan costs (if any) with respect to the qualified replacement employee.

"(c) QUALIFIED REPLACEMENT EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified replacement employee' means an individual who is hired to replace a Ready Reserve-National Guard employee or a Ready Reserve-National Guard self-employed taxpayer, but only with respect to the period during which such Ready Reserve-National Guard employee or Ready Reserve-National Guard self-employed taxpayer participates in qualified active duty, including time spent in travel status.

"(2) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' has the meaning given such term by section 45H(d)(3).

"(3) READY RESERVE-NATIONAL GUARD SELF-EMPLOYED TAXPAYER.—The term 'Ready Reserve-National Guard self-employed taxpayer' means a taxpayer who—

"(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

"(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in section 10142 and 10101 of title 10, United States Code.

"(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

"(e) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(B) the tentative minimum tax for the taxable year.

"(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

"(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

"(B) the 2 succeeding taxable years.

"(f) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a small business employer or a Ready Reserve-National Guard self-employed taxpayer.

"(2) SMALL BUSINESS EMPLOYER.—

"(A) IN GENERAL.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

"(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(3) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' has the meaning given such term by section 45H(d)(1).

"(4) SPECIAL RULES FOR CERTAIN MANUFACTURERS.—

"(A) IN GENERAL.—In the case of any qualified manufacturer—

"(i) subsection (a)(2)(B) shall be applied by substituting '$20,000' for '$12,000', and

"(ii) paragraph (2)(A) of this subsection shall be applied by substituting '100' for '50'.

"(B) QUALIFIED MANUFACTURER.—For purposes of this paragraph, the term 'qualified manufacturer' means any person if—

"(i) the primary business of such person is classified in sector 31, 32, or 33 of the North American Industrial Classification System, and

"(ii) all of such person's facilities which are used for production in such business are located in the United States.

"(5) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(6) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.".

(2) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) (relating to rule for employment credits), as amended by this Act, is amended—

(A) by inserting "or compensation" after "salaries", and

(B) by inserting "30D," before "45A(a),".

(3) CONFORMING AMENDMENT.—Section 55(c)(2), as amended by this Act, is amended by inserting "30D(e)(1)," after "30C(e),".

(4) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 30C the following new item:

"Sec. 30D. Credit for replacement of activated military reservists.".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(c) APPLICATION OF ANNUAL EXCLUSION LIMIT UNDER SECTION 911 TO HOUSING COSTS.—

(1) IN GENERAL.—Section 911(c) (relating to housing cost amount) is amended by adding at the end the following new paragraph:

"(4) LIMIT ON EXCLUSION FOR EMPLOYER PROVIDED HOUSING COSTS.—The housing cost amount for any individual for any taxable year attributable to employer provided amounts shall not exceed the excess (if any) of—

"(A) the product of—

"(i) the exclusion amount determined under subsection (b)(2)(D) for the taxable year, and

"(ii) a fraction equal to the number of days of the taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1) divided by the number of days in the taxable year, over

"(B) the foreign earned income of the individual excluded under subsection (a)(1) for the taxable year."

(2) CONFORMING AMENDMENT.—Section 911(c)(1) is amended by striking "The" and inserting "Except as provided in paragraph (4), the".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

SEC. 633. RURAL INVESTMENT TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

"SEC. 42A. RURAL INVESTMENT CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the rural investment credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the eligible basis of each qualified rural investment building.

"(b) APPLICABLE PERCENTAGE: 70 PERCENT PRESENT VALUE CREDIT FOR NEW BUILDINGS; 30 PERCENT PRESENT VALUE CREDIT FOR EXISTING BUILDINGS.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means the appropriate percentage prescribed by the Secretary for the earlier of—

"(A) the first month of the credit period with respect to a rural investment building, or

"(B) at the election of the taxpayer, the month in which the taxpayer and the rural investment credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the rural investment credit dollar amount to be allocated to such building.

A month may be elected under subparagraph (B) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

"(2) METHOD OF PRESCRIBING PERCENTAGES.—The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

"(A) 70 percent of the eligible basis of a new building, and

"(B) 30 percent of the eligible basis of an existing building.

"(3) METHOD OF DISCOUNTING.—The present value under paragraph (2) shall be determined—

"(A) as of the last day of the 1st year of the 10-year period referred to in paragraph (2),

"(B) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under subparagraph (A) or (B) of paragraph (1) and compounded annually, and

"(C) by assuming that the credit allowable under this section for any year is received on the last day of such year.

"(c) ELIGIBLE BASIS; QUALIFIED RURAL INVESTMENT BUILDING.—For purposes of this section—

"(1) ELIGIBLE BASIS.—

"(A) IN GENERAL.—The eligible basis of any qualified rural investment building for any taxable year shall be determined under rules similar to the rules under section 42(d), except that—

"(i) the determination of the adjusted basis of any building shall be made as of the beginning of the credit period, and

"(ii) such basis shall include development costs properly attributable to such building.

"(B) DEVELOPMENT COSTS.—For purposes of subparagraph (A)(ii), the term 'development costs' includes—

"(i) site preparation costs,

"(ii) State and local impact fees,

"(iii) reasonable development costs,

"(iv) professional fees related to basis items,

"(v) construction financing costs related to basis items other than land, and

"(vi) on-site and adjacent improvements required by State and local governments.

"(2) QUALIFIED RURAL INVESTMENT BUILDING.—The term 'qualified rural investment building' means any building which is part of a qualified rural investment project at all times during the period—

"(A) beginning on the 1st day in the compliance period on which such building is part of such an investment project, and

"(B) ending on the last day of the compliance period with respect to such building.

"(d) REHABILITATION EXPENDITURES TREATED AS SEPARATE NEW BUILDING.—Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building under the rules of section 42(e).

"(e) DEFINITION AND SPECIAL RULES RELATING TO CREDIT PERIOD.—

"(1) CREDIT PERIOD DEFINED.—For purposes of this section, the term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is first placed in service.

"(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by multiplying such credit by the fraction—

"(i) the numerator of which is the number of full months of such year during which such building was in service, and

"(ii) the denominator of which is 12.

"(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 11TH YEAR.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

"(3) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

"(f) QUALIFIED RURAL INVESTMENT PROJECT; QUALIFYING COUNTY.—For purposes of this section—

"(1) QUALIFIED RURAL INVESTMENT PROJECT.—The term 'qualified rural investment project' means any investment project of 1 or more qualified rural investment buildings located in a qualifying county (and, if necessary to the project, any contiguous county) and selected by the State according to its qualified rural investment plan.

"(2) QUALIFYING COUNTY.—The term 'qualifying county' means any county which—

"(A) is outside a metropolitan statistical area (defined as such by the Office of Management and Budget), and

"(B) during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

"(g) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO INVESTMENT PROJECTS LOCATED IN A STATE.—

"(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the rural investment credit dollar amount allocated to such building under rules similar to the rules of section 42(h)(1).

"(2) ALLOCATED CREDIT AMOUNT TO APPLY TO ALL TAXABLE YEARS ENDING DURING OR AFTER CREDIT ALLOCATION YEAR.—Any rural investment credit dollar amount allocated to any building for any calendar year—

"(A) shall apply to such building for all taxable years in the credit period ending during or after such calendar year, and

"(B) shall reduce the aggregate rural investment credit dollar amount of the allocating agency only for such calendar year.

"(3) RURAL INVESTMENT CREDIT DOLLAR AMOUNT FOR AGENCIES.—

"(A) IN GENERAL.—The aggregate rural investment credit dollar amount which a rural investment credit agency may allocate for any calendar year is the portion of the State rural investment credit ceiling allocated under this paragraph for such calendar year to such agency.

"(B) STATE CEILING INITIALLY ALLOCATED TO STATE RURAL INVESTMENT CREDIT AGENCIES.—Except as provided in subparagraphs (D) and (E), the State rural investment credit ceiling for each calendar year shall be allocated to the rural investment credit agency of such State. If there is more than 1 rural investment credit agency of a State, all such agencies shall be treated as a single agency.

"(C) STATE RURAL INVESTMENT CREDIT CEILING.—The State rural investment credit ceiling applicable to any State and any calendar year shall be an amount equal to the sum of—

"(i) the unused State rural investment credit ceiling (if any) of such State for the preceding calendar year,

"(ii) $185,000 for each qualifying county in the State,

"(iii) the amount of State rural investment credit ceiling returned in the calendar year, plus

"(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State rural investment credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate rural investment credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State rural investment credit ceiling returned in the calendar year equals the rural investment credit dollar amount previously allocated within the State to any investment project which fails to meet the 10 percent test under section 42(h)(1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified rural investment project within the period required by this section or the terms of the allocation or to any investment project with respect to which an allocation is canceled by mutual consent of the rural investment credit agency and the allocation recipient.

"(D) UNUSED RURAL INVESTMENT CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

"(i) IN GENERAL.—The unused rural investment credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

"(ii) UNUSED RURAL INVESTMENT CREDIT CARRYOVER.—For purposes of this subparagraph, the unused rural investment credit carryover of a State for any calendar year is the excess (if any) of the unused State rural investment credit ceiling for such year (as defined in subparagraph (C)(i)) over the excess (if any) of—

"(I) the unused State rural investment credit ceiling for the year preceding such year, over

"(II) the aggregate rural investment credit dollar amount allocated for such year.

"(iii) FORMULA FOR ALLOCATION OF UNUSED RURAL INVESTMENT CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused rural investment credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

"(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

"(I) which allocated its entire State rural investment credit ceiling for the preceding calendar year, and

"(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

"(E) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

"(F) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

"(G) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of a calendar year after 2005, the $185,000 amount in subparagraph (C) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—Any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

"(4) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN INVESTMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—

"(A) IN GENERAL.—At least 10 percent of the State rural investment credit ceiling for any State for any calendar year shall be allocated to qualified rural investment projects described in subparagraph (B).

"(B) INVESTMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—For purposes of subparagraph (A), a qualified rural investment project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the investment project throughout the compliance period.

"(C) QUALIFIED NONPROFIT ORGANIZATION.—For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if—

"(i) such organization is described in any paragraph of section 501(c) and is exempt from tax under section 501(a),

"(ii) such organization is determined by the State rural investment credit agency not to be affiliated with or controlled by a for-profit organization; and

"(iii) 1 of the exempt purposes of such organization includes the fostering of rural investment.

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (i), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

"(E) STATE MAY NOT OVERRIDE SET-ASIDE.—Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

"(F) CREDITS FOR QUALIFIED NONPROFIT ORGANIZATIONS.—

"(i) ALLOWANCE OF CREDIT.—Any credit which would be allowable under subsection (a) with respect to a qualified rural investment building of a qualified nonprofit organization if such organization were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such organization.

"(ii) USE OF CREDIT.—A qualified nonprofit organization may assign, trade, sell, or otherwise transfer any credit allowable to such organization under subparagraph (A) to any taxpayer.

"(iii) CREDIT NOT INCOME.—A transfer under subparagraph (B) of any credit allowable under subparagraph (A) shall not result in income for purposes of section 511.

"(5) SPECIAL RULES.—

"(A) BUILDING MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY.—A rural investment credit agency may allocate its aggregate rural investment credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

"(B) AGENCY ALLOCATIONS IN EXCESS OF LIMIT.—If the aggregate rural investment credit dollar amounts allocated by a rural investment credit agency for any calendar year exceed the portion of the State rural investment credit ceiling allocated to such agency for such calendar year, the rural investment credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

"(C) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO SALES CONVENTION, ETC.—

"(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the rural investment credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if this section were applied without regard to paragraph (2)(A) of subsection (e).

"(D) RURAL INVESTMENT CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM ELIGIBLE BASIS.—In allocating a rural investment credit dollar amount to any building, the rural investment credit agency shall specify the applicable percentage and the maximum eligible basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum eligible basis so specified shall not exceed the applicable percentage and eligible basis determined under this section without regard to this subsection.

"(6) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) RURAL INVESTMENT CREDIT AGENCY.—The term 'rural investment credit agency' means any agency authorized to carry out this subsection.

"(B) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

"(7) PORTION OF STATE CEILING SET-ASIDE FOR QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDITS.—Not more than 10 percent of the State rural investment credit ceiling for any State for any calendar year may be allocated to qualified rural small business investment credits under section 42B.

"(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) COMPLIANCE PERIOD.—The term 'compliance period' means, with respect to any building, the period of 10 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

"(2) NEW BUILDING.—The term 'new building' means a building the original use of which begins with the taxpayer.

"(3) EXISTING BUILDING.—The term 'existing building' means any building which is not a new building.

"(4) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (i) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

"(i) RECAPTURE OF CREDIT.—If—

"(1) as of the close of any taxable year in the compliance period, the amount of the eligible basis of any building with respect to the taxpayer is less than

"(2) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount determined under rules similar to the rules of section 42(j).

"(j) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—

"(1) CERTIFICATION WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—Following the close of the 1st taxable year in the credit period with respect to any qualified rural investment building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

"(A) the taxable year, and calendar year, in which such building was first placed in service,

"(B) the eligible basis of such building as of the beginning of the credit period,

"(C) the maximum applicable percentage and eligible basis permitted to be taken into account by the appropriate rural investment credit agency under subsection (g),

"(D) the election made under subsection (f) with respect to the qualified rural investment project of which such building is a part, and

"(E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the eligible basis for the taxable year of each qualified rural investment building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

"(3) ANNUAL REPORTS FROM RURAL INVESTMENT CREDIT AGENCIES.—Each agency which allocates any rural investment credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

"(A) the amount of rural investment credit amount allocated to each building for such year,

"(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.

"(k) RESPONSIBILITIES OF RURAL INVESTMENT CREDIT AGENCIES.—

"(1) PLANS FOR ALLOCATION OF CREDIT AMONG INVESTMENT PROJECTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, the rural investment *credit dollar amount with respect to any building shall be zero unless—*

"(i) such amount was allocated pursuant to a qualified rural investment plan of the agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part,

"(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such investment project and provides such individual a reasonable opportunity to comment on the investment project,

"(iii) a comprehensive market study of the development needs of individuals in the qualifying county to be served by the investment project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

"(iv) a written explanation is available to the general public for any allocation of a rural investment credit dollar amount which is not made in accordance with established priorities and selection criteria of the rural investment credit agency.

"(B) QUALIFIED RURAL INVESTMENT PLAN.—For purposes of this section, the term 'qualified rural investment plan' means any plan—

"(i) which sets forth selection criteria to be used to determine priorities of the rural investment credit agency which are appropriate to qualifying counties,

"(ii) which also gives preference in allocating rural investment credit dollar amounts among selected investment projects to—

"(I) investment projects that target those small rural counties with consistently high rates of net out-migration,

"(II) investment projects that link the economic development and job creation efforts of 2 or more small rural counties with high rates of net out-migration, and

"(III) investment projects that link the economic development and job creation efforts of 1 or more small rural counties in the State with high rates of net out-migration to related efforts in regions of such State experiencing economic growth, and

"(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance through regular site visits.

"(C) CERTAIN SELECTION CRITERIA MUST BE USED.—The selection criteria set forth in a qualified rural investment plan must include—

"(i) investment project location,

"(ii) technology and transportation infrastructure needs, and

"(iii) private development trends.

"(2) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE INVESTMENT PROJECT FEASIBILITY.—

"(A) IN GENERAL.—The rural investment credit dollar amount allocated to an investment project shall not exceed the amount the rural investment credit agency determines is necessary for the financial feasibility of the investment project and its viability as a qualified rural investment project throughout the compliance period.

"(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the rural investment credit agency shall consider—

"(i) the sources and uses of funds and the total financing planned for the investment project,

"(ii) any proceeds or receipts expected to be generated by reason of tax benefits,

"(iii) the percentage of the rural investment credit dollar amount used for investment project costs other than the cost of intermediaries, and

"(iv) the reasonableness of the developmental and operational costs of the investment project. Clause (iii) shall not be applied so as to impede the development of investment projects in hard-to-develop areas.

"(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING PLACED IN SERVICE.—

"(i) IN GENERAL.—A determination under subparagraph (A) shall be made as of each of the following times:

"(I) The application for the rural investment credit dollar amount.

"(II) The allocation of the rural investment credit dollar amount.

"(III) The date the building is first placed in service.

"(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES.—Prior to each determination under clause (i), the taxpayer shall certify to the rural investment credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) dealing with—

"(A) investment projects which include more than 1 building or only a portion of a building,

"(B) buildings which are sold in portions,

"(2) providing for the application of this section to short taxable years,

"(3) preventing the avoidance of the rules of this section, and

"(4) providing the opportunity for rural investment credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following:

"(18) the rural investment credit determined under section 42A(a).".

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by this Act, is amended by adding at the end the following:

"(12) NO CARRYBACK OF RURAL INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the rural investment credit determined under section 42A may be carried back to a taxable year beginning before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.".

(d) CONFORMING AMENDMENTS.—

(1) Section 55(c)(1) is amended by inserting "or subsection (i) or (j) of section 42A" after "section 42".

(2) Subsections (i)(c)(3), (i)(c)(6)(B)(i), and (k)(1) of section 469 are each amended by inserting "or 42A" after "section 42".

(3) Section 772(a) is amended by striking "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

"(11) the rural investment credit determined under section 42A, and".

(4) Section 774(b)(4) is amended by inserting ", 42A(i)," after "section 42(j)".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 42 the following:

"Sec. 42A. Rural investment credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 634. QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 42B. QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of a qualified rural small business, the amount of the qualified rural small business investment credit determined under this section for any taxable year is equal to 30 percent of the qualified expenditures for the taxable year of such business.

"(b) DOLLAR LIMITATION.—

"(1) IN GENERAL.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $5,000, or

"(B) the amount when added to the aggregate credits allowable to the taxpayer under subsection (a) for all preceding taxable years does not exceed $25,000.

"(2) NO DOUBLE CREDIT ALLOWED.—In the case of any qualified rural small business which places in service a qualified rural investment building with respect to which a rural investment credit is allowed under section 42A for any taxable year, paragraph (1)(A) shall be applied with respect to such taxable year by substituting 'zero' for '$5,000'.

"(c) QUALIFIED RURAL SMALL BUSINESS.—For purposes of this section, the term 'qualified rural small business' means any person if such person—

"(1) employed not more than 5 full-time employees during the taxable year,

"(2) materially and substantially participates in management,

"(3) is located in a qualifying county, and

"(4) submitted a qualified business plan with respect to which the rural investment credit agency with jurisdiction over such qualifying county has allocated a portion of the State rural investment ceiling for such taxable year under section 42A(g)(7).

For purposes of paragraph (1), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

"(d) QUALIFIED EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified expenditures' means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant and equipment, inventory expenses, and wages, but not including interest costs.

"(2) ONLY CERTAIN EXPENDITURES INCLUDED FOR EXISTING BUSINESSES.—In the case of a qualified rural small business with respect to which a credit under subsection (a) was allowed for a preceding taxable year, such term shall include only so much of the expenditures described in paragraph (1) for the taxable year as exceed the aggregate of such expenditures for the preceding taxable year.

"(e) QUALIFIED BUSINESS PLAN.—For purposes of this section, the term 'qualified business plan' means a business plan which—

"(1) has been approved by the rural investment credit agency with jurisdiction over the qualifying county in which the qualified rural small business is located pursuant to such agency's rural investment plan, and

"(2) meets such requirements as the agency may specify.

"(f) DENIAL OF DOUBLE BENEFIT.—In the case of the amount of the credit determined under this section—

“(1) no deduction or credit shall be allowed for such amount under any other provision of this chapter, and

“(2) no increase in the adjusted basis of any property shall result from such amount.

“(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) any term which is used in this section which is used in section 42A shall have the meaning given such term by section 42A, and

“(2) rules similar to the rules under subsections (j)(2), (j)(3), and (k) of section 42A shall apply.”.

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting “, plus”, and by adding at the end the following:

“(19) the qualified rural small business investment credit determined under section 42B(a).”.

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by this Act, is amended by adding at the end the following:

“(13) NO CARRYBACK OF QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualified rural small business investment credit determined under section 42B may be carried back to a taxable year beginning before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 42A the following:

“Sec. 42B. Qualified rural small business investment credit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 635. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

“(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is an amount equal to 30 percent of the qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

“(b) LIMITATION.—The credit allowed under subsection (a) for any taxable year shall not exceed the product of—

“(1) $3,500, and

“(2) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year.

“(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term ‘eligible taxpayer’ means—

“(1) any Class II or Class III railroad, and

“(2) any person who transports property using the rail facilities of a person described in paragraph (1) or who furnishes railroad-related property or services to such a person.

“(d) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term ‘qualified railroad track maintenance expenditures’ means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2005, by a Class II or Class III railroad.

“(e) OTHER DEFINITIONS AND SPECIAL RULES.—

“(1) CLASS II OR CLASS III RAILROAD.—For purposes of this section, the terms ‘Class II railroad’ and ‘Class III railroad’ have the meanings given such terms by the Surface Transportation Board.

“(2) CONTROLLED GROUPS.—Rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this section.

“(3) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

“(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.”.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45I may be carried to a taxable year beginning before January 1, 2005.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting “, plus”, and by adding at the end the following new paragraph:

“(20) the railroad track maintenance credit determined under section 45I(a).”.

(2) Subsection (a) of section 1016, as amended by this Act, is amended by striking “and” at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting “, and”, and by adding at the end the following new paragraph:

“(30) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e)(3).”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45H the following new item:

“Sec. 45I. Railroad track maintenance credit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 636. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

(a) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

“(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount equal to 50 percent of the qualified project expenditures paid or incurred by the taxpayer during the taxable year.

“(b) QUALIFIED PROJECT EXPENDITURES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified project expenditures’ means, with respect to any project for intercity passenger rail transportation (as defined under section 24102 of title 49, United States Code) which is included in a State rail plan, expenditures (whether or not otherwise chargeable to capital account) for—

“(A) planning,

“(B) environmental review and environmental impact mitigation,

“(C) track and track structure rehabilitation, relocation, improvement, and development,

“(D) railroad safety and security improvements,

“(E) communications and signaling improvements,

“(F) intercity passenger rail equipment acquisition, and

“(G) rail station and intermodal facilities development.

“(2) EXCEPTIONS.—An expenditure shall not be treated as a qualified project expenditure unless all persons which conduct rail operations over the infrastructure with respect to which such an expenditure is made—

“(A) are employers for purposes of the Railroad Retirement Act of 1974 and are carriers for purposes of the Railway Labor Act (unless such a person is an operator with respect to commuter rail passenger transportation (as defined in section 24102(4) of title 49, United States Code) of a State or local government authority (as such terms are defined in section 5302 of such title) eligible to receive financial assistance under section 5307 of such title, a contractor performing services in connection with the operations with respect to commuter rail passenger transportation (as so defined), or the Alaska Railroad or its contractors),

“(B) provide assurances to the State that any collective bargaining agreements with such a person's employees (including terms regulating the contracting of work) will remain in full force and effect according to the terms of the agreements for work performed for such a person on the railroad transportation corridor, and

“(C) comply with the protective agreements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 with respect to employees affected by actions taken in connection with the project.

“(c) LIMITATION.—

“(1) IN GENERAL.—The amount of the credit allowed under subsection (a) for any taxable year with respect to any project for which qualified project expenditures are made shall not exceed the limitation allocated to such project under this subsection for the calendar year in which the taxable year begins.

“(2) STATE LIMITATION.—

“(A) IN GENERAL.—There is a State railroad revitalization and security investment credit limitation for each calendar year. Such limitation is the amount which bears the same ratio to $165,000,000 as the allocation number for such State bears to the allocation number for all States.

“(B) ALLOCATION NUMBER.—For purposes of subparagraph (A), the allocation number is, with respect to any State, the sum of the following:

“(i) The number of railroad and public road at grade crossings on intercity passenger rail routes within the State.

“(ii) The number of intercity passenger train miles within the State.

“(iii) The number of intercity embarkations and disembarkations for each passenger within the State.

“(3) UNUSED CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

“(A) IN GENERAL.—The unused credit carryover for all States for any calendar year shall be reallocated to each qualified State in an amount which bears the same ratio to the unused credit carryover for all States for the calendar as the allocation number for such qualified State bears to the allocation number for all qualified States.

"(B) UNUSED CREDIT CARRYOVER.—For purposes of this paragraph, the term 'unused credit carryover' means, with respect to any State, the excess of the State limitation (determined under paragraph (2)) for the calendar year over the amount allocated by the State under paragraph (4) for such calendar year.

"(C) QUALIFIED STATES.—For purposes of this paragraph, the term 'qualified State' means any State—

"(i) which allocated its entire State limitation amount under paragraph (4) for the calendar year, and

"(ii) for which a request is made to receive an allocation under this paragraph.

"(4) ALLOCATION WITHIN STATES.—Each State shall allocate the limitation amount allocated to such State under paragraphs (2) and (3) to projects for intercity passenger rail transportation which are included in the State rail plan of such State.

"(5) NEW YORK CITY RAIL PROJECTS.—

"(A) IN GENERAL.—In addition to the amounts allocated under paragraph (2), the Secretary shall allocate a limitation of $200,000,000 to New York City, New York, for qualified project expenditures within the New York Liberty Zone (as defined in section 1400L(h)) for the period described in subsection (h).

"(B) ALLOCATION AMONG PROJECTS.—Of the limitation allocated under subparagraph (A)—

"(i) $100,000,000 shall be allocated to projects designated by the Mayor of New York City, New York, and

"(ii) $100,000,000 shall be allocated to projects designated by the Governor of New York.

"(C) SPECIAL RULE REGARDING QUALIFIED PROJECT EXPENDITURES.—For purposes of this paragraph, a qualified project expenditure shall include any expenditure for improvements to subway systems, for commuter rail systems, for rail links to airports, and for public infrastructure improvements in the vicinity of rail or subway stations.

"(d) STATE RAIL PLAN.—For purposes of this section, the term 'State rail plan' means a plan prepared and maintained in accordance with chapter 225 of title 49, United States Code.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so allowed.

"(f) NO DOUBLE BENEFIT.—No credit shall be allowed under this section with respect to any expenditures for which a credit is allowed under section 45I.

"(g) CREDIT TRANSFERABILITY.—Any credit allowable under this section may be transferred (but not more than once) if—

"(1) the credit exceeds the tax liability of the taxpayer for the taxable year, or

"(2) the taxpayer is not subject to any tax imposed by this chapter by reason of having a tax-exempt status.

"(h) APPLICATION OF SECTION.—This section shall apply to qualified project expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.".

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to any taxable year beginning before January 1, 2005.".

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the railroad revitalization and security investment credit determined under section 45J(a).".

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) in the case of property with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(e).".

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45I the following new item:

"Sec. 45J. Railroad revitalization and security investment credit.".

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(b) STATE RAIL PLANS.—

(1) IN GENERAL.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following:

"CHAPTER 225—STATE RAIL PLANS

"Sec.
"22501. Authority.
"22502. Purposes.
"22503. Transparency; coordination.
"22504. Content.
"22505. Approval.
"22506. Definitions.

"§ 22501. Authority

"(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) make the State's approved plan available to the public and transmit a copy to the Secretary of Transportation; and

"(4) revise the plan no less frequently than once every 5 years.

"§ 22502. Purposes

"(a) PURPOSES.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(3) To serve as the basis for Federal and State rail investments within the State.

"(b) CONTENT.—The State rail plan shall establish the period covered by such plan.

"(c) CONSISTENCY WITH STATE TRANSPORTATION EFFORTS.—A State rail plan shall be consistent with the State transportation planning goals and programs and shall set forth rail transportation's role within the State transportation system.

"§ 22503. Transparency; coordination

"(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input on a proposed State rail plan under this chapter to the following:

"(1) The public.

"(2) Rail carriers.

"(3) Commuter and transit authorities operating in, or affected by rail operations within, the State.

"(4) Units of local government.

"(5) Other parties interested in the preparation and review of the State rail plan.

"(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives of regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

"§ 22504. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A statement of the State's passenger rail service objectives, including minimum service levels, for intercity passenger rail transportation routes in the State.

"(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

"(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

"(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

"(9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

"(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

"(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this chapter, and a plan for funding any recommended development of such corridors in the State.

"(12) A statement that the State satisfies the conditions set forth in section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

"(A) Two lists for rail capital projects, 1 list for freight rail capital projects and 1 list for intercity passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The lists of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"§22505. Approval

"The State rail plan approval authority established or designated under section 22501(b)(2) may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital improvement projects under the plan—

"(A) the project meets all safety and environmental requirements, including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right-of-way directly affected by the project that provides for the State to proceed with the project and includes assurances regarding capacity and compensation for use of such infrastructure or right-of-way, if applicable; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to section 135 of title 23.

"§22506. Definitions

"In this chapter:

"(1) PRIVATE BENEFIT.—The term 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or other means; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the State and the affected persons or private entities.

"(2) PUBLIC BENEFIT.—The term 'public benefit'—

"(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and other positive community effects; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the State and the persons or private entities involved in the project.

"(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

"(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Chief Executive of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan under this chapter.".

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 223 the following:

"225. STATE RAIL PLANS 22501.".

SEC. 637. MODIFICATION OF TARGETED AREAS DESIGNATED FOR NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 45D(e) is amended to read as follows:

"(2) TARGETED POPULATIONS.—The Secretary shall prescribe regulations under which 1 or more targeted populations (within the meaning of section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702(20))) may be treated as low-income communities. Such regulations shall include procedures for determining which entities are qualified active low-income community businesses with respect to such populations.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to designations made by the Secretary of the Treasury after the date of the enactment of this Act.

SEC. 638. MODIFICATION OF INCOME REQUIREMENT FOR CENSUS TRACTS WITHIN HIGH MIGRATION RURAL COUNTIES.

(a) IN GENERAL.—Section 45D(e) (relating to low-income community) is amended by adding at the end the following new paragraph:

"(4) MODIFICATION OF INCOME REQUIREMENT FOR CENSUS TRACTS WITHIN HIGH MIGRATION RURAL COUNTIES.—

"(A) IN GENERAL.—In the case of a population census tract located within a high migration rural county, paragraph (1)(B)(i) shall be applied by substituting '85 percent' for '80 percent'.

"(B) HIGH MIGRATION RURAL COUNTY.—For purposes of this paragraph, the term 'high migration rural county' means any county which, during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 121(a) of the Community Renewal Tax Relief Act of 2000.

SEC. 639. CREDIT FOR INVESTMENT IN TECHNOLOGY TO MAKE MOTION PICTURES MORE ACCESSIBLE TO THE DEAF AND HARD OF HEARING.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45T. EXPENDITURES TO PROVIDE ACCESS TO MOTION PICTURES FOR THE DEAF AND HARD OF HEARING.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the motion picture accessibility credit for any taxable year shall be an amount equal to 50 percent of the qualified expenditures made by the eligible taxpayer during the taxable year.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is in the business of—

"(1) showing motion pictures to the public in theaters, or

"(2) producing or distributing such motion pictures.

"(c) QUALIFIED EXPENDITURES.—For purposes of this section, the term 'qualified expenditures' means amounts paid or incurred by the taxpayer for the purpose of making motion pictures accessible to individuals who are deaf or hard of hearing through the use of captioning technology.

"(d) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so allowed.

"(e) NO DOUBLE BENEFIT.—In the case of the credit determined under this section, no deduction or credit shall be allowed for such amount under any other provision of this chapter.".

(2) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", plus", and by adding at the end the following new paragraph:

"(32) the motion picture accessibility credit determined under section 45T(a).".

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (38), by striking the period at the end of paragraph (39) and inserting ", and", and by adding at the end the following new paragraph:

"(40) in the case of property with respect to which a credit was allowed under section 45T, to the extent provided in section 45T(d).".

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules) is amended by adding at the end the following new paragraph:

"(16) NO CARRYBACK OF MOTION PICTURE ACCESSIBILITY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the motion picture accessibility credit determined under section 45T may be carried to a taxable year beginning before January 1, 2004.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45S the following new item:

"Sec. 45T. Expenditures to provide access to motion pictures for the deaf and hard of hearing.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Subtitle E—Miscellaneous Provisions

SEC. 641. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subsection (b) of section 512 (relating to unrelated business taxable income), as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) TREATMENT OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES.—

"(A) IN GENERAL.—Notwithstanding paragraph (5)(B), there shall be excluded any gain or loss from the qualified sale, exchange, or other disposition of any qualifying brownfield property by an eligible taxpayer.

"(B) ELIGIBLE TAXPAYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'eligible taxpayer' means, with respect to a property, any organization exempt from tax under section 501(a) which—

"(I) acquires from an unrelated person a qualifying brownfield property, and

"(II) pays or incurs eligible remediation expenditures with respect to such property in an amount which exceeds the greater of $550,000 or 12 percent of the fair market value of the property at the time such property was acquired by the eligible taxpayer, determined as if there was not a presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property.

“(ii) EXCEPTION.—Such term shall not include any organization which is—

“(I) potentially liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the qualifying brownfield property,

“(II) affiliated with any other person which is so potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship which is created by the instruments by which title to any qualifying brownfield property is conveyed or financed or by a contract of sale of goods or services), or

“(III) the result of a reorganization of a business entity which was so potentially liable.

“(C) QUALIFYING BROWNFIELD PROPERTY.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘qualifying brownfield property’ means any real property which is certified, before the taxpayer incurs any eligible remediation expenditures (other than to obtain a Phase I environmental site assessment), by an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located as a brownfield site within the meaning of section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

“(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall include a sworn statement by the eligible taxpayer and supporting documentation of the presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property (including a Phase I environmental site assessment and, if applicable, evidence of the property's presence on a local, State, or Federal list of brownfields or contaminated property) and other environmental assessments prepared or obtained by the taxpayer.

“(D) QUALIFIED SALE, EXCHANGE, OR OTHER DISPOSITION.—For purposes of this paragraph—

“(i) IN GENERAL.—A sale, exchange, or other disposition of property shall be considered as qualified if—

“(I) such property is transferred by the eligible taxpayer to an unrelated person, and

“(II) within 1 year of such transfer the eligible taxpayer has received a certification from the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located that, as a result of the eligible taxpayer's remediation actions, such property would not be treated as a qualifying brownfield property in the hands of the transferee.

For purposes of subclause (II), before issuing such certification, the Environmental Protection Agency or appropriate State agency shall respond to comments received pursuant to clause (ii)(V) in the same form and manner as required under section 117(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

“(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall be made not later than the date of the transfer and shall include a sworn statement by the eligible taxpayer certifying the following:

“(I) Remedial actions which comply with all applicable or relevant and appropriate requirements (consistent with section 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) have been substantially completed, such that there are no hazardous substances, pollutants, or contaminants which complicate the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property.

“(II) The reasonably anticipated future land uses or capacity for uses of the property are more economically productive or environmentally beneficial than the uses of the property in existence on the date of the certification described in subparagraph (C)(i). For purposes of the preceding sentence, use of property as a landfill or other hazardous waste facility shall not be considered more economically productive or environmentally beneficial.

“(III) A remediation plan has been implemented to bring the property into compliance with all applicable local, State, and Federal environmental laws, regulations, and standards and to ensure that the remediation protects human health and the environment.

“(IV) The remediation plan described in subclause (III), including any physical improvements required to remediate the property, is either complete or substantially complete, and, if substantially complete, sufficient monitoring, funding, institutional controls, and financial assurances have been put in place to ensure the complete remediation of the property in accordance with the remediation plan as soon as is reasonably practicable after the sale, exchange, or other disposition of such property.

“(V) Public notice and the opportunity for comment on the request for certification was completed before the date of such request. Such notice and opportunity for comment shall be in the same form and manner as required for public participation required under section 117(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph). For purposes of this subclause, public notice shall include, at a minimum, publication in a major local newspaper of general circulation.

“(iii) ATTACHMENT TO TAX RETURNS.—A copy of each of the requests for certification described in clause (ii) of subparagraph (C) and this subparagraph shall be included in the tax return of the eligible taxpayer (and, where applicable, of the qualifying partnership) for the taxable year during which the transfer occurs.

“(iv) SUBSTANTIAL COMPLETION.—For purposes of this subparagraph, a remedial action is substantially complete when any necessary physical construction is complete, all immediate threats have been eliminated, and all long-term threats are under control.

“(E) ELIGIBLE REMEDIATION EXPENDITURES.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘eligible remediation expenditures’ means, with respect to any qualifying brownfield property, any amount paid or incurred by the eligible taxpayer to an unrelated third person to obtain a Phase I environmental site assessment of the property, and any amount so paid or incurred after the date of the certification described in subparagraph (C)(i) for goods and services necessary to obtain a certification described in subparagraph (D)(i) with respect to such property, including expenditures—

“(I) to manage, remove, control, contain, abate, or otherwise remediate a hazardous substance, pollutant, or contaminant on the property,

“(II) to obtain a Phase II environmental site assessment of the property, including any expenditure to monitor, sample, study, assess, or otherwise evaluate the release, threat of release, or presence of a hazardous substance, pollutant, or contaminant on the property,

“(III) to obtain environmental regulatory certifications and approvals required to manage the remediation and monitoring of the hazardous substance, pollutant, or contaminant on the property, and

“(IV) regardless of whether it is necessary to obtain a certification described in subparagraph (D)(i)(II), to obtain remediation cost-cap or stop-loss coverage, re-opener or regulatory action coverage, or similar coverage under environmental insurance policies, or financial guarantees required to manage such remediation and monitoring.

“(ii) EXCEPTIONS.—Such term shall not include—

“(I) any portion of the purchase price paid or incurred by the eligible taxpayer to acquire the qualifying brownfield property,

“(II) environmental insurance costs paid or incurred to obtain legal defense coverage, owner/operator liability coverage, lender liability coverage, professional liability coverage, or similar types of coverage,

“(III) any amount paid or incurred to the extent such amount is reimbursed, funded, or otherwise subsidized by grants provided by the United States, a State, or a political subdivision of a State for use in connection with the property, proceeds of an issue of State or local government obligations used to provide financing for the property the interest of which is exempt from tax under section 103, or subsidized financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the property, or

“(IV) any expenditure paid or incurred before the date of the enactment of this paragraph.

For purposes of subclause (III), the Secretary may issue guidance regarding the treatment of government-provided funds for purposes of determining eligible remediation expenditures.

“(F) DETERMINATION OF GAIN OR LOSS.—For purposes of this paragraph, the determination of gain or loss shall not include an amount treated as gain which is ordinary income with respect to section 1245 or section 1250 property, including amounts deducted as section 198 expenses which are subject to the recapture rules of section 198(e), if the taxpayer had deducted such amounts in the computation of its unrelated business taxable income.

“(G) SPECIAL RULES FOR PARTNERSHIPS.—

“(i) IN GENERAL.—In the case of an eligible taxpayer which is a partner of a qualifying partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property, this paragraph shall apply to the eligible taxpayer's distributive share of the qualifying partnership's gain or loss from the sale, exchange, or other disposition of such property.

“(ii) QUALIFYING PARTNERSHIP.—The term ‘qualifying partnership’ means a partnership which—

“(I) has a partnership agreement which satisfies the requirements of section 514(c)(9)(B)(vi) at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i),

“(II) satisfies the requirements of subparagraphs (B)(i), (C), (D), and (E), if ‘qualified partnership’ is substituted for ‘eligible taxpayer’ each place it appears therein (except subparagraph (D)(iii)), and

“(III) is not an organization which would be prevented from constituting an eligible taxpayer by reason of subparagraph (B)(ii).

“(iii) REQUIREMENT THAT TAX-EXEMPT PARTNER BE A PARTNER SINCE FIRST CERTIFICATION.—This paragraph shall apply with respect to any eligible taxpayer which is a partner of a partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property only if such eligible taxpayer was a partner of the qualifying partnership at all times beginning on the date of the

first certification received by the partnership under subparagraph (C)(i) and ending on the date of the sale, exchange, or other disposition of the property by the partnership.

"(iv) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to prevent abuse of the requirements of this subparagraph, including abuse through—

"(I) the use of special allocations of gains or losses, or

"(II) changes in ownership of partnership interests held by eligible taxpayers.

"(H) SPECIAL RULES FOR MULTIPLE PROPERTIES.—

"(i) IN GENERAL.—An eligible taxpayer or a qualifying partnership of which the eligible taxpayer is a partner may make a 1-time election to apply this paragraph to more than 1 qualifying brownfield property by averaging the eligible remediation expenditures for all such properties acquired during the election period. If the eligible taxpayer or qualifying partnership makes such an election, the election shall apply to all qualified sales, exchanges, or other dispositions of qualifying brownfield properties the acquisition and transfer of which occur during the period for which the election remains in effect.

"(ii) ELECTION.—An election under clause (i) shall be made with the eligible taxpayer's or qualifying partnership's timely filed tax return (including extensions) for the first taxable year for which the taxpayer or qualifying partnership intends to have the election apply. An election under clause (i) is effective for the period—

"(I) beginning on the date which is the first day of the taxable year of the return in which the election is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership, and

"(II) ending on the date which is the earliest of a date of revocation selected by the eligible taxpayer or qualifying partnership, the date which is 8 years after the date described in subclause (I), or, in the case of an election by a qualifying partnership of which the eligible taxpayer is a partner, the date of the termination of the qualifying partnership.

"(iii) REVOCATION.—An eligible taxpayer or qualifying partnership may revoke an election under clause (i)(II) by filing a statement of revocation with a timely filed tax return (including extensions). A revocation is effective as of the first day of the taxable year of the return in which the revocation is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership. Once an eligible taxpayer or qualifying partnership revokes the election, the eligible taxpayer or qualifying partnership is ineligible to make another election under clause (i) with respect to any qualifying brownfield property subject to the revoked election.

"(I) RECAPTURE.—If an eligible taxpayer excludes gain or loss from a sale, exchange, or other disposition of property to which an election under subparagraph (H) applies, and such property fails to satisfy the requirements of this paragraph, the unrelated business taxable income of the eligible taxpayer for the taxable year in which such failure occurs shall be determined by including any previously excluded gain or loss from such sale, exchange, or other disposition allocable to such taxpayer, and interest shall be determined at the overpayment rate established under section 6621 on any resulting tax for the period beginning with the due date of the return for the taxable year during which such sale, exchange, or other disposition occurred, and ending on the date of payment of the tax.

"(J) RELATED PERSONS.—For purposes of this paragraph, a person shall be treated as related to another person if—

"(i) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or section 707(b)(1), determined by substituting '25 percent' for '50 percent' each place it appears therein, and

"(ii) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization."

(b) EXCLUSION FROM DEFINITION OF DEBT-FINANCED PROPERTY.—Section 514(b)(1) (defining debt-financed property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting "; or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) any property the gain or loss from the sale, exchange, or other disposition of which would be excluded by reason of the provisions of section 512(b)(19) in computing the gross income of any unrelated trade or business.".

(c) SAVINGS CLAUSE.—Nothing in the amendments made by this section shall affect any duty, liability, or other requirement imposed under any other Federal or State law. Notwithstanding section 128(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a certification provided by the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4) of the Internal Revenue Code of 1986) shall not affect the liability of any person under section 107(a) of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any gain or loss on the sale, exchange, or other disposition of any property acquired by the taxpayer after December 31, 2004.

SEC. 642. MODIFICATION OF UNRELATED BUSINESS INCOME LIMITATION ON INVESTMENT IN CERTAIN DEBT-FINANCED PROPERTIES.

(a) IN GENERAL.—Section 514(c)(6) (relating to acquisition indebtedness) is amended—

(1) by striking "include an obligation" and inserting "include—

"(A) an obligation",

(2) by striking the period at the end and inserting ", or", and

(3) by adding at the end the following:

"(B) indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

"(i) issued by such company under section 303(a) of such Act, and

"(ii) held or guaranteed by the Small Business Administration.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions made on or after the date of the enactment of this Act.

SEC. 643. CIVIL RIGHTS TAX RELIEF.

(a) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new item:

"(19) COSTS INVOLVING DISCRIMINATION SUITS, ETC.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code or a claim made under section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.".

(b) UNLAWFUL DISCRIMINATION DEFINED.—Section 62 is amended by adding at the end the following new subsection:

"(e) UNLAWFUL DISCRIMINATION DEFINED.—For purposes of subsection (a)(19), the term 'unlawful discrimination' means an act that is unlawful under any of the following:

"(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

"(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

"(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

"(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

"(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

"(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

"(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

"(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

"(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

"(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

"(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

"(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

"(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3, or 2000e–16).

"(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

"(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

"(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

"(18) Any provision of Fderal, State, or local law, or common law claims permitted under Federal, State, or local law—

"(i) providing for the enforcement of civil rights, or

"(ii) regulating any aspect of the employment relationship, including claims for wages, compensation, or benefits, or prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fees and costs paid after December 31, 2002, with respect to any judgment or settlement occurring after such date.

SEC. 644. EXCLUSION FOR PAYMENTS TO INDIVIDUALS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN STATE LOAN REPAYMENT PROGRAMS.

(a) IN GENERAL.—Section 108(f) (relating to student loans) is amended by adding at the end the following new paragraph:

"(4) PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN STATE LOAN REPAYMENT PROGRAMS.—In the case of an individual, gross income shall not include any amount received under section 338B(g) of the Public Health Service Act or under a State program described in section 3381 of such Act.".

(b) TREATMENT FOR PURPOSES OF EMPLOYMENT TAXES.—Each of the following provisions

is amended by inserting "108(f)(4)," after "74(c),":

(1) Section 3121(a)(20).

(2) Section 3231(e)(5).

(3) Section 3306(b)(16).

(4) Section 3401(a)(19).

(5) Section 209(a)(17) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received by an individual in taxable years beginning after December 31, 2003.

SEC. 645. CERTAIN EXPENSES OF RURAL LETTER CARRIERS.

(a) IN GENERAL.—Section 162(o) (relating to treatment of certain reimbursed expenses of rural mail carriers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) SPECIAL RULE WHERE EXPENSES EXCEED REIMBURSEMENTS.—Notwithstanding paragraph (1)(A), if the expenses incurred by an employee for the use of a vehicle in performing services described in paragraph (1) exceed the qualified reimbursements for such expenses, such excess shall be taken into account in computing the miscellaneous itemized deductions of the employee under section 67.".

(b) CONFORMING AMENDMENT.—The heading for section 162(o) is amended by striking "REIMBURSED".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 646. METHOD OF ACCOUNTING FOR NAVAL SHIPBUILDERS.

(a) IN GENERAL.—In the case of a qualified naval ship contract, the taxable income of such contract during the 5-taxable year period beginning with the taxable year in which the contract commencement date occurs shall be determined under a method identical to the method used in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

(b) RECAPTURE OF TAX BENEFIT.—In the case of a qualified naval ship contract to which subsection (a) applies, the taxpayer's tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the first taxable year following the 5-taxable year period described in subsection (a) shall be increased by the excess (if any) of—

(1) the amount of tax which would have been imposed during such period if this section had not been enacted, over

(2) the amount of tax so imposed during such period.

(c) QUALIFIED NAVAL SHIP CONTRACT.—For purposes of this section—

(1) IN GENERAL.—The term "qualified naval ship contract" means any contract or portion thereof that is for the construction in the United States of 1 ship or submarine for the Federal Government if the taxpayer reasonably expects the acceptance date will occur no later than 9 years after the construction commencement date.

(2) ACCEPTANCE DATE.—The term "acceptance date" means the date 1 year after the date on which the Federal Government issues a letter of acceptance or other similar document for the ship or submarine.

(3) CONSTRUCTION COMMENCEMENT DATE.—The term "construction commencement date" means the date on which the physical fabrication of any section or component of the ship or submarine begins.

(d) EFFECTIVE DATE.—This section shall apply to contracts for ships or submarines with respect to which the construction commencement date occurs after the date of the enactment of this Act.

SEC. 647. SUSPENSION OF POLICYHOLDERS SURPLUS ACCOUNT PROVISIONS.

(a) DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—Section 815 (relating to distributions to shareholders from pre-1984 policyholders surplus account) is amended by adding at the end the following:

"(g) SPECIAL RULES APPLICABLE DURING 2004 AND 2005.—In the case of any taxable year of a stock life insurance company beginning after December 31, 2003, and before January 1, 2006—

"(1) the amount under subsection (a)(2) for such taxable year shall be treated as zero, and

"(2) notwithstanding subsection (b), in determining any subtractions from an account under subsections (c)(3) and (d)(3), any distribution to shareholders during such taxable year shall be treated as made first out of the policyholders surplus account, then out of the shareholders surplus account, and finally out of other accounts.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 648. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: "For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 649. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) REPLACEMENT OF LIVESTOCK WITH OTHER FARM PROPERTY.—Subsection (f) of section 1033 (relating to involuntary conversions) is amended—

(1) by inserting "drought, flood, or other weather-related conditions, or" after "because of",

(2) by inserting "in the case of soil contamination or other environmental contamination" after "including real property", and

(3) by striking "WHERE THERE HAS BEEN ENVIRONMENTAL CONTAMINATION" in the heading and inserting "IN CERTAIN CASES".

(b) EXTENSION OF REPLACEMENT PERIOD OF INVOLUNTARILY CONVERTED LIVESTOCK.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking "CONDITIONS.—For purposes" and inserting "CONDITIONS.—

"(1) IN GENERAL.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) EXTENSION OF REPLACEMENT PERIOD.—

"(A) IN GENERAL.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

"(B) FURTHER EXTENSION BY SECRETARY.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.".

(c) INCOME INCLUSION RULES.—Section 451(e) (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

"(3) SPECIAL ELECTION RULES.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 650. MOTOR VEHICLE DEALER TRANSITIONAL ASSISTANCE.

(a) IN GENERAL.—For purposes of subtitle A of the Internal Revenue Code of 1986, in the case of a taxpayer who elects the application of this section and who was a party to a motor vehicle sales and service agreement with a motor vehicle manufacturer who announced in December 2000 that it would phase-out the motor vehicle brand to which such agreement relates—

(1) amounts received by such taxpayer from such manufacturer on account of the termination of such agreement (hereafter in this section referred to as "termination payment") are considered to be received for property used in the trade or business of a motor vehicle retail sales and service dealership, and

(2) to the extent such termination payment is reinvested in property used in a motor vehicle retail sales and service dealership located within the United States, such property shall qualify as like-kind replacement property to which section 1031 of the Internal Revenue Code of 1986 shall apply with the following modifications:

(A) Such section shall be applied without regard to subparagraphs (A) and (B)(ii) of subsection (a)(3).

(B) The period described in section 1031(a)(3)(B) of such Code shall be applied by substituting "2 years" for "180 days".

(b) RULES FOR ELECTION.—

(1) FORM OF ELECTION.—The taxpayer shall make an election under this section in such form and manner as the Secretary of the Treasury may prescribe and shall include in such election the amount of the termination payment received, the identification of the replacement property purchased, and such other information as the Secretary may prescribe.

(2) ELECTION ON AMENDED RETURN.—The Secretary of the Treasury shall permit an election under this section on an amended tax return for taxable years beginning before the date of the enactment of this Act.

(c) STATUTE OF LIMITATIONS.—Notwithstanding the provisions of any other law or rule of law, the statutory period for the assessment for any deficiency attributable to any termination payment gain shall be extended until 3 years after the date the Secretary of the Treasury is notified by the taxpayer of the like-kind replacement property or an intention not to replace.

(d) EFFECTIVE DATE.—This section shall apply to amounts received after December 12, 2000, in taxable years ending after such date.

SEC. 651. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) RENEWAL COMMUNITIES.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

"(g) EXPANSION OF DESIGNATED AREAS.—

"(1) EXPANSION BASED ON 2000 CENSUS.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

"(A) which, at the time such community was nominated, met the requirements of this section

for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

"(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

"(2) EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.—

"(A) IN GENERAL.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

"(B) AREA.—An area is described in this subparagraph if—

"(i) the area is adjacent to at least 1 other area designated as a renewal community,

"(ii) the area has a population less than the population required under subsection (c)(2)(C), and

"(iii)(I) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or

"(II) the area contains a population of less than 100 people.

"(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).".

(b) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

SEC. 652. REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.

(a) IN GENERAL.—Subparagraph (A) of section 1231(b)(3) (relating to definition of property used in the trade or business) is amended by striking "and horses".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 653. BLUE RIBBON COMMISSION ON COMPREHENSIVE TAX REFORM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the "Blue Ribbon Commission on Comprehensive Tax Reform" (in this section referred to as the "Commission").

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 17 members of whom—

(i) 3 shall be appointed by the majority leader of the Senate;

(ii) 3 shall be appointed by the minority leader of the Senate;

(iii) 3 shall be appointed by the Speaker of the House of Representatives;

(iv) 3 shall be appointed by the minority leader of the House of Representatives; and

(v) 5 shall be appointed by the President, of which no more than 3 shall be of the same party as the President.

(B) FEDERAL EMPLOYEES.—The members of the Commission may be employees or former employees of the Federal Government.

(C) DATE.—The appointments of the members of the Commission shall be made not later than October 30, 2004.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairman.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(2) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(3) REPORT.—Not later than 18 months after the date on which all initial members of the commission have been appointed pursuant to subsection (a)(2), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to the Commission to carry out this section.

SEC. 654. TREATMENT OF DISTRIBUTIONS BY ESOPS WITH RESPECT TO S CORPORATION STOCK.

(a) IN GENERAL.—Section 4975(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentences:

"A plan shall not be treated as violating the requirements of section 401, 409, or subsection (e)(7), or as engaging in a prohibited transaction for purposes of paragraph (3), merely by reason of any distribution described in section 1368(a) with respect to S corporation stock which constitutes qualifying employer securities if the distribution is, in accordance with the plan provisions, used to make payments on a loan described in paragraph (3) the proceeds of which were used to acquire the qualifying employer securities (whether or not allocated to participants). The preceding sentence shall not apply in the case of a distribution which is paid with respect to any employer security which is allocated to a participant unless the plan provides that employer securities with a fair market value of not less than the amount of such distribution are allocated to such participant for the year which (but for the preceding sentence) such distribution would have been allocated to such participant."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1998.

SEC. 655. CLARIFICATION OF WORKING CAPITAL FOR REASONABLY ANTICIPATED NEEDS OF A BUSINESS FOR PURPOSES OF ACCUMULATED EARNINGS TAX.

(a) IN GENERAL.—Section 537(b) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) WORKING CAPITAL.—The reasonably anticipated needs of a business for any taxable year shall include working capital for the business in an amount which is not less than the sum of the cost of goods, operating expenses, taxes, and interest expense which the business incurred during the preceding taxable year. Any amounts incurred as part of a plan a principal purpose of which is to increase the limitation under this subsection shall not be taken into account.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003, and before January 1, 2009.

SEC. 656. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation which is a *real estate investment trust, which is a non-operating class III railroad, and substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons in railroad transportation, then, for purposes of section 115 of the Internal Revenue Code of 1986—*

(1) income derived from such activities by the corporation shall be treated as accruing to the State, and

(2) such activities shall be treated as the exercise of an essential governmental function of the State to the extent such activities are of a type which are an essential government function (within the meaning of section 115 of such Code).

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of the corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—Any obligation issued by an entity described in subsection (a) shall be treated as an obligation of the State for purposes of applying section 103 and part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986.

(d) DEFINITIONS.—For purposes of this section—

(1) REAL ESTATE INVESTMENT TRUST.—The term "real estate investment trust" has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term "non-operating class III railroad" has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.) and the regulations thereunder.

(3) STATE.—The term "State" includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a).

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2005.

SEC. 657. CLARIFICATION OF CONTRIBUTION IN AID OF CONSTRUCTION FOR WATER AND SEWERAGE DISPOSAL UTILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 118(c)(3) (relating to definitions) is amended to read as follows:

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term—

"(i) shall include amounts paid as customer connection fees (including amounts paid to connect the customer's water service line or sewer lateral line to the utility's distribution or collection system or extend a main water or sewer line to provide service to a customer), and

"(ii) shall not include amounts paid as service charges for starting or stopping services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

SEC. 658. CREDIT FOR PURCHASE AND INSTALLATION OF AGRICULTURAL WATER CONSERVATION SYSTEMS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. PURCHASE AND INSTALLATION OF AGRICULTURAL WATER CONSERVATION SYSTEMS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the water conservation system expenses paid or incurred by the taxpayer during such year.

"(b) LIMITATIONS.—The credit allowed by subsection (a) with respect to any acre of land which is served by a water conservation system shall not exceed the excess of—

"(1) $500, over

"(2) the amount of credit allowed under this section with respect to such acre for all prior taxable years.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any taxpayer if—

"(A) at least 50 percent of such taxpayer's gross income is normally derived from farm land, and

"(B) such taxpayer complies with all Federal, State, and local water rights and environmental laws.

"(2) WATER CONSERVATION SYSTEM EXPENSES.—

"(A) IN GENERAL.—The term 'water conservation system expenses' means expenses for the purchase and installation of a water conservation system but only if—

"(i) the land served by the water conservation system is entirely in a county or county-equivalent area which has received, in the taxable year the expenses were paid or incurred or in any of the 3 preceding taxable years, a primary-county designation due to drought by the Secretary of Agriculture, and

"(ii) such system is certified as saving at least 5 percent more irrigation water than the irrigation system which was used on such land immediately prior to the installation of such water conservation system.

For purposes of clause (ii), irrigation water savings shall be determined and certified under regulations prescribed jointly by the Natural Resources Conservation Service of the Department of Agriculture and the Bureau of Reclamation of the Department of the Interior. Such regulations shall include a list of individuals or organizations qualified to make such certification.

"(B) WATER CONSERVATION SYSTEM.—The term 'water conservation system' means, with respect to farm land—

"(i) new or replacement irrigation equipment and machinery, including sprinklers, pipes, siphons, nozzles, pumps, motors, and engines, and

"(ii) computer systems for irrigation and water management.

"(C) FARM LAND.—The term 'farm land' means land used in a trade or business by the taxpayer or a tenant of the taxpayer for—

"(i) the production of crops, fruits, or other agricultural products,

"(ii) the raising, harvesting, or growing of trees, or

"(iii) the sustenance of livestock.

"(d) YEAR EXPENDITURE MADE.—For purposes of this section, an expenditure with respect to a water conservation system shall be treated as made when the original installation of the system is completed.

"(e) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

"(B) the tentative minimum tax for the taxable year.

"(2) CARRYFORWARD OF UNUSED CREDIT.—If the amount of the credit allowable under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for the taxable year, the excess shall be carried to the succeeding taxable year and added to the amount allowable as a credit under subsection (a) for such succeeding taxable year.

"(f) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter with respect to any expense which is taken into account in determining the credit under this section, and any increase in the basis of any property which would (but for this subsection) result from such expense shall be reduced by the amount of credit allowed under this section for such expense.

"(g) TERMINATION.—This section shall not apply to amounts paid or incurred with respect any water conservation system the installation of which is completed after December 31, 2006.".

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting "; and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f), in the case of amounts with respect to which a credit has been allowed under section 30B.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 30B. Purchase and installation of agricultural water conservation systems.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act with respect any water conservation system the installation of which is completed after December 31, 2004.

SEC. 659. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR BUSINESSES AFFECTED BY THE SEPTEMBER 11TH TERRORIST ATTACKS.

(a) IN GENERAL.—Subsection (g) of section 1400L is amended to read as follows:

"(g) MODIFICATION OF RULES APPLICABLE TO NONRECOGNITION OF GAIN.—In the case of property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone—

"(1) which was held by a corporation which is a member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of section 1033(a)(2) with respect to such property to the extent such requirement is satisfied by another member of the group, and

"(2) notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.".

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to involuntary conversions occurring on or after September 11, 2001.

SEC. 660. REPEAL OF APPLICATION OF BELOW-MARKET LOAN RULES TO AMOUNTS PAID TO CERTAIN CONTINUING CARE FACILITIES.

(a) In General.—Section 7872(c)(1) (relating to below-market loans to which section applies) is amended—

(1) by striking subparagraph (F), and

(2) by striking "(C), or (F)" in subparagraph (E) and inserting "or (C)".

(b) Full Exception.—Section 7872(g) (relating to exception for certain loans to qualified continuing care facilities) is amended—

(1) by striking "made by a lender to a qualified continuing care facility pursuant to a continuing care contract" in paragraph (1) and inserting "owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and",

(2) by striking "increased personal care services or" in paragraph (3)(C),

(3) by adding at the end of paragraph (3) the following new flush sentence:

"The Secretary shall issue guidance which limits such term to contracts which provide to an individual or individual's spouse only facilities, care, and services described in this paragraph which are customarily offered by continuing care facilities.",

(4) by inserting "independent living unit" after "all of the" in paragraph (4)(A)(ii),

(5) by striking paragraphs (2) and (5),

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and

(7) by striking "Certain" in the heading thereof.

(c) Effective Date.—The amendments made by this section shall apply to calendar years beginning after 2004.

SEC. 661. GOLD, SILVER, PLATINUM, AND PALLADIUM TREATED IN THE SAME MANNER AS STOCKS AND BONDS FOR MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) In General.—Section 1(h)(5) (relating to definition of collectibles gain and loss) is amended—

(1) by striking "(as defined in section 408(m) without regard to paragraph (3) thereof)" in subparagraph (A) thereof, and

(2) by adding at the end the following new subparagraph:

"(C) Collectible.—For purposes of this paragraph, the term 'collectible' has the meaning given such term by section 408(m), except that in applying paragraph (3)(B) thereof the determination of whether any bullion is excluded from treatment as a collectible shall be made without regard to the person who is in physical possession of the bullion."

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 662. INCLUSION OF PRIMARY AND SECONDARY MEDICAL STRATEGIES FOR CHILDREN AND ADULTS WITH SICKLE CELL DISEASE AS MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM.

(a) Optional Medical Assistance.—

(1) In general.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) by striking "and" at the end of paragraph (26);

(ii) by redesignating paragraph (27) as paragraph (28); and

(iii) by inserting after paragraph (26), the following:

"(27) subject to subsection (x), primary and secondary medical strategies and treatment and services for individuals who have Sickle Cell Disease; and"; and

(B) by adding at the end the following:

"(x) For purposes of subsection (a)(27), the strategies, treatment, and services described in that subsection include the following:

"(1) Chronic blood transfusion (with deferoxamine chelation) to prevent stroke in individuals with Sickle Cell Disease who have been identified as being at high risk for stroke.

"(2) Genetic counseling and testing for individuals with Sickle Cell Disease or the sickle cell trait to allow health care professionals to treat such individuals and to prevent symptoms of Sickle Cell Disease.

"(3) Other treatment and services to prevent individuals who have Sickle Cell Disease and who have had a stroke from having another stroke.".

(2) Rule of Construction.—Nothing in subsections (a)(27) or (x) of section 1905 of the Social Security Act (42 U.S.C. 1396d), as added by paragraph (1), shall be construed as implying that a State medicaid program under title XIX of such Act could not have treated, prior to the date of enactment of this Act, any of the primary and secondary medical strategies and treatment and services described in such subsections as medical assistance under such program, including as early and periodic screening, diagnostic, and treatment services under section 1905(r) of such Act.

(b) Federal Reimbursement for Education and Other Services Related to the Prevention and Treatment of Sickle Cell Disease.—Section 1903(a)(3) of the Social Security Act (42 U.S.C. 1396b(a)(3)) is amended—

(1) in subparagraph (D), by striking "plus" at the end and inserting "and"; and

(2) by adding at the end the following:

"(E) 50 percent of the sums expended with respect to costs incurred during such quarter as are attributable to providing—

"(i) services to identify and educate individuals who are likely to be eligible for medical assistance under this title and who have Sickle Cell Disease or who are carriers of the sickle cell gene, including education regarding how to identify such individuals; or

"(ii) education regarding the risks of stroke and other complications, as well as the prevention of stroke and other complications, in individuals who are likely to be eligible for medical assistance under this title and who have Sickle Cell Disease; plus".

(c) Demonstration Program for the Development and Establishment of Systemic Mechanisms for the Prevention and Treatment of Sickle Cell Disease.—

(1) Authority to conduct demonstration program.—

(A) In general.—The Administrator, through the Bureau of Primary Health Care and the Maternal and Child Health Bureau, shall conduct a demonstration program by making grants to up to 40 eligible entities for each fiscal year in which the program is conducted under this section for the purpose of developing and establishing systemic mechanisms to improve the prevention and treatment of Sickle Cell Disease, including through—

(i) the coordination of service delivery for individuals with Sickle Cell Disease;

(ii) genetic counseling and testing;

(iii) bundling of technical services related to the prevention and treatment of Sickle Cell Disease;

(iv) training of health professionals; and

(v) identifying and establishing other efforts related to the expansion and coordination of education, treatment, and continuity of care programs for individuals with Sickle Cell Disease.

(B) Grant award requirements.—

(i) Geographic diversity.—The Administrator shall, to the extent practicable, award grants under this section to eligible entities located in different regions of the United States.

(ii) Priority.—In awarding grants under this subsection, the Administrator shall give priority to awarding grants to eligible entities that are—

(I) Federally-qualified health centers that have a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health; or

(II) Federally-qualified health centers that intend to develop a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health.

(2) Additional requirements.—An eligible entity awarded a grant under this subsection shall use funds made available under the grant to carry out, in addition to the activities described in paragraph (1)(A), the following activities:

(A) To facilitate and coordinate the delivery of education, treatment, and continuity of care for individuals with Sickle Cell Disease under—

(i) the entity's collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity that works with individuals who have Sickle Cell Disease;

(ii) the Sickle Cell Disease newborn screening program for the State in which the entity is located; and

(iii) the maternal and child health program under title V of the Social Security Act (42 U.S.C. 701 et seq.) for the State in which the entity is located.

(B) To train nursing and other health staff who provide care for individuals with Sickle Cell Disease.

(C) To enter into a partnership with adult or pediatric hematologists in the region and other regional experts in Sickle Cell Disease at tertiary and academic health centers and State and county health offices.

(D) To identify and secure resources for ensuring reimbursement under the medicaid program, State children's health insurance program, and other health programs for the prevention and treatment of Sickle Cell Disease.

(3) National coordinating center.—

(A) Establishment.—The Administrator shall enter into a contract with an entity to serve as the National Coordinating Center for the demonstration program conducted under this subsection.

(B) Activities described.—The National Coordinating Center shall—

(i) collect, coordinate, monitor, and distribute data, best practices, and findings regarding the activities funded under grants made to eligible entities under the demonstration program;

(ii) develop a model protocol for eligible entities with respect to the prevention and treatment of Sickle Cell Disease;

(iii) develop educational materials regarding the prevention and treatment of Sickle Cell Disease; and

(iv) prepare and submit to Congress a final report that includes recommendations regarding the effectiveness of the demonstration program conducted under this subsection and such direct outcome measures as—

(I) the number and type of health care resources utilized (such as emergency room visits, hospital visits, length of stay, and physician visits for individuals with Sickle Cell Disease); and

(II) the number of individuals that were tested and subsequently received genetic counseling for the sickle cell trait.

(4) Application.—An eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

(5) Definitions.—In this subsection:

(A) Administrator.—The term "Administrator" means the Administrator of the Health Resources and Services Administration.

(B) ELIGIBLE ENTITY.—The term "eligible entity" means a Federally-qualified health center, a nonprofit hospital or clinic, or a university health center that provides primary health care, that—

(i) has a collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity with experience in working with individuals who have Sickle Cell Disease; and

(ii) demonstrates to the Administrator that either the Federally-qualified health center, the nonprofit hospital or clinic, the university health center, the organization or entity described in clause (i), or the experts described in paragraph (2)(C), has at least 5 years of experience in working with individuals who have Sickle Cell Disease.

(C) FEDERALLY-QUALIFIED HEALTH CENTER.—The term "Federally-qualified health center" has the meaning given that term in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)).

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $10,000,000 for each of fiscal years 2005 through 2009.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect on the date of enactment of this Act and apply to medical assistance and services provided under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after that date.

Subtitle F—Revenue Provisions

PART I—GENERAL REVENUE PROVISIONS

SEC. 661A. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

Section 901, as amended by this Act, is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.".

SEC. 662B. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".

(b) EXCEPTION FOR GROSS MISSTATEMENT.—Section 6404(g)(2) (relating to exceptions) is amended by striking "or" at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or".

(c) EXCEPTION FOR LISTED AND REPORTABLE TRANSACTIONS.—Section 6404(g)(2) (relating to exceptions), as amended by subsection (b), is amended by striking "or" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction or listed transaction (as defined in 6707A(c)); or".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—The amendments made by subsection (c) shall apply with respect to interest accruing after May 5, 2004.

PART II—PENSION AND DEFERRED COMPENSATION

SEC. 671. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 is amended by adding at the end the following new section:

"SEC. 409A. INCLUSION IN GROSS INCOME OF DEFERRED COMPENSATION UNDER NONQUALIFIED DEFERRED COMPENSATION PLANS.

"(a) RULES RELATING TO CONSTRUCTIVE RECEIPT.—

"(1) IN GENERAL.—

"(A) GROSS INCOME INCLUSION.—If at any time during a taxable year a nonqualified deferred compensation plan—

"(i) fails to meet the requirements of paragraphs (2), (3), (4), and (5), or

"(ii) is not operated in accordance with such requirements,

all compensation deferred under the plan for the taxable year and all preceding taxable years shall be includible in gross income for the taxable year to the extent not subject to a substantial risk of forfeiture and not previously included in gross income.

"(B) INTEREST AND ADDITIONAL TAX PAYABLE WITH RESPECT TO PREVIOUSLY DEFERRED COMPENSATION.—

"(i) IN GENERAL.—If compensation is required to be included in gross income under subparagraph (A) for a taxable year, the tax imposed by this chapter for the taxable year of inclusion shall be increased by the sum of—

"(I) the amount of interest determined under clause (ii), and

"(II) an amount equal to 10 percent of the compensation which is required to be included in gross income.

"(ii) INTEREST.—For purposes of clause (i), the interest determined under this clause for any taxable year is the amount of interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such deferred compensation is not subject to a substantial risk of forfeiture.

"(2) DISTRIBUTIONS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that compensation deferred under the plan may not be distributed earlier than—

"(i) except as provided in subparagraph (B)(i), separation from service (as determined by the Secretary),

"(ii) the date the participant becomes disabled (within the meaning of subparagraph (C)),

"(iii) death,

"(iv) a specified time (or pursuant to a fixed schedule) specified under the plan as of the date of the deferral of such compensation,

"(v) to the extent provided by the Secretary, a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation, or

"(vi) the occurrence of an unforeseeable emergency.

"(B) SPECIAL RULES.—

"(i) SEPARATION FROM SERVICE OF SPECIFIED EMPLOYEES.—In the case of specified employees, the requirement of subparagraph (A)(i) is met only if distributions may not be made earlier than 6 months after the date of separation from service. For purposes of the preceding sentence, a specified employee is a key employee (as defined in section 416(i)) of a corporation the stock in which is publicly traded on an established securities market or otherwise.

"(ii) CHANGES IN OWNERSHIP OR CONTROL.—In the case of a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, the requirement of subparagraph (A)(v) is met only if distributions may not be made earlier than 1 year after the date of the change in ownership or effective control.

"(iii) UNFORESEEABLE EMERGENCY.—For purposes of subparagraph (A)(vi)—

"(I) IN GENERAL.—The term 'unforeseeable emergency' means a severe financial hardship to the participant or beneficiary resulting from a sudden and unexpected illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or the participant's or beneficiary's dependent (as defined in section 152(a)), loss of the participant's or beneficiary's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary.

"(II) LIMITATION ON DISTRIBUTIONS.—The requirement of subparagraph (A)(vi) is met only if, as determined under regulations of the Secretary, the amounts distributed with respect to an emergency do not exceed the amounts necessary to satisfy such emergency plus amounts necessary to pay taxes reasonably anticipated as a result of the distribution, after taking into account the extent to which such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise or by liquidation of the participant's or beneficiary's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship).

"(C) DISABLED.—For purposes of subparagraph (A)(ii), a participant shall be considered disabled if the participant—

"(i) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or

"(ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the participant's employer.

"(3) INVESTMENT OPTIONS.—The requirements of this paragraph are met if the plan provides that the investment options a participant may elect under the plan—

"(A) are comparable to the investment options which a participant may elect under the defined contribution plan of the employer which—

"(i) meets the requirement of section 401(a) and includes a trust exempt from taxation under section 501(a), and

"(ii) has the fewest investment options, or

"(B) if there is no such defined contribution plan, meet such requirements as the Secretary may prescribe (including requirements limiting such options to permissible investment options specified by the Secretary).

"(4) ACCELERATION OF BENEFITS.—The requirements of this paragraph are met if the plan does not permit the acceleration of the time or schedule of any payment under the plan, except as provided by the Secretary in regulations.

"(5) ELECTIONS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the requirements of subparagraphs (B) and (C) are met.

"(B) INITIAL DEFERRAL DECISION.—The requirements of this subparagraph are met if the *plan provides that compensation for services performed during a taxable year may be deferred at the participant's election only if the election to defer such compensation is made during the preceding taxable year or at such other time as provided in regulations. In the case of the first year in which a participant becomes eligible to participate in the plan, such election may be made with respect to services to be performed subsequent to the election within 30 days after the date the participant becomes eligible to participate in such plan.*

"(C) CHANGES IN TIME AND FORM OF DISTRIBUTION.—The requirements of this subparagraph are met if, in the case of a plan which permits under a subsequent election a delay in a payment or a change in the form of payment—

"(i) the plan requires that such election may not take effect until at least 12 months after the date on which the election is made,

"(ii) in the case an election related to a payment not described in clause (ii), (iii), or (vi) of paragraph (2)(A), the plan requires that the first payment with respect to which such election is made be deferred for a period of not less than 5 years from the date such payment would otherwise have been made, and

"(iii) the plan requires that any election related to a payment described in paragraph (2)(A)(iv) may not be made less than 12 months prior to the date of the first scheduled payment under such paragraph.

A plan shall be treated as failing to meet the requirements of this subparagraph if the plan permits more than 1 subsequent election to delay any payment.

"(b) RULES RELATING TO FUNDING.—

"(1) OFFSHORE PROPERTY IN A TRUST.—In the case of assets set aside (directly or indirectly) in a trust (or other arrangement determined by the Secretary) for purposes of paying deferred compensation under a nonqualified deferred compensation plan, such assets shall be treated for purposes of section 83 as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors—

"(A) at the time set aside if such assets are located outside of the United States, or

"(B) at the time transferred if such assets are subsequently transferred outside of the United States.

This paragraph shall not apply to assets located in a foreign jurisdiction if substantially all of the services to which the nonqualified deferred compensation relates are performed in such jurisdiction.

"(2) EMPLOYER'S FINANCIAL HEALTH.—In the case of a nonqualified deferred compensation plan, there is a transfer of property within the meaning of section 83 as of the earlier of—

"(A) the date on which the plan first provides that assets will become restricted to the provision of benefits under the plan in connection with a change in the employer's financial health, or

"(B) the date on which assets are so restricted.

"(3) INCOME INCLUSION FOR OFFSHORE TRUSTS AND EMPLOYER'S FINANCIAL HEALTH.—For each taxable year that assets treated as transferred under this subsection remain set aside in a trust or other arrangement subject to paragraph (1) or (2), any increase in value in, or earnings with respect to, such assets shall be treated as an additional transfer of property under this subsection (to the extent not previously included in income).

"(4) INTEREST ON TAX LIABILITY PAYABLE WITH RESPECT TO TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—If amounts are required to be included in gross income by reason of paragraph (1) or (2) for a taxable year, the tax imposed by this chapter for such taxable year shall be increased by the sum of—

"(i) the amount of interest determined under subparagraph (B), and

"(ii) an amount equal to 10 percent of the amounts required to be included in gross income.

"(B) INTEREST.—For purposes of subparagraph (A), the interest determined under this subparagraph for any taxable year is the amount of interest at the underpayment rate on the underpayments that would have occurred had the amounts so required to be included in gross income by paragraph (1) or (2) been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such amounts are not subject to a substantial risk of forfeiture.

"(c) NO INFERENCE ON EARLIER INCOME INCLUSION.—Nothing in this section shall be construed to prevent the inclusion of amounts in gross income under any other provision of this chapter or any other rule of law earlier than the time provided in this section. Any amount included in gross income under this section shall not be required to be included in gross income under any other provision of this chapter or any other rule of law later than the time provided in this section.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) NONQUALIFIED DEFERRED COMPENSATION PLAN.—The term 'nonqualified deferred compensation plan' means any plan that provides for the deferral of compensation, other than—

"(A) a qualified employer plan, and

"(B) any bona fide vacation leave, sick leave, compensatory time, disability pay, or death benefit plan.

"(2) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

"(B) any eligible deferred compensation plan (within the meaning of section 457(b)) of an employer described in section 457(e)(1)(A).

"(3) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement, including an agreement or arrangement that includes one person.

"(4) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

"(5) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income (whether actual or notional) attributable to such compensation or such income.

"(6) EXCEPTION FOR NONELECTIVE DEFERRED COMPENSATION.—This section shall not apply to any nonelective deferred compensation to which section 457 does not apply by reason of section 457(e)(12), but only if such compensation is provided under a nonqualified deferred compensation plan which was in existence on May 1, 2004, and which was providing nonelective deferred compensation described in section 457(e)(12) on such date. If, after May 1, 2004, a plan described in the preceding sentence adopts a plan amemdment which provides a material change in the classes of individuals eligible to participate in the plan, this paragraph shall not apply to any nonelective deferred compensation provided under the plan on or after the date of the adoption of the amendment.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the determination of amounts of deferral in the case of a nonqualified deferred compensation plan which is a defined benefit plan,

"(2) relating to changes in the ownership and control of a corporation or assets of a corporation for purposes of subsection (a)(2)(A)(v),

"(3) exempting arrangements from the application of subsection (b) if such arrangements will not result in an improper deferral of United States tax and will not result in assets being effectively beyond the reach of creditors,

"(4) defining financial health for purposes of subsection (b)(2), and

"(5) disregarding a substantial risk of forfeiture in cases where necessary to carry out the purposes of this section.".

(b) APPLICATION OF GOLDEN PARACHUTE PAYMENT PROVISIONS.—Section 280G of such Code (relating to golden parachute payments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULES FOR CERTAIN PAYMENTS FROM NONQUALIFIED DEFERRED COMPENSATION PLANS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, an applicable payment shall be treated as an excess parachute payment for purposes of this section and section 4999.

"(2) COORDINATION WITH OTHER PAYMENTS.—

"(A) APPLICABLE PAYMENTS WHICH ARE PARACHUTE PAYMENTS.—If any applicable payment is a parachute payment (determined without regard to subsection (b)(2)(A)(ii))—

"(i) except as provided in paragraph (4), this section shall be applied to such payment in the same manner as if this subsection had not been enacted, and

"(ii) if such application results in an excess parachute payment, any tax under section 4999 on the excess parachute payment shall be in addition to the tax imposed by reason of paragraph (1).

"(B) APPLICABLE PAYMENTS WHICH ARE NOT PARACHUTE PAYMENTS.—An applicable payment not described in subparagraph (A) shall be taken into account in determining whether any payment described in subparagraph (A) or any payment which is not an applicable payment is a parachute payment under subsection (b)(2).

"(3) APPLICABLE PAYMENT.—For purposes of this subsection, the term 'applicable payment' means any distribution (including any distribution treated as a parachute payment without regard to this subsection) from a nonqualified deferred compensation plan (as defined in section 409A(d)) which is made—

"(A) to a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, and

"(B) during the 1-year period following a change in the ownership or effective control of the corporation or in the ownership of a substantial portion of the assets of the corporation.

Such terms shall not include any distribution by reason of the death of the participant or the participant becoming disabled (within the meaning of section 409A(a)(2)(C)).

"(4) NO DOUBLE COUNTING.—Under regulations, proper adjustments shall be made in the application of this subsection to prevent a deduction from being disallowed more than once.".

(c) W-2 FORMS.—

(1) IN GENERAL.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by inserting after paragraph (12) the following new paragraph:

"(13) the total amount of deferrals under a nonqualified deferred compensation plan (within the meaning of section 409A(d)).".

(2) THRESHOLD.—Subsection (a) of section 6051 is amended by adding at the end the following: "In the case of the amounts required to be

shown by paragraph (13), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (13) does not apply.".

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 414(b) is amended by inserting "409A," after "408(p),".

(2) Section 414(c) is amended by inserting "409A," after "408(p),".

(3) The table of sections for such subpart A is amended by adding at the end the following new item:

"Sec. 409A. Inclusion in gross income of deferred compensation under nonqualified deferred compensation plans.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts deferred in taxable years beginning after December 31, 2004.

(2) EARNINGS ATTRIBUTABLE TO AMOUNT PREVIOUSLY DEFERRED.—The amendments made by this section shall apply to earnings on deferred compensation only to the extent that such amendments apply to such compensation.

(f) GUIDANCE RELATING TO CHANGE OF OWNERSHIP OR CONTROL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance on what constitutes a change in ownership or effective control for purposes of section 409A of the Internal Revenue Code of 1986, as added by this section.

(g) GUIDANCE RELATING TO TERMINATION OF CERTAIN EXISTING ARRANGEMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance providing a limited period during which an individual participating in a nonqualified deferred compensation plan adopted on or before December 31, 2004, may, without violating the requirements of paragraphs (2), (3), (4), and (5) of section 409A(a) of the Internal Revenue Code of 1986 (as added by this section), terminate participation or cancel an outstanding deferral election with regard to amounts earned after December 31, 2004, if such amounts are includible in income as earned.

SEC. 672. PROHIBITION ON DEFERRAL OF GAIN FROM THE EXERCISE OF STOCK OPTIONS AND RESTRICTED STOCK GAINS THROUGH DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 83 (relating to property transferred in connection with performance of services) is amending by adding at the end the following new subsection:

"(i) PROHIBITION ON ADDITIONAL DEFERRAL THROUGH DEFERRED COMPENSATION ARRANGEMENTS.—If a taxpayer exchanges—

"(1) an option to purchase employer securities—

"(A) to which subsection (a) applies, or

"(B) which is described in subsection (e)(3), or

"(2) employer securities or any other property based on employer securities transferred to the taxpayer,

for a right to receive future payments, then, notwithstanding any other provision of this title, there shall be included in gross income for the taxable year of the exchange an amount equal to the present value of such right (or such other amount as the Secretary may by regulations specify). For purposes of this subsection, the term 'employer securities' includes any security issued by the employer.".

(b) CONTROLLED GROUP RULES.—Section 414(t)(2) is amended by inserting "83(i)," after "79,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any exchange after December 31, 2004.

SEC. 673. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS IN EXCESS OF $1,000,000.

(a) IN GENERAL.—If an employer elects under Treasury Regulation 31.3402(g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent (or the corresponding rate in effect under section 1(i)(2) of the Internal Revenue Code of 1986 for taxable years beginning in the calendar year in which the payment is made).

(b) SPECIAL RULE FOR LARGE PAYMENTS.—

(1) IN GENERAL.—Notwithstanding subsection (a), if the supplemental wage payment, when added to all such payments previously made by the employer to the employee during the calendar year, exceeds $1,000,000, the rate used with respect to such excess shall be equal to the maximum rate of tax in effect under section 1 of such Code for taxable years beginning in such calendar year.

(2) AGGREGATION.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subsection.

(c) CONFORMING AMENDMENT.—Section 13273 of the Revenue Reconciliation Act of 1993 (Public Law 103–66) is repealed.

(d) EFFECTIVE DATE.—The provisions of, and the amendment made by, this section shall apply to payments made after December 31, 2003.

SEC. 674. TREATMENT OF SALE OF STOCK ACQUIRED PURSUANT TO EXERCISE OF STOCK OPTIONS TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

(a) IN GENERAL.—Section 421 of the Internal Revenue Code of 1986 (relating to general rules for certain stock options) is amended by adding at the end the following new subsection:

"(d) CERTAIN SALES TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.—If—

"(1) a share of stock is transferred to an eligible person (as defined in section 1043(b)(1)) pursuant to such person's exercise of an option to which this part applies, and

"(2) such share is disposed of by such person pursuant to a certificate of divestiture (as defined in section 1043(b)(2)),

such disposition shall be treated as meeting the requirements of section 422(a)(1) or 423(a)(1), whichever is applicable."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 675. APPLICATION OF BASIS RULES TO EMPLOYER AND EMPLOYEE CONTRIBUTIONS ON BEHALF OF NONRESIDENT ALIENS.

(a) IN GENERAL.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (w) as subsection (x) and by inserting after subsection (v) the following new subsection:

"(w) APPLICATION OF BASIS RULES TO EMPLOYER AND EMPLOYEE CONTRIBUTIONS MADE ON BEHALF OF NONRESIDENT ALIENS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, for purposes of determining the portion of any distribution which is includible in gross income of a distributee who is a citizen or resident of the United States, the investment in the contract shall not include any applicable nontaxable contributions.

"(2) APPLICABLE NONTAXABLE CONTRIBUTION.—For purposes of this subsection, the term 'applicable nontaxable contribution' means any employer or employee contribution—

"(A) which was made with respect to compensation for labor or personal services by an employee who, at the time the services were performed, was a nonresident alien for purposes of the laws of the United States in effect at such time, but only if such compensation is treated as from sources without the United States, and

"(B) which was not subject to income tax under the laws of the United States or any foreign country.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection, including regulations treating contributions as not subject to tax under the laws of any foreign country where appropriate to carry out the purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after the date of the enactment of this Act.

TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions

SEC. 701. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Section 9812(f) is amended—

(1) by striking "and" at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

"(2) on or after January 1, 2004, and before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act, and

"(3) after December 31, 2005.".

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to benefits for services furnished on or after December 31, 2003.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to benefits for services furnished on or after December 31, 2004.

SEC. 702. MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) PERMANENT EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 51(c) is amended by striking paragraph (4).

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

(A) IN GENERAL.—Section 51A is amended by striking subsection (f).

(B) CONFORMING AMENDMENTS.—

(i) The heading for section 51A is amended by striking "**TEMPORARY**".

(ii) The item relating to section 51A in the table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking "Temporary incentives" and inserting "Incentives".

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking "25" and inserting "40".

(d) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

"(5) DESIGNATED COMMUNITY RESIDENTS.—

"(A) In general.—The term 'designated community resident' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 40 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

"(B) Individual must continue to reside in zone or community.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community."

(2) Conforming amendment.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

"(D) a designated community resident,".

(e) Effective Dates.—

(1) Extension of credits.—The amendments made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

(2) Modifications.—The amendments made by subsections (b), (c), and (d) shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 703. CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.

(a) In General.—Paragraph (1) of section 51(d) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) a long-term family assistance recipient."

(b) Long-Term Family Assistance Recipient.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) Long-term family assistance recipient.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

"(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation."

(c) Increased Credit for Employment of Long-Term Family Assistance Recipients.—Section 51 is amended by inserting after subsection (d) the following new subsection:

"(e) Credit for Employment of Long-Term Family Assistance Recipients.—

"(1) In general.—With respect to the employment of a long-term family assistance recipient—

"(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

"(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

"(2) Qualified second-year wages.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

"(A) which are paid to a long-term family assistance recipient, and

"(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

"(3) Special rules for agricultural and railway labor.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

"(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'."

(d) Repeal of Separate Welfare-to-Work Credit.—

(1) In general.—Section 51A is hereby repealed.

(2) Clerical amendment.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(e) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 704. QUALIFIED ZONE ACADEMY BONDS.

(a) In General.—Paragraph (1) of section 1397E(e) is amended by striking "and 2003" and inserting "2003, 2004, and 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2003.

SEC. 705. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) In General.—Paragraph (1) of section 7652(f) is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(b) Effective Date.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2003.

SEC. 706. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.

(a) Scientific Property Used for Research.—

(1) In general.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting "or assembled" after "constructed".

(2) Conforming amendment.—Clause (iii) of section 170(e)(4)(B) is amended by inserting "or assembling" after "construction".

(b) Computer Technology and Equipment for Educational Purposes.—

(1) In general.—Clause (ii) of section 170(e)(6)(B) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(2) Special rule extended.—Section 170(e)(6)(G) is amended by striking "2003" and inserting "2005".

(3) Conforming amendments.—Subparagraph (D) of section 170(e)(6) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(c) Effective Date.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2003.

SEC. 707. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) In General.—Subparagraph (D) of section 62(a)(2) is amended by striking "or 2003" and inserting ", 2003, 2004, or 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.

SEC. 708. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) Extension of Termination Date.—Subsection (h) of section 198 is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 709. EXPANSION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.

(a) Extension of Tax-Exempt Bond Financing.—Subparagraph (D) of section 1400L(d)(2) is amended by striking "2005" and inserting "2006".

(b) Clarification of Bonds Eligible for Advance Refunding.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking ", or" and inserting "or the Municipal Assistance Corporation, or".

(c) Election Out Technical Amendment.—Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

"(5) Election out.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.".

(d) Effective date.—The amendments made by subsections (b) and (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 710. REPEAL OF REDUCTION OF DEDUCTIONS FOR MUTUAL LIFE INSURANCE COMPANIES.

(a) In General.—Section 809 of the Internal Revenue Code of 1986 (relating to reductions in certain deduction of mutual life insurance companies) is hereby repealed.

(b) Conforming Amendments.—

(1) Subsections (a)(2)(B) and (b)(1)(B) of section 807 of such Code are each amended by striking "the sum of (i)" and by striking "plus (ii) any excess described in section 809(a)(2) for the taxable year,".

(2)(A) The last sentence of section 807(d)(1) of such Code is amended by striking "section 809(b)(4)(B)" and inserting "paragraph (6)".

(B) Subsection (d) of section 807 of such Code is amended by adding at the end the following new paragraph:

"(6) Statutory reserves.—The term 'statutory reserves' means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c)."

(3) Subsection (c) of section 808 of such Code is amended to read as follows:

"(c) Amount of Deduction.—The deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year."

(4) Subparagraph (A) of section 812(b)(3) of such Code is amended by striking "sections 808 and 809" and inserting "section 808".

(5) Subsection (c) of section 817 of such Code is amended by striking "(other than section 809)".

(6) Subsection (c) of section 842 of such Code is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(7) The table of sections for subpart C of part I of subchapter L of chapter 1 of such Code is amended by striking the item relating to section 809.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 711. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) Designation of Zone.—Subsection (f) of section 1400 is amended by striking "December 31, 2003" both places it appears and inserting "December 31, 2005".

(b) Tax-Exempt Economic Development Bonds.—Subsection (b) of section 1400A is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(c) Zero Percent Capital Gains Rate.—

(1) In general.—Subsection (b) of section 1400B is amended by striking "January 1, 2004" each place it appears and inserting "January 1, 2006".

(2) Conforming amendments.—

(A) Section 1400B(e)(2) is amended—

(i) by striking "December 31, 2008" and inserting "December 31, 2010", and

(ii) by striking "2008" in the heading and inserting "2010".

(B) Section 1400B(g)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(C) Section 1400F(d) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(d) First-Time Homebuyer Credit.—Subsection (i) of section 1400C is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) Tax-exempt economic development bonds.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 712. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) In General.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

"(5) Disclosure for combined employment tax reporting.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 713. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) In General.—Paragraph (2) of section 26(a) is amended—

(1) by striking "RULE FOR 2000, 2001, 2002, AND 2003.—" and inserting "RULE FOR TAXABLE YEARS 2000 THROUGH 2004.—", and

(2) by striking "or 2003" and inserting "2003, or 2004".

(b) Conforming Provisions.—

(1) Section 904(i), as redesignated by this Act, is amended by striking "or 2003" and inserting "2003, or 2004".

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 714. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) In General.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking "January 1, 2004" and inserting "January 1, 2005".

(b) Effective Date.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

SEC. 715. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) In General.—Subparagraph (H) of section 613A(c)(6) is amended by striking "January 1, 2004" and inserting "January 1, 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 716. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 717. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 718. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 719. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) Amendments of ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Pension Funding Equity Act of 2004" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Pension Funding Equity Act of 2004" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended by striking "Pension Funding Equity Act of 2004" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(b) Minimum Cost Requirements.—

(1) In general.—Section 420(c)(3)(E) is amended by adding at the end the following new clause:

"(ii) Insignificant cost reductions permitted.—

"(I) In general.—An eligible employer shall not be treated as failing to meet the requirements of this paragraph for any taxable year if, in lieu of any reduction of retiree health coverage permitted under the regulations prescribed under clause (i), the employer reduces applicable employer cost by an amount not in excess of the reduction in costs which would have occurred if the employer had made the maximum permissible reduction in retiree health coverage under such regulations. In applying such regulations to any subsequent taxable year, any reduction in applicable employer cost under this clause shall be treated as if it were an equivalent reduction in retiree health coverage.

"(II) Eligible employer.—For purposes of subclause (I), an employer shall be treated as an eligible employer for any taxable year if, for the preceding taxable year, the qualified current retiree health liabilities of the employer were at least 5 percent of the gross receipts of the employer. For purposes of this subclause, the rules of paragraphs (2), (3)(B), and (3)(C) of section 448(c) shall apply in determining the amount of an employer's gross receipts.".

(2) Conforming amendment.—Section 420(c)(3)(E) is amended by striking "The Secretary" and inserting:

"(i) In general.—The Secretary".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 720. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) In General.—Section 30(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) Conforming Amendments.—

(1) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(2) Section 55(c)(2) is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 721. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY.

(a) In General.—Paragraph (1) of section 179A(b) is amended to read as follows:

"(1) Qualified clean-fuel vehicle property.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

"(A) in the case of a motor vehicle not described in subparagraph (B) or (C), $2,000,

"(B) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(C) $50,000 in the case of—

"(i) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(ii) any bus which has a seating capacity of at least 20 adults (not including the driver).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

Subtitle B—Revenue Provisions

SEC. 731. DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

(a) In General.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

"(11) Contributions of used motor vehicles, boats, and airplanes.—

"(A) In general.—In the case of a contribution of a qualified vehicle in excess of $500—

"(i) paragraph (8) shall not apply and no deduction shall be allowed under subsection (a) for such contribution unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization that meets the requirements of subparagraph (B) and includes the acknowledgement with the taxpayer's return of tax which includes the deduction, and

"(ii) if the organization sells the vehicle without any significant intervening use or material improvement of such vehicle by the organization, the amount of the deduction allowed under subsection (a) shall not exceed the gross proceeds received from such sale.

"(B) Content of acknowledgement.—An acknowledgement meets the requirements of this subparagraph if it includes the following information:

"(i) The name and taxpayer identification number of the donor.

"(ii) The vehicle identification number or similar number.

"(iii) In the case of a qualified vehicle to which subparagraph (A)(ii) applies and which is sold by the donee organization—

"(I) a certification that the vehicle was sold in an arm's length transaction between unrelated parties,

"(II) the gross proceeds from the sale, and

"(III) that the deductible amount may not exceed the amount of such gross proceeds.

"(iv) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply—

"(I) a certification of the intended use or material improvement of the vehicle and the intended duration of such use, and

"(II) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgement shall be considered to be contemporaneous if the donee organization provides it within 30 days of—

"(i) the sale of the qualified vehicle, or

"(ii) in the case of an acknowledgement including a certification described in subparagraph (B)(iv), the contribution of the qualified vehicle.

"(D) INFORMATION TO SECRETARY.—A donee organization required to provide an acknowledgement under this paragraph shall provide to the Secretary the information contained in the acknowledgement. Such information shall be provided at such time and in such manner as the Secretary may prescribe.

"(E) QUALIFIED VEHICLE.—For purposes of this paragraph, the term 'qualified vehicle' means any—

"(i) self-propelled vehicle manufactured primarily for use on public streets, roads, and highways,

"(ii) boat, or

"(iii) airplane.

Such term shall not include any property which is described in section 1221(a)(1).

"(F) REGULATIONS OR OTHER GUIDANCE.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this paragraph.".

(b) PENALTY FOR FRAUDULENT ACKNOWLEDGMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalities), as amended by section 882(c) of this Act, is amended adding at the end the following new section:

"SEC. 6720A. FRAUDULENT ACKNOWLEDGMENTS WITH RESPECT TO DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

"Any donee organization required under section 170(f)(11)(A) to furnish a contemporaneous written acknowledgment to a donor which knowingly furnishes a false or fraudulent acknowledgment, or which knowingly fails to furnish such acknowledgment in the manner, at the time, and showing the information required under section 170(f)(11), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty equal to—

"(1) in the case of an acknowledgment with respect to a qualified vehicle to which section 170(f)(11)(A)(ii) applies, the greater of the value of the tax benefit to the donor or the gross proceeds from the sale of such vehicle, and

"(2) in the case of an acknowledgment with respect to any other qualified vehicle to which section 170(f)(11) applies, the greater of the value of the tax benefit to the donor or $5,000.".

(2) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 882(c) of this Act, is amended by adding at the end the following new item:

"Sec. 6720A. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions after June 30, 2004.

SEC. 732. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by this Act, is amended adding at the end the following new subparagraph:

"(N) Any trivalent vaccine against influenza.".

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 733. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.--The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

"(A) IN GENERAL.—In the case of a debt instrument which—

"(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

"(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed rate debt instrument which is convertible into stock.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.".

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

"For the treatment of contingent payment convertible debt, see section 1275(d)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 734. MODIFICATION OF CONTINUING LEVY ON PAYMENTS TO FEDERAL VENDERS.

(a) IN GENERAL.—Section 6331(h) (relating to continuing levy on certain payments) is amended by adding at the end the following new paragraph:

"(3) INCREASE IN LEVY FOR CERTAIN PAYMENTS.—Paragraph (1) shall be applied by substituting '100 percent' for '15 percent' in the case of any specified payment due to a vendor of goods or services sold or leased to the Federal Government.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE VIII—ENERGY TAX INCENTIVES

SEC. 800. SHORT TITLE.

This title may be cited as the "Energy Tax Incentives Act".

Subtitle A—Renewable Electricity Production Tax Credit

SEC. 801. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—Subsection (c) of section 45 (relating to electricity produced from certain renewable resources) is amended to read as follows:

"(c) QUALIFIED ENERGY RESOURCES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified energy resources' means—

"(A) wind,

"(B) closed-loop biomass,

"(C) open-loop biomass,

"(D) geothermal energy,

"(E) solar energy,

"(F) small irrigation power,

"(G) biosolids and sludge, and

"(H) municipal solid waste.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) OPEN-LOOP BIOMASS.—

"(A) IN GENERAL.—The term 'open-loop biomass' means—

"(i) any agricultural livestock waste nutrients, or

"(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush; but not including spent chemicals from pulp manufacturing,

"(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

"(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

"(B) AGRICULTURAL LIVESTOCK WASTE NUTRIENTS.—

"(i) IN GENERAL.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

"(ii) AGRICULTURAL LIVESTOCK.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

"(C) EXCEPTIONS.—The term 'open-loop biomass' does not include—

"(i) closed-loop biomass, or

"(ii) biomass burned in conjunction with fossil fuel (cofiring) beyond such fossil fuel required for startup and flame stabilization.

"(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

"(5) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the installed capacity of which is less than 5 megawatts.

"(6) BIOSOLIDS AND SLUDGE.—The term 'biosolids and sludge' means the residue or solids removed in the treatment of commercial, industrial, or municipal wastewater.

"(7) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the *term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).".*

(b) EXTENSION AND EXPANSION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—Section 45 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED FACILITIES.—For purposes of this section—

"(1) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

"(2) CLOSED-LOOP BIOMASS FACILITY.—

"(A) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

"(B) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii)—

"(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than January 1, 2005,

"(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

"(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(3) OPEN-LOOP BIOMASS FACILITY.—

"(A) IN GENERAL.—In the case of a facility using open-loop biomass to produce electricity for grid sale in excess of its internal requirements, the term 'qualified facility' means any facility owned by the taxpayer which—

"(i) in the case of a facility using agricultural livestock waste nutrients, is originally placed in service after December 31, 2004, and before January 1, 2007, and

"(ii) in the case of any other facility, is originally placed in service before January 1, 2005.

"(B) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in subparagraph (A)(ii) which is placed in service before January 1, 2005—

"(i) subsection (a)(1) shall be applied by substituting '1.2 cents' for '1.5 cents', and

"(ii) the 5-year period beginning on January 1, 2005, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) CREDIT ELIGIBILITY.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

"(5) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007.

"(6) BIOSOLIDS AND SLUDGE FACILITY.—In the case of a facility using waste heat from the incineration of biosolids and sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account for purposes of the energy credit under section 46.

"(7) MUNICIPAL SOLID WASTE FACILITY.—

"(A) IN GENERAL.—In the case of a facility or unit incinerating municipal solid waste to produce electricity, the term 'qualified facility' means any facility or unit owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007.

"(B) SPECIAL RULE.—In the case of any facility or unit described in subparagraph (A), the 5-year period beginning on the date the facility or unit was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) CREDIT ELIGIBILITY.—In the case of any qualified facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.".

(2) NO CREDIT FOR CERTAIN PRODUCTION.—Section 45(e) (relating to definitions and special rules), as redesignated by paragraph (1), is amended by striking paragraph (6) and inserting the following new paragraph:

"(6) OPERATIONS INCONSISTENT WITH SOLID WASTE DISPOSAL ACT.—In the case of a qualified facility described in subsection (d)(6)(A), subsection (a) shall not apply to electricity produced at such facility during any taxable year if, during a portion of such year, there is a certification in effect by the Administrator of the Environmental Protection Agency that such facility was permitted to operate in a manner inconsistent with section 4003(d) of the Solid Waste Disposal Act (42 U.S.C. 6943(d)).".

(3) CONFORMING AMENDMENT.—Section 45(e), as so redesignated, is amended by striking "subsection (c)(3)(A)" in paragraph (7)(A)(i) and inserting "subsection (d)(1)".

(c) CREDIT RATE FOR ELECTRICITY PRODUCED FROM NEW FACILITIES.—

(1) IN GENERAL.—Section 45(a) is amended by adding at the end the following new flush sentence:

"In the case of electricity produced after December 31, 2004, at any qualified facility originally placed in service after such date, paragraph (1) shall be applied by substituting '1.8 cents' for '1.5 cents'.".

(2) NEW RATE NOT SUBJECT TO INFLATION ADJUSTMENT.—Section 45(b)(2) (relating to credit and phaseout adjustment based on inflation) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any amount which is substituted for the 1.5 cent amount in subsection (a) by reason of any provision of this section.".

(d) ELIMINATION OF CERTAIN CREDIT REDUCTIONS.—Section 45(b)(3)(A) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting "(other than proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103, or any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act)" after "project" in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).", and

(5) by striking "TAX-EXEMPT BONDS," in the heading and inserting "CERTAIN".

(e) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—Section 45(e) (relating to definitions and special rules), as redesignated by subsection (b)(1), is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

"(A) ALLOWANCE OF CREDIT.—

"(i) IN GENERAL.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(VI) the Tennessee Valley Authority.

"(B) TRANSFER OF CREDIT.—

"(i) IN GENERAL.—A person described in subclause (I), (II), (III), (IV), or (V) of subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act.

"(D) USE BY TVA.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in subparagraph (A)(ii)(VI), any credit to which subparagraph (A)(i) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(ii) TREATMENT OF CREDITS.—The aggregate amount of credits described in subparagraph (A)(i) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(iii) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described subparagraph (A)(i) with respect to such person exceeds the aggregate amount of payment obligations described in clause (i), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this subparagraph.

"(E) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(F) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(3) CREDIT RATE FOR NEW FACILITIES.—The amendments made by subsection (c) shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(4) NONAPPLICATION OF AMENDMENTS TO PREEFFECTIVE DATE POULTRY WASTE FACILITIES.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on December 31, 2004) placed in service on or before such date.

Subtitle B—Alternative Motor Vehicles and Fuels Incentives

SEC. 811. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) INCREASE FOR FUEL EFFICIENCY.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

"(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

"(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent	$250
At least 10 percent but less than 20 percent	$500
At least 20 percent but less than 30 percent	$750
At least 30 percent	$1,000.

"(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

"(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent	$1,000
At least 30 percent but less than 40 percent	$1,750
At least 40 percent but less than 50 percent	$2,000
At least 50 percent but less than 60 percent	$2,250
At least 60 percent	$2,500.

"(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	$4,000
At least 30 percent but less than 40 percent	$4,500
At least 40 percent but less than 50 percent	$5,000
At least 50 percent but less than 60 percent	$5,500
At least 60 percent	$6,000.

"(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	$6,000
At least 30 percent but less than 40 percent	$7,000
At least 40 percent but less than 50 percent	$8,000
At least 50 percent but less than 60 percent	$9,000
At least 60 percent	$10,000.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

"(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

"(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

"(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	The increased credit amount is:
2004	$2,500
2005	$2,000
2006	$1,500.

"(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2004	$6,500
2005	$5,250
2006	$4,000.

"(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2004	$10,000
2005	$8,000
2006	$6,000.

"(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

"(ii) MAXIMUM AVAILABLE POWER.—

"(I) PASSENGER AUTOMOBILE, MEDIUM DUTY PASSENGER VEHICLE, OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(i) which draws propulsion energy from onboard sources of stored energy which are both—

"(I) an internal combustion or heat engine using consumable fuel, and

"(II) a rechargeable energy storage system,

"(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

"(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(iii) which, in the case of a heavy duty hybrid motor vehicle, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

"(iv) the original use of which commences with the taxpayer,

"(v) which is acquired for use or lease by the taxpayer and not for resale, and

"(vi) which is made by a manufacturer.

"(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

"(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

"(A) 40 percent, plus

"(B) 30 percent, if such vehicle—

"(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

"(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act.

"(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

"(i) which is only capable of operating on an alternative fuel,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehicle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(8) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before January 1, 2005.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(11) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 30C(f)(4).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30(b)(2),".

(3) Section 6501(m) is amended by inserting "30C(f)(9)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Alternative motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 812. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Paragraph (1) of section 30(b) (relating to limitations) is amended to read as follows:

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) except as provided in clause (ii) or (iii), $3,500,

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds, and

"(iii) if such vehicle is a low-speed vehicle which conforms to Standard 500 prescribed by the Secretary of Transportation (49 C.F.R. 571.500), as in effect on the date of the enactment of the Energy Tax Incentives Act, the lesser of—

"(I) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(II) $1,500.

"(B) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.".

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "BATTERY" after "QUALIFIED".

(C) The heading of section 30 is amended by inserting "**BATTERY**" after "**QUALIFIED**".

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "BATTERY" before "ELECTRIC".

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before January 1, 2005.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 813. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30D. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) YEAR CREDIT ALLOWED.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30C, over

"(2) the tentative minimum tax for the taxable year.

"(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) NO DOUBLE BENEFIT.—

"(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(2) NO DEDUCTION ALLOWED UNDER SECTION 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—Subsection (f) of section 179A is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 30D(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30D(e)," after "30C(e),".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30C the following new item:

"Sec. 30D. Clean-fuel vehicle refueling property credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 814. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	**The applicable amount is—**
2005 and 2006	50 cents.

"(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) SOLD AT RETAIL.—

"(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any new qualified alternative fuel motor vehicle (as defined in section 30C(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the alternative fuel retail sales credit determined under section 40A(a).".

(c) LIMITATION ON CARRYBACK.—

(1) IN GENERAL.—Subsection (d) of section 39, as amended by this Act, is amended to read as follows:

"(d) TRANSITIONAL RULE.—No portion of the unused business credit for any taxable year which is attributable to a credit specified in section 38(b) may be carried back to any taxable year before the first taxable year for which such specified credit is allowable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to taxable years beginning after December 31, 2003.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to fuel sold at retail after December 31, 2004, in taxable years ending after such date.

SEC. 815. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following new paragraph:

"(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3),".

(3) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations), as amended by this Act, is amended by adding at the end the following new subsection:

"(l) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle C—Conservation and Energy Efficiency Provisions

SEC. 821. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

"(i) in the case of a 30-percent home, $1,000, and

"(ii) in the case of a 50-percent home, $2,000.

"(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

"(i) 30-PERCENT HOME.—The term '30-percent home' means—

"(I) a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a qualifying new home constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment, or

"(II) in the case of a qualifying new home which is a manufactured home, a home which meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which would be described in clause (i)(I) if 50 percent were substituted for 30 percent.

"(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—The amount of the credit otherwise allowable for the taxable year with respect to a qualifying new home under clause (i) or (ii) of subparagraph (A) shall be reduced by the sum of the credits allowed under subsection (a) to any taxpayer with respect to the home for all preceding taxable years.

"(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy credit (as determined under section 48(a)), and

"(B) expenditures taken into account under section 25D, 47, or 48(a) shall not be taken into account under this section.

"(3) PROVIDER LIMITATION.—Any eligible contractor who directly or indirectly provides the guarantee of energy savings under a guarantee-based method of certification described in subsection (d)(1)(D) shall not be eligible to receive the credit allowed by this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

"(A) the person who constructed the qualifying new home, or

"(B) in the case of a qualifying new home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualifying new home, such term means the person designated as such by the owner of such home.

"(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any *energy efficient heating or cooling equipment or system which can, individually or in combination with other components, meet the requirements of this section.*

"(3) QUALIFYING NEW HOME.—

"(A) IN GENERAL.—The term 'qualifying new home' means a dwelling—

"(i) located in the United States,

"(ii) the construction of which is substantially completed after December 31, 2004, and

"(iii) the first use of which after construction is as a principal residence (within the meaning of section 121).

"(B) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

"(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method, a performance-based method, or a guarantee-based method, or, in the case of a qualifying new home which is a manufactured home, by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance to properties which qualify under subparagraph (C).

"(C) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a new home—

"(I) heated by the same fuel type, and

"(II) constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(D) GUARANTEE-BASED METHOD.—

"(i) IN GENERAL.—A guarantee-based method is a method which guarantees in writing to the homeowner energy savings of either 30 percent or 50 percent over the 2000 International Energy Conservation Code for heating and cooling costs. The guarantee shall be provided for a minimum of 2 years and shall fully reimburse the homeowner any heating and cooling costs in excess of the guaranteed amount.

"(ii) COMPUTER SOFTWARE.—Computer software shall be selected by the provider to support the guarantee-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

"(A) in the case of a component-based method, a local building regulatory authority, a utility, or a home energy rating organization,

"(B) in the case of a performance-based method or a guarantee-based method, an individual recognized by an organization designated by the Secretary for such purposes, or

"(C) in the case of a qualifying new home which is a manufactured home, a manufactured home primary inspection agency.

"(3) FORM.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and

"(i) in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home, and

"(ii) in the case of a qualifying new home which is a manufactured home, accompanied by such documentation as required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and solar heat gain coefficient for windows, skylights, and doors, labeled annual fuel utilization efficiency (AFUE) ratings for furnaces and boilers, labeled heating seasonal performance factor (HSPF) ratings for electric heat pumps, and labeled seasonal energy efficiency ratio (SEER) ratings for air conditioners.

"(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based and guarantee-based certification methods, the Secretary shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(e) APPLICATION.—Subsection (a) shall apply to qualifying new homes the construction of which is substantially completed after December 31, 2004, and purchased during the period beginning on such date and ending on—

"(1) in the case of any 30-percent home, December 31, 2005, and

"(2) in the case of any 50-percent home, December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) the new energy efficient home credit determined under section 45K(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45K(a).".

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits), as amended by this Act, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding after paragraph (11) the following new paragraph:

"(12) the new energy efficient home credit determined under section 45K(a).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. New energy efficient home credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to homes the construction of which is substantially completed after December 31, 2004.

SEC. 822. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) AMOUNT.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

"(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

"(1) APPLICABLE AMOUNT.—The applicable amount is—

"(A) $50, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.42 MEF, or

"(ii) a refrigerator which consumes at least 10 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001,

"(B) $100, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.50 MEF, or

"(ii) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator manufactured after 2006) less kilowatt hours per year than such energy conservation standards, and

"(C) $150, in the case of a refrigerator manufactured before 2007 which consumes at least 20 percent less kilowatt hours per year than such energy conservation standards.

"(2) ELIGIBLE PRODUCTION.—

"(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

"(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

"(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2001, 2002, and 2003.

"(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

"(i) clothes washers described in paragraph (1)(A)(i),

"(ii) clothes washers described in paragraph (1)(B)(i),

"(iii) refrigerators described in paragraph (1)(A)(ii),

"(iv) refrigerators described in paragraph (1)(B)(ii), and

"(v) refrigerators described in paragraph (1)(C).

"(c) LIMITATION ON MAXIMUM CREDIT.—

"(1) IN GENERAL.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $60,000,000, of which not more than $30,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsection (b)(1)(A).

"(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

"(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

"(B) a refrigerator described in subparagraph (A)(ii), (B)(ii), or (C) of subsection (b)(1).

"(2) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

"(3) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

"(e) SPECIAL RULES.—

"(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

"(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

"(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

"(g) TERMINATION.—This section shall not apply—

"(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2005, and

"(2) with respect to all other qualified energy efficient appliances produced after December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the energy efficient appliance credit determined under section 45L(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. Energy efficient appliance credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2004, in taxable years ending after such date.

SEC. 823. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

"(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

"(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

"(A) $2,000 for property described in paragraph (1), (2), or (5) of subsection (d),

"(B) $500 for each 0.5 kilowatt of capacity of property described in subsection (d)(4), and

"(C) for property described in subsection (d)(6)—

"(i) $150 for each electric heat pump water heater,

"(ii) $125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

"(iii) $150 for each advanced natural gas, oil, or propane water heater,

"(iv) $50 for each natural gas, oil, or propane water heater,

"(v) $50 for an advanced main air circulating fan,

"(vi) $150 for each advanced combination space and water heating system,

"(vii) $50 for each combination space and water heating system, and

"(viii) $250 for each geothermal heat pump.

"(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER) for property described in subsection (d)(6)(B)(viii)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

"(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure, "(ii) an advanced natural gas, oil, propane furnace, or hot water boiler which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

"(iii) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

"(iv) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

"(v) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

"(vi) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

"(vii) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, and

"(viii) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

"(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B) is amended by inserting "and section 25C" after "this section".

(C) Section 24(b)(3)(B) is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(D) Section 25(e)(1)(C) is amended by inserting "25C," after "25B,".

(E) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23 and 25C".

(F) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, and 25C".

(G) Section 904(i), as redesignated and amended by this Act, is amended by striking "and 25B" and inserting "25B, and 25C".

(H) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, and 25C".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential energy efficient property.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2004, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2004.

SEC. 824. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property,".

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48(a) (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

"(A) QUALIFIED FUEL CELL PROPERTY.—

"(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.

"(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

"(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

"(iv) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.

"(B) QUALIFIED MICROTURBINE PROPERTY.—

"(i) IN GENERAL.—The term 'qualified microturbine property' means a stationary microturbine power plant which—

"(I) has a capacity of less than 2,000 kilowatts, and

"(II) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

"(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

"(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) TERMINATION.—The term 'qualified microturbine property' shall not include any property placed in service after December 31, 2006.".

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 825. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

"SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year in which a building is placed in service by a taxpayer, an amount equal to the energy efficient commercial building property expenditures made by such taxpayer with respect to the construction or reconstruction of such building for the taxable year or any preceding taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building with respect to which the expenditures are made.

"(c) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means amounts paid or incurred for energy efficient property installed on or in connection with the construction or reconstruction of a building—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) which is the type of structure to which the Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America is applicable. Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) ENERGY EFFICIENT PROPERTY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'energy efficient property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which meets the minimum requirements of Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, using methods of calculation described in subparagraph (B) and certified by qualified individuals as provided under paragraph (5).

"(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power costs.

"(C) COMPUTER SOFTWARE.—

"(i) IN GENERAL.—Any calculation described in subparagraph (B) shall be prepared by qualified computer software.

"(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

"(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power costs as required by the Secretary,

"(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

"(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property expenditures made by a public entity with respect to the construction or reconstruction of a public building, the Secretary shall promulgate regulations under which the value of the deduction with respect to such expenditures which would be allowable to the public entity under this section (determined without regard to the tax-exempt status of such entity) may be allocated to the person primarily responsible for designing the energy efficient property. Such person shall be treated as the taxpayer for purposes of this section.

"(4) NOTICE TO OWNER.—Any qualified individual providing a certification under paragraph (5) shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings by qualified individuals described in subparagraph (B). Such procedures shall be—

"(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards, and

"(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the credit under this section regardless of whether such building uses a gas or oil furnace or boiler or an electric heat pump.

"(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy ratings organization, a local building regulatory authority, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this paragraph.

"(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

"(d) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(e) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (c)(2)(B) with respect to property which is part of a lighting system—

"(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

"(2) REDUCTION IN CREDIT IF REDUCTION LESS THAN 40 PERCENT.—

"(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction of lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of credit otherwise allowable under this section with respect to such property shall be allowed.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

"(i) 50, and

"(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

"(C) EXCEPTIONS.—This subsection shall not apply to any system—

"(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

"(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

"(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(g) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with a building the construction of which is not completed on or before December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 179B(d).".

(2) Section 1245(a) is amended by inserting "179B," after "179A," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179B".

(4) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179B.".

(5) Section 312(k)(3)(B) is amended by striking "or 179A" each place it appears in the heading and text and inserting ", 179A, or 179B".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

"Sec. 179B. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 826. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.".

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(17) QUALIFIED ENERGY MANAGEMENT DEVICE.—

"(A) IN GENERAL.—The term 'qualified energy management device' means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

"(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term 'energy management device' means any meter or metering device which is used by the taxpayer—

"(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (A)(iii) the following:

"(A)(iv) .... 20".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 827. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) QUALIFIED WATER SUBMETERING DEVICE.—

"(A) IN GENERAL.—The term 'qualified water submetering device' means any water submetering device which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier with respect to the unit for which the device is placed in service.

"(B) WATER SUBMETERING DEVICE.—For purposes of this paragraph, the term 'water submetering device' means any submetering device which is used by the taxpayer—

"(i) to measure and record water usage data, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

"(C) ELIGIBLE RESUPPLIER.—For purposes of subparagraph (A), the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by inserting after the item relating to subparagraph (A)(iv) the following:

"(A)(v) .... 20".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 828. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (ii), by adding "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause:

"(iv) combined heat and power system property,".

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 (relating to energy credit; reforestation credit), as amended by this Act, is amended by adding at the end the following new subsection:

"(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(iv)—

"(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(C) which produces—

"(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(D) the energy efficiency percentage of which exceeds 60 percent, and

"(E) which is placed in service before January 1, 2007.

"(2) SPECIAL RULES.—

"(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

"(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(ii) the denominator of which is the lower heating value of the fuel sources for the system.

"(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

"(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(D) PUBLIC UTILITY PROPERTY.—

"(i) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(ii) CERTAIN EXCEPTION NOT TO APPLY.—The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

"(3) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse for at least 90 percent of the energy source—

"(A) paragraph (1)(D) shall not apply, but

"(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 829. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) LIMITATION.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the latest prescriptive criteria for such component in the International Energy Conservation Code approved by the Department of Energy before the installation of such component, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

"(1) such component or combination of measures is installed in or on a dwelling which—

"(A) is located in the United States,

"(B) has not been treated as a qualifying new home for purposes of any credit allowed under section 45K, and

"(C) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(2) the original use of such component or combination of measures commences with the taxpayer, and

"(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

"(e) CERTIFICATION.—

"(1) METHODS OF CERTIFICATION.—

"(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

"(B) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

"(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

"(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

"(A) in the case of the method described in paragraph (1)(A), a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

"(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

"(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) TERMINATION.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended—

(A) by striking "The credit" and inserting the following:

"(1) DOLLAR AMOUNT.—The credit", and

(B) by adding at the end the following new paragraph:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(2)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25D," after "25C,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23 and 25C" and inserting "23, 25C, and 25D".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(G) Section 904(i), as redesignated and amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting "; and", and by adding at the end the following new paragraph:

"(37) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after December 31, 2004, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2004.

Subtitle D—Clean Coal Incentives

PART I—CREDIT FOR EMISSION REDUCTIONS AND EFFICIENCY IMPROVEMENTS IN EXISTING COAL-BASED ELECTRICITY GENERATION FACILITIES

SEC. 831. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of clean coal technology production credit, multiplied by

"(2) the applicable percentage of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals, produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

"(2) INFLATION ADJUSTMENT.—For calendar years after 2005, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

"(A) on January 1, 2005—

"(i) was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit, and

"(ii) had a nameplate capacity rating of not more than 300 megawatts,

"(B) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on January 1, 2005,

"(C) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

"(D) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

"(2) CLEAN COAL TECHNOLOGY UNIT.—The term 'clean coal technology unit' means a unit which—

"(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology, for the production of electricity,

"(B) uses an input of at least 75 percent coal to produce at least 50 percent of its thermal output as electricity,

"(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

"(D) has a maximum design net heat rate of not more than 9,500, and

"(E) meets the pollution control requirements of paragraph (3).

"(3) POLLUTION CONTROL REQUIREMENTS.—

"(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

"(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

"(I) subparagraph (B), or

"(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

"(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

"(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

"(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

"(ii) in the case of nitrogen oxide emissions—

"(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

"(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

"(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

"(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

"(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels, and chemicals output from such unit (determined without regard to such unit's co-generation of steam),

"(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate [l−{((12,000-design coal heat content, Btu per pound)/1,000) 0.013}],

"(C) shall be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute (psia),

"(iii) temperature, dry bulb of 63°F,

"(iv) temperature, wet bulb of 54°F, and

"(v) relative humidity of 55 percent, and

"(D) if carbon capture controls have been installed with respect to any qualifying unit and such controls remove at least 50 percent of the unit's carbon dioxide emissions, shall be adjusted up to the design heat rate level which would have resulted without the installation of such controls.

"(5) HHV.—The term 'HHV' means higher heating value.

"(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.

"(7) INFLATION ADJUSTMENT FACTOR.—

"(A) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

"(B) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

"(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

"(1) IN GENERAL.—For purposes of this section, the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection,

"(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the megawatt capacity allocated to any unit under this subsection does not exceed 300 megawatts and the combined megawatt capacity allocated to all such units when all such units are placed in service during the 10-year period described in subsection (d)(1)(B), does not exceed 4,000 megawatts,

"(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

"(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance, be placed in service as soon as possible, and

"(ii) to allocate capacity to taxpayers which have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

"(I) a site,

"(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

"(III) filings for all necessary preconstruction approvals,

"(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

"(V) such other factors that the Secretary determines are appropriate,

"(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

"(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units which become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

"(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", plus", and by adding at the end the following new paragraph:

"(25) the qualifying clean coal technology production credit determined under section 45M(a).".

(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Credit for production from a qualifying clean coal technology unit.".

(d) Effective Date.—The amendments made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

PART II—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

SEC. 832. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) Allowance of Qualifying Advanced Clean Coal Technology Unit Credit.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the qualifying advanced clean coal technology unit credit.".

(b) Amount of Qualifying Advanced Clean Coal Technology Unit Credit.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

"(a) In General.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

"(b) Qualifying Advanced Clean Coal Technology Unit.—

"(1) In general.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

"(A)(i) in the case of a unit first placed in service after December 31, 2004, the original use of which commences with the taxpayer, or

"(ii) in the case of the retrofitting or repowering of a unit first placed in service before January 1, 2005, the retrofitting or repowering of which is completed by the taxpayer after such date, or

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States,

"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) Special rule for sale-leasebacks.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) Noncompliance with pollution laws.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) Applicable Percentage.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) Advanced Clean Coal Technology Unit.—For purposes of this section—

"(1) In general.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) Eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after December 31, 2004, and before January 1, 2013, and

"(B) has a design net heat rate of not more than 8,500 (8,900 in the case of units placed in service before 2009).

"(3) Eligible pressurized fluidized bed combustion technology unit.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after December 31, 2004, and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013).

"(4) Eligible integrated gasification combined cycle technology unit.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after December 31, 2004, and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2009, and 40.2 percent in the case of units placed in service after 2008 and before 2013).

"(5) Eligible other technology unit.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after December 31, 2004, and before January 1, 2017.

"(6) Carbon emission rate requirements.—

"(A) In general.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) Eligible other technology unit.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

"(e) General Definitions.—Any term used in this section which is also used in section 45M shall have the meaning given such term in section 45M.

"(f) National Limitation on the Aggregate Capacity of Advanced Clean Coal Technology Units.—

"(1) In general.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009);

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

"(2) Allocation of limitation.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45N,

"(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

"(C) to provide a certification process described in section 45M(e)(3)(C),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45M(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) SELECTION CRITERIA.—For purposes of this subsection, the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

"(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(ii), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) QUALIFIED PROGRESS EXPENDITURES.—

"(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.".

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following rules shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction the numerator of which is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and the denominator of which is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.".

(d) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).".

(2) Section 50(a)(4) is amended by striking "and (2)" and inserting ", (2), and (6)".

(3) Section 50(c) is amended by adding at the end the following new paragraph:

"(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

"Sec. 48A. Qualifying advanced clean coal technology unit credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2004, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 833. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45N. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) APPLICABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(A) If the qualifying advanced clean coal technology unit is producing electricity only:

"(i) In the case of a unit originally placed in service before 2009, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,500	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

"(B) If the qualifying advanced clean coal technology unit is producing fuel or chemicals:

"(i) In the case of a unit originally placed in service before 2009, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.2 percent ..	$.0060	$.0038
Less than 40.2 but not less than 39 percent	$.0025	$.0010
Less than 39 but not less than 38.4 percent	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent ..	$.0105	$.0090
Less than 43.9 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 46.3 percent ..	$.0140	$.0115
Less than 46.3 but not less than 44.2 percent	$.0120	$.0090.

"(2) SPECIAL RULE FOR UNITS QUALIFYING FOR GREATER APPLICABLE AMOUNT WHEN PLACED IN SERVICE.—If, at the time a qualifying advanced clean coal technology unit is placed in service, production from the unit would be entitled to a greater applicable amount if such unit had been placed in service at a later date, the applicable amount for such unit shall be such greater amount.

"(c) INFLATION ADJUSTMENT.—For calendar years after 2005, each dollar amount in subsection (b)(1) shall be adjusted by multiplying. such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 45M or 48A shall have the meaning given such term in such section.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", plus", and by adding at the end the following new paragraph:

"(26) the qualifying advanced clean coal technology production credit determined under section 45N(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45N.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45N. Credit for production from a qualifying advanced clean coal technology unit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

PART III—TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT

SEC. 834. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45M, as added by this Act, is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

"(1) ALLOWANCE OF CREDITS.—

"(A) IN GENERAL.—Any credit allowable under this section, section 45N, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) TRANSFER OF CREDIT.—

"(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

"(4) USE BY TVA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

"(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

"(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, transfers among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(B) shall be treated as transfers between unrelated parties.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

Subtitle E—Oil and Gas Provisions

SEC. 841. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45O. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount is—

"(A) $3 per barrel of qualified crude oil production, and

"(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

"(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

"(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2005, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

"(I) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2004.

"(II) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

"(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

"(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

"(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or domestic natural gas which is produced from a qualified marginal well.

"(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

"(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

"(B) PROPORTIONATE REDUCTIONS.—

"(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

"(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—Production from any well during any period in which such well is not in compliance with applicable Federal pollution prevention, control, and permit requirements shall not be treated as qualified crude oil production or qualified natural gas production.

"(4) DEFINITIONS.—

"(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

"(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

"(ii) which, during the taxable year—

"(I) has average daily production of not more than 25 barrel equivalents, and

"(II) produces water at a rate not less than 95 percent of total well effluent.

"(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(D) DOMESTIC NATURAL GAS.—The term 'domestic natural gas' does not include Alaska natural gas (as defined in section 45Q(c)(1)).

"(d) OTHER RULES.—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than 1 owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting ", plus", and by adding at the end the following new paragraph:

"(27) the marginal oil and gas well production credit determined under section 45O(a).".

(c) COORDINATION WITH SECTION 29.—Section 29(a) (relating to allowance of credit) is amended by striking "There" and inserting "At the election of the taxpayer, there".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45O. Credit for producing oil and gas from marginal wells.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2004.

SEC. 842. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking "and" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) any natural gas gathering line, and".

(b) NATURAL GAS GATHERING LINE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer, or

"(B) any other pipe, equipment, or appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(iii) .... 14".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 843. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) TREATMENT AS EXPENSES.—A small business refiner (as defined in section 45I(c)(1)) may elect to treat 75 percent of qualified capital costs (as defined in section 45I(c)(2)) which are paid or incurred by the taxpayer during the taxable year as expenses which are not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which paid or incurred.

"(b) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on December 31, 2002, in excess of 155,000 barrels, the number of percentage points described in subsection (a) shall be reduced (not below zero) by the product of such number (before the application of this subsection) and the ratio of such excess to 50,000 barrels. For purposes of calculating such average daily domestic refinery runs, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(c) BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(d) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting "; or", and by adding at the end the following new subparagraph:

"(K) expenditures for which a deduction is allowed under section 179C.".

(2) Section 263A(c)(3) is amended by inserting "179C," after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179B" each place it appears in the heading and text and inserting "179B, or 179C".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting ", and", and by adding at the end the following new paragraph:

"(38) to the extent provided in section 179C(c)."

(5) Paragraphs (2)(C) and (3)(C) of section 1245(a), as amended by this Act, are each amended by inserting "179C," after "179B,".

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 844. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45P. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

"(a) IN GENERAL.—For purposes of section 38, the amount of the low sulfur diesel fuel production credit determined under this section with respect to any facility of a small business refiner is an amount equal to 5 cents for each gallon of low sulfur diesel fuel produced during the taxable year by such small business refiner at such facility.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—The aggregate credit determined under subsection (a) for any taxable year with respect to any facility shall not exceed—

"(A) 25 percent of the qualified capital costs incurred by the small business refiner with respect to such facility, reduced by

"(B) the aggregate credits determined under this section for all prior taxable years with respect to such facility.

"(2) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on December 31, 2002, in excess of 155,000 barrels, the number of percentage points described in paragraph (1) shall be reduced (not below zero) by the product of such number (before the application of this paragraph) and the ratio of such excess to 50,000 barrels. For purposes of calculating such average daily domestic refinery runs, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

"(1) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

"(A) with respect to which not more than 1,500 individuals are engaged in the refinery operations of the business on any day during such taxable year, and

"(B) the average daily domestic refinery run or average retained production of which for all facilities of the taxpayer for the 1-year period ending on December 31, 2002, did not exceed 205,000 barrels.

For purposes of calculating such average daily domestic refinery run or retained production, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(2) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means, with respect to any facility, those costs paid or incurred during the applicable period for compliance with the applicable EPA regulations with respect to such facility, including expenditures for the construction of new process operation units or the dismantling and reconstruction of existing process units to be used in the production of low sulfur diesel fuel, associated adjacent or offsite equipment (including tankage, catalyst, and power supply), engineering, construction period interest, and sitework.

"(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.

"(4) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on January 1, 2003, and ending on the earlier of the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility or December 31, 2009.

"(5) LOW SULFUR DIESEL FUEL.—The term 'low sulfur diesel fuel' means diesel fuel with a sulfur content of 15 parts per million or less.

"(6) SPECIAL RULE FOR DETERMINATION OF REFINERY RUNS.—Refinery runs shall be determined under rules similar to the rules under section 613A(d)(4).

"(d) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

"(e) CERTIFICATION.—

"(1) REQUIRED.—No credit shall be allowed unless, not later than the date which is 30 months after the first day of the first taxable year in which the low sulfur diesel fuel production credit is allowed with respect to a facility, the small business refiner obtains certification from the Secretary, after consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

"(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, after consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

"(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

"(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends with respect to the taxpayer, and

"(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(f) COOPERATIVE ORGANIZATIONS.—

"(1) APPORTIONMENT OF CREDIT.—

"(A) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(B) FORM AND EFFECT OF ELECTION.—An election under subparagraph (A) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

"(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

"(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

"(3) SPECIAL RULE.—If for any reason the tax imposed with respect to any patron of a cooperative organization would, but for this paragraph, be increased by any amount by reason of a credit apportioned to such patron under this subsection—

"(A) the amount of such increase in tax shall not be imposed on such patron, and

"(B) the tax imposed by this chapter on such organization shall be increased by such amount. The increase under subparagraph (B) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ", plus", and by adding at the end the following new paragraph:

"(28) in the case of a small business refiner, the low sulfur diesel fuel production credit determined under section 45P(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding after subsection (d) the following new subsection:

"(e) LOW SULFUR DIESEL FUEL PRODUCTION CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45P(a).".

(d) BASIS ADJUSTMENT.—Section 1016(a) (relating to adjustments to basis), as amended by this Act, is amended by striking "and" at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting ", and", and by adding at the end the following new paragraph:

"(39) in the case of a facility with respect to which a credit was allowed under section 45P, to the extent provided in section 45P(d).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45P. Credit for production of low sulfur diesel fuel.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 845. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 2004.

SEC. 846. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production), as amended by this Act, is amended by striking "2005" and inserting "2007".

SEC. 847. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

"(1) IN GENERAL.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

"(2) HALF-YEAR CONVENTION.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

"(3) EXCLUSIVE METHOD.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

"(4) TREATMENT UPON ABANDONMENT.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

"(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2004.

SEC. 848. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 167 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

"(1) IN GENERAL.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

"(2) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.".

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting "167(h), 167(i)," after "under section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2004.

SEC. 849. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

"(h) EXTENSION FOR OTHER FACILITIES.—

"(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after December 31, 2004, and before January 1, 2007, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility before the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

"(A) IN GENERAL.—In the case of a facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 3-year period beginning on the date such facility is placed in service.

"(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

"(3) WELLS PRODUCING VISCOUS OIL.—

"(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such well before the close of the 3-year period beginning on the date such well is placed in service.

"(B) VISCOUS OIL.—The term 'viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(2)(A) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) FACILITIES PRODUCING REFINED COAL.—

"(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

"(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) COVERED FACILITIES.—

"(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology which results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2004.

"(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iv) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNITS EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology unit (as defined in section 48A(b)).

"(5) COALMINE GAS.—

"(A) IN GENERAL.—This section shall apply to coalmine gas—

"(i) captured or extracted by the taxpayer during the period beginning after December 31, 2004, and ending before January 1, 2007, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such period.

"(B) COALMINE GAS.—For purposes of this paragraph, the term 'coalmine gas' means any methane gas which is—

"(i) liberated during or as a result of coal mining operations, or

"(ii) extracted up to 10 years in advance of coal mining operations as part of a specific plan to mine a coal deposit.

"(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine gas which is captured in advance of coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed.

"(D) NONCOMPLIANCE WITH POLLUTION LAWS.—This paragraph shall not apply to the capture or extraction of coalmine gas from coal mining operations with respect to any period in which such coal mining operations are not in compliance with applicable State and Federal pollution prevention, control, and permit requirements.

"(6) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

"(A) FUELS TREATED AS QUALIFIED FUELS.—Any fuel described in paragraph (2), (3), (4), or (5) shall be treated as a qualified fuel for purposes of this section.

"(B) DAILY LIMIT.—The amount of qualified fuels described in subparagraph (A) or (B)(i) of subsection (c)(1) sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

"(C) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT AND NEW PHASEOUT ADJUSTMENT.—For purposes of applying subsection (b)(2), in the case of fuels sold after 2003—

"(i) paragraphs (1)(A) and (2) of subsection (b) shall be applied by subtituting '$35.00' for '$23.50', and

"(ii) subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1979' in determining such dollar amounts.".

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—

(1) EXTENSION.—Section 29(f)(2) (relating to application of section) is amended by inserting "(January 1, 2006, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(2) USE OF CREDIT AS AN OFFSET.—Section 29, as amended by subsection (a), is amended by adding the end the following new subsection:

"(i) USE OF CREDIT AS AN OFFSET.—

"(1) IN GENERAL.—Any credit allowable under subsection (a) with respect to any natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B) of subsection (f) owned by a person described in section 1381(a)(2)(C) or subsidiaries of such person may be used as provided in paragraph (2).

"(2) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1), any credit to which paragraph (1) applies may be applied by such person—

"(A) to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, and

"(B) to the extent provided by the Secretary of Energy, as a prepayment not to exceed 50 percent of any obligation the person has incurred pursuant to an asset purchase agreement entered into with the Secretary and dated October 7, 1988.

"(3) CREDIT NOT INCOME.—Any use under paragraph (2) of any credit to which paragraph (1) applies shall not be treated as income for purposes of this title.

"(4) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(A), sales of qualified fuels among and between persons described in paragraph (1) shall be treated as sales between unrelated parties.".

(c) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating section 29, as amended by this Act, as section 45R and by moving section 45R (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", plus", and by adding at the end the following:

"(31) the nonconventional source production credit determined under section 45R(a).".

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(2)(A), as redesignated by this Act, is amended by striking "sections 27 and 29" and inserting "section 27".

(B) Sections 43(b)(2) and 613A(c)(6)(C) are each amended by striking "section 29(d)(2)(C)" and inserting "section 45R(d)(2)(C)".

(C) Section 45R(a), as redesignated by paragraph (1), is amended by striking "At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is".

(D) Section 45R(b), as so redesignated, is amended by striking paragraph (6).

(E) Section 53(d)(1)(B)(iii) is amended by striking "under section 29" and all that follows through "or not allowed".

(F) Section 55(c)(2) is amended by striking "29(b)(6),".

(G) Subsection (a) of section 772, as amended by this Act, is amended by striking paragraph (10) and by redesignating paragraphs (11) and (12) as paragraphs (10) and (11), respectively.

(H) Paragraph (5) of section 772(d) is amended by striking "the foreign tax credit, and the credit allowable under section 29" and inserting "and the foreign tax credit".

(I) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(J) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45Q the following new item:

"Sec. 45R. Credit for producing fuel from a nonconventional source.".

(d) STUDY OF COALBED METHANE.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study regarding the effect of section 45R of the Internal Revenue Code of 1986 on the production of coalbed methane.

(2) CONTENTS OF STUDY.—The study under paragraph (1) shall estimate the total amount of credits under section 45R of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coalbed methane since the date of the enactment of such section 45R. Such study shall report the annual value of such credits allowable for coalbed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coalbed methane which has resulted from the enactment of such section 45R, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coalbed methane produced annually and in the aggregate since such enactment.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel sold after December 31, 2004, in taxable years ending after such date.

(2) EXISTING FACILITIES.—The amendments made by subsection (b) shall apply to fuel sold after December 31, 2002, in taxable years ending after such date.

(3) TREATMENT AS BUSINESS CREDIT.—The amendments made by subsection (c) shall apply to taxable years ending after December 31, 2003.

SEC. 850. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(E) (defining 15-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting ", and", and by adding at the end the following new clause:

"(v) any natural gas distribution line.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(v) .... 35".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 851. CREDIT FOR ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45Q. ALASKA NATURAL GAS.

"(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) Alaska natural gas the production of which is attributable to the taxpayer.

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount is $0.52 per 1,000,000 Btu of Alaska natural gas.

"(2) REDUCTION AS GAS PRICES INCREASE.—

"(A) IN GENERAL.—The dollar amount under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $0.83, bears to

"(ii) $0.52.

"(B) APPLICABLE REFERENCE PRICE.—For purposes of this paragraph—

"(i) IN GENERAL.—The applicable reference price for any calendar month in a taxable year is the reference price for the calendar month in which production occurs.

"(ii) REFERENCE PRICE.—The term 'reference price' means, with respect to any calendar month, a published market price for natural gas in United States dollars per 1,000,000 Btu (reduced by any gas transportation costs and gas processing costs as determined by the appropriate national regulatory body for natural gas transportation) as determined under regulations by the Secretary.

"(C) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2005, each of the dollar amounts contained in paragraph (1) and subparagraph (A) of this paragraph shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

"(I) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2004.

"(II) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(c) ALASKA NATURAL GAS.—For purposes of this section—

"(1) IN GENERAL.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(19) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

"(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

"(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

"(2) NATURAL GAS.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—

"(A) IN GENERAL.—In the case of a well in which there is more than 1 person or entity—

"(i) entitled to production of Alaska natural gas, or

"(ii) at the election of such person or entity, entitled to the value of production as either an operating interest owner or a royalty interest owner,

the portion of such production attributable to such person or entity shall be determined on the *basis of the ratio which the person's or entity's interest in the production or the value of production bears to the aggregate of the interests of all such persons or entities. Production otherwise attributable to a United States tax-exempt person or entity by reason of a royalty interest shall be attributable to such person or entity with respect to whom royalty-in-value production remains or to whom royalty-in-kind production is sold.*

"(B) PARTNERSHIP PROPERTIES.—In the case of a partnership, for purposes of applying subparagraph (A), production shall be attributable to its partners based on each partner's distributive share of Alaska natural gas which is produced from partnership properties and attributable to the partnership or its partners under subparagraph (A).

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas during the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) ending with the date which is 25 years after the date described in paragraph (1).".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", plus", and by adding at the end the following new paragraph:

"(29) The Alaska natural gas credit determined under section 45Q(a).".

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

"(A) IN GENERAL.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means 'the credit allowable under subsection (a) by reason of section 45Q(a).".

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "specified credits".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45Q. Alaska natural gas.".

SEC. 852. CERTAIN ALASKA NATURAL GAS PIPELINE PROPERTY TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) any Alaska natural gas pipeline, and".

(b) ALASKA NATURAL GAS PIPELINE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) ALASKA NATURAL GAS PIPELINE.—The term 'Alaska natural gas pipeline' means the natural gas pipeline system located in the State of Alaska which—

"(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

"(B) is—

"(i) placed in service after December 31, 2012, or

"(ii) treated as placed in service on January 1, 2013, if the taxpayer who places such system in service before January 1, 2013, elects such treatment.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(iii) the following new item:

"(C)(iv) .... 22".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004.

SEC. 853. EXTENSION OF ENHANCED OIL RECOVERY CREDIT TO CERTAIN ALASKA FACILITIES.

(a) IN GENERAL.—Section 43(c)(1) (defining qualified enhanced oil recovery costs) is amended by adding at the end the following new subparagraph:

"(D) Any amount which is paid or incurred during the taxable year to construct a gas treatment plant which—

"(i) is located in the area of the United States (within the meaning of section 638(1)) lying north of 64 degrees North latitude,

"(ii) prepares Alaska natural gas (as defined in section 45Q(c)(1)) for transportation through a pipeline with a capacity of at least 2,000,000,000,000 Btu of natural gas per day, and

"(iii) produces carbon dioxide which is injected into hydrocarbon-bearing geological formations.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2004.

SEC. 854. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Section 148(b) (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

"(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

"(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

"(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by or for a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract for the utility during any year does not exceed the sum of—

"(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

"(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

"(i) only if the electricity is generated by a utility owned by a governmental unit, and

"(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

"(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

"(i) NEW BUSINESS CUSTOMERS.—If—

"(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for use by a business at a property within the service area of such utility, and

"(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

"(ii) OVERALL LIMITATION.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

"(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

"(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

"(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

"(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

"(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

"(ii) APPLICABLE SHARE.—For purposes of clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

"(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

"(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas used to transport such natural gas to the utility.

"(H) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

"(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

"(i) any area throughout which such utility provided at all times during the testing period—

"(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

"(II) in the case of an electric utility, electricity distribution services,

"(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

"(iii) any area recognized as the service area of such utility under State or Federal law.".

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).".

(c) CONFORMING AMENDMENT.—Section 141(d) is amended by adding at the end the following new paragraph:

"(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term 'nongovernmental output property' shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).".

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2004.

Subtitle F—Electric Utility Restructuring Provisions

SEC. 855. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

"(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.".

(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Section 468A(e) (relating to Nuclear Decommissioning Reserve Fund) is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.".

(c) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) TRANSFERS INTO QUALIFIED FUNDS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the excess of the total nuclear decommissioning costs with respect to such nuclear power plant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

"(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

"(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

"(C) TRANSFERS OF QUALIFIED FUNDS.—If—

"(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

"(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not the transferor. The preceding sentence shall not apply if the transferor is an entity exempt from tax under this chapter.

"(D) SPECIAL RULES.—

"(i) GAIN OR LOSS NOT RECOGNIZED.—No gain or loss shall be recognized on any transfer permitted by this subsection.

"(ii) TRANSFERS OF APPRECIATED PROPERTY.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall not exceed the adjusted basis of such property.

"(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and".

(d) TECHNICAL AMENDMENT.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking "rate set forth in subparagraph (B)" in subparagraph (A) and inserting "rate of 20 percent",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 856. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Section 501(c)(12)(C) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

"(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

"(iii) from any nuclear decommissioning transaction,

"(iv) from any asset exchange or conversion transaction, or

"(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.".

(2) DEFINITIONS AND SPECIAL RULES.—Section 501(c)(12) is amended by adding at the end the following new subparagraphs:

"(E) For purposes of subparagraph (C)(ii)—

"(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

"(I) The provision or sale of electric transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

"(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

"(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

"(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

"(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

"(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

"(v) For purposes of this subparagraph—

"(I) The term 'transmission facility' means an electric output facility (other than a generation facility) which operates at an electric voltage of 69 kilovolts or greater. To the extent provided in regulations, such term includes any output facility which FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act).

"(II) The term 'regional transmission organization' includes an independent system operator.

"(III) The term 'FERC' means the Federal Energy Regulatory Commission.

"(F) The term 'nuclear decommissioning transaction' means—

"(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

"(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

"(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

"(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

"(i) generating, transmitting, distributing, or selling electric energy, or

"(ii) producing, transmitting, distributing, or selling natural gas.".

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

"(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

"(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

"(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

"(II) the megawatt hours of electric energy sold during the base year to such members.

"(v) For purposes of clause (iv)(II), the term 'base year' means—

"(I) the calendar year preceding the start-up year, or

"(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

"(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

"(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes January 1, 2005, or, if later, at the election of the mutual or cooperative electric company—

"(I) the first year that such electric company offers nondiscriminatory open access, or

"(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

"(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

"(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.".

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Section 512(b) (relating to modifications), as amended by this Act, is amended by adding at the end the following new paragraph:

"(20) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.".

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

"(c) CROSS REFERENCE.—

"For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 857. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

"(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

"(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year (determined without regard to this subsection),

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

"(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2008, of—

"(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

"(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

"(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than January 1, 2008, or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

"(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after December 31, 2004.

Subtitle G—Volumetric Ethanol Excise Tax Credit

SEC. 860. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 861. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 871 and 880 of this Act, is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

"(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) GASOLINE.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

"(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4) is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(14) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(G)) not later than September 30, 2004.

SEC. 862. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", plus", and by adding at the end the following new paragraph:

"(30) the biodiesel fuels credit determined under section 40B(a).".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 87, as amended by this Act, is amended—

(i) by striking "and" at the end of paragraph (1),

(ii) by striking the period at the end of paragraph (2) and inserting ", and",

(iii) by adding at the end the following new paragraph:

"(3) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).", and

(iv) by striking "**FUEL CREDIT**" in the heading and inserting "**AND BIODIESEL FUELS CREDITS**".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(2) Section 196(c), as amended by this Act, is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding at the end the following new paragraph:

"(13) the biodiesel fuels credit determined under section 40B(a).".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle H—Fuel Fraud Prevention

SEC. 870. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 871. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Subparagraph (A) of section 6427(i)(4) is amended—

(A) by striking "subsection (l)(5)" both places it appears and inserting "paragraph (4)(B) or (5) of subsection (l)", and

(B) by striking "the preceding sentence" and inserting "subsection (l)(5)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1), as amended by this Act, is amended by striking clause (xvi) and by redesignating clauses (xvii), (xviii), and (xix) as clauses (xvi), (xvii), and (xviii), respectively.

(N) Paragraph (2) of section 6724(d), as amended by this Act, is amended by striking subparagraph (X) and by redesignating subparagraphs (Y), (Z), (AA), (BB), and (CC) as subparagraphs (X), (Y), (Z), (AA), and (BB), respectively.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.

"Subpart B. Special provisions applicable to fuels tax.".

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 872. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 873. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) Dye Injector Security.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) Penalty for Tampering With or Failing To Maintain Security Requirements for Mechanical Dye Injection Systems.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) Imposition of Penalty.—

"(1) Tampering.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) Failure to maintain security requirements.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) Effective Date.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 874. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) In General.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) No Administrative Appeal for Third and Subsequent Violations.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) Effective Date.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 875. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) In General.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) Conforming Amendment.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 876. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) In General.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) Ultimate Vendor Refund.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) Refunds for use of diesel fuel in certain intercity buses.—

"(A) In general.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) Credit cards.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Payment of Refunds.—Subparagraph (A) of section 6427(i)(4), as amended by this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(d) Effective Date.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 877. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) In General.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 878. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) In General.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) Conforming Amendments.—

(1) Section 4083(d)(3), as amended by this Act, is amended—

(A) by striking "entry.—The penalty" and inserting: "entry.—

"(A) Forfeiture.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) Assessable penalty.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 879. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) In General.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) Civil Penalty for Carrying Taxable Fuels by Nonregistered Pipelines or Vessels.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) Imposition of Penalty.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 880. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) IN GENERAL.—Every", and

(2) by adding at the end the following new paragraph:

"(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 881. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) IN GENERAL.—Section 4101(a), as amended by this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 882. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 883. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40B to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 884. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 885. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 886. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) CONFORMING AMENDMENTS.—

(1) Section 40B(b)(1)(B), as added by this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 887. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

"(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

"(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "FARMERS AND".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 888. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 889. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) •IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 890. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

"(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) DISPLAY OF TAX CERTIFICATE.—Under regulations by the Secretary, every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) ELECTRONIC FILING.—Section 4481, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) REGULATIONS REGARDING DISPLAY OF TAX CERTIFICATE.—The Secretary of the Treasury shall issue regulations required under section 4481(d)(2) of the Internal Revenue Code of 1986 (as added by subsection (b)) not later than October 1, 2005.

SEC. 891. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "AND PENALTIES" after "TAXES".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "IN GENERAL" and inserting "CERTAIN TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 892. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 893. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added and redesignated by this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after "section 4083(a)(1))", and

(II) in the heading, by inserting "OR REPORTABLE LIQUIDS" after "TAXABLE FUEL".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable liquid.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 894. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"SUBPART E—EXCISE TAX REPORTING

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis. Not earlier than January 1, 2005, such filings shall be in electronic form as prescribed by the Secretary.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 895. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section. Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle I—Mobile Machinery

SEC. 896. TREATMENT OF MOBILE MACHINERY.

(a) TREATMENT OF MOBILE MACHINERY AS HIGHWAY VEHICLE.—

(1) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) TREATMENT OF MOBILE MACHINERY AS HIGHWAY VEHICLE.—

"(A) IN GENERAL.—A vehicle described in subparagraph (B) shall be treated as a highway vehicle.

"(B) MOBILE MACHINERY.—A vehicle is described in this subparagraph if such vehicle consists of a chassis—

"(i) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(ii) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(iii) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) ELIGIBILITY FOR REFUND IN CASE OF LIMITED USE OF VEHICLE ON HIGHWAYS.—

(1) RETAIL SALES AND TIRE TAXES.—

(A) IN GENERAL.—Section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended by adding at the end the following new paragraph:

"(7) MOBILE MACHINERY.—

"(A) IN GENERAL.—If the tax imposed by section 4051 or 4071 has been paid with respect to any vehicle described in section 7701(a)(48)(B) which meets the use-based test for each of the first 2 12-month periods after such payment, 50 percent of such tax shall be considered an overpayment for each such period.

"(B) USE-BASED TEST.—For purposes of subparagraph (A), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during any 12-month period.

"(C) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—For purposes of subparagraph (A), the use-based test shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on the day after the date of the enactment of this Act.

(2) FUEL TAXES.—

(A) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) USES IN MOBILE MACHINERY.—

"(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle described in section 7701(a)(48)(B) which meets the use-based test.

"(ii) USE-BASED TEST.—For purposes of clause (i), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(iii) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—For purposes of clause (i), the use-based test shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after the date of the enactment of this Act.

(3) CONFORMING AMENDMENT FOR TAX-EXEMPT USERS WITH RESPECT TO USE TAX.—

(A) IN GENERAL.—Section 4483(d)(1) (relating to suspension of tax) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—Subparagraph (A) shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on the day after the date of the enactment of this Act.

Subtitle J—Additional Provisions

SEC. 897. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under subtitle B and the conservation and energy efficiency provisions under subtitle C, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2004, and annually thereafter.

SEC. 898. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081."

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Paragraph (3) of section 4083(a) is amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081."

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof."

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 899. DISTRIBUTIONS FROM PUBLICLY TRADED PARTNERSHIPS TREATED AS QUALIFYING INCOME OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraph (2) of section 851(b) (defining regulated investment company) is amended to read as follows:

"(2) at least 90 percent of its gross income is derived from—

"(A) dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies, and

"(B) distributions or other income derived from an interest in a qualified publicly traded partnership (as defined in subsection (h)); and"

(b) SOURCE FLOW-THROUGH RULE NOT TO APPLY.—The last sentence of section 851(b) is amended by inserting "(other than a qualified publicly traded partnership as defined in subsection (h))" after "derived from a partnership".

(c) LIMITATION ON OWNERSHIP.—Subsection (c) of section 851 is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) The term 'outstanding voting securities of such issuer' shall include the equity securities of a qualified publicly traded partnership (as defined in subsection (h)).".

(d) DEFINITION OF QUALIFIED PUBLICLY TRADED PARTNERSHIP.—Section 851 is amended by adding at the end the following new subsection:

"(h) QUALIFIED PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'qualified publicly traded partnership' means a publicly traded partnership described in section 7704(b) other than a partnership which would satisfy the gross income requirements of section 7704(c)(2) if qualifying income included only income described in subsection (b)(2)(A).''.

(e) Definition of Qualifying Income.—Section 7704(d)(4) is amended by striking ''section 851(b)(2)'' and inserting ''section 851(b)(2)(A)''.

(f) Limitation on Composition of Assets.—Subparagraph (B) of section 851(b)(3) is amended to read as follows:

''(B) not more than 25 percent of the value of its total assets is invested in—

''(i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer,

''(ii) the securities (other than the securities of other regulated investment companies) of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary, to be engaged in the same or similar trades or businesses or related trades or businesses, or

''(iii) the securities of one or more qualified publicly traded partnerships (as defined in subsection (h)).''.

(g) Application of Special Passive Activity Rule to Regulated Investment Companies.—Subsection (k) of section 469 (relating to separate application of section in case of publicly traded partnerships) is amended by adding at the end the following new paragraph:

''(4) Application to Regulated Investment Companies.—For purposes of this section, a regulated investment company (as defined in section 851) holding an interest in a qualified publicly traded partnership (as defined in section 851(h)) shall be treated as a taxpayer described in subsection (a)(2) with respect to items attributable to such interest.''.

(h) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 899A. CERTAIN BUSINESS RELATED CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAX.

(a) In General.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) Special rules for specified credits.—

''(A) In general.—In the case of specified credits—

''(i) this section and section 39 shall be applied separately with respect to such credits, and

''(ii) in applying paragraph (1) to such credits—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the specified credits).

''(B) Specified credits.—For purposes of this subsection, the term 'specified credits' includes—

''(i) for taxable years beginning after December 31, 2004, the credit determined under section 40, and

''(ii) the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

''(I) at a facility which is originally placed in service after the date of the enactment of this paragraph, and

''(II) during the 4-year period beginning on the date that such facility was originally placed in service.''.

(b) Conforming Amendments.—Paragraph (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) are each amended by inserting ''or the specified credits'' after ''employee credit''.

(c) Effective Date.—Except as otherwise provided, the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 899B. CREDIT FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.

(a) Allowance of Qualifying Pollution Control Equipment Credit.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the qualifying pollution control equipment credit.''.

(b) Amount of Qualifying Pollution Control Equipment Credit.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following new section:

"SEC. 48B. QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.

''(a) In General.—For purposes of section 46, the qualifying pollution control equipment credit for any taxable year is an amount equal to 15 percent of the basis of the qualifying pollution control equipment placed in service at a qualifying facility during such taxable year.

''(b) Qualifying Pollution Control Equipment.—For purposes of this section, the term 'qualifying pollution control equipment' means any technology installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act, including thermal oxidizers, regenerative thermal oxidizers, scrubber systems, evaporative control systems, vapor recovery systems, flair systems, bag houses, cyclones, continuous emissions monitoring systems, and low nitric oxide burners.

''(c) Qualifying Facility.—For purposes of this section, the term 'qualifying facility' means any facility which produces not less than 1,000,000 gallons of ethanol during the taxable year.

''(d) Special Rule for Certain Subsidized Property.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(e) Certain Qualified Progress Expenditures Rules Made Applicable.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.''.

(c) Recapture of Credit Where Emissions Reduction Offset is Sold.—Paragraph (1) of section 50(a) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) Special rule for qualifying pollution control equipment.—For purposes of subparagraph (A), any investment property which is qualifying pollution control equipment (as defined in section 48B(b)) shall cease to be investment credit property with respect to a taxpayer if such taxpayer receives a payment in exchange for a credit for emission reductions attributable to such qualifying pollution control equipment for purposes of an offset requirement under part D of title I of the Clean Air Act.''.

(d) Special Rule for Basis Reduction; Recapture of Credit.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property), as amended by this Act, is amended by inserting ''or qualifying pollution control equipment credit'' after ''energy credit''.

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2003, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 899C. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) In General.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting '', and'', and by adding at the end the following new clause:

''(v) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.''.

(b) Alternative System.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iv) the following:

''(E)(v) .... 30''.

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, and prior to July 1, 2006.

TITLE IX—HOMESTEAD PRESERVATION ACT

SEC. 901. SHORT TITLE.

This title may be cited as the ''Homestead Preservation Act''.

SEC. 902. MORTGAGE PAYMENT ASSISTANCE.

(a) Establishment of Program.—The Secretary of Housing and Urban Development (referred to in this section as the ''Secretary'') shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) Eligibility.—To be eligible to receive a loan under the program established under subsection (a), an individual shall be—

(1) an individual that is a worker adversely affected by international economic activity, as determined by the Secretary;

(2) a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) enrolled in a training or assistance program.

(c) Loan Requirements.—

(1) In general.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) Account.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) Repayment.—

(1) In general.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2005 through 2009.

TITLE X—OFFICE OF FEDERAL PROCUREMENT POLICY ACT IMPROVEMENTS

SEC. 1001. REPORT ON ACQUISITIONS OF GOODS FROM FOREIGN SOURCES.

(a) REPORT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 43. REPORT ON ACQUISITIONS OF GOODS FROM FOREIGN SOURCES.

"(a) Not later than 60 days after the end of each fiscal year, the head of each executive agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by such executive agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

"(b) The report for a fiscal year under subsection (a) shall separately indicate the following information:

"(1) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

"(2) An itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.).

"(3) A summary of—

"(A) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

"(B) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

"(c) The head of each executive agency submitting a report under subsection (a) shall make the report publicly available by posting on an Internet website.

"(d) Subsection (a) shall not apply to any procurement for national security purposes entered into by—

"(1) the Department of Defense or any agency or entity thereof;

"(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

"(3) the Department of Homeland Security;

"(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

"(5) any element of the intelligence community.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

"Sec. 43. Report on acquisitions of goods from foreign sources.".

(c) COMMERCE DEPARTMENT REPORT.—Not later than 60 days after the end of each fiscal year ending after the date of the enactment of this Act, the Secretary of Commerce shall submit to Congress and make publicly available by posting on an Internet website a report on the acquisitions by foreign governments of articles, materials, or supplies that were manufactured or extracted in the United States in that fiscal year. Such report shall indicate the dollar value of such articles, materials, or supplies.

TITLE XI—PROVISIONS RELATING TO TOBACCO

Subtitle A—Family Smoking Prevention and Tobacco Control

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Family Smoking Prevention and Tobacco Control Act".

SEC. 1102. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 6,500,000 of today's children from becoming regular, daily smokers, saving over 2,000,000 of them from premature death due to tobacco induced disease. Such a reduction in youth smoking would also result in approximately $75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2001, the tobacco industry spent more than $11,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price-sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the First Amendment to the United

States Constitution and with the standards set forth in the amendments made by this subtitle for the regulation of tobacco products by the Food and Drug Administration and the restriction on the sale and distribution, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this subtitle.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion plays a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.

(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe that "low tar" and "light" cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking "low tar" and "light" cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from "low tar" and "light" cigarettes and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in insuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be approved in advance of marketing, and to require that the evidence relied on to support approval of these products is rigorous.

SEC. 1103. PURPOSE.

The purposes of this subtitle are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

SEC. 1104. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—Nothing in this subtitle (or an amendment made by this subtitle) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(b) AGRICULTURAL ACTIVITIES.—The provisions of this subtitle (or an amendment made by this subtitle) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

SEC. 1105. SEVERABILITY.

If any provision of this subtitle, the amendments made by this subtitle, or the application of any provision of this subtitle to any person or circumstance is held to be invalid, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of this subtitle to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

CHAPTER I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

SEC. 1111. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(nn)(1) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

"(2) The term 'tobacco product' does not mean—

"(A) a product in the form of conventional food (including water and chewing gum), a product represented for use as or for use in a conventional food, or a product that is intended for ingestion in capsule, tablet, softgel, or liquid form; or

"(B) an article that is approved or is regulated as a drug by the Food and Drug Administration.

"(3) The products described in paragraph (2)(A) shall be subject to chapter IV or chapter V of this Act and the articles described in paragraph (2)(B) shall be subject to chapter V of this Act.

"(4) A tobacco product may not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetics, medical device, or a dietary supplement).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 900. DEFINITIONS.

"In this chapter:

"(1) ADDITIVE.—The term 'additive' means any substance the intended use of which results *or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring, coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.*

“(2) BRAND.—The term ‘brand’ means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

“(3) CIGARETTE.—The term ‘cigarette’ has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

“(4) CIGARETTE TOBACCO.—The term ‘cigarette tobacco’ means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

“(5) COMMERCE.—The term ‘commerce’ has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

“(6) COUNTERFEIT TOBACCO PRODUCT.—The term ‘counterfeit tobacco product’ means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

“(7) DISTRIBUTOR.—The term ‘distributor’ as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

“(8) ILLICIT TRADE.—The term ‘illicit trade’ means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

“(9) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

“(10) LITTLE CIGAR.—The term ‘little cigar’ has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

“(11) NICOTINE.—The term ‘nicotine’ means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

“(12) PACKAGE.—The term ‘package’ means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

“(13) RETAILER.—The term ‘retailer’ means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

“(14) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-your-own tobacco’ means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

“(15) SMOKE CONSTITUENT.—The term ‘smoke constituent’ means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

“(16) SMOKELESS TOBACCO.—The term ‘smokeless tobacco’ means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

“(17) STATE.—The term ‘State’ means any State of the United States and, for purposes of this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

“(18) TOBACCO PRODUCT MANUFACTURER.—Term ‘tobacco product manufacturer’ means any person, including any repacker or relabeler, who—

“(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

“(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

“(19) UNITED STATES.—The term ‘United States’ means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

“SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

“(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

“(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

“(2) a claim is made for such products under section 201(g)(1)(C) or 201(h)(3);

other than modified risk tobacco products approved in accordance with section 911.

“(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the regulations referred to in section 1112 of the Family Smoking Prevention and Tobacco Control Act, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

“(c) SCOPE.—

“(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

“(2) LIMITATION OF AUTHORITY.—

“(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

“(B) EXCEPTION.—Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer.

“(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

“SEC. 902. ADULTERATED TOBACCO PRODUCTS.

“A tobacco product shall be deemed to be adulterated if—

“(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

“(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

“(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

“(4) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

“(5)(A) it is required by section 910(a) to have premarket approval and does not have an approved application in effect;

“(B) it is in violation of the order approving such an application; or

“(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

“(7) it is in violation of section 911.

“SEC. 903. MISBRANDED TOBACCO PRODUCTS.

“(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

“(1) if its labeling is false or misleading in any particular;

“(2) if in package form unless it bears a label containing—

“(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

“(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

“(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

“(D) the statement required under section 921(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

“(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

“(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

“(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use

by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908; or

"(B) to furnish any material or information required under section 909.

"(b) PRIOR APPROVAL OF LABEL STATEMENTS.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(a)(4) of the Federal Cigarette Labeling and Advertising Act.

"(3) A listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 2 years after the date of enactment of this chapter, the manufacturer, importer, or agent shall comply with regulations promulgated under section 915 in reporting information under this paragraph, where applicable.

"(4) All documents developed after the date of enactment of the Family Smoking Prevention and Tobacco Control Act that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

"(b) DATA SUBMISSION.—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

"(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

"(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(c) TIME FOR SUBMISSION.—

"(1) IN GENERAL.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such product shall provide the information required under subsection (a).

"(2) DISCLOSURE OF ADDITIVE.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

"(3) DISCLOSURE OF OTHER ACTIONS.—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

"(d) DATA LIST.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

"(2) CONSUMER RESEARCH.—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

"(e) DATA COLLECTION.—Not later than 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—In this section:

"(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

"(2) NAME.—The term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for

inspection, to any person so requesting, any registration filed under this section.

‘‘(g) Biennial Inspection of Registered Establishments.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

‘‘(h) Foreign Establishments Shall Register.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

‘‘(i) Registration Information.—

‘‘(1) Product list.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

‘‘(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

‘‘(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

‘‘(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

‘‘(2) Biannual report of any change in product list.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

‘‘(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

‘‘(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

‘‘(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

‘‘(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

‘‘(j) Report Preceding Introduction of Certain Substantially-Equivalent Products Into Interstate Commerce.—

‘‘(1) In general.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of June 1, 2003, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

‘‘(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003, that is in compliance with the requirements of this Act; and

‘‘(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

‘‘(2) Application to certain post June 1, 2003 products.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 15 months after such date of enactment.

‘‘(3) Exemptions.—

‘‘(A) In general.—The Secretary may by regulation, exempt from the requirements of this subsection tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

‘‘(i) such modification would be a minor modification of a tobacco product authorized for sale under this Act;

‘‘(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

‘‘(iii) an exemption is otherwise appropriate.

‘‘(B) Regulations.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

“SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

‘‘(a) In General.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911, or subsection (d) of this section shall not apply to such tobacco product.

‘‘(b) Information on Public Access and Comment.—Each notice of proposed rulemaking under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

‘‘(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

‘‘(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

‘‘(c) Limited Confidentiality of Information.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904, 907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

‘‘(d) Restrictions.—

‘‘(1) In general.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

‘‘(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

‘‘(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

‘‘(2) Label statements.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) LIMITATIONS.—

"(A) IN GENERAL.—No restrictions under paragraph (1) may—

"(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

"(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

"(B) MATCHBOOKS.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products shall be considered as adult written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult written publications.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) IN GENERAL.—The Secretary may, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Good manufacturing practices may include the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

"(B) REQUIREMENTS.—The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) APPROVAL.—The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

"(f) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

"SEC. 907. TOBACCO PRODUCT STANDARDS.

"(a) IN GENERAL.—

"(1) SPECIAL RULE FOR CIGARETTES.—A cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this paragraph.

"(2) REVISION OF TOBACCO PRODUCT STANDARDS.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (b).

"(3) TOBACCO PRODUCT STANDARDS.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(4) CONTENT OF TOBACCO PRODUCT STANDARDS.—A tobacco product standard established under this section for a tobacco product—

"(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(5) PERIODIC RE-EVALUATION OF TOBACCO PRODUCT STANDARDS.—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

"(6) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall endeavor to—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE.—

"(A) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

"(B) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the tobacco product standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing tobacco product standard for the tobacco product, including a draft or proposed tobacco product standard, for consideration by the Secretary.

"(C) STANDARD.—Upon a determination by the Secretary that an additive, constituent (including smoke constituent), or other component of the product that is the subject of the proposed tobacco product standard is harmful, it shall be the burden of any party challenging the proposed standard to prove that the proposed standard will not reduce or eliminate the risk of illness or injury.

"(D) FINDING.—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

"(E) CONSIDERATION BY SECRETARY.—The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(F) COMMENT.—The Secretary shall provide for a comment period of not less than 60 days.

"(2) PROMULGATION.—

"(A) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a tobacco product standard and after consideration of such comments and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

"(i) promulgate a regulation establishing a tobacco product standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) EFFECTIVE DATE.—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) POWER RESERVED TO CONGRESS.—Because of the importance of a decision of the Secretary to issue a regulation establishing a tobacco product standard—

"(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll your own tobacco products; or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,

Congress expressly reserves to itself such power.

"(4) AMENDMENT; REVOCATION.—

"(A) AUTHORITY.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B), amend or revoke a tobacco product standard.

"(B) EFFECTIVE DATE.—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary may—

"(A) on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard; or

"(B) upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to the Tobacco Products Scientific Advisory Committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES.

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) NOTICE.—An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for

the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

"SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) NEW TOBACCO PRODUCT DEFINED.—For purposes of this section the term 'new tobacco product' means—

"(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of June 1, 2003; or

"(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after June 1, 2003.

"(2) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any new tobacco product is required unless—

"(i) the manufacturer has submitted a report under section 905(j); and

"(ii) the Secretary has issued an order that the tobacco product—

"(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003; and

"(II)(aa) is in compliance with the requirements of this Act; or

"(bb) is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

"(B) APPLICATION TO CERTAIN POST JUNE 1, 2003 PRODUCTS.—Subparagraph (A) shall not apply to a tobacco product—

"(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

"(ii) for which a report was submitted under section 905(j) within such 15-month period, until the Secretary issues an order that the tobacco product is not substantially equivalent.

"(3) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) IN GENERAL.—In this section and section 905(j), the terms 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) CHARACTERISTICS.—In subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(4) HEALTH INFORMATION.—

"(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) may, upon the request of an applicant,

refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) IN GENERAL.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) RESTRICTIONS ON SALE AND DISTRIBUTION.—An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a

statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) INVESTIGATIONS.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) OTHER EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with subsection (e).

"(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

"(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

"(f) RECORDS.—

"(1) ADDITIONAL INFORMATION.—In the case of any tobacco product for which an appraval of an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such approval.

"(2) ACCESS TO RECORDS.—Each person required under this section to maintain records, and each person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(g) INVESTIGATIONAL TOBACCO PRODUCT EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

"SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.

"(a) IN GENERAL.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless approval of an application filed pursuant to subsection (d) is effective with respect to such product.

"(b) DEFINITIONS.—In this section:

"(1) MODIFIED RISK TOBACCO PRODUCT.—The term 'modified risk tobacco product' means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

"(2) SOLD OR DISTRIBUTED.—

"(A) IN GENERAL.—With respect to a tobacco product, the term 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products' means a tobacco product—

"(A) the label, labeling, or advertising of which represents explicitly or implicitly that—

"(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

"(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

"(III) the tobacco product or its smoke does not contain or is free of a substance;

"(ii) the label, labeling, or advertising of which uses the descriptors 'light', 'mild', or 'low' or similar descriptors; or

"(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

"(B) LIMITATION.—No tobacco product shall be considered to be 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products', except as described in subparagraph (A).

"(c) TOBACCO DEPENDENCE PRODUCTS.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section and is subject to the requirements of chapter V.

"(d) FILING.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

"(1) a description of the proposed product and any proposed advertising and labeling;

"(2) the conditions for using the product;

"(3) the formulation of the product;

"(4) sample product labels and labeling;

"(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

"(6) data and information on how consumers actually use the tobacco product; and

"(7) such other information as the Secretary may require.

"(e) PUBLIC AVAILABILITY.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

"(f) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The Secretary shall refer to an advisory committee any application submitted under this subsection.

"(2) RECOMMENDATIONS.—Not later than 60 days after the date an application is referred to an advisory committee under paragraph (1), the advisory committee shall report its recommendations on the application to the Secretary.

"(g) APPROVAL.—

"(1) MODIFIED RISK PRODUCTS.—Except as provided in paragraph (2), the Secretary shall *approve an application for a modified risk tobacco product filed under this section only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—*

"(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

"(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

"(2) SPECIAL RULE FOR CERTAIN PRODUCTS.—

"(A) IN GENERAL.—The Secretary may approve an application for a tobacco product that has not been approved as a modified risk tobacco product pursuant to paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

"(i) the approval of the application would be appropriate to promote the public health;

"(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b)(2) is limited to an explicit or implicit representation that such tobacco product or its smoke contains or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke.

"(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

"(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is anticipated in subsequent studies.

"(B) ADDITIONAL FINDINGS REQUIRED.—In order to approve an application under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

"(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

"(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the anticipated overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

"(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

"(I) is or has been demonstrated to be less harmful; or

"(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

"(iv) approval of the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

"(C) CONDITIONS OF APPROVAL.—

"(i) IN GENERAL.—Applications approved under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

"(ii) AGREEMENTS BY APPLICANT.—Applications approved under this paragraph shall be conditioned on the applicant's agreement to conduct post-market surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the application approval on consumer perception, behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the approval was based in accordance with a protocol approved by the Secretary.

"(iii) ANNUAL SUBMISSION.—The results of such post-market surveillance and studies described in clause (ii) shall be submitted annually.

"(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

"(A) the scientific evidence submitted by the applicant; and

"(B) scientific evidence and other information that is available to the Secretary.

"(4) BENEFIT TO HEALTH OF INDIVIDUALS AND OF POPULATION AS A WHOLE.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

"(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

"(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

"(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

"(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

"(E) comments, data, and information submitted by interested persons.

"(h) ADDITIONAL CONDITIONS FOR APPROVAL.—

"(1) MODIFIED RISK PRODUCTS.—The Secretary shall require for the approval of an application under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

"(2) COMPARATIVE CLAIMS.—

"(A) IN GENERAL.—The Secretary may require for the approval of an application under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

"(B) QUANTITATIVE COMPARISONS.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

"(3) LABEL DISCLOSURE.—

"(A) IN GENERAL.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

"(B) CONDITIONS OF USE.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

"(4) TIME.—The Secretary shall limit an approval under subsection (g)(1) for a specified period of time.

"(5) ADVERTISING.— The Secretary may require that an applicant, whose application has been approved under this subsection, comply with requirements relating to advertising and promotion of the tobacco product.

"(i) POSTMARKET SURVEILLANCE AND STUDIES.—

"(1) IN GENERAL.—The Secretary shall require that an applicant under subsection (g)(1) conduct post market surveillance and studies for a tobacco product for which an application has been approved to determine the impact of the application approval on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the approval was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of post-market surveillance and studies shall be submitted to the Secretary on an annual basis.

"(2) SURVEILLANCE PROTOCOL.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

"(j) WITHDRAWAL OF APPROVAL.—The Secretary, after an opportunity for an informal hearing, shall withdraw the approval of an application under this section if the Secretary determines that—

"(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

"(2) the application failed to include material information or included any untrue statement of material fact;

"(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

"(A) a tobacco product standard is established pursuant to section 907;

"(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

"(C) any postmarket surveillance or studies reveal that the approval of the application is no longer consistent with the protection of the public health;

"(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or (i); or

"(5) the applicant failed to meet a condition imposed under subsection (h).

"(k) CHAPTER IV OR V.—A product approved in accordance with this section shall not be subject to chapter IV or V.

"(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

"(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific

evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

"(A) establish minimum standards for scientific studies needed prior to approval to show that a substantial reduction in morbidity or mortality among individual tobacco users is likely;

"(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

"(C) establish minimum standards for post market studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

"(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception; and

"(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product.

"(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

"(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

"(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and for which the applicant seeks approval as a modified risk tobacco product under this section.

"(m) DISTRIBUTORS.—No distributor may take any action, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

"SEC. 912. JUDICIAL REVIEW.

"(a) RIGHT TO REVIEW.—

"(1) IN GENERAL.—Not later than 30 days after—

"(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

"(B) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

"(2) REQUIREMENTS.—

"(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

"(B) RECORD OF PROCEEDINGS.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

"(i) the record of the proceedings on which the regulation or order was based; and

"(ii) a statement of the reasons for the issuance of such a regulation or order.

"(C) DEFINITION OF RECORD.—In this section, the term 'record' means—

"(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

"(ii) all information submitted to the Secretary with respect to such regulation or order;

"(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

"(iv) any hearing held with respect to such regulation or order; and

"(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

"(b) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

"(c) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(d) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"(e) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

"SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

"SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

"(a) JURISDICTION.—

"(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

"(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 1112 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

"(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402)—

"(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

"(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

"SEC. 915. CONGRESSIONAL REVIEW PROVISIONS.

"In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule under this chapter that is subject to section 801. This section and section 801 do not apply to the regulations referred to in section 1112 of the Family Smoking Prevention and Tobacco Control Act.

"SEC. 916. REGULATION REQUIREMENT.

"(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary, acting through the Commissioner of the Food and Drug Administration, shall promulgate regulations under this Act that meet the requirements of subsection (b).

"(b) CONTENTS OF RULES.—The regulations promulgated under subsection (a) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and sub-brand that the Secretary determines should be tested to protect the public health. The regulations may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco related disease.

"(c) AUTHORITY.—The Food and Drug Administration shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

"SEC. 917. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) IN GENERAL.—

"(1) PRESERVATION.—Nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

"(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in paragraph (1) and subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket approval, adulteration, misbranding, labeling, registration, good manufacturing standards, or reduced risk products.

"(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising

and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 554(b)(4) of title 5, United States Code, shall be treated as trade secret and confidential information by the State.

"(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"SEC. 918. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 11-member advisory committee, to be known as the 'Tobacco Products Scientific Advisory Committee'.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—

"(A) MEMBERS.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in the medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

"(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

"(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

"(iii) 1 individual as a representative of the general public;

"(iv) 1 individual as a representative of the interests in the tobacco manufacturing industry; and

"(v) 1 individual as a representative of the interests of the tobacco growers.

"(B) NONVOTING MEMBERS.—The members of the committee appointed under clauses (iv) and (v) of subparagraph (A) shall serve as consultants to those described in clauses (i) through (iii) of subparagraph (A) and shall be nonvoting representatives.

"(2) LIMITATION.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

"(3) CHAIRPERSON.—The Secretary shall designate 1 of the members of the Advisory Committee to serve as chairperson.

"(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

"(1) as provided in this chapter;

"(2) on the effects of the alteration of the nicotine yields from tobacco products;

"(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

"(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

"(d) COMPENSATION; SUPPORT; FACA.—

"(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

"(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Advisory Committee.

"(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(bf of title 5, United States Code.

"SEC. 919. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

The Secretary shall consider—

"(1) at the request of the applicant, designating nicotine replacement products as fast track research and approval products within the meaning of section 506;

"(2) direct the Commissioner to consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence;

"(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention; and

"(4) consider—

"(A) relieving companies of premarket burdens under section 505 if the requirement is redundant considering other nicotine replacement therapies already on the market; and

"(B) time and extent applications for nicotine replacement therapies that have been approved by a regulatory body in a foreign country and have marketing experience in such country.

"SEC. 920. USER FEE.

"(a) ESTABLISHMENT OF QUARTERLY USER FEE.—The Secretary shall assess a quarterly user fee with respect to every quarter of each fiscal year commencing fiscal year 2004, calculated in accordance with this section, upon each manufacturer and importer of tobacco products subject to this chapter.

"(b) FUNDING OF FDA REGULATION OF TOBACCO PRODUCTS.—The Secretary shall make user fees collected pursuant to this section available to pay, in each fiscal year, for the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter.

"(c) ASSESSMENT OF USER FEE.—

"(1) AMOUNT OF ASSESSMENT.—Except as provided in paragraph (4), the total user fees assessed each year pursuant to this section shall be sufficient, and shall not exceed what is necessary, to pay for the costs of the activities described in subsection (b) for each fiscal year.

"(2) ALLOCATION OF ASSESSMENT BY CLASS OF TOBACCO PRODUCTS.—

"(A) IN GENERAL.—Subject to paragraph (3), the total user fees assessed each fiscal year with respect to each class of importers and manufacturers shall be equal to an amount that is the applicable percentage of the total costs of activities of the Food and Drug Administration described in subsection (b).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A) the applicable percentage for a fiscal year shall be the following:

"(i) 92.07 percent shall be assessed on manufacturers and importers of cigarettes;

"(ii) 0.05 percent shall be assessed on manufacturers and importers of little cigars;

"(iii) 7.15 percent shall be assessed on manufacturers and importers of cigars other than little cigars;

"(iv) 0.43 percent shall be assessed on manufacturers and importers of snuff;

"(v) 0.10 percent shall be assessed on manufacturers and importers of chewing tobacco;

"(vi) 0.06 percent shall be assessed on manufacturers and importers of pipe tobacco; and

"(vii) 0.14 percent shall be assessed on manufacturers and importers of roll-your-own tobacco.

"(3) DISTRIBUTION OF FEE SHARES OF MANUFACTURERS AND IMPORTERS EXEMPT FROM USER FEE.—Where a class of tobacco products is not subject to a user fee under this section, the portion of the user fee assigned to such class under subsection (d)(2) shall be allocated by the Secretary on a pro rata basis among the classes of tobacco products that are subject to a user fee under this section. Such pro rata allocation for each class of tobacco products that are subject to a user fee under this section shall be the quotient of—

"(A) the sum of the percentages assigned to all classes of tobacco products subject to this section; divided by

"(B) the percentage assigned to such class under paragraph (2).

"(4) ANNUAL LIMIT ON ASSESSMENT.—The total assessment under this section—

"(A) for fiscal year 2004 shall be $85,000,000;

"(B) for fiscal year 2005 shall be $175,000,000;

"(C) for fiscal year 2006 shall be $300,000,000; and

"(D) for each subsequent fiscal year, shall not exceed the limit on the assessment imposed during the previous fiscal year, as adjusted by the Secretary (after notice, published in the Federal Register) to reflect the greater of—

"(i) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending on June 30 of the preceding fiscal year for which fees are being established; or

"(ii) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

"(5) TIMING OF USER FEE ASSESSMENT.—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under subsection (f) during each quarter of each fiscal year. Such notifications shall occur not earlier than 3 months prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made not later than 60 days after each such notification.

"(d) DETERMINATION OF USER FEE BY COMPANY MARKET SHARE.—

"(1) IN GENERAL.—The user fee to be paid by each manufacturer or importer of a given class of tobacco products shall be determined in each quarter by multiplying—

"(A) such manufacturer's or importer's market share of such class of tobacco products; by

"(B) the portion of the user fee amount for the current quarter to be assessed on manufacturers and importers of such class of tobacco products as determined under subsection (e).

"(2) NO FEE IN EXCESS OF MARKET SHARE.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the market share of such manufacturer or importer.

"(e) DETERMINATION OF VOLUME OF DOMESTIC SALES.—

"(1) IN GENERAL.—The calculation of gross domestic volume of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary using information provided by manufacturers and importers pursuant to subsection (f), as well as any other relevant information provided to or obtained by the Secretary.

"(2) MEASUREMENT.—For purposes of the calculations under this subsection and the information provided under subsection (f) by the Secretary, gross domestic volume shall be measured by—

"(A) in the case of cigarettes, the number of cigarettes sold;

"(B) in the case of little cigars, the number of little cigars sold;

"(C) in the case of large cigars, the number of cigars weighing more than 3 pounds per thousand sold; and

"(D) in the case of other classes of tobacco products, in terms of number of pounds, or fraction thereof, of these products sold.

"(f) MEASUREMENT OF GROSS DOMESTIC VOLUME.—

"(1) IN GENERAL.—Each manufacturer and importer of tobacco products shall submit to the Secretary a certified copy of each of the returns or forms described by this paragraph that are required to be filed with a Government agency on the same date that those returns or forms are filed, or required to be filed, with such agency. The returns and forms described by this paragraph are those returns and forms related to the release of tobacco products into domestic commerce, as defined by section 5702(k) of the Internal Revenue Code of 1986, and the repayment of the taxes imposed under chapter 52 of such Code (ATF Form 500.24 and United States Customs Form 7501 under currently applicable regulations).

"(2) PENALTIES.—Any person that knowingly fails to provide information required under this subsection or that provides false information under this subsection shall be subject to the penalties described in section 1003 of title 18, United States Code. In addition, such person may be subject to a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco products manufactured or imported by such person during the applicable quarter, as determined by the Secretary.

"(h) EFFECTIVE DATE.—The user fees prescribed by this section shall be assessed in fiscal year 2004, based on domestic sales of tobacco products during fiscal year 2003 and shall be assessed in each fiscal year thereafter.".

SEC. 1112. INTERIM FINAL RULE.

(a) CIGARETTES AND SMOKELESS TOBACCO.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register an interim final rule regarding cigarettes and smokeless tobacco, which is hereby deemed to be in compliance with the Administrative Procedures Act and other applicable law.

(2) CONTENTS OF RULE.—Except as provided in this subsection, the interim final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg., 44615–44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection;

(B) strike Subpart C—Labeling and section 897.32(c); and

(C) become effective not later than 1 year after the date of enactment of this Act.

(3) AMENDMENTS TO RULE.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promulgate a proposed rule in accordance with the Administrative Procedures Act.

(4) RULE OF CONSTRUCTION.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with the Administrative Procedures Act, the regulation promulgated pursuant to this section.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act" (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination" (61 Fed. Reg. 44619–45318 (August 28, 1996)).

SEC. 1113. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting "tobacco product," after "device,";

(2) in subsection (b), by inserting "tobacco product," after "device,";

(3) in subsection (c), by inserting "tobacco product," after "device,";

(4) in subsection (e), by striking "515(f), or 519" and inserting "515(f), 519, or 909";

(5) in subsection (g), by inserting "tobacco product," after "device,";

(6) in subsection (h), by inserting "tobacco product," after "device,";

(7) in subsection (j), by striking "708, or 721" and inserting "708, 721, 904, 905, 906, 907, 908, 909, or section 921(b)";

(8) in subsection (k), by inserting "tobacco product," after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 903(b)(8), or 908, or condition prescribed under section 903(b)(6)(B)(ii)(II);

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or section 921; or

"(C) to comply with a requirement under section 522 or 913.";

(11) in subsection (q)(2), by striking "device," and inserting "device or tobacco product,";

(12) in subsection (r), by inserting "or tobacco product" after "device" each time that it appears; and

(13) by adding at the end the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

"(bb) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

"(cc)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

"(dd) The charitable distribution of tobacco products.

"(ee) The failure of a manufacturer or distributor to notify the Attorney General of their knowledge of tobacco products used in illicit trade.".

(c) SECTION 303.—Section 303 (21 U.S.C. 333(f)) is amended in subsection (f)—

(1) by striking the subsection heading and inserting the following:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) in paragraph (1)(A), by inserting "or tobacco products" after "devices";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) in paragraph (4) as so redesignated—

(A) in subparagraph (A)—

(i) by striking "assessed" the first time it appears and inserting "assessed, or a no-tobacco-sale order may be imposed,"; and

(ii) by striking "penalty" and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(B) in subparagraph (B)—

(i) by inserting after "penalty," the following: "or the period to be covered by a no-tobacco-sale order,"; and

(ii) by adding at the end the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order."; and

(C) by adding at the end, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(5) in paragraph (5) as so redesignated—

(A) by striking "(3)(A)" as redesignated, and inserting "(4)(A)";

(B) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears; and

(C) by striking "issued." and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(6) in paragraph (6), as so redesignated, by striking "paragraph (4)" each place it appears and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" before "(D)"; and

(B) by striking "device." and inserting the following: ", (E) Any adulterated or misbranded tobacco product.";

(2) in subsection (d)(1), by inserting "tobacco product," after "device,";

(3) in subsection (g)(1), by inserting "or tobacco product" after "device" each place it appears; and

(4) in subsection (g)(2)(A), by inserting "or tobacco product" after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)(A), by inserting "tobacco products," after "devices," each place it appears;

(2) in subsection (a)(1)(B), by inserting "or tobacco product" after "restricted devices" each place it appears; and

(3) in subsection (b), by inserting "tobacco product," after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S.C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting "tobacco products," after "devices," the first time it appears;

(B) by inserting "or section 905(j)" after "section 510"; and

(C) by striking "drugs or devices" each time it appears and inserting "drugs, devices, or tobacco products";

(2) in subsection (e)(1), by inserting "tobacco product," after "device,"; and

(3) by adding at the end the following:

"(p)(1) Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

"(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

"(B) the public health implications of such exports, including any evidence of a negative public health impact; and

"(C) recommendations or assessments of policy alternatives available to Congress and the Executive Branch to reduce any negative public health impact caused by such exports.

"(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection.".

(k) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(l) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) of such subsection, shall take effect upon the issuance of guidance by the Secretary of Health and Human Services—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time at a particular retail outlet that constitute a repeated violation;

(2) providing for timely and effective notice to the retailer of each alleged violation at a particular retail outlet and an expedited procedure for the administrative appeal of an alleged violation;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not be considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on the presentation of a false government issued photographic identification that contains the bearer's date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(A) adopting and enforcing a written policy against sales to minors;

(B) informing its employees of all applicable laws;

(C) establishing disciplinary sanctions for employee noncompliance; and

(D) requiring its employees to verify age by way of photographic identification or electronic scanning device.

CHAPTER 2—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

SEC. 1121. CIGARETTE LABEL AND ADVERTISING WARNINGS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

'WARNING: Cigarettes are addictive'.
'WARNING: Tobacco smoke can harm your children'.
'WARNING: Cigarettes cause fatal lung disease'.
'WARNING: Cigarettes cause cancer'.
'WARNING: Cigarettes cause strokes and heart disease'.
'WARNING: Smoking during pregnancy can harm your baby'.
'WARNING: Smoking can kill you'.
'WARNING: Tobacco smoke causes fatal lung disease in non-smokers'.
'WARNING: Quitting smoking now greatly reduces serious risks to your health'.

"(2) PLACEMENT; TYPOGRAPHY; ETC.—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 30 percent of the front and rear panels of the package. The word 'WARNING' shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco product manufacturer, importer, or distributor and is not altered by the retailer in a way that is material to the requirements of this subsection except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with this subsection.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word 'WARNING' shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital 'W' of the word 'WARNING' in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) MATCHBOOKS.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

"(4) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(5) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(6) APPLICABILITY TO RETAILERS.—This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.".

SEC. 1122. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 1121, is further amended by adding at the end the following:

"(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.".

SEC. 1123. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding at the end the following:

"(c) EXCEPTION.—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.".

SEC. 1124. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

'WARNING: This product can cause mouth cancer'.

'WARNING: This product can cause gum disease and tooth loss'.

'WARNING: This product is not a safe alternative to cigarettes'.

'WARNING: Smokeless tobacco is addictive'.

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco products manufacturer, importer, or distributor and that is not altered by the retailer unless the retailer offers for sale, sells, or distributes a smokeless tobacco product that is not labeled in accordance with this subsection.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word 'WARNING' shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 1125. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 1123, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 1126. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 1121, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

"(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements required under this section, except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with the requirements of this subsection.".

CHAPTER 3—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

SEC. 1131. LABELING, RECORDKEEPING, RECORDS INSPECTION.

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section 1111, is further amended by adding at the end the following:

"SEC. 921. LABELING, RECORDKEEPING, RECORDS INSPECTION.

"(a) ORIGIN LABELING.—The label, packaging, and shipping containers of tobacco products for introduction or delivery for introduction into interstate commerce shall bear the statement 'sale only allowed in the United States.'

"(b) REGULATIONS CONCERNING RECORDKEEPING FOR TRACKING AND TRACING.—

"(1) IN GENERAL.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

"(2) INSPECTION.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

"(3) CODES.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

"(4) SIZE OF BUSINESS.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

"(5) RECORDKEEPING BY RETAILERS.—The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

"(c) RECORDS INSPECTION.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

"(d) KNOWLEDGE OF ILLEGAL TRANSACTION.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

"(A) imported, exported, distributed or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

"(B) imported, exported, distributed or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General of such knowledge.

"(2) KNOWLEDGE DEFINED.—For purposes of this subsection, the term 'knowledge' as applied to a manufacturer or distributor means—

"(A) the actual knowledge that the manufacturer or distributor had; or

"(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

SEC. 1132. STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

Subtitle B—Tobacco Market Transition

SEC. 1140. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Tobacco Market Transition Act of 2004".

CHAPTER 1—TERMINATION OF CURRENT TOBACCO PROGRAMS

SEC. 1141. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) TOBACCO STATISTICS.—The Act of January 14, 1929 (45 Stat. 1079; 7 U.S.C. 501 et seq.) is repealed.

(b) TOBACCO STANDARDS.—The Tobacco Inspection Act (7 U.S.C. 511 et seq.) is repealed.

(c) TOBACCO INSPECTIONS.—Section 213 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) is repealed.

(d) TOBACCO CONTROL.—The Act of April 25, 1936 (commonly known as the Tobacco Control Act; 7 U.S.C. 515 et seq.), is repealed.

(e) COMMODITY HANDLING ORDERS.—Section 8c(2)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(2)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "tobacco,".

(f) PROCESSING TAX.—Section 9(b) of the Agricultural Adjustment Act (7 U.S.C. 609(b)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (2), by striking "tobacco,"; and

(2) in paragraph (6)B)(i), by striking ", or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum,".

(g) BURLEY TOBACCO IMPORT REVIEW.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(h) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,".

(i) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking "tobacco,";

(3) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(4) in paragraph (11)(B), by striking "and tobacco"; .

(5) in paragraph (12), by striking "tobacco,";

(6) in paragraph (14)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraphs (B), (C), and (D);

(7) by striking paragraph (15);

(8) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(9) by striking paragraph (17); and

(10) by redesignating paragraph (16) as paragraph (15).

(j) PARITY PAYMENTS.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking "rice, or tobacco," and inserting "or rice,".

(k) MARKETING QUOTAS.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(l) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "tobacco,".

(m) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking "rice, or tobacco" and inserting "or rice"; and

(2) in the first sentence of subsection (b), by striking "rice, or tobacco" and inserting "or rice".

(n) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking "rice, or tobacco" each place it appears in subsections (a) and (b) and inserting "or rice"; and

(2) in subsection (a)—

(A) in the first sentence, by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,"; and

(B) in the last sentence, by striking "$500;" and all that follows through the period at the end of the sentence and inserting "$500.".

(o) REGULATIONS.—Section 375 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375) is amended—

(1) in subsection (a), by striking "peanuts, or tobacco" and inserting "or peanuts"; and

(2) by striking subsection (c).

(p) EMINENT DOMAIN.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking "cotton, and tobacco" and inserting "and cotton"; and

(2) by striking subsections (d), (e), and (f).

(q) BURLEY TOBACCO FARM RECONSTITUTION.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) in paragraph (6), by striking ", but this clause (6) shall not be applicable in the case of burley tobacco"; and

(2) by striking subsections (b) and (c).

(r) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the Act of April 16, 1955 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(s) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act of July 12, 1952 (7 U.S.C. 1315), is repealed.

(t) TRANSFER OF ALLOTMENTS.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(u) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking "tobacco and".

(v) TOBACCO FIELD MEASUREMENT.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

SEC. 1142. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking "tobacco (except as otherwise provided herein), corn," and inserting "corn";

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking ", except tobacco,"; and

(B) by striking "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;"; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking "tobacco,".

(d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting "(other than tobacco)" after "agricultural commodities" each place it appears.

SEC. 1143. LIABILITY.

This title and the amendments made by this title shall not affect the liability of any person under any provision of law with respect to any crop of tobacco planted before the effective date prescribed in section 1162.

CHAPTER 2—TOBACCO ASSISTANCE

SEC. 1151. TOBACCO ASSISTANCE.

Title III of the Agricultural Adjustment Act of 1938 is amended by inserting after subtitle D (7 U.S.C. 1379a et seq.) the following:

"Subtitle E—Tobacco Assistance

"SEC. 380A. DEFINITIONS.

"In this subtitle:

"(1) ACTIVE PRODUCER OF TOBACCO.—The term 'active producer of tobacco' means a person that—

"(A) is actively engaged in the production of tobacco marketed or considered planted; and

"(B) shares in the risk of producing the tobacco.

"(2) APPLICABLE FISCAL YEAR.—The term 'applicable fiscal year' means each of fiscal years 2004 through 2013.

"(3) BASE PERIOD.—The term 'base period' means the 1-year period ending the June 30 preceding each applicable fiscal year.

"(4) CONSIDERED PLANTED.—The term 'considered planted' means tobacco planted but failed to be produced as a result of a natural disaster, as determined by the Secretary.

"(5) DEPARTMENT.—The term 'Department' means the Department of Agriculture.

"(6) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) in the case of section 380O, each of the States of Maryland, Pennsylvania, South Carolina, and North Carolina; and

"(B) in the case of section 380Q, each of the States of Alabama, Arkansas, Florida, Georgia, Indiana, Kansas, Kentucky, Minnesota, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

"(7) IMPACTED COMMUNITY.—The term 'impacted community' means a community in an eligible State that is adversely affected by a reduction in gross receipts from the sale of tobacco.

"(8) MARKET SHARE.—The term 'market share' means the share of each manufacturer or importer of a class of tobacco product (expressed as a decimal to the fourth place) of the total volume of domestic sales of the class of tobacco product during the base period for the applicable fiscal year for an assessment under section 380T.

"(9) PRODUCTION BOARD.—The term 'Production Board' means a Production Board established for a kind of tobacco under section 380H.

"(10) QUOTA TOBACCO.—The term 'quota tobacco' means a kind of tobacco that is subject to a farm marketing quota or farm acreage allotment for the 2002 tobacco marketing years under a marketing quota or allotment program established under part I of subtitle B (as in effect before the effective date of this subtitle).

"(11) TOBACCO.—The term 'tobacco' means each of the following kinds of tobacco:

"(A) Flue-cured tobacco, comprising types 11, 12, 13, and 14.

"(B) Fire-cured tobacco, comprising types 22 and 23.

"(C) Dark air-cured tobacco, comprising types 35 and 36.

"(D) Virginia sun-cured tobacco, comprising type 37.

"(E) Virginia fire-cured tobacco, comprising type 21.

"(F) Burley tobacco, comprising type 31.

"(G) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 53, 54, and 55.

"(12) TOBACCO QUALITY BOARD.—The term 'Tobacco Quality Board' means the Tobacco Quality Board established under section 380G.

"(13) TOBACCO QUOTA HOLDER.—The term 'tobacco quota holder' means a person that is considered an tobacco quota holder under section 380B(b).

"(14) TOBACCO TRUST FUND.—The term 'Tobacco Trust Fund' means the Tobacco Trust Fund established under section 380S.

"(15) TRADITIONAL PRODUCER OF TOBACCO.—The term 'traditional producer of tobacco' means a person that, for at least 1 of the 2000, 2001, or 2002 tobacco marketing years—

"(A) was actively engaged in the production of tobacco marketed, or considered planted, under a marketing quota established under part I of subtitle B (as in effect before the effective date of this subtitle); and

"(B) shared in the risk of producing the tobacco.

"(16) TRADITIONAL TOBACCO COUNTY.—

"(A) IN GENERAL.—The term 'traditional tobacco county' means a county in the United States that had 1 or more farms operated by traditional producers of tobacco under a marketing quota for at least 1 of the marketing years described in paragraph (15).

"(B) INCLUSION.—For the purpose of determining the crop acreage base of an active producer of tobacco for a kind of tobacco produced in the State of Georgia under section 380I(c)(3), the term 'traditional tobacco county' includes a county that is contiguous to a county described in subparagraph (A).

"CHAPTER 1—PAYMENTS TO TOBACCO QUOTA HOLDERS AND TRADITIONAL PRODUCERS

"SEC. 380B. TRANSITION PAYMENTS TO TOBACCO QUOTA HOLDERS.

"(a) IN GENERAL.—The Secretary shall make transition payments to each tobacco quota holder.

"(b) TOBACCO QUOTA HOLDER.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall consider a person to be a tobacco quota holder under this section if the person held, as of July 1, 2002, a basic quota or farm acreage allotment (as applicable) for quota tobacco established for the 2002 tobacco marketing year under a marketing quota program established under part I of subtitle B (as in effect before the effective date of this subtitle).

"(2) EFFECT OF PURCHASE CONTRACT.—If there was an agreement for the purchase of all or part of a farm described in paragraph (1) as of July 1, 2002, and the parties to the sale are unable to agree to the disposition of eligibility for payments under this section, the Secretary, taking into account any transfer of quota that has been agreed to, shall provide for the equitable division of the payments among the parties by adjusting the determination of who is the tobacco quota holder with respect to particular pounds of the quota.

“(3) EFFECT OF AGREEMENT FOR PERMANENT QUOTA TRANSFER.—If the Secretary determines that there was in existence, as of July 1, 2002, an agreement for the permanent transfer of quota, but that the transfer was not completed by that date, the Secretary shall consider the tobacco quota holder to be the party to the agreement that, as of that date, was the owner of the farm to which the quota was to be transferred.

“(4) PROTECTED BASES.—A person that owns a farm with a tobacco poundage quota that is protected under a conservation reserve program contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) shall be considered to be a tobacco quota holder with respect to the protected poundage.

“(5) QUANTITY OF QUOTA HELD.—

“(A) IN GENERAL.—A person shall be considered a tobacco quota holder for purposes of this section only with respect to that quantity of quota that qualifies the person as a tobacco quota holder.

“(B) INCLUDED QUOTA.—The determination of the tobacco poundage amount for which the person qualifies shall—

“(i) be based on the quantity of quota held by person on January 1, 2004;

“(ii) subject to clause (iii), not be greater than the quantity of quota held by the person for the 2002 crop; and

“(iii) take into account—

“(I) sales of quota that occurred during the period beginning July 1, 2002, and ending December 31, 2004; and

“(II) any transfers of quota that took place after July 1, 2002.

“(c) APPLICATION.—

“(1) IN GENERAL.—To be eligible to receive a payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is a tobacco quota holder.

“(2) ADMINISTRATION.—The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

“(d) BASE QUOTA LEVEL.—

“(1) IN GENERAL.—The Secretary shall establish a base quota level applicable to each tobacco quota holder, as determined under this subsection.

“(2) LEVEL.—The base quota level for each tobacco quota holder shall be equal to the quantity of quota that qualifies a person as the tobacco quota holder under subsection (b)(5).

“(e) PAYMENT.—The Secretary shall make payments to each tobacco quota holder under subsection (b) in an amount obtained by multiplying—

“(1) 80 cents per pound for each of fiscal years 2004 through 2013; by

“(2) the base quota level established for the quota holder under subsection (d).

“(f) TIME FOR PAYMENT.—Subject to section 380D(c), the payments to tobacco quota holders required under this section shall be made by, to the maximum extent practicable, the date that is 180 days after the date of enactment of this subtitle and each November 1 thereafter.

“SEC. 380C. DIRECT PAYMENTS TO TRADITIONAL PRODUCERS OF TOBACCO.

“(a) IN GENERAL.—The Secretary shall make direct payments under this section to traditional producers of tobacco.

“(b) ELIGIBILITY.—

“(1) IN GENERAL.—To be eligible to receive a payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is a traditional producer of tobacco.

“(2) ADMINISTRATION.—The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

“(c) BASE QUOTA LEVEL.—

“(1) IN GENERAL.—The Secretary shall establish a base quota level applicable to each traditional producer of tobacco, as determined under this subsection.

“(2) FLUE-CURED AND BURLEY TOBACCO.—In the case of Flue-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), the base quota level for each tobacco quota holder shall be equal to the effective tobacco marketing quota (irrespective of disaster lease and transfers) under part I of subtitle B (as in effect before the effective date of this subtitle) for the 2002 marketing year for quota tobacco produced on the farm.

“(3) OTHER KINDS OF TOBACCO.—In the case of each kind of tobacco other than Flue-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), for the purpose of calculating a payment to a traditional producer of tobacco, the base quota level for the traditional producer of tobacco shall be the quantity obtained by multiplying—

“(A) the basic tobacco farm acreage allotment for the 2002 marketing year established by the Secretary for quota tobacco produced on the farm; by

“(B) the actual yield of the crop of quota tobacco produced on the farm.

“(d) PAYMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make payments to each traditional producer of tobacco, as determined under subsection (b), in an amount obtained by multiplying—

“(A) 40 cents per pound for each of fiscal years 2004 through 2013; by

“(B) the base quota level established for the traditional producer of tobacco under subsection (c).

“(2) PAYMENT RATE.—The rate for payments to a traditional producer of quota tobacco under paragraph (1)(A) shall be equal to—

“(A) in the case of a person that produced quota tobacco marketed, or considered planted, under a marketing quota for all 3 of the 2000, 2001, and 2002 tobacco marketing years, the rate prescribed under paragraph (1)(A) for the applicable fiscal year;

“(B) in the case of a person that produced quota tobacco marketed, or considered planted, under a marketing quota for not more than 2 of the 2000, 2001, and 2002 tobacco marketing years, ⅔ of the rate prescribed under paragraph (1)(A) for the applicable fiscal year; and

“(C) in the case of a person that produced quota tobacco marketed, or considered planted, under a marketing quota for not more than 1 of the 2000, 2001, and 2002 tobacco marketing years, ⅓ of the rate prescribed under paragraph (1)(A) for the applicable fiscal year.

“(e) TIME FOR PAYMENT.—Subject to section 380D(c), the payments to traditional producers of tobacco required under this section shall be made by, to the maximum extent practicable, the date that is 180 days after the date of enactment of this subtitle and each November 1 thereafter.

“SEC. 380D. ADMINISTRATION.

“(a) RESOLUTION OF DISPUTES.—

“(1) IN GENERAL.—Any dispute regarding the eligibility of a person to receive a payment under this subtitle, or the amount of the payment, may be appealed to the county committee established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) for the county or other area in which the farming operation of the person is located.

“(2) NATIONAL APPEALS DIVISION.—Any adverse determination of a county committee under subsection (a) may be appealed to the National Appeals Division established under subtitle H of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6991 et seq.).

“(b) USE OF QUALIFIED FINANCIAL INSTITUTIONS.—The Secretary may use qualified financial institutions to manage assets, make payments, and otherwise carry out this subtitle.

“(c) ADVANCED PAYMENTS.—

“(1) IN GENERAL.—The Secretary shall permit a tobacco quota holder and a traditional producer of tobacco to elect to receive advanced payments for 2 or more fiscal years under this chapter by selecting 1 of 4 advance payment options established by the Secretary, including a lump sum payment option.

“(2) RISK.—A tobacco quota holder or traditional producer of tobacco that elects to receive accelerated payments shall bear the expense of the discount in value for acceleration of the payments.

“(3) QUALIFIED FINANCIAL INSTITUTIONS.—

“(A) IN GENERAL.—The Secretary shall provide advanced payments under this subsection through 1 or more qualified financial institutions designated by the Secretary.

“(B) ADMINISTRATION.—In providing advanced payments under this subsection, a qualified financial institution shall (in accordance with guidance issued by the Secretary)—

“(i) offer the advanced payments regardless of the location or size of the payments;

“(ii) apply updated discount rates that vary only by payment term; and

“(iii) distribute the advanced payments in accordance with the option elected by the tobacco quota holder or traditional producer of tobacco.

“(4) COUNTY OFFICES.—A county office of the Department may receive applications and other documentation necessary to receive advanced payments under this subsection, on behalf of the Secretary and qualified financial institutions.

“(d) TREATMENT OF PAYMENTS.—Payments received by a tobacco quota holder or traditional producer of tobacco under this chapter shall be considered received not earlier than the date the tobacco quota holder or traditional producer of tobacco first receives the payments.

“CHAPTER 2—TOBACCO QUALITY AND QUANTITY

“SEC. 380G. TOBACCO QUALITY BOARD.

“(a) IN GENERAL.—The Secretary shall establish a permanent advisory board within the Department, to be known as the ‘Tobacco Quality Board’.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Tobacco Quality Board shall consist of 13 members, of which—

“(A) 5 members shall be appointed by the Secretary from nominations submitted by representatives of tobacco producers in the United States, including at least—

“(i) 1 representative of Flue-cured tobacco producers;

“(ii) 1 representative of Burley tobacco producers; and

“(iii) 1 representative of dark fire-cured tobacco producers;

“(B) 5 members shall be appointed by the Secretary from nominations submitted by representatives of tobacco product manufacturers in the United States, including at least—

“(i) 1 representative of smokeless tobacco product manufacturers; and

“(ii) 1 representative of export dealers of tobacco; and

“(C) 3 at-large members shall be appointed by the Secretary, including at least 1 officer or employee of the Department.

"(2) CHAIRPERSON.—The Secretary shall appoint the chairperson of the Tobacco Quality Board, with a different member serving as chairperson of the Tobacco Quality Board each term.

"(3) TERMS.—Each member of the Tobacco Quality Board shall serve for 2-year terms, except that the terms of the members first appointed to the Tobacco Quality Board shall be staggered so as to establish a rotating membership of the Tobacco Quality Board, as determined by the Secretary.

"(c) DUTIES.—The Tobacco Quality Board shall—

"(1) determine and describe the physical characteristics of tobacco produced in the United States and unmanufactured tobacco imported into the United States;

"(2) assemble and evaluate, in a systematic manner, concerns and problems with the quality of tobacco produced in the United States, expressed by domestic and foreign buyers and manufacturers of tobacco products;

"(3) review data collected by Federal agencies on the physical and chemical integrity of tobacco produced in the United States and unmanufactured tobacco imported into the United States, to ensure that tobacco being used in domestically-manufactured tobacco products is of the highest quality and is free from prohibited physical and chemical agents;

"(4) investigate and communicate to the Secretary—

"(A) conditions with respect to the production of tobacco that discourage improvements in the quality of tobacco produced in the United States; and

"(B) recommendations for regulatory changes that would address tobacco quality issues;

"(5) conduct oversight regarding tobacco marketing issues (such as opening sales dates and marketing regulations) applicable to auction markets;

"(6) provide assistance to Federal agencies on actions taken by the Federal agencies that affect the quality or quantity of tobacco produced in the United States;

"(7) not later than a date determined by the Secretary, make recommendations to the Secretary, and the applicable Production Board established for the kind of tobacco, on the range of base years for the maximum crop acreage base under section 380I(c)(3)(B), and for the maximum crop poundage base under section 380I(d)(3)(B), for each crop of each kind of tobacco, except that the range of base years shall be the crop years for the 1998 through 2002 crops unless otherwise determined by the Tobacco Quality Board; and

"(8) carry out such other related activities as are assigned to the Tobacco Quality Board by the Secretary.

"(d) ADMINISTRATION.—The Secretary shall provide the Tobacco Quality Board with (as determined by the Secretary)—

"(1) a staff that is—

"(A) experienced in the sampling and analysis of unmanufactured tobacco; and

"(B) capable of collecting data and monitoring tobacco production information; and

"(2) other resources and information necessary for the Tobacco Quality Board to perform the duties of the Tobacco Quality Board under this subtitle, including—

"(A) information concerning acreage devoted to the production of each kind of tobacco; and

"(B) international information from the Foreign Agricultural Service.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Tobacco Quality Board.

"SEC. 380H. PRODUCTION BOARDS.

"(a) IN GENERAL.—The Secretary shall establish a permanent advisory board for each kind of tobacco, to be known as a 'Production Board'.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—Subject to paragraph (2), a Production Board for a kind of tobacco shall consist of—

"(A) not more than 10 members appointed by the Secretary from nominations submitted by representatives of producers of that kind of tobacco in the United States; and

"(B) 1 officer or employee of the Department appointed by the Secretary.

"(2) ALLOCATION OF MEMBERSHIP.—In appointing members to a Production Board established for a kind of tobacco, the number of members appointed by the Secretary to represent each State shall, to the maximum extent practicable, bear the same ratio to the total number of members of the Production Board as—

"(A) the total volume of domestic sales of the kind of tobacco produced in the State during the most recent period for which data is available; bears to

"(B) the total volume of domestic sales of the kind of tobacco produced in all States during the most recent period for which data is available.

"(3) CHAIRPERSON.—The Secretary shall appoint the chairperson of a Production Board, with a different member serving as chairperson of the Production Board each term.

"(4) TERMS.—Each member of a Production Board shall serve for 2-year terms, except that the terms of the members first appointed to the Production Board shall be staggered so as to establish a rotating membership of the Production Board, as determined by the Secretary.

"(c) DUTIES.—A Production Board established for a kind of tobacco shall—

"(1) not later than a date determined by the Secretary, make recommendations to the Secretary on the base year, within the range of base years recommended by the Tobacco Quality Board under section 380G(c)(7), for the maximum crop acreage base under section 380I(c)(3)(B) for each crop of each kind of tobacco; and

"(2) carry out such other related activities as are assigned to the Production Board by the Secretary.

"(d) ADMINISTRATION.—The Secretary shall provide each Production Board established for a kind of tobacco with (as determined by the Secretary)—

"(1) a staff that is knowledgeable about production and marketing of that kind of tobacco; and

"(2) other resources and information necessary for the Production Board to perform the duties of the Production Board under this subtitle, including information concerning acreage devoted to the production of each kind of tobacco.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a Production Board.

"SEC. 380I. TOBACCO PRODUCTION LIMITATION PROGRAMS.

"(a) DEFINITIONS.—In this section:

"(1) CROP ACREAGE BASE.—The term 'crop acreage base' means the crop acreage base for a kind of tobacco for a crop for an active producer of tobacco, as determined by the Secretary.

"(2) CROP POUNDAGE BASE.—The term 'crop poundage base' means the crop poundage base for a kind of tobacco for a crop for an active producer of tobacco, as determined by the Secretary.

"(3) PERMITTED ACREAGE.—The term 'permitted acreage' means the number of acres that may be devoted to the production of a kind of tobacco by an active producer of tobacco, consistent with the annual acreage limitation program, as determined by the Secretary.

"(4) PERMITTED POUNDAGE.—The term 'permitted poundage' means the number of pounds of a kind of tobacco for a crop may be produced by an active tobacco producer, consistent with the annual poundage limitation program, as determined by the Secretary.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish for each crop of each kind of tobacco—

"(A) an acreage limitation program in accordance with subsection (c); or

"(B) a poundage limitation in accordance with subsection (d).

"(2) CONSULTATION.—The Secretary shall carry out the acreage limitation program and the poundage limitation program for a kind of tobacco in consultation with the Tobacco Advisory Board and the applicable Production Board established for that kind of tobacco.

"(3) SUPPLY.—In carrying out an acreage limitation program or a poundage limitation program for a crop of a kind of tobacco, the Secretary shall determine whether the total supply of that kind of tobacco, in the absence of the respective production limitation program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices.

"(4) ANNOUNCEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall announce an acreage limitation program or poundage limitation program for each kind of tobacco not later than December 15 of the calendar year preceding the year in which the crop is harvested.

"(B) SPECIAL RULE FOR 2004 CROP.—In the case of the 2004 crop for a kind of tobacco, the Secretary shall announce an acreage limitation program or poundage limitation for each kind of tobacco as soon as practicable after the date of the enactment of the Tobacco Market Transition Act of 2004.

"(c) ACREAGE LIMITATION PROGRAM.—

"(1) IN GENERAL.—Under an acreage limitation program for a crop of a kind of tobacco announced under subsection (b), the limitation shall be achieved by applying a uniform percentage reduction to the crop acreage base for the kind of tobacco for the crop for active producers of that kind of tobacco in each traditional tobacco county, as determined by the Secretary.

"(2) CROP ACREAGE BASES.—

"(A) IN GENERAL.—The crop acreage base for an active producer of tobacco for a crop of each kind of tobacco shall equal the number of acres that is equal to—

"(i) in the case of the 2004 crop year, the average of the acreage planted and considered planted by the active producer of tobacco to the kind of tobacco for harvest in a traditional tobacco county in each of the 5 crop years preceding the crop year, as determined and adjusted by the Secretary (in consultation with the Tobacco Quality Board and the applicable Production Board); and

"(ii) in the case of each subsequent crop year, the number of acres planted and considered planted by the active producer of tobacco to the kind of tobacco for harvest in a traditional tobacco county in the preceding crop year, as determined and adjusted by the Secretary (in consultation with the Tobacco Quality Board and the applicable Production Board).

"(B) MAXIMUM CROP ACREAGE BASES.—

"(i) IN GENERAL.—The total quantity of acreage devoted to a kind of tobacco by active producers of tobacco during a crop year shall not exceed the total quantity of acreage devoted to the kind of tobacco by active producers during a crop year determined by the Secretary.

"(ii) ADJUSTMENT.—If the active producers of a kind of tobacco demonstrate to the Secretary that the application of clause (i) to a crop of a kind of tobacco will result in unbalanced supply and demand conditions, the Secretary may adjust the total quantity of acreage that may be devoted to the kind of tobacco by active producers during the crop year.

"(C) SALE, LEASE, OR TRANSFER OF CROP ACREAGE BASES.—An active producer of tobacco shall not sell, lease, or transfer to another person a crop acreage base established for the active producer of tobacco under this paragraph.

"(D) REALLOCATION OF UNUSED CROP ACREAGE BASES.—

"(i) COUNTY POOL.—If an active producer of tobacco with a crop acreage base for a kind of tobacco elects not to use all or part of the crop acreage base to continue to produce that kind of tobacco, the unused crop acreage base shall be placed in a pool established for the traditional tobacco county for reallocation by the Secretary to other producers of that kind of tobacco in the traditional tobacco county that request the crop acreage base.

"(ii) STATE POOL.—If any crop acreage base for a kind of tobacco remains after the crop acreage base is made available to producers of that kind of tobacco in the traditional tobacco county in a State, the unused crop acreage base shall be placed in a pool established for the State for reallocation by the Secretary to other producers of that kind of tobacco in a traditional tobacco county.

"(iii) NEW PRODUCERS.—In reallocating unused crop acreage bases for a kind of tobacco in a traditional tobacco county made available under each of clauses (i) and (ii), the Secretary shall make available to any new producers of that kind of tobacco in the traditional tobacco county up to 10 percent of the crop acreage bases available for reallocation for the kind of tobacco in the traditional tobacco county.

"(d) POUNDAGE LIMITATION PROGRAM.—

"(1) IN GENERAL.—Under a poundage limitation program for a crop of a kind of tobacco, the Secretary shall achieve the limitation by applying a uniform percentage adjustment to the crop poundage base of an active producer of tobacco for the kind of tobacco in each traditional tobacco county, as determined by the Secretary.

"(2) DETERMINATION OF CROP POUNDAGE BASES.—

"(A) 2004 CROP YEAR.—The crop poundage base for an active tobacco producer for the 2004 crop of a kind of tobacco shall equal the average of the number of pounds of that kind of tobacco harvested by the active tobacco producer in a traditional tobacco county and marketed in each of the 5 crop years preceding the crop year, as determined by the Secretary.

"(B) SUBSEQUENT CROP YEARS.—In the case of the 2005 and subsequent crops of each kind of tobacco, the crop poundage base for an active tobacco producer of a kind of tobacco shall equal the number of pounds of that kind of tobacco harvested by the active tobacco producer in a traditional tobacco county and marketed in the preceding crop year, as determined and adjusted by the Secretary.

"(3) MAXIMUM CROP POUNDAGE BASES.—

"(A) IN GENERAL.—The total number of pounds devoted to a kind of tobacco by active tobacco producers during a crop year shall not exceed the total number of pounds devoted to the kind of tobacco by active tobacco producers during a crop year determined by the Secretary.

"(B) ADJUSTMENT.—If the active tobacco producers of a kind of tobacco demonstrate to the Secretary that the application of paragraph (1) to a crop of a kind of tobacco will result in unbalanced supply and demand conditions, the Secretary may adjust the total number of pounds that may be devoted to the kind of tobacco by active tobacco producers during the crop year.

"(4) SALE, LEASE, OR TRANSFER OF CROP POUNDAGE BASES.—

"(A) PROHIBITION.—An active producer of tobacco shall not directly or indirectly sell, lease, or transfer to another person or other legal entity a crop poundage base established for an active tobacco producer under this subsection.

"(B) EXCEPTION.—If the crop poundage base of an active producer of tobacco for a type of tobacco covers tobacco that was produced by the producer in more than 1 traditional tobacco county, the producer may elect to consolidate the base in a single traditional tobacco county in which the producer bore or shared in the risk of producing a crop of that kind of tobacco for the 2002 crop year.

"(5) REALLOCATION OF UNUSED CROP POUNDAGE BASES.—

"(A) COUNTY POOL.—If an active producer of tobacco with a crop poundage base for a kind of tobacco elects not to use all or part of the crop poundage base, the unused crop poundage base shall be placed in a pool established for the traditional tobacco county where the unused crop poundage base was originally located for reallocation by the Secretary to other active producers of tobacco of that kind of tobacco in the traditional tobacco county, in a manner determined by the Secretary.

"(B) STATE POOL.—If any crop poundage base for a kind of tobacco remains after the crop poundage base is made available to producers of that kind of tobacco in the traditional tobacco county in a State under subparagraph (A), the unused crop poundage base shall be placed in a pool established for the State for reallocation by the Secretary to other producers of that kind of tobacco in traditional tobacco counties, in a manner determined by the Secretary.

"(C) TRADITIONAL GROWING AREA POOL.—If any crop poundage base for a kind of tobacco remains after the crop poundage base is made available to producers of that kind of tobacco under subparagraphs (A) and (B), the unused crop poundage base shall be placed in a pool established for reallocation by the Secretary to other producers of that kind of tobacco in a traditional tobacco county for that kind of tobacco.

"(D) NEW PRODUCERS.—In reallocating unused crop poundage bases for a kind of tobacco in a traditional tobacco county made available under any of subparagraphs (A) through (C), the Secretary shall make available to any new producers of that kind of tobacco in the traditional tobacco county up to 10 percent of the crop poundage bases available for reallocation for the kind of tobacco in the traditional tobacco county.

"(e) COMPLIANCE.—

"(1) LOANS, PURCHASES, OR PAYMENTS.—An active producer of tobacco that knowingly produces a kind of tobacco in excess of the permitted acreage or permitted poundage, as applicable, for the kind of tobacco, or violates any lease or transfer requirements of this section, shall be ineligible for any loans, purchases, or payments for that crop of the kind of tobacco.

"(2) NO CARRYOVER.—An active producer of tobacco may not carry over permitted poundage or permitted acreage, as applicable, for a crop of a kind of tobacco, that is not produced by the producer, for production in a subsequent crop year.

"(3) PENALTIES.—

"(A) CRIMINAL PENALTY.—An active producer of tobacco that violates paragraph (1) shall be fined not more than $100,000 or imprisoned not more than 2 years, or both.

"(B) CIVIL PENALTY.—An active producer of tobacco that violates paragraph (2) shall be subject to a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco produced by the producer during the applicable crop year, as determined by the Secretary.

"(C) ADDITIONAL PENALTIES.—A civil penalty under subparagraph (B) for a violation shall be in addition to any criminal penalty under subparagraph (A) for the violation.

"(D) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—A United States district court shall have jurisdiction to prevent and restrain an active producer of tobacco from producing a kind of tobacco in excess of the permitted acreage for the kind of tobacco.

"(4) COMPLIANCE WITH CONSERVATION AND AGRICULTURAL REQUIREMENTS.—As a condition of the establishment of a crop acreage base or crop poundage base, as applicable, for active producers of tobacco for a crop of a kind of tobacco, the active producers of tobacco shall agree, during the crop year for which the crop acreage base or crop poundage base is established—

"(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

"(B) to comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

"(C) to use the land of the active producer of tobacco, in a quantity equal to the crop acreage base for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

"(D) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (C).

"CHAPTER 3—TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS

"SEC. 380O. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

"(a) IN GENERAL.—The Secretary shall make grants to eligible States in accordance with this section to pay the cost of carrying out economic development initiatives in impacted communities.

"(b) APPLICATION.—To be eligible to receive payments under this section, an eligible State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a description of the activities that the eligible State will carry out using amounts received under the grant; and

"(2) a description of the State department of agriculture that will administer amounts received under the grant.

"(c) AMOUNT OF GRANT.—From the amounts available to carry out this section, the Secretary shall allot—

"(1) $20,000,000 to the State of Maryland;

"(2) $14,000,000 to the State of Pennsylvania;

"(3) $50,000,000 to the State of South Carolina; and

"(4) $50,000,000 to the State of North Carolina.

"(d) PAYMENTS.—An eligible State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section, in 5 equal installments, in an amount that is equal to its allotment under subsection (c).

"(e) USE OF FUNDS.—Amounts received by an eligible State under this section shall be used to carry out economic development activities in impacted communities of the eligible State, as determined by the eligible State.

"(f) TERMINATION DATE.—The authority provided by this section terminates on September 30, 2008.

"CHAPTER 4—COMPETITIVE GRANTS FOR TOBACCO RESEARCH

"SEC. 380Q. COMPETITIVE GRANTS FOR TOBACCO RESEARCH.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall make competitive grants under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626) to colleges and universities located in eligible States to conduct research—

''(1) to assist tobacco producers to diversify crops or implement other means to reduce or eliminate the reliance of the producers on the production of tobacco or to promote alternative uses of tobacco or enhance the quality of tobacco produced in the United States; and

''(2) to foster and facilitate development, evaluation, and implementation of economically viable new agricultural technologies and enterprises for rural communities.

''(b) GRANT DISTRIBUTION.—In making grants under this section, the Secretary shall provide for an equitable distribution of the grants based on the volume of each kind of tobacco that is produced in each eligible State, as determined by the Secretary

''(c) TERMINATION DATE.—The authority provided by this section terminates on September 30, 2008.

"CHAPTER 5—FUNDING

"SEC. 380S. TOBACCO TRUST FUND.

''(a) ESTABLISHMENT.—There is established in the Commodity Credit Corporation a revolving trust fund to be used in carrying out this subtitle (referred to in this section as the 'Fund'), consisting of—

''(1) such amounts as are deposited in the Fund under subsection (b);

''(2) such amounts as are necessary from the Commodity Credit Corporation; and

''(3) any interest earned on investment of amounts in the Fund under subsection (d).

''(b) DEPOSITS.—Revenues from assessments collected under section 380T shall be deposited in the Fund.

''(c) EXPENDITURES.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3) and notwithstanding any other provision of law, in addition to any other funds that may be available, the Secretary may use from the Fund such amounts as the Secretary determines are necessary—

''(A) to make payments to tobacco quota holders and traditional producers under chapter 1;

''(B) to pay necessary expenses of the Tobacco Quality Board and Production Boards and to carry out the acreage limitation program under chapter 2;

''(C) to make tobacco community economic development grants under chapter 3, in an amount equal to $16,800,000 for each of fiscal years 2004 through 2008;

''(D) to make competitive grants for tobacco research under chapter 4, in an amount equal to $12,000,000 for each of fiscal years 2004 through 2008;

''(E) to make grants to each association that has entered into a loan agreement with the Commodity Credit Corporation under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2) (as in effect before the effective date of this subtitle) to assist the association to transition to alternative methods of marketing tobacco in accordance with a plan approved by the Secretary, with the grants allocated on the basis of the proportion of tobacco marketed by each association, in an amount not to exceed $1,000,000 for each association for each kind of tobacco for each of fiscal years 2004 through 2008;

''(F) to make payments to appropriate tobacco warehouse associations, as determined by the Secretary, in an amount not to exceed $500,000 for each of fiscal years 2004 through 2008;

''(G) to pay administrative costs incurred by the Secretary in carrying out this subtitle; and

''(H) to reimburse the Commodity Credit Corporation for costs incurred by the Commodity Credit Corporation under paragraph (2).

''(2) EXPENDITURES BY COMMODITY CREDIT CORPORATION.—

''(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of law, the Secretary shall use funds of the Commodity Credit Corporation to make payments under paragraph (1).

''(B) REIMBURSEMENT TO COMMODITY CREDIT CORPORATION.—Not later than January 1, 2013, the Commodity Credit Corporation shall be reimbursed in full, with interest, for all funds of the Commodity Credit Corporation expended under subparagraph (A).

''(3) ADMINISTRATIVE EXPENSES.—

''(A) IN GENERAL.—An amount not to exceed $20,000,000 for each fiscal year of the amounts in the Fund shall be available to pay the administrative expenses necessary to carry out this subtitle.

''(B) TERMINATION DATE.—The authority provided by this paragraph terminates on September 30, 2013.

''(d) INVESTMENT OF AMOUNTS.—

''(1) IN GENERAL.—The Commodity Credit Corporation shall invest such portion of the Fund as is not, in the judgment of the Commodity Credit Corporation, required to meet current withdrawals.

''(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

''(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

''(A) on original issue at the issue price; or

''(B) by purchase of outstanding obligations at the market price.

''(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Commodity Credit Corporation at the market price.

''(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

''(e) ADMINISTRATION.—In administering the Fund, the Secretary shall make payments, reimburse agencies of the Department, and accept deposits without regard to limitations on total amounts of allotments and fund transfers under section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i).

"SEC. 380T. ASSESSMENTS.

''(a) DEFINITION OF GROSS DOMESTIC VOLUME.—In this section, the term 'gross domestic volume' means the volume of tobacco products—

''(1) removed (as defined by section 5702 of the Internal Revenue Code of 1986); and

''(2) not exempt from tax under chapter 52 of the Internal Revenue Code of 1986 at the time of their removal under that chapter or the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

''(b) ASSESSMENTS.—The Secretary, acting through the Commodity Credit Corporation, shall impose quarterly assessments, calculated in accordance with this section, on each tobacco product manufacturer and tobacco product importer that sells tobacco products in domestic commerce in the United States.

''(c) TOBACCO TRUST FUND.—Assessments collected under this section shall be deposited in the Tobacco Trust Fund.

''(d) ASSESSMENT FOR EACH CLASS OF TOBACCO PRODUCT.—

''(1) ALLOCATION BY CLASS OF TOBACCO PRODUCTS.—The percentage of the total amount to be assessed against, and paid by, the manufacturers and importers of each class of tobacco product in each applicable fiscal year shall be—

''(A) for cigarette manufacturers and importers, 99.409 percent;

''(B) for snuff manufacturers and importers, 0.428 percent;

''(C) for chewing tobacco manufacturers and importers, 0.098 percent;

''(D) for pipe tobacco manufacturers and importers, 0.021 percent; and

''(E) for roll-your-own tobacco manufacturers and importers, 0.044 percent.

''(2) ADJUSTMENT.—The Secretary shall adjust the percentage of the total amount to be assessed against, as determined under paragraph (1), and paid by, the manufacturers and importers of each class of tobacco product in each applicable fiscal year by multiplying the percentage of the total amount to be assessed, as determined under paragraph (1), by a fraction—

''(A) the numerator of which is the total volume of domestic sales of that class of tobacco product during the preceding applicable fiscal year; and

''(B) the denominator of which is the total volume of domestic sales of that class of tobacco product during fiscal year 2003.

''(3) TOTAL ASSESSMENT.—

''(A) IN GENERAL.—The total amount to be assessed against all manufacturers and importers of all classes of tobacco product in each applicable fiscal year shall be equal to the amount required to carry out this subtitle during the applicable fiscal year, as determined by the Secretary.

''(B) ADDITIONAL AMOUNT.—

''(i) IN GENERAL.—If the amount to be assessed after the application of paragraphs (1) and (2) is insufficient to carry out this subtitle during the applicable fiscal year, the Secretary may assess such additional amount as the Secretary determines to be necessary to carry out this subtitle during the applicable fiscal year.

''(ii) ALLOCATION.—The additional amount shall be allocated to the manufacturers and importers of each class of tobacco product in the same manner and based on the same percentages applied in determining the total amount to be assessed under paragraph (1), as adjusted under paragraph (2) during the applicable fiscal year.

''(4) NOTIFICATION OF ASSESSMENTS.—

''(A) IN GENERAL.—The Secretary shall notify all manufacturers and importers of tobacco products of the amount of the assessment for each quarterly payment period.

''(B) CONTENTS.—The notice for a quarterly payment period shall describe gross domestic sales and market shares for the quarterly payment period and conform with the requirements of subsection (i).

''(5) TIMING OF ASSESSMENT PAYMENTS.—

''(A) IN GENERAL.—Assessments shall be collected at the end of each calendar year quarter.

''(B) BASE PERIOD QUARTER.—The assessment for a calendar year quarter shall correspond to the base period quarter that ended at the end of the preceding calendar year quarter.

''(C) AMOUNTS.—Subject to subparagraph (D), beginning with the calendar quarter ending on December 31 of each applicable fiscal year, the payments over 4 calendar quarters shall be sufficient to cover—

''(i) the payments required under chapter 1 on November 1 of that same applicable fiscal year; and

''(ii) other expenditures from the Tobacco Trust Fund required under section 380S during the base quarter periods corresponding to those 4 calendar quarters.

''(D) SPECIAL RULE.—In the case of payments required under chapter 1 that are due on September 30, 2004, the assessments shall be paid on that same date and correspond to the first base period of 6 months.

''(e) ALLOCATION OF ASSESSMENT WITHIN EACH CLASS OF TOBACCO PRODUCT.—

"(1) IN GENERAL.—The assessment for each class of tobacco product shall be allocated on a pro rata basis among manufacturers and importers based on each manufacturer's or importer's share of gross domestic volume.

"(2) LIMITATION.—No manufacturer or importer shall be required to pay an assessment that is based on a share that is in excess of the manufacturer's or importer's share of domestic volume.

"(f) ALLOCATION OF TOTAL ASSESSMENTS BY MARKET SHARE.—The amount of the assessment for each class of tobacco product to be paid by each manufacturer or importer of the class of tobacco product under subsection (b) shall be determined for each quarterly payment period by multiplying—

"(1) the market share of the manufacturer or importer, as calculated with respect to that payment period, of the class of tobacco product; by

"(2) the total amount of the assessment for that quarterly payment period under subsection (d), for the class of tobacco product.

"(g) DETERMINATION OF VOLUME OF DOMESTIC SALES.—

"(1) IN GENERAL.—The calculation of the volume of domestic sales of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary based on information provided by the manufacturers and importers pursuant to subsection (h), as well as any other relevant information provided to or obtained by the Secretary.

"(2) GROSS DOMESTIC VOLUME.—The volume of domestic sales shall be calculated based on gross domestic volume.

"(3) MEASUREMENT.—For purposes of the calculations under this subsection and the certifications under subsection (h) by the Secretary, the volumes of domestic sales shall be measured by—

"(A) in the case of cigarettes, the numbers of cigarettes; and

"(B) in the case of other classes of tobacco products, in terms of number of pounds, or fraction thereof, of those products.

"(h) MEASUREMENT OF VOLUME OF DOMESTIC SALES.—

"(1) IN GENERAL.—Each manufacturer and importer of tobacco products shall submit to the Secretary a certified copy of each of the returns or forms described by paragraph (2) that are required to be filed with a Federal Government agency on the same date that those returns or forms are filed, or required to be filed, with the agency.

"(2) RETURNS AND FORMS.—The returns and forms described by this paragraph are those returns and forms that relate to—

"(A) the removal of tobacco products into domestic commerce (as defined by section 5702 of the Internal Revenue Code of 1986); and

"(B) the payment of the taxes imposed under charter 52 of the Internal Revenue Code of 1986, including AFT Form 5000.24 and United States Customs Form 7501 under currently applicable regulations.

"(3) PENALTIES.—

"(A) IN GENERAL.—Any person that knowingly fails to provide information required under this subsection or that provides false information under this subsection shall be subject to the penalties described in section 1003 of title 18, United States Code.

"(B) ADDITIONAL CIVIL PENALTY.—In addition, the Secretary may assess against the person a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco products manufactured or imported by the person during the applicable fiscal year, as determined by the Secretary.

"(i) ASSESSMENT NOTIFICATION; CONTENT.—

"(1) IN GENERAL.—The Secretary shall provide each manufacturer or importer subject to an assessment under subsection (b) with written notice setting forth the amount to be assessed against the manufacturer or importer for the applicable quarterly period.

"(2) DEADLINE.—The notice for a quarterly period shall be provided not later than 30 days before the date payment is due under subsection (d)(5).

"(3) CONTENTS.—The notice shall include the following information with respect to the quarterly period used by the Secretary in calculating the amount:

"(A) The total combined assessment for all manufacturers and importers of tobacco products.

"(B) The total assessment with respect to the class of tobacco products manufactured or imported by the manufacturer or importer.

"(C) Any adjustments to the percentage allocations among the classes of tobacco products made pursuant to subsection (d)(2).

"(D) The volume of gross sales of the applicable class of tobacco product treated as made by the manufacturer or importer for purposes of calculating the manufacturer's or importer's market share under subsection (f).

"(E) The total volume of gross sales of the applicable class of tobacco product that the Secretary treated as made by all manufacturers and importers for purposes of calculating the manufacturer's or importer's market share under subsection (f).

"(F) The manufacturer's or importer's market share of the applicable class of tobacco product as determined by the Secretary under subsection (f).

"(G) The market share, as determined by the Secretary under subsection (f), of each other manufacturer and importer, for each applicable class of tobacco product.

"(j) CHALLENGE TO ASSESSMENT.—

"(1) APPEAL TO SECRETARY.—A manufacturer or importer subject to this section may contest an assessment imposed on the person under this section by notifying the Secretary not later than 10 business days after receiving the assessment notification required by subsection (i).

"(2) ESCROW.—The manufacturer and importer may place into escrow, in accordance with rules promulgated by the Secretary, only the portion of the assessment being challenged in good faith pending final determination of the assessment under this subsection.

"(3) INFORMATION.—The Secretary shall by regulation establish a procedure under which a person contesting an assessment under this subsection may present information to the Secretary to demonstrate that the assessment is incorrect, including information to demonstrate the following:

"(A) The total combined assessment imposed by the Secretary on all manufacturers and importers is excessive.

"(B) The Secretary's allocation of the total assessment among the classes of tobacco products is incorrect.

"(C) The total volume of gross domestic sales of all manufacturers and importers of the relevant class of tobacco product calculated by the Secretary under subsection (f) is incorrect.

"(D) The level of gross domestic sales attributed to the person by the Secretary for purposes of calculating the person's market share under subsection (f) exceeds the person's actual domestic sales of that class of tobacco product.

"(E) The amount of the assessment attributed to the person by the Secretary exceeds the person's pro rata share based on the person's share of gross domestic sales.

"(4) CHALLENGE.—

"(A) IN GENERAL.—In challenging an assessment under this subsection, the manufacturer or importer may use any information that is available, including third party data on industry or individual company sales volumes.

"(B) INCORRECT DETERMINATION.—The information may constitute evidence sufficient to establish that the Secretary's initial determination was incorrect, in which event the assessment shall be revised so that the manufacturer or importer is required only to pay the amount correctly determined.

"(5) TIME FOR REVIEW.—Not later than 30 days after receiving notice from a manufacturer or importer under paragraph (2), the Secretary shall—

"(A) decide whether the information provided to the Secretary pursuant to that paragraph, and any other information that the Secretary determines, is appropriate is sufficient to establish that the original assessment was incorrect; and

"(B) make any revisions necessary to ensure that each manufacturer and importer pays only its correct pro rata share of total gross domestic volume from all sources.

"(6) IMMEDIATE PAYMENT OF UNDISPUTED AMOUNTS.—The regulations promulgated by the Secretary under paragraph (2) shall provide for the immediate payment by a manufacturer or importer challenging an assessment of that portion of the assessment that is not in dispute.

"(7) JUDICIAL REVIEW.—

"(A) IN GENERAL.—Any manufacturer or importer aggrieved by a determination of the Secretary with respect to the amount of any assessment may seek review of the determination in the United States District Court for the District of Columbia or for the district in which the manufacturer or importer resides or has its principal place of business at any time following exhaustion of the administrative remedies under this subsection.

"(B) TIME LIMITS.—Administrative remedies shall be deemed exhausted if no decision by the Secretary is made within the time limits established under paragraph (5).

"(C) EXCESSIVE ASSESSMENTS.—The court shall restrain collection of the excessive portion of any assessment or order a refund of excessive assessments already paid, along with interest calculated at the rate prescribed in section 3717 of title 31, United States Code, if it finds that the Secretary's determination is not supported by a preponderance of the information available to the Secretary.

"(8) REGULATIONS.—Not later than 180 days after the date of enactment of this subtitle, the Secretary shall promulgate regulations to implement this subsection (in accordance with section 301 of the Tobacco Market Transition Act of 2004).

"(k) USE OF QUALIFIED FINANCIAL INSTITUTIONS.—The Secretary may use qualified financial institutions to manage assets, make payments, and otherwise carry out this subtitle.

"(l) TERMINATION DATE.—The authority provided by this section terminates on September 30, 2013.

"SEC. 380U. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle, to remain available until expended.

"SEC. 380V. TRANSITION PROVISIONS.

"(a) TOBACCO STOCKS.—

"(1) IN GENERAL.—To provide for the orderly disposition of quota tobacco held by an association that has entered into a loan agreement with the Commodity Credit Corporation under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2) (referred to in this section as an 'association'), loan pool stocks for each kind of tobacco held by the association shall be disposed of in accordance with this subsection.

"(2) ASSOCIATIONS.—For each kind of tobacco held by an association, the proportion of loan pool stocks for each kind of tobacco held by the *association that shall be transferred to the association shall be equal to—*

“(A) the amount of funds held by the association in the No Net Cost Tobacco Fund and the No Net Cost Tobacco Account established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, for the kind of tobacco; divided by

“(B) the average list price per pound for the kind of tobacco, as determined by the Secretary.

“(3) COMMODITY CREDIT CORPORATION.—Any loan pool stocks of a kind of tobacco of an association that are not disposed of in accordance with paragraph (2) shall be—

“(A) transferred by the association to the Commodity Credit Corporation; and

“(B) disposed of in a manner determined by the Secretary.

“(b) NO NET COST FUNDS.—

“(1) IN GENERAL.—Any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, that remain after the application of subsection (a) and sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1) (as in effect before the effective date of this subtitle) shall be transferred to the association for distribution to traditional producers of tobacco in accordance with a plan approved by the Secretary.

“(2) ASSOCIATIONS WITH NO LOAN POOL STOCKS.—In the case of an association that does not hold any loan pool stocks that are covered by subsection (a)(2), any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of the association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, shall be transferred to the association for distribution to traditional producers of tobacco in accordance with a plan approved by the Secretary.

“(c) REIMBURSEMENT TO COMMODITY CREDIT CORPORATION.—There shall be transferred from the Tobacco Trust Fund to each No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2), respectively, such amounts as the Secretary determines will be adequate to reimburse the Commodity Credit Corporation for any net losses that the Corporation may sustain under its loan agreements with the association.”.

SEC. 1152. TOBACCO INSURANCE RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 522(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting appropriately;

(2) by striking “The Corporation” and inserting the following—

“(A) IN GENERAL.—The”; and

(3) by adding at the end the following:

“(B) TOBACCO RESEARCH AND DEVELOPMENT.—Subject to the availability of funds under subsection (e)(5), the Corporation shall provide a payment to reimburse an applicant for research and development costs directly related to a policy that is—

“(i) submitted to the Board and approved by the Board under section 508(h) for reinsurance;

“(ii) if applicable, offered for sale to producers; and

“(iii) addresses risk in the production of tobacco.”.

(b) ASSESSMENTS.—Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended by adding at the end the following:

“(5) TOBACCO ASSESSMENT.—

“(A) IN GENERAL.—Effective for each marketing year for a kind of tobacco for which a commodity-specific plan of insurance is offered under this Act, subject to subparagraphs (B) through (D), each producer and purchaser of that kind of tobacco shall remit to the Insurance Fund established under section 516(c) a nonrefundable marketing assessment in an amount determined by the Secretary pursuant to subparagraphs (B) and (C).

“(B) TOTAL AMOUNT.—The total amount of producer and purchaser assessments for a kind of tobacco collected under this paragraph shall be equal to the amount that is necessary to carry out subsection (b)(1)(B).

“(C) ADMINISTRATION.—Producer and purchaser assessments for a kind of tobacco under this paragraph—

“(ii) shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in paying assessments required under this paragraph; and

“(ii) shall not exceed 5 cents per pound.

“(D) TERMINATION.—Effective beginning with the 2010 crop of each kind of tobacco, the Secretary may terminate the collection of assessments for that kind of tobacco if the Secretary determines that further research and development under subsection (b)(1)(B) would not be productive.”.

(c) INSURANCE FUND.—Section 516(c)(1) of the Federal Crop Insurance Act (7 U.S.C. 1516(c)(1)) is amended by inserting “assessments for tobacco research made available under section 522(e)(5),” after “under subsection (a)(2),”.

SEC. 1153. CONFORMING AMENDMENTS.

Section 320B(c)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h(c)(1)) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by striking “by” at the end and inserting “or”; and

(3) by adding at the end the following:

“(B) in the case of the 2003 marketing year, the price support rate for the kind of tobacco involved in effect under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) at the time of the violation; by”.

CHAPTER 3—IMPLEMENTATION

SEC. 1161. REGULATIONS.

(a) IN GENERAL.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this subtitle and the amendments made by this subtitle.

(b) PROCEDURE.—The promulgation of the regulations and administration of this subtitle and the amendments made by this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 1162. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall apply to the 2004 and subsequent crops of each kind of tobacco.

NOMINATION OF WILLIAM GERRY MYERS III

Mr. FRIST. Mr. President, as in executive session, I would have asked unanimous consent that on Monday, July 19, at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session for the consideration of the nomination of William Myers to be U.S. circuit judge for the Ninth Circuit. That would have been objected to. The unanimous-consent request would have gone on to say 5 hours of debate, to be equally divided, to be followed by a vote on the confirmation at 2:15 on Tuesday, July 20, with no intervening action or debate. That unanimous consent would have been objected to by the other side of the aisle.

EXECUTIVE SESSION

NOMINATION OF WILLIAM GERRY MYERS III TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. FRIST. Mr. President, at this juncture, I now move to proceed to executive session for the consideration of Calendar No. 603.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senate will now go into executive session and proceed to the nomination of William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit, which the clerk will report.

The legislative clerk read the nomination of William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 603, William Gerry Myers III of Idaho, to be United States Circuit Judge for the Ninth Circuit, Vice Thomas G. Nelson, retiring.

Bill Frist, Orrin Hatch, Christopher Bond, Chuck Hagel, Ted Stevens, John Cornyn, Wayne Allard, Lindsey Graham, Sam Brownback, Gordon Smith, Lisa Murkowski, Lamar Alexander, Robert Bennett, Elizabeth Dole, Don Nickles, James Inhofe, and Conrad Burns.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived, that the vote on cloture occur at 2:15 on Tuesday, July 20, and further that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

THRIFT SAVINGS PLAN OPEN ELECTIONS ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 606, S. 2479.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2479) to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2479) was read the third time and passed, as follows:

S. 2479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTIONS FOR THRIFT SAVINGS PLAN CONTRIBUTIONS.

(a) SHORT TITLE.—This Act may be cited as the "Thrift Savings Plan Open Elections Act of 2004".

(b) IN GENERAL.—Section 8432(b)(1)(A) of title 5, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "(i)" before "The Executive Director"; and

(B) by striking "shall be afforded a reasonable period every 6 months to elect to" and inserting "may";

(2) by striking the second sentence; and

(3) by adding at the end the following:

"(ii) An election to make contributions under this paragraph—

"(I) may be made at any time;

"(II) shall take effect on the earliest date after the election that is administratively feasible; and

"(III) shall remain in effect until modified or terminated.".

(c) CONTINUATION OF NOT MAKING IMMEDIATE AGENCY CONTRIBUTIONS.—Section 8432(b)(4)(C) of title 5, United States Code, is amended—

(1) by inserting "(i)" after "(C)"; and

(2) by adding at the end the following:

"(ii) Notwithstanding subparagraph (A) or (B), contributions under paragraphs (1) and (2) of subsection (c) shall not begin to be made with respect to an employee or Member described under paragraph (2)(A) or (B) until the date that such contributions would have begun to be made in accordance with this paragraph as administered on the date preceding the date of enactment of the Thrift Savings Plan Open Elections Act of 2004.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM PARTICIPATION.—Section 8351(a)(2) of title 5, United States Code, is amended by striking "only during a period" and inserting "as".

(2) CONTRIBUTIONS BY PREVIOUSLY INELIGIBLE EMPLOYEES.—Section 8432(b)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A), by striking "second period" and inserting "date";

(B) in subparagraph (C), by striking "second period" and inserting "date"; and

(C) in subparagraph (D) by striking "other than during a period afforded" and inserting "as provided".

(3) PROVISION OF INFORMATION.—Section 8439(c)(2) of title 5, United States Code, is amended by striking "at least 30 calendar days before the beginning of each election period under section 8432(b)(1)(A) of this title" and inserting "on a regular basis".

(4) JUSTICES AND JUDGES.—Section 8440a(a)(2) of title 5, United States Code, is amended by striking "only during a period" and inserting "as".

(5) BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 8440b(a)(2) of title 5, United States Code, is amended by striking "only during a period" and inserting "as".

(6) COURT OF FEDERAL CLAIMS JUDGES.—Section 8440c(a)(2) of title 5, United States Code, is amended by striking "only during a period" and inserting "as".

(7) JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.—Section 8440d(a)(2) of title 5, United States Code, is amended by striking "only during a period" and inserting "as".

(8) MEMBERS OF THE UNIFORMED SERVICES.—Section 8440e(b)(2)(A) of title 5, United States Code, is amended—

(A) by striking "only during a period" and inserting "as"; and

(B) by striking all after section "8432(b)" and inserting a period.

SEC. 2. ENHANCING FINANCIAL LITERACY.

(a) IN GENERAL.—The Federal Retirement Thrift Investment Board (in this section referred to as the "Board") shall periodically evaluate whether the tools available to participants provide the information needed to understand, evaluate, and compare financial products, services, and opportunities offered through the Thrift Savings Plan. The Board shall use these evaluations to improve its existing education program for Thrift Savings Plan participants.

(b) REPORT ON FINANCIAL LITERACY EFFORTS.—The Board shall annually report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on its Thrift Savings Plan education efforts on behalf of plan participants.

(c) STRATEGY.—As part of the retirement training offered by Office of Personnel Management under section 8350 of title 5, United States Code, the Office, in consultation with the Board, shall—

(1) not later than 6 months after the date of enactment of this Act, develop and implement a retirement financial literacy and education strategy for Federal employees that—

(A) shall educate Federal employees on the need for retirement savings and investment; and

(B) provide information related to how Federal employees can receive additional information on how to plan for retirement and calculate what their retirement investment should be in order to meet their retirement goals; and

(2) submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the strategy described under paragraph (1).

MEASURES READ THE FIRST TIME—S. 2678 AND S. 2679

Mr. FRIST. Mr. President, I understand there are two bills at the desk and I ask for their first reading, en bloc.

The PRESIDING OFFICER. The clerk will read the titles of the bills en bloc for the first time.

The legislative clerk read as follows:

A bill (S. 2678) to ensure that Members of Congress do not receive better prescription drug benefits than medicare beneficiaries.

A bill (S. 2679) to strengthen antiterrorism investigative tools, promote information sharing, punish terrorist offenses, and for other purposes.

Mr. FRIST. Mr. President, I now ask for their second reading, and, in order to place the bills on the calendar under the provisions of rule XIV, I object to further proceedings of these matters, en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will receive their second reading on the next legislative day.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108–25

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on July 16, 2004, by the President of the United States:

Protocol Amending Tax Convention with the Netherlands (Treaty Document 108–25.)

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification, the Protocol Amending the Convention Between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington, D.C., on March 8, 2004. Transmitted for the Senate's information is an exchange of notes with an attached Understanding, which provides clarification with respect to the application of the Convention, as amended, in specific cases. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Protocol.

The Protocol would bring the existing Convention into closer conformity with current U.S. tax treaty policy. As modified by the Protocol, the Convention would be similar to tax treaties between the United States and other developed nations. The Protocol was concluded in recognition of the importance of the United States' economic relations with the Netherlands.

The Protocol would modify the treatment of certain cross-border dividend payments and would modernize the Convention's anti-treaty-shopping provisions. The Protocol also would liberalize provisions in the existing Convention regarding the mutual recognition of each country's pension plans. Other provisions in the Protocol update the Convention to take account of changes in law in the two countries over the last 10 years. The exchange of notes with an attached Understanding provides guidance to taxpayers and each government regarding the intended interpretation of certain provisions of the existing Convention, as amended.

I recommend that the Senate give early and favorable consideration to this Protocol, and that the Senate give its advice and consent to ratification.

GEORGE W. BUSH.

HAITI ECONOMIC RECOVERY OPPORTUNITY ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 2261 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2261) to expand certain preferential trade treatment for Haiti.

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, I am very pleased we are moving forward today with passage of the Haiti Economic Recovery Opportunity Act. Congressman CLAY SHAW in the House and I have been working on Haiti trade legislation for some time. I thank Congressman SHAW for his support. I also want to give my sincere thanks to Senators LINDSEY GRAHAM and ERNEST HOLLINGS. Without their help and support we would not have been successful in our efforts today. Let me take a moment to mention all of our cosponsors as well: Senators BIDEN, BREAUX, CHAFEE, COLEMAN, DASCHLE, DODD, DURBIN, BOB GRAHAM, HAGEL, JEFFORDS, LAUTENBERG, LIEBERMAN, LUGAR, BILL NELSON, GORDON SMITH, SUNUNU, and VOINOVICH. I thank them for their support and their efforts in getting this bill passed.

This bill can really change things for Haiti. Once it is signed into law, it will make a very real, very lasting difference in a country that is the poorest in our hemisphere—and one that has an 80-plus percent unemployment rate and a less than $400 per capita income for individuals.

This bill is going to use trade incentives to encourage the post-Aristide government to make much needed reforms, while encouraging foreign direct investment—the most powerful, and yet underutilized, tool of development. This bill, quite simply, will create thousands of jobs—one of the most important things for the Haitian people right now.

The people of Haiti want to work. They are good workers—they are hard workers. They are industrious. This bill is going to give them the chance to have jobs. It is going to give them a chance at economic recovery through economic opportunity. In the last decade, Haiti has gone from over 100,000 assembly jobs to less than 30,000 today. Our bill helps create jobs by providing duty-free entry to apparel articles assembled in Haiti contingent upon Presidential certification that the new government is making significant political, economic, and social reforms.

The bill also caps the amount of duty-free articles at 1.5 percent of the total amount of U.S. apparel imports, growing to 3.5 percent over 7 years. Currently, Haiti accounts for less than .5 percent of all U.S. apparel imports, and although these provisions seem modest by U.S. standards, in Haiti they are substantial.

This bill is not the "silver bullet" for Haiti, because there is no silver bullet for Haiti. Rebuilding Haiti is going to require time, attention, and determination on the part of the people of Haiti, the countries in the region, and ultimately the entire international community. But, passage of the Haiti Economic Recovery Opportunity Act is a powerful indicator that Haiti has the support necessary to move forward.

I yield the floor.

Mr. DODD. Mr. President, I rise today to speak about an initiative that is long overdue. Thanks to the efforts of Senator DEWINE, Senator BOB GRAHAM, and to the other cosponsors of the pending measure, the Haiti Economic Recovery Opportunity, or HERO Act, of 2004 is finally getting the attention it deserves.

Haiti has endured intense strife over the course of the last 3 years. Most recently, floods have devastated much of the country, and armed gangs have destabilized cities and terrorized rural areas, ultimately forcing the elected president from office.

Although much more support will be necessary in the near future, the HERO Act is an excellent first step in the process of establishing stability and security in Haiti.

Unemployment is a major factor in the instability of the country. More than two-thirds of eligible workers cannot find jobs in the formal economy. The HERO Act begins to address that need by providing living-wage jobs in the apparel industry for thousands of Haitians.

Again, I want to stress how important it is to view this as only the first part of a large program to address the abject poverty and political chaos that has beleaguered Haiti. With this kind of forward-looking initiative, we can help our neighbors to overcome these difficult times. Only through concrete and meaningful U.S. assistance on a scale commensurate with Haiti's needs can be ever hope to reverse the misery, suffering, and hopelessness that have become commonplace in the lives of close neighbors—8 million of them.

I strongly support this legislation and was pleased to be a cosponsor. The people of Haiti have waited too long for the HERO Act to become law. It is time for the United States to demonstrate its concern for its suffering Haitian neighbors. Now that the Senate has acted, I hope that the Bush administration will finally make this a priority and urge the House leadership to act on this measure before the August recess.

Mr. FRIST. Mr. President, I ask unanimous consent that the DeWine substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3565) was agreed to, as follows:

(Purpose: To provide a substitute amendment to ensure violations of laws relating to circumvention are enforced)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Haiti Economic Recovery Opportunity Act of 2004".

SEC. 2. TRADE BENEFITS TO HAITI.

(a) IN GENERAL.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 213 the following new section:

"SEC. 213A. SPECIAL RULE FOR HAITI.

"(a) IN GENERAL.—In addition to any other preferential treatment under this Act, beginning on October 1, 2003, and in each of the 7 succeeding 1-year periods, apparel articles described in subsection (b) that are imported directly into the customs territory of the United States from Haiti shall enter the United States free of duty, subject to the limitations described in subsections (b) and (c), if Haiti has satisfied the requirements and conditions set forth in subsections (d) and (e).

"(b) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this subsection are apparel articles that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns without regard to the country of origin of the fabrics, components, or yarns.

"(c) PREFERENTIAL TREATMENT.—The preferential treatment described in subsection (a), shall be extended—

"(1) during the 12-month period beginning on October 1, 2003, to a quantity of apparel articles that is equal to 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United

States during the 12-month period beginning October 1, 2002; and

“(2) during the 12-month period beginning on October 1 of each succeeding year, to a quantity of apparel articles that is equal to the product of—

“(A) the percentage applicable during the previous 12-month period plus 0.5 percent (but not over 3.5 percent); and

“(B) the aggregate square meter equivalents of all apparel articles imported into the United States during the 12-month period that ends on September 30 of that year.

“(d) ELIGIBILITY REQUIREMENTS.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti is meeting the conditions of subsection (e) and that Haiti—

“(1) has established, or is making continual progress toward establishing—

“(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

“(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

“(C) the elimination of barriers to United States trade and investment, including by—

“(i) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

“(ii) the protection of intellectual property; and

“(iii) the resolution of bilateral trade and investment disputes;

“(D) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

“(E) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

“(F) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

“(2) does not engage in activities that undermine United States national security or foreign policy interests; and

“(3) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

“(e) CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.—

“(1) IN GENERAL.—The preferential treatment under subsection (b) shall not apply unless the President certifies to Congress that Haiti is meeting the following conditions:

“(A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.

“(B) Haiti has enacted legislation or promulgated regulations that would permit the Bureau of Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

“(C) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.

“(D) Haiti agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention.

“(E) Haiti agrees to require all producers and exporters of articles described in subsection (b) in that country to maintain complete records of the production and the export of the articles, including materials used in the production, for at least 2 years after the production or export (as the case may be).

“(F) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, documentation establishing the country of origin of articles described in subsection (b) as used by that country in implementing an effective visa system.

“(2) DEFINITIONS.—In this subsection:

“(A) CIRCUMVENTION.—The term ‘circumvention’ means any action involving the provision of a false declaration or false information for the purpose of, or with the effect of, violating or evading existing customs, country of origin labeling, or trade laws of the United States or Haiti relating to imports of textile and apparel goods, if such action results—

“(i) in the avoidance of tariffs, quotas, embargoes, prohibitions, restrictions, trade remedies, including antidumping or countervailing duties, or safeguard measures; or

“(ii) in obtaining preferential tariff treatment.”.

“(B) TRANSSHIPMENT.—The term ‘transshipment’ has the meaning given such term under section 213(b)(2)(D)(iii).”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2003.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption, of any goods described in the amendment made by subsection (a)—

(A) that was made on or after October 1, 2003, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

The bill (S. 2261), as amended, was read the third time and passed.

ORDERS FOR MONDAY, JULY 19, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Monday, July 19. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to executive session to consider Executive Calendar No. 603, the nomination of William Myers III; provided further, that the time until 5 p.m. be equally divided for debate only between the chairman and ranking member or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

THIS WEEK IN THE SENATE

Mr. FRIST. Mr. President, this week we began with the consideration of a constitutional amendment on the institution of marriage, an important dialog, I felt, for this body. We had a good debate on both sides of the aisle on the definition of marriage. I thank my colleagues for keeping the debate on the subject, very civil, and handled in a very respectable way.

I personally was disappointed we did not succeed in getting to the consideration of the text of the amendment. As to the timing of the amendment, people kept questioning again and again, Why did you bring it up now? It was clearly determined by the fact that we had activist judges, beginning in the middle of May, in Massachusetts who radically redefined what marriage over the thousands of years has been interpreted to be.

Right now there are lawsuits pending in 11 other States, and it is just a matter of time before the definition of marriage between a man and a woman will be destroyed in all 50 States. Amending the Constitution to protect marriage is the only viable option left to Congress. It is a debate we did not seek, but it was one that was brought to us by another branch of Government by activist judges who determined what that definition is.

It is important for the legislative branch, directly elected by the American people, to express itself on this issue. We simply are not going to shirk from our responsibility to protect marriage, and we deserve to have a say in the matter. Although we were blocked from bringing it to the floor, I can assure everyone it will be back. The issue is not simply going away.

In addition, we completed last night the Australia free-trade bill, a very important bill managed by Chairman GRASSLEY. The outcome of the vote was 80 to 16 last night on final passage.

The significance of this bill was stated on the floor last night and it centers on the fact that two-way trade between the United States and Australia is at a level of about $28 billion each year. We have a little over $89 billion surplus with Australia, which is the greatest with any nation. More than 99 percent of our exports from Australia will enter duty-free once this agreement goes into effect.

The agreement we approved yesterday in this body is expected to produce an increase of about $2 billion annually in trade for both nations. That means the bill we passed last night will result in the creation of about 40,000 new jobs in my own State of Tennessee.

Australia is a very important market. Tennesseans exported more to Australia than to France last year. Tennessean companies exported $225 million to Australia, which is approximately a 10-percent increase from 1999.

The bill itself is even more than increasing business opportunities. Australia indeed is one of our most steadfast allies and a key partner in the war on terror. I had the opportunity to talk to the Prime Minister of Australia last night after completion of the bill and thanked him for that support of the broad coalition that has been assembled across the world to fight this war on terror.

Australians have fought beside Americans in every major conflict in the last 100 years, and this agreement strengthens that already close bond forged between two old friends.

Thirdly, this week the Senate took an important step with respect to the FSC/ETI, the JOBS bill, by sending it to conference. The Senate had passed a bill. The House had passed a bill. There had been obstruction to going to conference, but we came to an agreement yesterday and the bill has been sent to conference. It is timely legislation. Every month we do not pass the legislation there is a 1-percent Euro tax or a tariff increase each and every month. It is now at 9 percent. That is unfair. It is unfair to consumers and it is unfair to manufacturers.

Once we work this bill through conference and the President signs it and it becomes law, it will create jobs. So there has been real progress in that regard.

Fourthly, this week we passed H.R. 4363, the Helping Hands for Homeownership Act. This bill came out of the Banking Committee, which is chaired by Senator SHELBY, and it will go to the President's desk.

PROGRAM

Mr. FRIST. As we look ahead to Monday, we will consider the nomination of William Myers to be a U.S. circuit judge for the Ninth Circuit. A few moments ago, I filed a cloture petition on the judicial nomination because of the objection to a time agreement that was expressed from the other side of the aisle. That vote will occur at 2:15 on Tuesday. Therefore, there will be no rollcall votes on Monday. Senators should come to the floor during Monday's session to debate this nomination.

As we all know, next week will be the final week prior to the recess. It will be a very busy week. It should be a very productive week. I ask in advance for everyone's patience and cooperation as we wrap up our work for this legislative period.

ADJOURNMENT UNTIL 1 P.M. MONDAY, JULY 19, 2004

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:45 p.m., adjourned until Monday, July 19, 2004, at 1 p.m.

EXTENSIONS OF REMARKS

HONORING REMARKABLE AND COMMENDABLE COMMUNITY ACTIVIST ROBERTO MENDEZ

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to Roberto Mendez, a longtime resident of South San Francisco, which is in my congressional district, for being honored with the 25th annual COPE Unity Award by the San Mateo County Central Labor Council. The COPE award is presented annually by the Labor Council's Committee on Political Education (COPE) to honor an individual for his or her outstanding service.

A native of Guatemala City, Guatemala, Roberto moved to the United States in 1968, after graduating from military school. From the moment of his arrival to America, Roberto exhibited a dedicated work ethic as he spent his days learning English while working in a New Jersey textile factory at night. After working long hours with no benefits, no overtime pay and minimal safety protection, Roberto eventually left the textile industry to work in the restaurant business where he worked his way up from busboy to assistant manager.

Looking for more challenging work, Roberto joined United Air Lines in 1984 working in the flight kitchen, where he was responsible for the upkeep and stocking of the plane's kitchen. He joined the Machinists Local 1781 and immediately became an active member. Within ten years, Roberto was elected Shop Steward. His rise at United was as equally meteoric as it was within the union, and Roberto quickly advanced from working in the flight kitchen to performing critical maintenance and mechanical work. Additionally, Roberto was recently selected to be the West Coast Employee Assistance Program Coordinator, where he is responsible for assisting the more than 3,500 United Airlines local employees deal with a wide variety of problems including substance abuse treatment, stress, harassment, and other personnel matters.

Mr. Speaker, as you are aware, in the wake of the tragic events of September 11, 2001, countless Bay Area workers were displaced from their jobs. Roberto's enthusiasm and devotion to his union colleagues lead him to be an instrumental component in the efforts to assist the airline, hospitality, construction and other workers whose jobs were lost in the post 9–11 economic downturn. He coordinated with the San Mateo County PennisulaWorks program to make available re-employment and retraining services.

Roberto Mendez's compassion for his fellow workers led him to organize monthly food distribution and coordinate re-employment and re-training services for displaced workers and their families. Serving over 350,000 pounds of food to hundreds of families, these monthly distributions continue to serve over 175 families per month. In addition, Roberto assisted in more than 80 Rapid Response sessions, which informed displaced workers about services and resources available to assist them during those difficult times.

Mr. Speaker, along with his wife Maria, and their two children, Roberto's family has made its mark in South San Francisco and the Bay Area with their strong will and dedicated sense of justice. I urge all of my colleagues to please join me in recognizing an extraordinarily devoted community activist on his 20 years of outstanding service and his recognition by the San Mateo Central Labor Committee with the 25th Annual COPE Unity Award.

PERSONAL EXPLANATION

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. WILSON of South Carolina. Mr. Speaker, on rollcall Nos. 359, 360, 361, and 362 on Monday July 12, 2004, I was unavoidably detained due to inclement weather and delayed air service at Columbia Metropolitan Airport, and unable to cast my vote.

Had I been present, I would have voted the following:

Rollcall 359, the Holt amendment to H.R. 4755, I would have voted "no."

Rollcall 360, the Hefley amendment to H.R. 4755, I would have voted "yea."

Rollcall 361, the motion to recommit H.R. 4755, I would have voted "no."

Rollcall 362, final passage of H.R. 4755, I would have voted "yea."

TRIBUTE TO CAROLYN DONNELLY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. CONYERS. Mr. Speaker, I rise today in tribute to a longtime public servant, Carolyn Crawford Donnelly, who is retiring from government service after 25 years.

She began her career in government service with Representative (now Senator) BARBARA BOXER in January 1983 as a Computer Operator. In 1991, she joined the Committee on Government Operations as a Clerk for the Subcommittee on Government Activities and Transportation. In 1993, she moved to the Full Committee as a Clerk for the Management Team. In 1995, she provided investigative support to staff and served as backup to the division secretary of the Department of Defense, Office of the Inspector General Office of Departmental Inquiries. In 1999, she joined the Committee on the Judiciary as a staff assistant. In 2002, her title changed to professional staff.

Carolyn has served under one Democratic Chairman, two Republican Chairmen and one Democratic Ranking Member. She has always handled all aspects of her job in an exemplary fashion. No matter what her title has been, Carolyn's role has remained constant. She has been one of the pillars of the Committee, ensuring that the office runs smoothly. She has always been calm and professional in the eye of the storm. No matter how frenetic, no matter how pressured, no matter how stressful the situation, Carolyn has maintained a sense of humor and cheer that has proved contagious and helped to get the job done. Moreover, there have been many occasions on which she brought a needed human touch to the sometimes intense work of the Congress and its committees.

Throughout her tenure, Carolyn has exhibited an extraordinary personal commitment to the Committee. Carolyn has always been there for the Members and staff, whether it's problems with supplies or guidance on where to turn for special requests. Whenever a major project needed additional volunteers, Carolyn was always the first to sign up and work long hours whenever needed. She has always been willing to listen, to share her professional and personal opinions, and to lift spirits during an especially long or difficult day.

In addition to her work on the Hill, Carolyn has been active in the community, volunteering for numerous organizations over the years. She currently feeds the homeless with SOME (So Others Might Eat) on Sunday mornings, several times each month, and works with the Washington Animal Rescue league. She is also a member of the altar guild at St. Patrick's Episcopal Church. Our loss is the gain of these organizations, as I am confident that Carolyn will lend her talents to the pursuit of their important missions.

Mr. Speaker, Members and staff, please join me in thanking Carolyn for her service and wishing her all the best as she leaves the Hill. The Committee on the Judiciary was indeed fortunate to have her on board for these years.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. ORTIZ. Mr. Speaker, due to business in my district last Friday, I was unable to vote during the following rollcall Votes. Had I been present I would have voted: No. 355, "yes"; No. 356, "yes"; No. 357, "yes"; No. 358, "yes."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE JOHN N. HARDEE AIRPORT EXPRESSWAY

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. WILSON of South Carolina. Mr. Speaker, I along with my colleague, Mr. BARRETT of South Carolina, would like to take this opportunity to commemorate the completion of Phase One of the John N. Hardee Airport Expressway. This will be announced to the people of South Carolina at a ribbon cutting ceremony on Monday, July 12. The completion of this 2.8 mile expressway will provide easy and direct access to the Columbia Metropolitan Airport.

This expressway, which widened Airport Road from Airport Boulevard to Platt Springs Road, will make a vast difference in the way South Carolinians and visitors commute to the airport. We are looking forward to the next and final phase of the project, which is currently under design and should begin construction in 2006. This will provide for a new four-lane road extending Airport Road to Interstate 26. Coupled with the success of the John N. Hardee Expressway, these two new roadways will reduce traffic and provide direct access to the growing Columbia Metropolitan Airport by passenger and cargo vehicles, removing some 25,000 vehicles each year from the local network surrounding the airport.

We would like to thank the people at the South Carolina Department of Transportation (SCDOT) for all of their hard work in completing this important project. Mrs. Elizabeth Mabry, Executive Director of SCDOT, and Mr. John Hardee, SCDOT Second District Commissioner for whom the expressway is named, thank you for your tireless dedication in getting this phase of the project completed. This expressway will be helpful to the people of the entire state of South Carolina, and for this you are appreciated.

PERSONAL EXPLANATION

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. BLUMENAUER. Mr. Speaker, had I been present for the following votes on Wednesday July 7, 2004, I would have voted as follows:

Rollcall vote No. 329, I would have voted "yea" on the Flake Amendment, to prohibit the use of funds in the appropriations bill to implement the Commerce Department's new restrictions on gift parcels to Cuba and the amount of personal baggage allowed for travelers to Cuba.

Rollcall vote No. 330, I would have voted "yea" on the Weiner Amendment which would have increased COPS funding but at the expense of the U.S. Census Bureau.

Rollcall vote No. 331, I would have voted "nay" on the Hefley Amendment, an amendment to eliminate funding for the re-engineered design process for the 2010 Short-Form Only census.

Rollcall vote No. 332, I would have voted "yea" on the Kucinich amendment, to expand the membership of the President's "Manufacturing Council" to include representatives from unions and the steel industry.

Rollcall vote No. 333, I would have voted "nay" on the Paul amendment, an amendment to prohibit the use of funds in the bill to pay expenses for any U.S. contribution to the United National Educational, Scientific, and Cultural Organization (UNESCO).

Rollcall vote No. 334, I would have voted "yea" on the Farr amendment, directing that none of the funds in the appropriations bill may be used to prevent the states of Alaska, California, Colorado, Hawaii, Maine, Maryland, Nevada, Oregon, Vermont or Washington from implementing state laws authorizing the use of medical marijuana.

Rollcall vote No. 335, I would have voted "nay" on the Paul amendment, which would have prohibited the use of funds to pay any United States contribution to the United Nations or any affiliated agency of the United Nations.

Had I been present for the following votes on Thursday July 8, 2004, I would have voted as follows:

Rollcall vote No. 336, I would have voted "nay" on the rules of debate for H.R. 4755.

Rollcall vote No. 337, I would have voted "nay" on the rules of debate for H.R. 3598.

Rollcall vote No. 338, I would have voted "yea" on H.R. 3980 to establish a National Windstorm Impact Reduction Program.

Rollcall vote No. 339, I would have voted "yea" on the Sanders amendment, which would have restricted the investigative powers of the FBI and homeland security, and restored some of the basic civil liberties revoked by the PATRIOT Act.

The Sanders amendment would have repealed some of the most dangerous provisions of the PATRIOT Act, which allow the government to monitor the reading and research habits of citizens in libraries and bookstores. It is clear that there is potential for abuse of individual rights in every community across the nation, and there has been mistreatment in my own. I am appalled by the behavior of the House leadership in administering this vote. It was made clear that even if I had been present to cast my vote of support, the vote would have been held open for as long as it would have taken to strong arm enough members into defeating the legislation.

Rollcall vote No. 340, I would have voted "nay" on the Akin amendment, which prohibits funds in the appropriations bill for HIV/AIDS programs that do not explicitly oppose legalizing sex trafficking and prostitution.

Rollcall vote No. 341, I would have voted "nay" on the King (IA) amendment, providing $1 million for the enforcement of provisions of the Illegal Immigration Reform and Immigrant Responsibility Act regarding receiving and providing information to the federal government on the citizenship or immigration status of an individual.

Rollcall vote No. 342, I would have voted "nay" on the Smith (MI) amendment, which increases funding for scientific and technical research and services of the National Institute of Standards and Technology by $20 million. The amendment offsets the increase by reducing funding for U.S. contributions to international organizations by $20 million.

Rollcall vote No. 343, I would have voted "nay" on the Hefley amendment, an amendment to reduce funding for the U.S. Court of Federal Claims by 50 percent.

Rollcall vote No. 344, I would have voted "nay" on the Hefley amendment, an amendment to cut total appropriations in the bill by 1 percent.

Rollcall vote No. 345, 1 would have voted "yea" on the motion to recommit with instructions H.R. 4754.

Rollcall vote No. 346, I would have voted "yea" on the passage of H.R. 4754, to make appropriations to the Departments of Commerce, Justice, State, the Judiciary, and other related agencies for the fiscal year 2005.

Rollcall vote No. 347, I would have voted "nay" on the motion to adjourn.

Had I been present for the following votes on Friday July 9, 2004, I would have voted as follows:

Rollcall vote No. 348, I would have voted "nay" on the motion to table the appeal of the ruling of the Chair.

Rollcall vote No. 349, I would have voted "nay" on the motion to adjourn.

Rollcall vote No. 350, I would have voted "nay" on ordering the previous question.

Rollcall vote No. 351, I would have voted "nay" on the resolution providing for consideration of H.R. 2828.

Rollcall vote No. 352, I would have voted "nay" on the motion to reconsider.

Rollcall vote No. 353, I would have voted "nay" on the motion to adjourn.

Rollcall vote No. 354, I would have voted "yea" on the motion to recommit with instructions H.R. 2828.

Rollcall vote No. 355, I would have voted "yea" on the amendment to authorize $120.6 million for the Manufacturing Extension Partnership program and 10 percent yearly increases for FY06–08 and to allow the Federal cost-share for MEP Centers in the FY05–08 to increase up to one-half on a case-by-case basis as determined by the Administration.

Rollcall vote No. 356, I would have voted "yea" on the amendment to prohibit funds authorized from being used to require centers participating in the Manufacturing Extension Partnership program to re-compete for funds that already have been approved.

Rollcall vote No. 357, I would have voted "yea" on the amendment to establish a Manufacturing and Technology Administration within the Commerce Department and to direct the President to appoint, with the consent of the Senate, an Under Secretary of Commerce for Manufacturing and Technology, an Assistant Secretary for Manufacturing and an Assistant Secretary for Technology.

Rollcall vote No. 358, I would have voted "yea" on the motion to recommit with instructions H.R. 3598.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. RICHARD BURR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. BURR. Mr. Chairman, I rise in opposition to this misguided amendment that threatens not only the delicate balance achieved in passage of the international tax bill, H.R. 4520, but also the future of every farm program administered by USDA.

Tobacco simply happens to be first. More crops will most certainly follow. To my colleagues who produce feed grains, wheat, rice, cotton, tobacco, dairy, soybeans, oilseeds, peanuts, sugar, honey, wool, and certain other crops: Your crops are next.

It is also somewhat disingenuous for proponents of this amendment to claim that they are protecting the American taxpayer. If indeed "taxpayers" are impacted by the tobacco reform provisions included in H.R. 4520, the burden falls only on those who pay excise taxes on tobacco products. Any approach other than the one proposed in H.R. 4520 will actually result in a tax increase on those who choose to use tobacco products. If that is what colleagues really are seeking, they should say so.

The facts, Mr. Chairman, are that tobacco and tobacco taxes raise more than $30 billion every year for states and the Federal government. We are only asking for a portion of this money over five years to provide relief to our struggling farmers and their communities.

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

SPEECH OF

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I rise to express my serious reservations about House Resolution 713.

Israel's construction of a security barrier has been a source of great controversy within Israel and in the international community.

The debate has less to do with the actual construction of a barrier than with the route of the barrier.

The government of Israel regards the barrier as a form of self-defense—a legitimate means for preventing further terrorist infiltration. Israel has a right to self-defense, and if the Israeli government believes that the security barrier is the best means for protecting their citizens, then I support their right to construct a barrier.

But as it now stands, the barrier has gone deeply into territory beyond the 1967 borders. That is the fact the authors of this resolution choose to ignore: There would be no International Court of Justice decision to condemn if Israel were building the fence along the Green Line.

The Supreme Court of Israel recently ordered portions of the fence rerouted. The Court held that the barrier's current route "injures the local inhabitants in a severe and acute way while violating their rights under humanitarian and international law."

American diplomats also have worked diligently to modify the barrier's route in their dealings with the Israeli government.

This resolution threatens to damage these efforts, implying an unqualified endorsement of the barrier and warning the international community against efforts to influence the situation.

Roughly one-quarter of the 420-mile barrier has been completed—clearly there is still much at stake for both the Israelis and the Palestinians. Our efforts should be directed at negotiating borders that will advance peace. Resolutions such as the one before us today do nothing to advance the peace process.

There are legitimate questions as to the propriety and wisdom of the action taken by the International Court of Justice in this matter. But this resolution goes too far. It condemns the ICJ and "Palestinian Leadership" indiscriminately, and it undermines worthy efforts underway in Israel, the U.S., and internationally to promote Israel's security in ways that enhance the prospects for a just and lasting peace in the region.

If we were truly serious about promoting peace in the Middle East, we would focus on efforts like the Roadmap rather than pass resolutions such as H. Res. 713.

INTRODUCTION OF A BILL TO RENAME THE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN AMARILLO, TEXAS, THE "THOMAS E. CREEK DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER"

HON. MAC THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. THORNBERRY. Mr. Speaker, today, I have the privilege, along with the entire Texas delegation in the House and Mr. MORAN from Kansas, to introduce a bill to rename the Department of Veterans Affairs Medical Center in Amarillo, Texas, the "Thomas E. Creek Department of Veterans Affairs Medical Center."

Lance Corporal Thomas E. Creek, USMC, of Amarillo, Texas, was awarded the Congressional Medal of Honor posthumously by President Nixon. He was a true American hero, deserving of this recognition and honor.

On February 13, 1969, Lance Corporal Creek was an 18-year-old Marine with Company I, 3rd Battalion, 9th Marines, 3rd Marine Division in Vietnam. He was part of a resupply convoy that was ambushed by enemy forces using mortars, mines, fragmentation grenades, and small arms. According to the documents recommending him for the Medal of Honor, "[t]he fierce combat found the men firing at point blank range." Lance Corporal Creek was wounded by a bullet in the neck, but then saw a fragmentation grenade land between him and the rest of the squad. He then, though wounded, deliberately rolled on top of the grenade, taking the full impact of the explosion, and saving the lives of 5 Marines nearby. His act inspired the rest of the squad to defeat the enemy and complete its mission to resupply the forward combat base.

Mr. Speaker, we cannot help but be moved by such acts of self-sacrifice and bravery. They exemplify the highest standards of the Marine Corps, our military, and our Nation. The veterans community in the Amarillo area suggested this way of honoring Corporal Creek. It is supported by the American Legion, Disabled American Veterans, Vietnam Veterans of America, Veterans of Foreign Wars, Paralyzed Veterans of America, and AMVETS.

I also want to acknowledge and to thank all those who have helped in this effort to recognize Lance Corporal Creek, especially Corporal Creek's family, Selden Hale, and Larry Milam, who were instrumental in this endeavor.

In some ways, 1969 seems like a long time ago, yet acts of bravery like Corporal Creek's are timeless. They provide an example for us all. Corporal Creek's name will further magnify the honor attached to those who have served our nation and receive health care at this veterans' facility. I urge my colleagues to support the measure.

WELCOMING THE OPENING OF THE ROBERT BROADBENT LAS VEGAS MONORAIL

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. PORTER. Mr. Speaker, I rise today to welcome the opening of the Robert Broadbent Las Vegas Monorail today in Las Vegas, Nevada. This momentous achievement will expand transit opportunities for residents and visitors in Southern Nevada while enhancing the environment, reducing congestion, and improving safety.

The Robert Broadbent Monorail is the most technically advanced transit system in the world. The first leg will run 4 miles along the world famous Las Vegas Strip. The Broadbent Monorail is built entirely with private money, and shows the commitment to build for our future that southern Nevada is famous for. The monorail is named after Robert Broadbent, a long-time community leader who sadly passed away last year. Robert Broadbent was the chairman of the Monorail and served as Mayor of Boulder City, County Commissioner, McCarran Airport Director and Director of the Bureau of Reclamation.

I invite all the members of the House to visit Las Vegas and see firsthand the Broadbent

Monorail. I urge the House to join me in congratulating Chairman Jim Gibson, President Cam Walker, and all of the men and women who have contributed over the years to the success of this project. I look forward to extending the monorail in the near future to serve McCarran Airport, downtown Las Vegas, and other points in southern Nevada.

A TRIBUTE TO JACK VALENTI

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. TOWNS. Mr. Speaker, I rise today to recognize a man who has touched the lives of countless Americans and helped to put smiles on the faces of kids young and old.

Jack Valenti has served as the Chairman and Chief Executive Officer of the Motion Picture Association for almost 40 years. Texas born and Harvard educated, Jack has led several lives: a wartime bomber pilot, advertising agency founder, political consultant, White House Special Assistant, and movie industry leader. He earned a B.A. from the University of Houston and a M.B.A. from Harvard.

In his current role as Chairman and Chief Executive Officer of the Motion Picture Association, Jack has presided over and led the American film and television industry as it has confronted a sea change in the landscape of the industry, both in the United States and abroad.

Born in Houston, Texas, Jack was the youngest (age 15) high school graduate in the city. As a young pilot in the Army Air Corps in World War II, Lieutenant Valenti flew 51 combat missions as the pilot-commander of a B–25 attack bomber with the 12th Air Force in Italy. He was awarded the Distinguished Flying Cross, the Air Medal with four clusters, the Distinguished Unit Citation with one cluster and the European Theater Ribbon with four battle stars.

In 1952, he co-founded the advertising/political consulting agency of Weekley & Valenti. In 1955 he met the man who would have the largest impact on his life, Senate Majority Leader Lyndon B. Johnson. Jack's agency was in charge of the press during the visit of President Kennedy and Vice President Johnson to Texas. Jack was in the motorcade (six cars back of the President) in Dallas on November 22, 1963. Within an hour of the assassination of John F. Kennedy, Jack was aboard Air Force One flying back to Washington with the new President as the first newly hired Special Assistant to the President. On June 1, 1966, Jack resigned his White House post to become the third man in MPAA's history (founded in 1922) to become its leader.

Jack has written four books (three non-fiction): The Bitter Taste of Glory (World Publishing); A Very Human President (W.W. Norton Co.); Speak Up With Confidence (Wm. Morrow Co.), and the political novel, Protect and Defend (Doubleday). His most recent book is an updated revision of Speak Up With Confidence (2002, Hyperion). Jack has written extensively for America's preeminent newspapers and magazines. He is one of the few public figures who actually writes his own speeches.

France has conferred upon him its highly prized Legion d'Honneur, the French Legion of Honor. Jack has been awarded his own star on Hollywood's Walk of Fame. He has also been named a Life Member of the Directors Guild of America.

Mr. Speaker, America and the rest of the world will greatly miss Jack Valenti. His watchful and caring eye has helped bring joy to countless children and adults alike, and I wish him a very happy and healthy retirement.

WELCOMING REMARKS FOR REVEREND JEAN BURCH

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. SCHIFF. Mr Speaker, I join you this morning in welcoming today's distinguished guest chaplain: Reverend Jean Burch of Pasadena, a resident of my Congressional district in California.

Reverend Burch represents the best of what we hope all citizens should be—always striving to improve the lives of others and always enthusiastic about our prospects for tomorrow.

After a long career in the legal profession, she followed her heart into the faith community, becoming Senior Pastor at Community Baptist Church. In addition to her pastoral duties, she works tirelessly with other religious leaders to lift the scourge of violence in our schools.

Each day she inspires those among her to better themselves and help people in need. I am pleased that all in the House of Representatives today have been able to benefit from her inspirational wisdom. I hope that many here today will get a chance to meet this remarkable woman.

IN MEMORY OF HELEN GULBRANSON

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to the memory of Helen Gulbranson, a longtime close friend and patriot, who died Tuesday at 96 years young.

I met Helen and her late husband, Dick, in 1986 when I first ran for Congress. At the time they were supporting my primary opponent, the late Tony Hope, who was the son of their neighbors in Toluca Lake, Bob and Dolores Hope. After I won the primary, Helen and Dick supported my candidacy, as they have ever since.

While I valued their support, I treasured the personal relationship we developed over the past 18 years even more.

Helen Gulbranson was born in 1908 in Hammond, Wisconsin, and moved to California in 1936. It was there that she met Dick. They married in 1940 and opened up the North Hollywood Glass and Paint Company. The two were married for 54 years when Dick died in 1994.

Helen's daughter-in-law, Colleen, remembers weekly parties at Helen's and Dick's Toluca Lake home. If they weren't throwing a political bash for such candidates as Ronald Reagan, there was always a wedding or other social event to celebrate.

Later, they moved to Camarillo, in my congressional district, where they continued to enjoy life to its fullest.

Helen was an avid golfer and golfed up until a few months ago. Just last Saturday, she took her great-grandson to the golf course so he could play. She also loved to play table games: Scrabble, bridge and the like.

If it weren't for the calendar, you would never guess Helen's age. She remained independent in her own home and was alert and fit right up to the end.

Helen is survived by her son and daughter-in-law, Richard and Colleen, two grandchildren and two great-grandchildren.

Mr. Speaker, I know my colleagues will join me in sending condolences to the Gulbranson family and by remembering a life well-lived.

TRIBUTE TO MOE BYRNES

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to recognize and praise a decorated veteran who has bravely served his country and community. I am fortunate that the community he supports is Citrus County in my 5th Congressional District.

Moe Byrnes served his country in the Navy and the Coast Guard for 24 years and retired as Chief Petty Officer. While doing his duty on the prestigious USS *Shuffley*, Mr. Byrnes' brave actions earned him the Congressional Medal of Honor, a Philippine Liberation Medal, a Bronze Star and many others.

Moe is retiring from his post as Commander of VFW Post 6146 in Citrus County, where he served for 13 years. He has been a member of the American Legion for a remarkable 52 years. Moe continues to lend his strength by helping veterans throughout Citrus County. For this, we honor him.

Mr. Speaker, it is my privilege to represent Moe Byrnes, and I am proud to praise him on the floor of this House.

PERSONAL EXPLANATION

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. COLLINS. Mr. Speaker, I was not present for debate on rollcall vote 375, United States-Australia Free Trade Agreement Implementation Act (H.R. 4759); and rollcall vote 376, Project BioShield Act (S. 15).

Had I been present, I would have voted "yea" for rollcall vote 376, and "nay" for rollcall vote 375.

PERSONAL EXPLANATION

HON. STEVE KING

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. KING of Iowa. Mr. Speaker, on July 13, 2004, I mistakenly voted "aye" on rollcall 368, the Chabot Amendment to H.R. 4766. I intended to vote "no."

REMEMBERING THE COLUMBIA-WRIGHTSVILLE BRIDGE BURNING

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. PITTS. Mr. Speaker, over a century ago, on a hot summer day, an event occurred of national significance that by some eyewitness accounts, altered history, as we know it today. This act of war produced an obligation on the part of the Federal Government that to this day remains unpaid and largely forgotten.

The event I am referring to is known as the "Burning of the Columbia-Wrightsville Bridge." Occurring on June 28, 1863, just 72 hours before the Battle of Gettysburg, this catastrophic event did not just destroy an ordinary bridge—it destroyed an extraordinary bridge. Completed in 1834 at a cost of $128,726.50, it was the longest covered wooden bridge in the world, 40 feet wide with 27 piers, it spanned 5,620 feet across the Susquehanna River.

Ironically, this event and its impact on the region have lived in the shadow of the Battle of Gettysburg. Historians may debate whether or not this event had any impact on the Battle of Gettysburg. There is however, no denying the significant impact it had on preserving the loss of personal property throughout the region as evidenced by the following statement made by Colonel Jacob G. Frick, the man who gave the order to destroy the bridge. "The object to be kept in view, and which was paramount, was the prevention of the enemy from capturing the bridge, and thus frustrate them in their evident purpose to cross the Susquehanna at that point, get in the rear of Harrisburg, and between that place and Philadelphia destroy railroads and ravage the rich counties of Dauphin and Lancaster."

In order to fully understand the importance of this bridge and the town of Columbia, one must first examine conditions as they were in 1863 not as they may be today. First, how many of you are aware that the first place to be considered as the nation's capital was Columbia, Pennsylvania? It was an important travel artery for westward expansion, at times Conestoga Wagons would have to wait several days for their turn to cross the bridge. Railroads including the Philadelphia and Columbia, the Pennsylvania, and the Reading and Columbia all converged along the banks of the Susquehanna at Columbia.

These trains would either cross over the bridge to connect with the Susquehanna & Baltimore Railroad or transfer their cargo to packet boats that then traveled Westward via the Union Canal through the interior of Pennsylvania to Pittsburgh or where pulled by mules across the river via a towpath constructed on the side of the bridge to the Susquehanna and Tidewater Canal that connected Columbia with the Chesapeake Bay and beyond. Columbia being at the epicenter of this vital transportation network made it a logical destination for industries consisting of iron furnaces, rolling mills, saw mills, flour mills, and railroad machine shops that were supplying goods to a growing nation. Columbia's strategic position would have made it a fine prize indeed for any invading Southern army bent on disrupting vital communications and supply lines in the North.

Colonel Frick made this statement in a letter from 1892: "I was fully impressed with the belief at the time that this bridge was General Lee's objective point, and that it was to become the highway of the Confederate army to reach the centers which enabled the Northern army to maintain its position in the field by cutting off the supplies by capturing the eastern ports and plant the seat of war in Pennsylvania instead of Virginia."

In a letter received by Colonel Frick from Major Granville O. Haller, dated Seattle, April 28, 1892, says that he and Col. Thomas M. Anderson, commanding Fourteenth United States Infantry, had been discussing the burning of the bridge, Colonel Anderson wrote to Major Haller March 30, 1892, as follows:

> All theories apart, I should say that it would have been better to have burned twenty bridges than to have taken any chances. If the burning of the bridge stopped Gordon, it was as important as a battle.

On the 10th of April Major Haller sent a letter that was submitted to Colonel Frick in February 1892 from General John B. Gordon, admitting to Colonel Frick that without question his order to destroy the bridge stopped him and his troops from crossing, to Colonel Anderson. Colonel Anderson accepted it as conclusive evidence of Lee's intention, and thus confirmed in his opinion as to the importance of burning the bridge.

> Who other than God of battles would know until the afternoon of July 3, whether Meade or Lee would be victor?
>
> If Meade, then the enemy would be driven from our border. If Lee then the seat of war would have located itself between the Susquehanna and the Delaware and the Hudson. The Columbia Bridge would have become the Confederate highway to Lancaster, Philadelphia, and New York. In their onward march an army of veterans would have met with no fortified towns or cities; a practically unarmed and undisciplined militia, and a panic-stricken community in its front and a broken army sullenly following far in its rear; who can tell what awful results would have been had Lee been victorious at Gettysburg, yet who knew that he would not be until July 3, 1863?

Now for some particulars on the chain of events that led up to the burning and what transpired after that event.

On June 10, 1863 the Department of the Susquehanna was created under the control of General Coach to protect the area. Notices were put out for volunteers to serve. By June 24, 1863 it became apparent to General Coach a unit of approximately 2,500 veteran soldiers continued Eastbound to gain control of a bridge across the Susquehanna River between the towns of Columbia and Wrightsville.

On June 24, 1863, General Couch under special order #14, ordered Colonel Frick to proceed to Columbia and take charge of all bridges and fords on the line of the Susquehanna River in Lancaster County, and will make such dispositions as will effectively secure these crossings.

Colonel Frick: "My duty in the premises was plain. Gen. Couch plainly indicated my duty in his orders, wherein he said: 'When you find it necessary to withdraw your command from Wrightsville leave a proper number on the other side to destroy the bridge; keep it open as long as possible with prudence and exercise your own discretion in doing so.'"

It must be remembered as we look at this dramatic and critical event in retrospect, that as a result of this most necessary and important cutting of the available crossing of the river at the time of the invasion, a private corporation suffered a loss of property of the first magnitude. So evident was the effect of its destruction in the public mind, that we find the following statement in the Lancaster Examiner and Herald of July 8, 1863, but ten days following the event:

> The burning of the bridge which spanned the Susquehanna River at Columbia, has given rise to a rumor that its loss would have the effect of impairing the credit of the Columbia Bank. This now seems will not be the case, as the structure was destroyed by order of the military authorities, thus making the Government responsible for all loss. The following note from the Cashier of the Columbia Bank fully explains the circumstances.
>
> June 29, 1863. Dear Sir, The bridge at this place, owned by the Columbia Bank, was burned by the United States Military authorities to prevent the Rebels from crossing the Susquehanna River.—Signed Samuel Schock, Cashier.

It was not until 1868 that construction of a new bridge was started.

Today the only remnants of this piece of history are the stone piers still standing in the River and the story of the bridge and its destruction being told by Michael and Nora Stark, owners of the little known, but highly significant First National Bank Museum. If it were not for this museum, this important piece of American history would certainly be lost forever.

HONORING THE WILMA RUDOLPH STAMP

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor the new Wilma Rudolph stamp that is now being issued by the U.S. Postal Service.

Wilma Rudolph was a native of Clarksville, Tennessee and an Olympic gold medallist. As a child, she battled polio; and she won. This was just one of her many "wins." At the 1960 Olympic games, she won three gold medals in track and field, a truly amazing feat—especially for one who'd been afflicted by polio. In

1983, she was inducted into the U.S. Olympic Hall of Fame.

I thank Mayor Don Trotter and Clarksville Postmaster Wayne Scott for submitting Wilma's name for consideration for this honor.

This stamp is a fitting reminder of her accomplishments, and I know that many Tennesseans will be purchasing her stamp when it is released in her old neighborhood of St. Bethlehem.

IN HONOR OF THE 100 MONTHS OF OUTSTANDING VOLUNTEER SERVICE FROM "FOR THE LOVE OF THE LAKE"

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. SESSIONS. Mr. Speaker, I rise to pay tribute to the "For the Love of the Lake" organization that has played a crucial role in the preservation of White Rock Lake in Dallas. "For the Love of the Lake" is a volunteer organization that leads the conservation efforts at White Rock Lake. I am proud to be associated with this organization for more than 8 years as an Adopt a Shore Leader, as it brings together many people from the community to come together for a common cause in keeping our "White Rock Lake as the crown jewel of Dallas."

I joined with the outpouring of community support this past Saturday, July 10, 2004, as we celebrated the last 100 months before starting our normal routine of cleaning up the lake. Thousands of concerned citizens have given up countless amounts of time in maintaining White Rock Lake as a sanctuary for a wide variety of wildlife and as an enjoyable place to take the family for a nice day in the outdoors.

I honor the noble efforts of the volunteers of "For the Love of the Lake," as it is a model example of what private citizens can do to achieve a greater public good in the preservation of one of our great resources in Dallas. Without "For the Love of the Lake," White Rock Lake would not be the enjoyable place for the community that it is today, and I honor the efforts of all of the volunteers who ensure the quality of the lake and shoreline.

I wish "For the Love of the Lake" continued success in maintaining our lake so that future residents of Dallas may enjoy the same beautiful preserve of White Rock Lake that we enjoy today.

IN HONOR AND REMEMBRANCE OF SERGEANT JOSEPH MARTIN GARMBACK, JR.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of United States Army Sergeant Joseph Martin Garmback, Jr., who courageously and selflessly answered the call to duty and made the ultimate sacrifice on behalf of our country.

Family, friends and service to others defined Sergeant Garmback's life. A gentle and kind soul, Sergeant Garmback lived his life with great joy, energy and compassion. He easily forged lasting friendships and was quick with a smile, kind word, or helping hand. He held a special place in his heart for our elderly—especially his grandmothers.

Aside from his tireless focus on work and service to country, Sergeant Garmback's family and friends were central to his life. He was a wonderful and cherished son, brother, brother-in-law, uncle, and grandson. He gained personal strength and faith from those who knew him best and loved him most—his mother, Marylon Garmback; father, Joseph Garmback, Sr.; his sisters, Susan, Arlene and Christine; his grandparents, Orville and Myrtle Guinn and the late Dorothy Videc and Frank Garmback; his brothers-in-law, Luke and Robert; his nieces Gabrielle, Jacqueline, Denise, and Madeline; his nephews Shane and Ethan; and his cherished friend, Christiane Blass.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Sergeant Joseph Martin Garmback, Jr., whose honor, commitment and compassion for others will be remembered always. I offer my deepest condolences to the family and friends of Sergeant Garmback. The significant sacrifice, service, and bravery that characterized the life of Sergeant Joseph Martin Garmback, Jr. will forever be honored and remembered by our Cleveland community and our entire Nation.

The bonds of love created in life by Sergeant Garmback will live forever within the hearts of his family and friends, and he will never be forgotten.

CONGRATULATIONS TO COLONEL ROBERT B. KEYSER, ON THE OCCASION OF HIS RETIREMENT

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to pay tribute to Colonel Robert B. Keyser on the occasion of his retirement as Commander and District Engineer of the Army Corps of Engineers in Mobile, Alabama.

For the past three years, Colonel Keyser has served the Mobile District—comprised of an area ranging from Alabama, Mississippi, Florida, Tennessee, and Georgia to all of Central and South America—with an incomparable level of leadership and professionalism.

A native of Cornwall, New York, Colonel Keyser received his Bachelor of Science degree from the United States Military Academy at West Point, New York. He also received a Master's Degree in Engineering from the University of Florida and a Master's Degree in National Resource Strategy from the Industrial College of the Armed Forces. Colonel Keyser is registered with the State of Alabama as a professional engineer and was inducted into Tau Beta Pi, the national engineering honor society.

Following his commissioning as a second lieutenant in the United States Army in 1978, Colonel Keyser went on to graduate from the Air Command and Staff College, the Industrial College of the Armed Forces, and from Engineer Officer Basic and Advanced Courses. During his military career he served with the 588th Engineer Battalion at Fort Polk, Louisiana, the 2nd Engineer Battalion in Korea, the 94th Engineer Battalion in Germany and Southwest Asia, and the United States Army Total Personnel Command in Alexandria, Virginia. Prior to his assignment as Commander of the Mobile Engineer District, he served as Commander of the Corps of Engineers Philadelphia District.

Colonel Keyser has consistently drawn the recognition and praise of his colleagues and superior officers, and his outstanding performance as a member of the Army has resulted in his being awarded the Legion of Merit, the Meritorious Service Medal with five oak leaf clusters, the Army Commendation Medal, and the Army Achievement Medal.

From his first day as Commander of the Mobile District, Colonel Keyser has taken a strong interest in the concerns of the many thousands of men and women living in areas under his jurisdiction. Time and again, he has risen above the challenges presented to his office, whether they are as routine as a permit application for the construction of a seawall to something as difficult as the numerous natural disasters which have hit the Mobile District in recent years. He has instilled a tremendous work ethic in his subordinates and has gone out of his way to foster a strong working relationship with agencies and officials at local, state, and federal levels.

Along with his tremendous involvement in the activities and mission of the Mobile Engineer District of the Army Corps of Engineers, Colonel Keyser is also actively involved in his community. A resident of Fairhope, Alabama, he has played a lead role in the development and growth of a community youth soccer league, in which his children participate and he serves as a team coach.

Mr. Speaker, I ask my colleagues to join me today in recognizing Colonel Robert B. Keyser for his tremendous contributions to the citizens of the First Congressional District of Alabama, the Mobile Engineer District, and the entire Army Corps of Engineers. The experience and enthusiasm he has brought to his job and the professionalism he has displayed throughout his career are unquestioned and unparalleled.

He has indeed been a genuine asset both to his office and to the United States military, and I am proud and honored to call him my friend. I wish him and his family—his wife, Cathy, his sons, Daniel, Brian, and Michael, and his daughter, Amy—much happiness and success as they enter this new phase of their lives.

RECOGNIZING THE EFFORTS OF THE FBI AND TASK FORCE PERSONNEL AND RELATED AGENCIES IN THE BUFFALO INVESTIGATION OF THE LACKAWANNA SIX

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. QUINN. Mr. Speaker, I rise today to honor and recognize the outstanding efforts that a group of local heroes played in keeping America safe from the type of terrorist threats that are occurring here in the United States as well as overseas. While the public may not always hear about the close calls or the work done behind the scenes by our federal agents, it is with great pride that we publicly recognize the FBI agents and Task Force Personnel in Buffalo, New York for their work investigating and bringing to successful prosecution the terrorist cell known as the Lackawanna Six.

In the spring of 2001, six men from Lackawanna, NY were recruited to a terrorist training camp in Afghanistan. The camp was directed by al-Qaida and included speeches given personally by Osama bin Laden. The Six admitted to attending the al-Qaida training camp to learn terrorists' tactics.

With the work of the Buffalo FBI and Task Force Personnel, the Lackawanna Six were successfully prosecuted and sentenced, with each member receiving prison terms of between seven and ten years. While we will thankfully never know what harm they intended to bring to American innocents, we all feel safer knowing that they are behind bars. The contributions of these Buffalo agents were crucial in protecting Americans from the terrors like the ones experienced on September 11th.

As we have seen with the recent attacks in Bali and Madrid, terrorism is a new type of threat that makes securing the homeland a constant struggle. Our enemies in the war on terror are not always clear, and we rely on the men and women in the FBI and other Federal agencies as vital parts in the internal battle against future terror attacks. And while their specific contributions cannot always be officially recognized, I would also like to express my thanks for the professional contributions to the Lackawanna investigation of our intelligence agencies. I thank them all for their work protecting America.

Mr. Speaker, in closing I would like to say that these individuals, and many others throughout the world, are doing the hard and often unrecognized work that is required to keep our homeland safe. I also know that these fine agents and specialists serve as role models for others throughout the United States. Protecting our citizens and our freedoms is vitally important to our future security, and these men and women have proven with their actions that they are up to the task.

For their outstanding work throughout the investigation, I would like to individually recognize the following people:

Charlene M. Abbatoy, Gary Adams, Jackie Adams, Kevin R. Adams, Peter J. Ahearn, Timothy A. Aldrich, Glenn D. Barnes, Donald M. Becker, Jr., Paul Bellitto, Stanley J. Borgia, Jeanne Brennan, David M. Britten, Ellen K. Brody, David Budz, Sarah Burcham, Diane J. Buzy, Thomas Camizzi, Lisa Marie Cammarano, Catherine D. Campbell, Briad L. Cid, Carol L. Cid, Migdalia Claudio, Jennifer Cornell, Robert M. Cornell, Mary Jayne Coyne, Timothy B. Crino, John P. Culhane, Jr., Paul W. Culligan, Scott W. Cullins, Maureen P. Dempsey, Bonnie Dietrich, Thomas V. Doktor, Jacqueline Dougher, Vanita L. Evans, Marcello Falconetti, William Martin Fallon, Steven Forrest, George W. Gast, Karen A. Gibson, Thomas S. Ginter, Andrew J. Goralski, Robert John Gross, Matthew F. Hall, Steven L. Halter, Brian J. Haynes, Laura Heldwein, Edward John Herbst, June Ellen Hillman, Wendy L. Horth, Holly Lynn Hubert, Michael P. Hubert, Brent S. Isaacson, Robert S. Jae, James A. Jancewicz, Kenneth A. Jensen, Jr., Randy F. Jones, Karen Anne Jordan, Joseph T. Kelley, Lisa Marie Kelly, Lafesa Killian, Judith A. King, Mary Ann Klubeck, Ronald Kolodziejczak, Robert H. Kosakowski, Anne M. Kowalske, Erwin W. Langeman, Jr., Adrienne J. Leary, Michael Liwicki, Lavonda Patrice Locke, Eric R. Marburger, Rose Marie Mariano, Richard G. Martinez, Joel G. Mercer, Cynthia L. Mickell, Cheryl A. Molnar, Linda Ann Moore, Paul Mark Moskal, Steven J. Naum, Edward J. Needham, Nancy Dawn Nolf, Robert C. Nowocren, William V. O'Connor, Mark Onorato, J. Peter Orchard, Cheryl A. Pace, Raymond Palmowski, Jr., Michele M. Pellicano, Stephano V. Pellicano, Thomas J. Pierce, Paula H. Pinella, Glen A. Powell, Darryl J. Radt, Kathleen A. Redding, Christine E. Rejewski, Thomas R. Richards, Julius C. Richardson, Dawn M. Ringler, Lawrence Robinson, Jr., MaryAnn Rogers, Mark Rosenberg, Barbara Ann Rummell, Frank J. Runles, Jerome Scherzinger, Darin Schultz, Gary J. Sheppard, Brian J. Shields, Linda J. Skinner, Sharrell Gene Slone, Carol Ann Spiess, Thomas F. Stadtmiller, Daniel Patrick Taylor, Michael T. Thurston, David J. Todtenhagen, Karen L. Tricoli, Ida M. Tripolic, Julie A. Trotsky, Michael S. Trzewieczynski, Robert W. Utz, Thomas C. Utz, Mary Beth R. Vanlew, Richard C. Vega, Wayne D. Vossler, Larry Wack, Ailiene W. Walsh, David Washington, Paul D. Wright, Christina M. Wrobel, Maryann Wyman, Gerald A. Zasowski, Steven P. Zatko, II, Tina Zarko, Jennifer R. Zienlowski, Mark P. Thompson, Robert J. Wick, Jr., Debbra C. Allwell, Colleen M. Balkin, Jodie L. Bracken, Kevin Chchak, Christopher R. Cronin, Jason S. Ficken, Daniel P. Funk, Michael S. Leary, Aldis A. Lemesis, Debora L. Oberhofer, Michael J. Preisser, James P. Quinn, Jean M. Sterns, Joseph Testani, Thomas C. Utz, Timothy R. Weir, Albert W. Zenner, Mark Concordia, Zachary Dunbar, Steve Filipowicz, John David Salome, Matt Siuda, Jeffry Wagner, Kim Bagho, Frank Christiano, Felix Cwynar, Mike Dailey, Glen Diemer, James Domres, Mark Driess, Reggie Gostomski, James J. Higgins, William Hochul, John Humphrey, Lawrence D. Krug, Thomas Michalski, Scott Patronik, Patrick Rinow, Mary Ann Rogers, Sharrell Gene Slone, Paul Sojda, Mike Szrama, Mark Urbanski and Michelle Elise McPartlan.

HONORING BRUCE RODEWALD

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. KIRK. Mr. Speaker, over 33 years ago, Bruce Rodewald joined the Arlington Heights Fire Department located in my Congressional District. Thirteen years later he accepted the title of Fire Chief and for the last 20 years he has led the department with the highest distinction and honor.

Chief Rodewald comes from a long lineage of firefighters and community leaders. Both his father and grandfather served in the Arlington Heights Fire Department. His son also serves as a firefighter and paramedic in a neighboring town.

During his tenure as Fire Chief, the village of Arlington Heights' Class III Insurance Services Office (ISO) rating was upgraded to an ISO I rating. This is the highest ranking given for a municipality's fire protection services. Arlington Heights is one of only about 40 fire departments in the county to have received this outstanding distinction.

Mr. Rodewald's dedication to his department and the village of Arlington Heights is unequaled. He had originally planned on retiring from the department in 2001. However, after the September 11th attacks, Chief Rodewald decided to forgo his retirement and continue his service. For the last 3 years he has dedicated himself to the reorganization of the Arlington Heights Fire Department to reflect the heightened levels of awareness and preparedness necessary in the post 9/11 world.

In his years of service, Fire Chief Bruce Rodewald has led the Arlington Heights Fire Department with the professionalism and dedication required of a community leader. The Department he leaves behind is one of the most well-prepared and trained in the Nation. Chief Rodewald's tenure in the Arlington Heights Fire Department is worthy of the highest commendation. I wish him much happiness in retirement and offer him and his family my sincerest thanks and appreciation. Mr. Speaker, I hope my colleagues will join me in recognizing this extraordinary individual.

RECOGNIZING MICHAEL BARKEY

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. REGULA. Mr. Speaker, with great sorrow I rise today to recognize Michael Barkey, a constituent from the 16th District of Ohio, who gave his life fighting for our country. National Guard Sergeant Barkey died in an accident while serving with the 1484th Transportation Company in Iraq.

A football standout at Northwest High School in Canal Fulton Ohio, Barkey was known as a leader on and off the field. Family, friends, and coaches all recognized this young man's strong values and commitment to honor and integrity. He began his career with the National Guard to help pay his way through the University of Akron and was carrying on a long family tradition of military service.

This outstanding young man showed courage and a commitment to protect those who could not protect themselves. Without people of his moral fortitude, our Nation would not stand. Sgt. Barkey carried a medallion with the inscription "With God all things are possible." We must trust that the dedication of men and women like Sergeant Barkey will create a safer America.

Sergeant Barkey and his family will be forever in our hearts and prayers. May we keep them in mind as they struggle through this difficult period of mourning.

U.S.-AUSTRALIA FREE TRADE AGREEMENT

SPEECH OF

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. WAXMAN. Mr. Speaker, domestic healthcare policy should not be decided in trade agreements. That is why I rise in opposition to the U.S.-Australia Free Trade Agreement.

I strongly support the opportunity for increased trade with Australia, our closest ally and strongest economic partner in the Pacific rim. I support the agreement's strong protections for digital copyright, the elimination of tariffs on entertainment and media products, and improved market access for U.S. films and television via cable, satellite, and the Internet. I am deeply concerned, however, that this agreement also involves a deliberate effort to drive up drug prices in Australia and set precedents that could be used to undermine efforts to lower drugs prices here in the United States.

It is wrong for us to interfere with another country's domestic health policy, particularly when it comes to the affordability of medicine which is an equally sensitive issue here in the United States. I staunchly oppose provisions in this agreement that make it easier for pharmaceutical companies to challenge decisions made by the Australian Pharmaceutical Benefits Scheme, or PBS, a formulary system used by the Australian government to negotiate prices on behalf of its citizens and keep down drug costs. I am also concerned that the Bush Administration has set an irresponsible precedent that could bring scrutiny upon our own federally sponsored health programs like Medicare and the VA formulary system, which we rely upon to reduce drug prices for seniors, veterans, and the military.

This is special interest policymaking at its worst. The Bush Administration is letting the pharmaceutical industry use trade agreements to manipulate the drug laws of the United States and other countries in ways that the industry could not otherwise achieve.

For example, the Australia agreement codifies provisions of U.S. law that prohibit reimportation of medicines that are produced in the United States and sold at a discount in other countries. I strongly oppose the inclusion of this controversial issue in a trade agreement when it is the subject of ongoing Congressional debate. Bills currently under consideration in the Senate and already passed by the House of Representatives will now be in technical violation of our trade obligations. Since the provision will have no actual impact because Australian law already prohibits wholesalers and pharmacists from exporting low-cost drugs procured through the PBS system, it appears that its sole purpose is to serve as a basis for the inclusion of similar provisions in future agreements.

Unfortunately, it is not just the Australia free trade agreement where these back door assaults on domestic healthcare programs are taking place. The U.S. has also negotiated trade agreements with Central America, Morocco, and Thailand that would significantly impede and delay access to cheaper generic drugs in these developing countries where the availability of quality healthcare is already limited and few can afford medicine. All of these efforts fit into the pharmaceutical industry's agenda to raise drug prices and profits around the world, even at the expense of saving lives.

Because of unique dynamics between the United States and Australia the net effects of this agreement on health programs may be negligible. But that doesn't mean they aren't bad policy and bad precedents. I am voting no on this agreement, which I would have liked to support, in order to register my strong protest against the Bush Administration's work with the pharmaceutical industry on provisions that sour an otherwise promising trade opportunity.

International trade has the potential to raise the standard of living and quality of life for millions of people around the world. To uphold that vision, we must work for future trade negotiations that ensure that our citizens and our trading partners have the opportunity to experience the full benefits of free and fair trade.

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

SPEECH OF

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 13, 2004

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today on behalf of the men and women of the 4th Congressional District of New York in support of this Resolution condemning the July 9th advisory opinion from the International Court of Justice (ICJ), which denounces Israel's security fence.

I have long been an ardent and proud supporter of Israel. In recent years, the volatile and unstable history that has underscored Israel's history has become even more bloody and pronounced. We can understand as Americans that Israel has a responsibility to protect its citizens from the grave threat posed against the country from those terrorists that seek to harm it.

The security fence has drastically enhanced Israel's ability to protect itself from terrorists by significantly limiting the ability of terrorists to access Israeli cities. For example, since its construction, suicide bombings along the northern West Bank have decreased by 90 percent. Contention and criticism to the wall lies with the proposed plans to have the wall run through the area of northern Jerusalem. Prior to the ICJ's opinion, efforts were made to change certain aspects of the designated route to limit the impact it could have on localities near and around the wall's course.

Local Palestinian communities, those most directly affected by the wall's construction, have worked with Israel to redirect the wall in certain areas to lessen the impact. The wall's construction is condemned by the Court of Justice because of claims that it violates certain boundary laws. However, the wall is a protection for both Israelis and Palestinians. Their joint effort has not only lessened any undesirable impact for both parties, but proven the possibility for compromise between both areas.

I have long felt that America should not attempt to dictate decisions for Israel. With this resolution, we are simply showing that we are supporting Israel's step toward safeguarding its people. We as Americans must sympathize with the fact that the Israelis are attempting to confront terrorism by erecting a wall to stand as its physical and metaphorical barrier. In condemning the opinion of the International Court of Justice and supporting this resolution, we as a body align ourselves with the best interests of the Israeli people, progress and peace in the Middle East, and in the best interests of all Americans who wish to one day see calm in a section of the world so long divided.

Thank you.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. CASTLE. Mr. Chairman, I rise today to commend Chairman BONILLA and Ranking Member KAPTUR for including a strong commitment of funding in this bill for the implementation of the Low Path Avian Influenza program at the Animal and Plant Health Inspection Service (APHIS). This $23 million in funding will allow APHIS to promptly address the repeated and diverse outbreaks of avian influenza that have occurred in several states including my state of Delaware.

This additional funding is necessary to respond to the many needs confronting this vital industry including: Expanded monitoring of avian influenza, increased surveillance of the live-bird markets and distributors, advanced research on and implementation of fast and economical tests, and confirmed identification and tracking of avian influenza sources.

The presence of avian influenza presents an immediate threat to the U.S. poultry industry. It constitutes a significant danger to the national economy and potential serious burden on interstate and foreign commerce.

As you know, in early February, two flocks of chickens in Delaware were confirmed as having H7N2 low pathogenic avian influenza, and roughly 83,000 birds were promptly depopulated. Isolated avian influenza infections were then identified among chickens in both New Jersey and Pennsylvania. Later in the month, officials determined that a flock of 7,000 broilers in Southeast portion of Chairman BONILLA's home state of Texas tested positive for a highly pathogenic H5N2 avian influenza. The most recent case came when a flock of chickens in Pocomoke City, Maryland, tested positive for the H7 avian flu, which led to more than 300,000 birds and chicks being depopulated on three farms. The infections discovered this year follow past outbreaks of low pathogen flu in Virginia, Rhode Island and Connecticut.

The USDA response to the outbreaks occurring this year has been prompt and the assistance provided to the state Departments of Agriculture and the poultry industry has been instrumental in helping to identify, contain and eradicate the avian influenza outbreak—but there is still much that needs to be done. Even before the recent infections, the Administration recognized the expanding need to implement a comprehensive strategy to battle avian influenza by including $12.7 million in funding in the APHIS FY'05 budget request for the Low Pathogen Avian Influenza (LPAI) program and recently transferring $13.7 million in FY'04 funds into the program.

This builds on the close to $1 million provided in FY'04 that is scheduled for implementation at the end of this month. I believe it is critical that APHIS receives the proper amount of funding to maximize the resources at its disposal to strongly address this serious problem. Low Path AI is capable of mutating into highly pathogenic forms. The occurrence of HPAI in Texas led Secretary Veneman to declare an Extraordinary Emergency earlier this month. A healthy and vital poultry industry is a major contributor to the recovering economy of this country, and the finding of AI, particularly the highly destructive High Path AI, represents a major threat in this regard.

Moreover, the multi-billion dollar poultry export industry is put at risk by the avian flu discoveries. Many of our trading partners continue to impose import bans on U.S. poultry products. While some of these importers have set restrictions on products from specified states, others have taken the more drastic step of banning importation of poultry products from our entire country. We need to give our trade negotiators the necessary support in the form of these AI surveillance and control efforts, to allow them to negotiate with our foreign trading partners and convince them to reopen these markets.

Again, I commend Chairman BONILLA and Ranking Member KAPTUR for providing APHIS with the critical resources it needs to address this threat to our poultry industry.

PROJECT BIOSHIELD ACT OF 2004

SPEECH OF

HON. JEFF FLAKE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. FLAKE. Mr. Speaker, today I voted against S. 15, legislation to authorize permanent, indefinite funding authority intended to aid the procurement of certain biomedical countermeasures (drugs, devices, and biological products to treat, identify, and prevent the public health consequences of terrorism).

This legislation is another example of the federal government attempting to throw money at a project that is already underway. The Departments of Health and Human Services already administer the Strategic National Stockpile, which contains drugs, diagnostic devices, vaccines, and other biological products to combat the public health consequences of a terrorist attack or other public health emergencies. The Department of Homeland Security currently provides the financing for those efforts, which include the procurement of a new smallpox vaccine and stockpiling of that vaccine and older versions of the vaccine. About $400 million was appropriated in 2003 for stockpiling activities.

S. 15 takes the unprecedented step of writing a blank check to the Administration (both this Administration and future ones) to augment the Strategic National Stockpile. While the Congressional Budget Office estimates that S. 15 will cost the taxpayers about $5.6 billion over the 2004–2013 period, that is only an estimate and the cost could be significantly higher.

Experts have expressed concerns with the structure of Project BioShield, saying that it may be focusing on the wrong drugs, with much of the spending going to vaccines and drugs that are already fairly close to production. Project BioShield is designed to provide incentives to pharmaceutical companies to develop new drugs and vaccines, but will it actually achieve its intended results? BioShield would allow a company to spend several million dollars of its own money on developing a new drug or vaccine, only to see the government possibly award the contract for producing it to another company. It also excludes products that might have a commercial market outside the government bioterror stockpile. Concerns have also been raised that BioShield does not deal with some important issues like protecting companies from liability if products developed under government contract have side effects. This bill does not appear to recognize the way the free market functions.

On a larger scale, public-health experts also contend that the focus on bioterrorism's threat to the public health is misguided, especially when considering the lessons of history. The number of deaths attributable to willfully produced epidemics, ever, pales by comparison with the toll taken by natural ones. In 1918–19, an influenza pandemic killed more people in just 16 months than World War I had killed in six years. Smallpox killed 10 times as many people in the first half of the 20th century, as did both world wars combined. Even today, malaria kills 2 million people each year; so does tuberculosis. By contrast, deliberate epidemics in the past 100 years, mostly through the actions of armies at war, have been responsible for a few thousand deaths.

In short, Mr. Speaker, this legislation signifies an expenditure of extraordinary proportions that may be little more than a public relations campaign designed to reassure U.S. citizens that the government cares about bioterrorism. I worry about the program's effectiveness when it so blatantly ignores the way the market works, and I am not comfortable supporting such an expensive bill when too many questions about it have gone unanswered.

HONORING KIMBERLY S. JONES, ESQ.

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in recognition of Kimberly S. Jones, Esq., a well-respected attorney whose practice, the Law Firm of Kimberly S. Jones has served the Long Island community proudly. Today I applaud Kimberly and her firm for receiving the 2004 Business of the Year Award of Excellence.

As principle of this very successful law firm, Kimberly has established a strong commitment to the economic development of Long Island. A dedicated advocate for underrepresented members of the population, Kimberly, through the work of her firm, focuses on addressing the needs of women and minority business owners. She also serves as a member of the Advisory Board of the Dowling College Center for Minority Teacher Development and Training, further demonstrating her commitment to the community.

The Law Firm of Kimberly S. Jones, Esq. is actively involved in the local bar associations, as well as the Suffolk County Women's Business Enterprise Coalition, where Kimberly serves as Assistant Director of State and Federal Services. It is Kimberly's involvement in these organizations that establishes her law firm as a successful business, improving the quality of life on Long Island.

Although Kimberly is extremely busy, she still finds time to help the community in other areas. She is a member of the Urban League and is President of the Young Professionals of the Urban League of Long Island. Kimberly is an individual devoted to her community and this is evident through the work of her firm.

I congratulate Kimberly and her firm on receiving this honor and applaud her devotion to helping others. She dedicates herself to improving the lives of others and I thank her for this on behalf of the people of not only the 4th Congressional District but the people of Long Island who benefit from her hard work and dedication.

U.S.-AUSTRALIA FREE TRADE AGREEMENT

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise in qualified support of the U.S.-Australia Free Trade agreement.

I support the trade agreement because it will open up markets for American goods and services. Our two countries already have a strong trade relationship—Australia is the ninth largest goods export market for the United States, with total trade close to $28 billion last year. The agreement will only strengthen this relationship further.

Colorado, in particular, stands to gain from the agreement. Australia imported $113 million of goods and services from Colorado last year and is the 12th largest foreign market for Colorado. This agreement will only increase opportunities for Colorado businesses to find new markets for their goods and services.

I support the bill because under the trade agreement, nearly all U.S. exports of manufactured goods will immediately become duty-free. Since manufactured goods currently account for 93% of total U.S. goods exports to Australia, this is significant. In fact, estimates are that the elimination of these tariffs could result in $2 billion per year in increased exports for our U.S. manufacturers.

I am disappointed in provisions in the agreement on beef, but am encouraged that duties are gradually phased out. I am also disappointed in the agreement's provisions on wheat. I know that wheat growers are concerned about potential trade distortions and had urged negotiators to seek reform of the state trading enterprise, the Australian Wheat Board (AWB). Though the agreement doesn't reform the AWB, Australia did agree to work with the U.S. in the WTO to eliminate restrictions on the right of private entities to export agricultural products. This is a step in the right direction.

I am concerned about potential precedents that this trade agreement could create. For instance, the trade agreement requires both countries to enforce their domestic laws on labor and environment. This is acceptable in this treaty, since Australia boasts strong labor and environment laws and good enforcement mechanisms. But this approach isn't acceptable in all agreements. I am disappointed that the Administration didn't apply the U.S.-Jordan agreement model to this agreement by including labor and environment standards within the text of the treaty itself.

I am concerned about the potential precedent of the Administration meddling excessively in the internal affairs of a trading partner. With regard to this treaty, the USTR initially sought substantial changes in Australia's drug-pricing program. Though USTR was not completely successful, the agreement does give U.S. drug companies more say in what drugs are included under Australia's universal drug coverage program. While market access for U.S. goods is important, we shouldn't be in the business of bullying the world and potentially undermining a country's ability to provide prescription drugs to its citizens.

Precedent is also a concern with regard to the agreement's incorporation of the U.S. law that protects the right of drug companies to prevent importation of products on which they own patents. Although this is of no practical concern in this agreement given Australia's own laws prohibiting the export of its subsidized drugs, I hope the Administration doesn't plan to use this trade agreement to reinforce its opposition to imported drugs. I don't understand why the Administration included the patent law provision, and I hope we won't see this in future agreements.

I don't believe that the concerns I have listed outweigh the potential good of the bill, so I will vote in support of it today. It is not perfect, but I believe it represents an agreement that is essentially free and fair. Expanded trade is important to this country and the world, but it will only be beneficial to a broad range of people in our nation and in other nations if it is carefully shaped to include basic standards and protect workers' rights and the environment.

CELEBRATING THE COMPLETED RENOVATION OF THE MONROE EVENING NEWS BUILDING

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. DINGELL. Mr. Speaker, I rise today to acknowledge and celebrate The Monroe Evening News and its approximately 150 employees, who also own the newspaper, on the successful completion of a year-long renovation of their building.

Serving the people of the Monroe County region for 179 years, this newspaper has advanced its values of integrity, community, and growth while remaining one of the few employee-owned newspapers in the country. The Evening News has been recognized for more than its longevity, winning several prestigious awards including the Annual Award for Communications Excellence in 1996.

The Monroe Evening News has been published from its current location since 1910. Demonstrating an ongoing need to best serve their readers, this renovation, costing $3,000,000, will be the third renovation to this building. The renovation has reconfigured the entire interior of the building; creating an enhanced main entrance and expanding the customer-service area. While the interior has an updated, contemporary look, the exterior and additions will maintain the historic appearance of the long-standing building.

As The Monroe Evening News opens its newly overhauled offices, I would ask that my colleagues rise and join with me in congratulating a thriving, employee-owned daily newspaper on a successful, fruitful renovation. As The Evening News approaches one hundred years in the same building, let us wish them the best of luck for the next hundred years and beyond.

I ask for unanimous consent to include in the RECORD these remarks from celebrated political columnist Jack Germond, who started his legendary career at The Monroe Evening News:

> I am privileged to join John Dingell in congratulating The Evening News, a newspaper that taught me many of the most valuable lessons of journalism when I worked there as a young reporter from 1951 through 1953. The newspaper had standards that were a model, and the publisher, JS Gray, was impervious to pressure. When you wrote a story that was accurate and fair it went into the paper no matter who complained how loudly. There were no sacred cows, not always the case everywhere. Looking back on more than 50 years in the business, I cherish the memories of my time in Monroe.

IN MEMORY OF VICTOR G. REUTHER, JANUARY 1, 1912–JUNE 3, 2004

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. KUCINICH. Mr. Speaker, Victor G. Reuther was born January 1, 1912, in Wheeling, West Virginia, where his father, Valentine, was well known as President of the Ohio Valley Trades and Labor Assembly and as an active churchman. Victor was educated in the secondary schools of that state, and along with his brothers, by their father as well. The strong religious influence of Victor's early family life is revealed throughout his life in his continuing interest and activity in relating core ethical values to the broad field of social and economic life. Victor studied economics and sociology at the West Virginia University and at Wayne State University. Years later he was awarded the degree of Honorary Doctor of Laws by both of those universities.

In 1932 Victor joined his brothers Walter and Roy in Detroit for work in the auto industry. Between 1932 and 1935, Victor and his brother Walter, both unemployed, used their meager savings to travel and work their way around the world. They traveled by bicycle through Europe and Asia, lodging with farm families and at hostels, and visited relatives in Germany. They witnessed the beginning of the Nazi government in Germany and the growth of Stalin's despotism in Soviet Russia, where they worked at the Gorky auto factory. Those observations and firsthand experience led them to become strong, pro-democratic leaders for freedom and social justice. On return to the United States, Victor went to work on the assembly line of the Kelsey-Hayes Wheel Company in Detroit where he plunged into the struggle to organize the automobile workers in Michigan and Indiana.

In a break from organizational drives, Victor Reuther and Sophie Goodlavich were married on July 17, 1936, on the campus of the Brookwood Labor College—a rich marriage of shared labor, love, family, friends, and a common commitment to social justice of 60 years.

A member of UAW Local 174, Victor was a strike leader during UAW campaigns in Flint and Detroit. He first came to public attention through his role in the sit-down strike in the winter of 1936–1937 against General Motors in Flint where his voice from the sound truck rallied the strikers and the women who supported them. UAW success in that strike played a key role in establishing the right of workers to bargain with auto industry employers. From that time forward he was closely identified with the dynamic growth of industrial unionism, not only in the automobile industry, but throughout America's basic industries organized by the CIO.

With the onset of World War II, Victor served as Assistant Director of the UAW–CIO War Policy Division, a department created by the UAW–CIO to facilitate speedy and orderly conversion and mobilization of the nation's urgent defense production. In the spring of 1946, Victor Reuther was appointed Director of Education for the UAW. In this role he led a fundamental approach in the development and consolidation of pro-democratic forces in the UAW. In the years following World War II, Victor assisted in the location of trade unionists and social democrats throughout Europe who had escaped Nazi persecution, bringing them to the attention of Allied occupation forces in the search for leadership in the reestablishment of civil democratic government. He also represented the CIO on the Trade Union Advisory Committee in the conduct of the European Recovery Program—the Marshall Plan.

On May 24, 1949, in an attack identical to that against his brother Walter, Victor was shot by an unknown assailant while reading the evening paper in his living room. He suffered very serious injuries including the loss of his right eye.

Victor Reuther served as European Representative of the CIO, with headquarters in Paris, France, from January 1951 through 1953. His work led to a greatly expanded program of assistance to the free European labor movement. Representing the CIO, he implemented the program of trade union aid for the democratic European unions. Awards bestowed by the governments of Germany and Sweden, noted below, reflect the multiple contributions of Victor Reuther in international leadership and accomplishments in freedom, democracy, and social justice.

With their return to the United States in 1954, the Victor Reuther family made their home in Washington, DC—the family home for the next 50 years. That home not only served the family, but it served as a most hospitable refuge for friends, the extended family, trade union colleagues, social activists and international visitors for all those years.

On his return from Europe, Victor served as Assistant to the President of the National CIO and Director of the CIO's Department for International Affairs. Following the AFL–CIO merger, he served as Administrative Assistant to the President of the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), and as Director, UAW Department of International Affairs. His contributions to international social development programs extended to Asia, Africa, and Latin America as well as in the United States. He worked intensively in India, South Vietnam, Israel and the Mediterranean countries for the purpose of initiating programs designed to deal with food deficits, the need for democratic leadership and skilled manpower requirements. One of these undertakings was the joint effort of the UAW with the Peace Corps under which the union participated in a mechanical training program in the African Republics of Guinea and Gambia and in Bolivia.

Victor Reuther retired from his formal responsibilities in the UAW in 1972, but he always remained a committed member of that union he loved. Throughout the following 28 years he continued to direct his heart, his mind and his voice in advocacy of democratic trade unionism, social justice, and understanding among all people. In his initial years of retirement he researched and wrote The Brothers Reuther, and the Story of the UAW, A Memoir, a history of family and of the UAW.

In the early 1980s, with the strong encouragement of his wife, Sophie, Victor returned attention to ongoing trade union issues. Joining with other activists he gave active support to the Association for Union Democracy and to Teamsters for a Democratic Union, which won major changes in unions. He maintained close fraternal contact with the Canadian Auto Workers after they separated from the UAW, and he supported and became an active leader of the New Directions Movement within the UAW. In those endeavors, Victor Reuther drew on his passionate advocacy for the role of rank and file membership in democratic trade unionism. He understood well the pressures on trade union leadership and the critical role of the rank and file throughout organized labor.

Victor Reuther was active in the political life of the United States in many ways complementary to his goals in labor. He served in presidential appointments, in leadership in a wide array of political and social justice organizations, including support of the full scope of civil rights as we have come to understand those goals in social justice.

In the mid-1990s Victor again undertook a task in personal and historical research to write a second book, Commitment and Betrayal, Foreigners at the Gorky Auto Works, the story of the tragedy that befell foreign workers of Gorky under the Stalinist Soviet Union, English language publication pending.

In his 90th year, Victor chose to move to a retirement residence in Georgetown, a move that launched a reawakening of his well honed leadership skills. Responding to fellow residents, Victor agreed to lead a weekly discussion of current international affairs, and for nearly 2 years, that discussion group of 20 to 30 octogenarians deliberated every Thursday afternoon on the core international issues of the day.

In his 92nd year, on March 30, 2004, Victor Reuther accepted the "Lifetime Achievement Award" of Progressive Maryland before a cheering audience of 600 political activists. In his acceptance remarks—which became his last public remarks—Victor complimented the gathered members of Progressive Maryland on their commitment to the same goals in support of working people he advocated throughout his life. He then concluded with a charge to that audience of 600 political activists: "Don't forget your love of and commitment to family." That perspective brings Victor and the Reuther family full circle to the nurturing environment of their parents, Valentine and Anna Reuther, a blessing for which we are eternally grateful.

Victor G. Reuther died on June 3, 2004. He was pre-deceased by his wife, Sophie, and his daughter Carole L. Hill. He is survived by his sister, Christine Richey, his sons Eric V. Reuther and John S. Reuther, and seven grandchildren and two great-grandchildren.

AWARDS AND HONORS

1972—Social Justice Award of the UAW; 1972—Cross of the Order of Merit, highest award of the Federal Republic of Germany Honorary Doctor of Laws, Wayne State University; 1979—Order of the First of May, Venezuela's highest trade union honor; 2002—Knight of the Polar Star, Sweden's highest civilian award; 2002—Honorary Doctor of Laws, West Virginia University.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 7, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4754) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. HULSHOF. Mr. Chairman, This great country of ours was built on the, backs of willing and abled entrepreneurs who, with a little faith and help, started their own businesses in hopes of achieving the American dream of prosperity and success. It is this desire to own a business that is the backbone of our economy. With small businesses representing more than 99 percent of all employers and creating roughly 75 percent of the net new jobs, it is quite clear to see their importance in the economy.

As such, I rise today in support of the amendment offered by the gentleman from Illinois to maintain level funding for the 7(a) loan program. One of the most successful tools in the Small Business Administration's arsenal, the 7(a) loan program helps qualified businesses acquire financing when they may otherwise be prevented from obtaining a loan through the normal financial channels.

During the 2002–2003 fiscal years, the 9th district of Missouri, which I have the distinct honor of representing, received $37 million in 7(a) loans. This translates into the creation and/or retention of more than 1,100 jobs in the small business community. For rural districts, like mine, this incentive is essential.

One example of this is Moresource, Inc. located in Columbia, MO, which is in my district and where I currently live with my family. In 1994, Kat Cunningham had an idea to create a business that would focus solely on the management of employee administrative matters, such as payroll, tax compliance, health benefits and other human resources issues. Her thought was that by handling these cumbersome and time consuming tasks, small businesses can focus on increasing productivity and their core business objective.

With the aid of a sizeable Small Business Administration 7(a) loan, Kat turned this concept into a reality and created Moresource, Inc. 10 years later, the company has grown from 5 internal employees and 200 leased employees to 7 internal and more than 1,500 leased employees. Kat will tell you that without the assistance of a 7(a) loan, it is questionable whether Moresource would have had the opportunity to get off the ground.

Stephanie Perkins also credits the 7(a) loan program with making her dreams come true. Because of challenges Stephanie faced in obtaining a loan through traditional lenders, the 7(a) loan program provided her with the capital she needed to start up her own business. Stephanie opened the doors to Brown Station Early Learning Center in the fall of 2000 with help from the 7(a) loan program. Since that time, she has almost doubled the employees in her daycare center, which provides Columbia working parents with the peace of mind of knowing that their children are in safe and caring hands.

These are just two examples of how critical the 7(a) loan program is to Missouri businesses. It also illustrates the hand-up it can provide to support and encourage women who are willing to take risks and start a business venture. In the state of Missouri, we have an estimated, according to the Center for Women's Business Research, 129,865 privately held companies in which women hold the majority of ownership, accounting for 30.8 percent of all privately held firms in the state. The success of these outstanding women has contributed to the employment of 241,992 Missourians and generated $26 billion in sales.

The 7(a) loan program is crucial to developing and sustaining small businesses in America. It is also small business entrepreneurs that we have to thank for the 1.5 million jobs that have been created in the past 10 months. Furthermore, these enterprising and hard-working individuals have brought us an unemployment rate that is lower than the decade averages of the 1970s, 1980s and 1990s. For these and many other reasons, I urge all my colleagues to support small business and economic growth with a vote for the Manzullo amendment.

HONORING EUGENE DIBBLE'S 75TH BIRTHDAY

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. DAVIS of Illinois. Mr. Speaker I rise today to pay tribute to Mr. Eugene Dibble as he prepares to celebrate his 75th birthday on July 22, 2004. Mr. Dibble also known as "Big Gene" has been a leader and a pioneer in many areas since moving to the City of Chicago. He was one of the first African American stockbrokers in Chicago. In addition, Mr. Dibble demonstrated his business and family acumen by owning five businesses at one time and having five children who worked in those businesses.

In addition, to being a businessman Mr. Dibble was elected and served as a Trustee for the Chicago Sanitary District. Among Mr. Dibble's many talents has been his keen focus and vision on homeland security. Seven years ago, Mr. Dibble came to my office with a proposal for an Emergency Response Center that would be available in the event of a terrorist attack in downtown Chicago. Perhaps Mr. Dibble's volunteerism for the Red Cross, Salvation Army and emergency response teams in Chicago and Markham, Illinois prepared him for his leading role in being prepared for disasters.

Among Mr. Dibble's greatest accomplishments is that of a family man. Mr. Dibble has been married to his wife Jeanette for 48 years. Also, they are the proud grandparents of six grandkids and counting.

I ask that my colleagues join with me in commending and congratulating Gene and his family as they celebrate 75 years of his life. Gene may God keep you and bless you with many happy healthy years to come.

Thank you.

FREEDOM FOR JULIO CÉSAR GÁLVEZ RODRIGUEZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Julio César Gálvez Rodriguez, a prisoner of conscience in totalitarian Cuba.

Mr. Gálvez Rodriguez is an independent journalist in a country oppressed by a regime that mandates official propaganda. According to Reporters Without Borders, Mr. Gálvez Rodriguez was fired from his job in the "official media" because of his ties with the United Cuba Workers Council, an organization that advocates for workers rights in totalitarian Cuba. Because of his first hand experience with the tyrant's propaganda, he has worked to reveal the truth about the nightmare that is the Castro regime. Mr. Gálvez Rodriguez has contributed to numerous publications including, El Nuevo Herald, Carta de Cuba and Cuba Nuestra.

Unfortunately, being an independent journalist in a totalitarian society is a hazardous profession. Because the stark, poverty stricken, reality of Cuba does not agree with the dictator's propaganda, independent journalists are regularly harassed, threatened, and imprisoned. On March 19, 2003, as part of the tyrant's condemnable crackdown on peaceful pro-democracy activists, Mr. Gálvez Rodriguez was arrested by the dictator's thugs.

In a sham trial, Mr. Gálvez Rodriguez was accused of "subversive" articles intended to "undermine and internally destroy the Revolution." He was subsequently "sentenced" to 15 years in the inhuman gulag for his "crime" of truth. It is repugnant to the values of the civilized world that truth tellers are locked in heinous gulags on the whim of totalitarian tyrants.

Amnesty International reports that Mr. Gálvez Rodriguez is suffering from high blood pressure, renal and intestinal colic and cervical arthritis. Let us be very clear, he is deteriorating under abhorrent conditions because he believes in freedom for the Cuban people.

Mr. Speaker, it is repulsive to the ideal of freedom that independent journalists are locked in totalitarian gulags 90 miles from our shore. My Colleagues, we must demand the immediate and unconditional freedom of Julio César Gálvez Rodriguez and every prisoner of conscience in totalitarian Cuba.

PROJECT BIOSHIELD ACT OF 2004

SPEECH OF

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. ROGERS of Michigan. Mr. Speaker, I rise in strong support of the House-Senate negotiated substitute amendment and final passage of the Project BioShield Act of 2004. This legislation will greatly strengthen our nation's capabilities to protect our military, first responders and U.S. citizens from the threat of biological, chemical, radiological and nuclear weapons of mass destruction.

I am extremely pleased that the final language that recently passed the Senate incorporates the expanded definition of eligible countermeasures for which BioShield funds can be designated. This expanded definition would permit BioShield funding and procurement for certain FDA-licensed vaccines and other medical countermeasures in addition to experimental products for inclusion in the Strategic National Stockpile.

It is important to note that while BioShield was intended to stimulate and accelerate the development of new countermeasures, existing safe and effective FDA-licensed vaccines and medicines may have new unlicensed applications that may also contribute to our nation's preparedness. These new product applications must be tested and licensed by the FDA and made available for the stockpile. For example, the only FDA-licensed anthrax vaccine is manufactured in my home state by BioPort Corporation. BioThrax™ vaccine is licensed for pre-exposure vaccination of the military and other civilians at risk of exposure to anthrax. Though it is recommended by the CDC for post-exposure use in conjunction with antibiotics for protecting those who may have been exposed to this deadly biological agent, it is not yet licensed for this use.

These existing products, like BioThrax™ vaccine, will provide our nation with an insurance policy to strengthen its immediate bioterrorism preparedness capability, while supplementing other experimental vaccines and medicines currently in development, though many years away from FDA-approval.

I am especially pleased that during the Senate debate, the Senate managers of the BioShield legislation also clarified their understanding of discussions with the Administration regarding the use of BioShield funds under new section 319F–2(c)(9) of the Public Health Service Act. The bill's managers agreed that BioShield allows for the future procurement of vaccines already being purchased under government contract at the time of enactment of BioShield. Further, clarification in the Senate allows for their procurement under new or existing contracts. Under this interpretation, the

President and BioShield procuring agencies will have the flexibility to use BioShield funds for the purchase of additional doses of FDA-licensed anthrax vaccine for inclusion in the stockpile for post-exposure use with antibiotics. This would be in addition to those previously contracted doses currently funded from discretionary appropriations and available to the Departments of Defense, Homeland Security and Health and Human Services.

The consensus panel published in the Journal of the American Medical Association and the CDC Advisory Committee on Immunization Practices have already recommended the FDA-licensed anthrax vaccine for post-exposure use in combination with antibiotics. The Institute of Medicine of the National Academy of Sciences agreed with the FDA that the FDA-licensed anthrax vaccine is safe and effective for the prevention of anthrax in those at-risk of exposure to anthrax, including against inhalation anthrax. Since 1998, more than 1.1 million military and civilian personnel have been safely vaccinated with more than 4 million doses of the vaccine. Indeed, these statistics also include both the pre- and post-exposure vaccinations of many of our own Congressional colleagues, staff members and decontamination workers before and following the October 2001 anthrax attacks.

Mr. Speaker, I urge the Departments of Homeland Security and Health and Human Services to consider the immediate procurement of millions of additional doses of the FDA-licensed anthrax vaccine, as well as additional doses of antibiotics for the Strategic National Stockpile. These doses are essential to improving our capability to respond to another potential anthrax attack. This is the same method used by these agencies for the stockpiling of both licensed and experimental smallpox vaccines.

Mr. Speaker, I also urge my colleagues to follow the lead of the Senate by unanimously clearing this legislation for signature by the President. This will send a strong message to the world that our nation is serious about protecting our citizens and first responders from deadly terrorist threats with tested and proven medical countermeasures.

HONORING MARTHA PHILLIPS, EXECUTIVE DIRECTOR OF THE GEORGIA DENTAL ASSOCIATION

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. NORWOOD. Mr. Speaker, Martha Phillips is well respected in Georgia and throughout the country as an unflagging supporter of organized dentistry. Her constant goal during her distinguished career as executive director of the Georgia Dental Association is ensuring dentistry receives all the respect and consideration it is due.

Ms. Phillips received the 1996 Award of Merit by fellows of the American College of Dentistry because of her commitment to the profession, her invaluable contribution to the growth and activity of the GDA, her esteem and reputation as a state association executive, her influence and success as dentistry's lobbyist and representative in state legislative activities and the admiration and respect she has enjoyed in her work in the American Dental Association. In 1999 the International College of Dentists made Martha Honorary Fellow of the ICD.

As an advocate of dentistry, Martha is active 365 days a year. She became part of the Georgia Dental Association in 1977 as administrative assistant to the Executive Director. She was appointed as executive director of the 137-year-old association in 1986. Apart from the duties listed above, and the management of an eleven person executive office, Ms. Phillips has also utilized her skills as a licensed insurance agent to bolster the growing subsidiary, Georgia Dental Insurance Services, Inc. At the national level, Martha is past president of the Association of Constituent Dental Society Executives.

Ms. Phillips received her bachelor of arts degree in business from Georgia State University. She worked in the real estate, insurance and administrative fields before coming to the GDA. Ms. Phillips and husband Al reside in Marietta, Georgia, and have a son and daughter in law, Mark and Cindy Phillips, and a grandson, Tyler.

RECOGNIZING MS. LILLIAN KEIL

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Ms. SOLIS. Mr. Speaker, I rise today to honor Ms. Lillian Keil, for her service to the Army Air Corps and to our country. Ms. Keil is the most decorated U.S. military woman of World War II and the Korean war.

During her service, Ms. Keil flew 250 air evacuation missions and 25 transatlantic flights. She was involved in many missions including those in Normandy during the D-day invasions, where she helped evacuate wounded soldiers from the front lines. Ms. Keil was also part of a team that followed General Patton's army across France with a cargo of critical supplies. After World War II, Ms. Keil returned to her previous job as a flight attendant for United Airlines.

Ms. Keil returned to active duty in 1950 to serve in the Korean war as one of only 30 flight nurses, and was involved in 175 missions. Flying with First Marine Air Wing and the Kyushi Gypsies to the Chosin Reservoir, she tended to marines who had been severely wounded.

For her service, Ms. Keil was awarded 11 Battle Stars, 19 medals, including a European Theater Medal with four battle stars, a Korean Service Medal with seven battle stars, four Air Medals and a Presidential Citation from the Republic of Korea. She is also a member of the Chosin Few.

Ms. Keil is an active member of the West Covina Veterans of Foreign Wars Post 8620 and the American Legion Post 790. She has been honored numerous times in her hometown of Covina Hills, California.

I am honored to recognize such a shining example of valor and strength.

HONORING CHARLES F. MONEYPENNY

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor a lion in the fight for workers rights, my brother, Charles Moneypenny. With over two decades of service, Charlie is well known to our colleagues as the go-to guy when it comes to issues of our nation's rails.

Charlie is retiring as the Railroad Director and Legislative Representative of the 135,000 member Transport Workers Union of America. During his tenure at TWU, Charlie had primary responsibility in the union's collective bargaining and government affairs operations.

Mr. Speaker, Charlie Moneypenny is a passionate advocate on behalf of the people who keep America moving. He has visited many of our offices, working tirelessly to provide us with the facts we need to legislate on behalf of those workers. He is well known for his knowledge of rail safety, worker's rights, funding for passenger service and winning fair pay for a full day's work.

Before he came to Washington in 1995, Moneypenny was president of TWU Local 2054 in Boston, where he served with distinction on behalf of the members who elected him. As a 27-year railroad veteran, Charlie knows how to roll his sleeves up when there's work to be done. And you can bet that Digna, Che' and their expected new addition will put that work ethic to work full time now that he's going to be around a lot more.

Mr. Speaker, we will all miss Charlie. But, our loss is his family's gain. I know that all my colleagues join me in wishing him and his entire family well.

U.S.-AUSTRALIA FREE TRADE AGREEMENT

SPEECH OF

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. DREIER. Mr. Speaker, I submit the following for the RECORD:

ADMINISTRATION BRIEFING TO CONGRESS ON AUSTRALIA FTA NEGOTIATIONS AND IMPLEMENTING BILL

Date	Topic	Invited participants	Briefers
PHARMACEUTICAL AND IPR SPECIFIC BRIEFINGS ON AUSTRALIA FTA			
May 11, 2004	Australia FTA—Competition, IPR	House Judiciary Comm	USTR, DOJ.

ADMINISTRATION BRIEFING TO CONGRESS ON AUSTRALIA FTA NEGOTIATIONS AND IMPLEMENTING BILL—Continued

Date	Topic	Invited participants	Briefers
March 25, 2004	IPR in FTAs	W&M-Ds	USTR.
January 16, 2004	Australia FTA—PBS/Ag	W&M Staff	USTR.
December 18, 2003	Australia FTA—PBS	W&M Comm. Trade/Health	USTR, HHS, FDA.
December 3, 2003	Australia FTA—PBS outline	W&M Staff	USTR.
November 25, 2003	CAFTA, Morocco FTA, Australia FTA—IPR; Australia Competition, FTAA IPR.	House Judiciary Comm	USTR, DOJ, FTC, SEC, CFTC.
October 9, 2003	Australia FTA Update IP	House Judiciary Comm	USTR.
March 14, 2003	Australia FTA and Morocco IPR	House Judiciary Comm. LAs and staff	USTR.
GENERAL BRIEFINGS ON AUSTRALIA FTA			
June 21, 2004	Australia FTA Implementing Legislation	W&Ms	USTR.
May 6, 2004	Congressional Oversight Group		Zoellick/USTR.
May 4, 2004	Australia FTA—update	W&M staff and LAs	USTR.
February 10, 2004	Australia FTA—All issues	W&M staff and LAs	USTR.
February 8, 2004	Australia FTA—All topics	Finance, W&M, Sen. Ag., House Ag	USTR, USDA.
February 7, 2004	Australia FTA—All issues	Finance, W&M, Sen. Ag., House Ag.	USTR.
February 6, 2004	Australia FTA—All issues	Finance, W&M, Sen. Ag., House Ag.	USTR.
February 4, 2004	Australia FTA—All issues	Finance, W&M, Sen. Ag., House Ag.	USTR.
February 3, 2004	Australia FTA—All issues	Finance, W&M, Sen. Ag., House Ag.	USTR.
February 1, 2004	Australia FTA—All issues	Finance, W&M, Sen. Ag., House Ag.	USTR.
January 30, 2004	Australia FTA—All issues	Finance, W&M, Sen. Ag., House Ag.	USTR.
January 30, 2004	Australia FTA—Ag update	W&M, Finance, House AG, Senate AG	USTR.
January 29, 2004	Australia FTA—All issues	Finance, W&M, Sen. Ag., House Ag.	USTR.
January 27, 2004	Australia FTA—Update	Finance, W&M, Sen. Ag., House Ag.	USTR.
January 23, 2004	Australia FTA update—All issues	Finance, W&M, Sen. Ag., House Ag.	USTR.
January 15, 2004	Australia FTA—Update all issues	W&M Comm. Staff	USTR.
November 24, 2003	Australia FTA—All issues	W&M Comm. Staff and LAs	USTR.
November 6, 2003	Congressional Oversight Group		Zoellick/USTR.
September 25, 2003	Australia FTA update—All issues	W&M Comm	USTR.
July 24, 2003	Congressional Oversight Group		Zoellick/USTR.
July 15, 2003	Australia (agriculture market access, textiles, industrial goods mkt access); Morocco (agriculture market access, SPS, industrial gds mkt access, services, investment).	W&M Staff	USTR, USDA.
May 15, 2003	Australia Update—all issues; Morocco textile tariff	W&M Comm	USTR.
April 10, 2003	Australia FTA, Ag. Negotiations and Telecom Text	W&M Comm. Staff and LAs	USTR, USDA.
April 4, 2003	Congressional Oversight Group		Zoellick/USTR.
March 7, 2003	Australia FTA, Pacific Island Trade & Australia Temp entry	W&M Comm. Staff and LAs	USTR, USDA.
January 7, 2003	Congressional Oversight Group		Zoellick/USTR.

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

SPEECH OF

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. MATSUI. Mr. Speaker, I rise today in support of the resolution deploring the misuse of the International Court of Justice for its advisory opinion on Israel's security fence. I also stand in strong support of Israel's right to defend itself against the ongoing threat of terrorism.

There has been considerable debate about the line the security fence follows, but there can be no doubt about the effectiveness of the fence in protecting against suicide attacks. The fence simply works. There has been a dramatic drop in the number of attacks on Israelis where the fence is in place and operational. And according to Israel Defense Minister Shaul Mofaz, security officials have been able to prevent an estimated 95 percent of overall Palestinian attacks.

The reason there is need for a fence speaks directly to the heart of the Israeli-Palestinian conflict—there are no borders, but there is terrorism. There must be direct negotiations between the Israelis and Palestinians to reach an agreed upon solution that not only provides Israel with secure and defensible borders, but ultimately establishes a state for the Palestinians. But when this political debate will be resolved is unknown and until Israel has a legitimate partner to negotiate with, Israel must protect her people.

In endorsing the roadmap, even the United Nations acknowledged that this is a political debate that can only be resolved through direct negotiations. Yet, even though the U.N. Charter states that the General Assembly can only refer cases concerning legal issues to the International Court of Justice, ICJ, this political matter was taken under consideration. In their ruling, the ICJ did not take into account the context of the terrorist threat that led Israel to construct the fence. Nor did it consider the steps Israel has taken throughout construction of the fence. Numerous modifications and changes have been made to ease the hardship on Palestinians.

Most recently—even before the ICJ's ruling—the Israeli Supreme Court addressed the position of the fence and its effects on Palestinians' access to their homes and jobs. The Israeli government is moving quickly to change the route of the security fence. By doing this, Israel is responsibly balancing its security needs and the humanitarian needs of the Palestinians not involved in terrorists acts. Clearly there is no need for an outside organization to pass judgment.

Ultimately, the ICJ overstepped its jurisdiction by hearing the case in the first place, which could have negative consequences for the peace process. Over 40 countries, including the United States, Canada, and most European Union countries, opposed the ICJ's consideration of the case because of their concerns about jurisdiction and politicization of the court.

Israel has said the security fence is a temporary self-defense measure. It is not meant to replace the peace process and does not preclude final status negotiations. The construction of the fence is reversible, but the taking of Israeli lives is not. The ICJ's ruling was inappropriate and harmful. The United States needs to stand firm with Israel, and as the United Nations continues to consider this issue, I call on the international community to recognize Israel's absolute right to defend itself.

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSES

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I intend to vote "yes" on H. Res. 713.

I am voting for the resolution in part to dispel any notion that I am anti-Israel or that I am not sensitive to Israel's right to self-defense.

The United States cannot ignore the horror of terror against Israeli civilians and we should not ignore equally outrageous terror against Palestinian civilians. I also believe the President should express support of the United States toward an initiative that strives for peace for both sides instead of one side. The Congress should demand Israel as well as Palestine to live up to their commitment to peace.

I strongly support Israel, but I also strongly support efforts to bring about peace in the region, which will allow the Israeli and Palestinian people to live together side by side, peaceful and secure.

I am hopeful that soon this Congress will take up a balanced resolution that will address the needs of Israelis and Palestinians. When we do that, we will be taking one of the first steps to truly pursuing peace and advancing democracy.

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. HOLT. Mr. Speaker, I rise to express my concerns regarding H. Res. 713.

I strongly believe that Israel has the right to defend itself against terrorism. I certainly share the conviction of many of my colleagues who supported this resolution that Israel has the right to construct a security barrier. That right of protection should be unquestioned. In fact, I suggested the construction of a security barrier between Israel and the Palestinians in the West Bank years ago, long before the Israeli government proposed erecting such a security fence.

While I support Israel's decision to build a security barrier, I recognize that the current path of the separation barrier has been questioned, notably by the Supreme Court of Israel, in large part because of the displacement of Palestinians. Fortunately, the orderly governmental process in Israel has resulted in a compromise that balances the security interests of Israel with rights of minorities. On June 30, the Supreme Court ordered the re-routing of a 20-mile section of the barrier inside the West Bank northwest of Jerusalem that was in the initial stages of construction because it was too burdensome on Palestinians. I applaud Israel's government for agreeing to comply with the Court's ruling.

Despite these positive developments in the region, today we are considering in the House a resolution that is divisive and not constructive. Over the decades, the United States has been essential in facilitating negotiations along the road to peace. The U.S. should be first in support of Israel's right to build a fence if she believes it will protect her citizens. However, Congress should not formally endorse the wall in its existing form, nor should we oppose it. To do either compromises the U.S. and any peace process. The U.S. should not get involved in that issue except as a facilitator of negotiations between the parties to advance the cause of peace.

I rarely vote present. However, the false choice presented by this resolution could justify neither a yea or nay vote. While the resolution expresses support for Israel's right to construct a security barrier, it is clear to me that this measure was a cynical attempt to divide people for political gain here in the United States.

It is the responsibility of the pro-Israel community—of which I am a member—to support measures that advance the security of Israel. This legislation does not do that. This measure is a cynical attempt that purports to support Israel but uses inflammatory language directed at members of the international community. This resolution undermines the steps we have taken to resolve the Israeli-Palestinian conflict, compromises our ability to assist in the future, and makes Israel and the entire region less secure.

The future security of the Middle East depends on negotiating a just, permanent, and peaceful settlement between Israelis and Palestinians that both guarantees Israel's security and establishes a Palestinian state. I cannot support resolutions, such as H. Res. 713, that are detrimental to this process.

CENTENNIAL OF THE NATIONAL ASSOCIATION OF SECRETARIES OF STATE (NASS)

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. BLUNT. Mr. Speaker, as a former Secretary of State of Missouri, I am pleased to be able to speak today on behalf of the National Association of Secretaries of State.

The National Association of Secretaries of State is the oldest association of public officials in the United States, created and established in September 1904 at the World's Fair in St. Louis, Missouri. This year marks the Centennial year of NASS and the Association is meeting in celebration of this very special milestone.

In 1904, NASS was organized and approved for assembly at the World's Fair in the administration building of the Fair—Brookings Hall—which still stands today and is in constant use by Washington University. The year 2004 also marks the 150th anniversary of Washington University. I am pleased to honor this fine institution and recognize its importance in the history of NASS.

Having left the organization as its president-elect, I continue to remember NASS as the most helpful and personally fulfilling professional organization I have been a member of.

On behalf of myself and my colleagues in the United States Congress who also served as Secretaries of State—Sherrod Brown of Ohio, Tom Cole of Oklahoma, Katherine Harris of Florida, Jim Langevin of Rhode Island and Candice Miller of Michigan—I gratefully acknowledge the value of NASS to us personally and to the nation.

RECOGNIZING THE CAREER AND RETIREMENT OF CAROL MADISON—EXECUTIVE DIRECTOR OF THE ILLINOIS CENTER FOR AUTISM

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the career and retirement of Carol Madison, Executive Director of the Illinois Center for Autism for 27 years.

The Illinois Center for Autism, ICA, is a non-profit, community-based mental health treatment, special education center, and vocational training site, dedicated to prevent the unnecessary institutionalization of people with autism and help them achieve the highest level of independence possible in their home, school, and community. Students/Clients must be diagnosed as autistic and/or exhibit characteristics, such as severe communication disorders, severe behavioral disorders, uneven intellectual skills, and socially inappropriate behaviors.

Under Carol's direction and service as the ICA's first Executive Director, the Illinois Center for Autism was established in the fall of 1977 to provide a Special Day School Program. At that time, it was serving only eight children with autism.

In January 1978, the Illinois Center for Autism was incorporated as a 501c (3) not-for-profit corporation. The ICA's mission then was to prevent the unnecessary institutionalization of children with autism. ICA received accreditation in 1992 from the North Central Association (NCA). To this day, ICA has maintained its accreditation and serves both adults and children throughout Southern Illinois.

In 1992, under Carol's leadership, the ICA began an innovative initiative. With Carol's careful hand guiding the program, the ICA opened a gourmet Italian take-out eatery called Pasta Fare. Pasta Fare provides an ideal site for food service training for the ICA's clients. They assist in all aspects of the business, learning to apply their functional academic, social and communications skills in a work setting. All clients at Pasta Fare are employees of the Illinois Center for Autism. Clients are transitioned into the community for further competitive employment opportunities and many are placed into food service and related occupations.

Not only has Carol and the ICA been able to prevent the unnecessary institutionalization of hundreds of people with autism, she and the Center have also helped them to become productive members of society.

Carol has devoted her life to serving the needs of the disabled community. She has served as a Site Visitor for the US Department of Education's Blue Ribbon Schools program and as a Hearing Officer with the Illinois State Board of Education from 1977–1987. She has consulted with the Madison County Association for Retarded Citizens and served on the Illinois State Board of Education Advisory Council on the Education of Children with Disabilities from 1992–1999. She has served as the Director of the National Association of Private Education Centers and was the Chairman of the Illinois Guardianship and Advocacy Commission.

The future holds great promise for the Illinois Center for Autism and the people it serves and we owe a great debt of gratitude to Carol for the work she has done on behalf of hundreds of young people in our area.

Mr. Speaker, I ask my colleagues to join me in recognizing the contributions of Carol Madison and wish her and her family the very best in the future.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. FILNER. Mr. Chairman, I rise in support of the Fiscal Year 2005 Agriculture Appropriations bill. The bill includes several projects that will benefit my district.

Imperial County in my Southern California district is a desert farming community located on the California-Mexico border. The county is one of the top agricultural counties in California. It produced over $1.2 billion of agricultural products in 2002. The county is a leading producer of agronomic and winter vegetable crops, as well as livestock.

This bill contains language that directs the Under Secretary for Rural Development to give consideration to projects that would directly benefit my constituents:

The Imperial Valley Sugarcane/Renewable Energy/Ethanol Project—Environmental and water conservation issues are of grave concern to the agricultural producers in my district. Alternative, higher-value commodities must become available to ensure the best economic and environmental use of the land and water. This rural development project could provide such an alternative to many of our farmers while producing sugar, ethanol, and renewable energy. My constituents are pursuing an economic development project to develop sugarcane production and processing capabilities, along with ethanol and renewable energy production, in the Imperial Valley. The number one crop in the Imperial Valley is alfalfa, which has a much lower dollar value than sugarcane. Due to a rural-to-urban water transfer that has reduced the number of acres that may be planted in the Valley, my rural constituents searched for an alternative to alfalfa—and found it in sugarcane. The economic conversion project includes development of sugarcane acreage in the Valley, as well as construction of a new sugarcane processing facility on the site of an existing sugar beet processing facility in the Valley. The current sugar beet facility, which currently only operates four months of the year, employs approximately 300 people (100 full-time and 200 seasonal employees). Opening the new sugarcane processing facility would allow year-round processing at the site, dramatically increasing the number of full-time job opportunities at the facility. The project would also allow the creation of a power plant reliant on renewable fuels, principally from residue from the production and processing of sugarcane. Further, the project includes plans for ethanol production from the sugarcane. Due to California's phase-out of MTBE as a gasoline oxygenate, the state requires a stable supply of ethanol, and a local supply will dramatically reduce transportation costs for ethanol purchasers. Sugarcane-to-ethanol production in the Imperial Valley will greatly benefit the economic well-being of my constituents—as well as reduce renewable and clean fuel costs for the nation while protecting environmental quality.

Environmental Technology Business Park—The County of Imperial is working to catalyze development of an EcoPark for location of renewable energy and "green technology" industrial projects. An investment in this project would leverage funding already allocated for development of biomass-to-ethanol projects in Imperial County over the past three years by local, state and federal agencies. The EcoPark is expected to attract more than $400 million in private investment and sustain more than 4,000 jobs in the related industry and agricultural sectors. Further, a variety of new and established firms are interested in bringing additional technologies to the EcoPark, such as methane digesters, minibiorefineries for biodiesel, nutraceutical manufacture, liquid natural gas production, and solar power generation. The EcoPark will be a beacon of economic and environmental development for renewable fuels projects.

Desert Farming Institute and The National Center for the Study of International Trade in Agriculture—My constituents are interested in establishing a "California Desert Farming Institute" at the San Diego State University's Imperial Valley campus. The Imperial Valley of California is one of the most successful examples of desert farming in the world. San Diego State University-Imperial Valley campus, a Hispanic-Serving Institution, is located on the border with Mexico and thus a logical site for a Center charged with studying the international aspects of agriculture. The U.S. Department of Agriculture has designated the campus as a "National Center of Excellence." The Institute's primary mission would be to compile, analyze, and disseminate information on desert farming and its commercial viability; to study the environmental and health issues related to desert farming; to compile, analyze, and disseminate information on international trade in agriculture, including trends in agricultural production around the world; and to form collaborative research partnerships with other institutions around the world to encourage research in the development of desert farming. A significant part of the world, including major parts of the United States, is desert land with little productivity. However, the application of state-of-the-art technology to farming and the development of modern agriculture have made desert farming a viable and, in some cases, a necessary activity. Any major expansion of desert farming could have a significant and positive effect on the global competitiveness of the American farmer, as well as positive impacts throughout arid regions of the world.

Neighborhood House of Calexico Youth Center—Throughout the past 66 years of its service, Neighborhood House of Calexico has targeted low-income families in the community, serving an average of 7,000 low-income persons per year. The Neighborhood House provides services such as day care, youth violence prevention, micro-business development, and shelter for homeless and abused women and children. The Neighborhood House Youth Center has been successful in interacting with at-risk youth, in diverting gang activities and helping youth obtain job skills, conflict resolution skills, increased level of interaction between adult role models and youth, and recreational activities. The City of Calexico is experiencing a significant increase in gang activity and potential for intensification with the downturn of availability of jobs, a 22 percent unemployment rate, and reduced level of training opportunity for youth and adults. Funding for this project would provide youth mentoring, assist youth in obtaining job training, and creating youth employment opportunities.

Calexico Telemedicine Center—Calexico, California is a very poor community located in rural Imperial County along the U.S.-Mexico border. Unfortunately, this community does not have a hospital. Pioneers Memorial Hospital and the Heffernan Memorial Hospital District, the two major healthcare providers located in other cities in the county, have partnered to open an urgent-care center in the vacant Calexico Hospital building, which could be wired for telemedicine. Locally, this project has the support of all the stakeholders, government leaders, health boards, and businesses. Funding for this project would provide for the equipment needed to start a telemedicine center. Imperial County has a low number of medical professionals, and the residents of the city of Calexico are especially medically underserved. Telemedicine will allow patients to have appropriate medical treatment without having to travel across the county, or to other counties, states, or even countries, for service.

This bill also contains language to uphold funding for the Agricultural Research Station in my district. The Brawley Research Station performs crucial research work under the arid saline conditions of the Imperial Valley in support of U.S. agriculture in desert and arid environments. For example, crop salinity trials are conducted in conjunction with the U.S. Salinity Lab based in Riverside, California. The salinity work done at Brawley could not effectively be performed at Riverside because smog negates the scientific validity of the findings. Such research has worldwide application as saline soils are a constant challenge to farming practices in many regions. Further, the station is strategically located to provide quick response support to biosecurity and agroterrorism detection work. It is situated less than 90 miles from six border crossings, one of which is the busiest passenger crossing in the world. The constant supply of host crops and high international traffic puts Imperial County on the front line of protection of the American food supply from foreign introduction of diseases, insects, and many invasive species. The Brawley Field Station currently headquarters research facilities and personnel from USDA and the California Department of Food & Agriculture, which can quickly implement control and eradication programs in coordination with local authorities—thereby making use of the best capabilities of local, state, and federal agencies.

I urge my colleagues to support this bill, and these important agricultural and rural development projects.

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

SPEECH OF

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. WOOLSEY. Mr. Speaker, today the House passed H. Res. 713, a resolution to condemn the recent decision by the International Court of Justice in opposition to Israel's security barrier. I voted for this resolution, not out of support for Israel's security barrier, but because the International Court of Justice overstepped its bounds in issuing this decision.

Make no mistake, I strongly oppose the route of Israel's security barrier, because it deviates significantly from Israel's internationally recognized eastern border. In so doing, the fence encroaches on Palestinian lands and fully encloses some villages, overtly harming many Palestinians by turning these areas into isolated enclaves. I fully support Israel's right to defend itself. But this resolution is not one of support for the fence, it's one of opposition to the politicized ruling by the International Court of Justice. If we're going to achieve peace in the Middle East, we've got to get rid of the politics that have tainted this issue for so long on both sides.

Prior to the International Court of Justice ruling, Israel's High Court issued a ruling calling for Israel to take into account the humanitarian needs of the Palestinian people. The High Court stated that the path of the fence must be adjusted—even if this change results in less security for Israel—and the Israeli government stated its willingness to comply with this decision. Given the High Court's ruling, the decision rendered by the International Court of Justice was both irrelevant and moot, and demonstrated political partisanship rather than a desire to truly affect change in the Middle East.

In the end, Congress must do much more than pass resolutions that carry no real weight. Instead, the U.S. should be the lead negotiator to achieve peace in the Middle East. When we take sides on this issue, we diminish our ability to play the role of impartial negotiator. The Bush Administration should be providing leadership in the Middle East by ensuring that both the Israelis and the Palestinians live up to their commitments as stipulated by the Road Map, and by bringing both parties to the negotiating table. Only by re-establishing trust, respect, and cooperation between Israelis and Palestinians will we be able to achieve a lasting resolution to this devastating conflict.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. BECERRA. Mr. Speaker, Friday, July 9, 2004, I was unable to cast my floor vote on rollcall numbers 355, 356, 357, and 358. The votes I missed include rollcall vote 355 on Agreeing to the Gordon Amendment to H.R. 3598; rollcall vote 356 on Agreeing to the Jackson-Lee Amendment to H.R. 3598; rollcall vote 357 on Agreeing to the Larson Amendment to H.R. 3598; and rollcall vote 358, the Motion to Recommit with Instructions, H.R. 3595, the Manufacturing Technology Competitiveness Act.

Had I been present for the votes, I would have voted "aye" on rollcall votes 355, 356, 357 and 358.

IN MEMORY OF SSGT DUSTIN "BOB" PETERS

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. ROSS. Mr. Speaker, I rise today to recognize the life and courageous spirit of SSgt. Dustin "Bob" Peters of Shirley, AR. Staff Sergeant Peters, just 25, was killed in the line of duty on Saturday, July 11, 2004 near Bayji, Iraq.

After graduating from Shirley High School in 1996, Staff Sergeant Peters entered the Air Force where he attended technical training at Fort Leonard Wood, MO, and graduated as a vehicle operator journeyman. He completed assignments at Whiteman Air Force Base in Missouri and Anderson Air Force Base in Guam.

Staff Sergeant Peters arrived to Little Rock Air Force Base in 2000. After returning from Iraq in July of 2003, he volunteered to return to Iraq for a second tour of duty to serve with a young group of soldiers, most of whom had never been to combat. His sole purpose in returning to Iraq was to protect this group of soldiers. One friend of Staff Sergeant Peters remembers fondly, "Peters was respected and loved by fellow airmen. They admired this young staff sergeant. He knew his job very, very well."

Staff Sergeant Peter's exemplary service did not go unnoticed; his military decorations include the Air Force Commendation Medal with one Oak Leaf Cluster and with Valor, and an Air Force Achievement Medal with one Oak Leaf Cluster.

Staff Sergeant Peters gave his life to serve our country and will forever be remembered as a husband, father, son, and hero. My deepest condolences go out to his wife, Heather, their son, Dalton, his mother, Linda Bennings, and his father, Dennis Peters. I know Staff Sergeant Peters was proud of his service to the U.S. Air Force and to our country. He will be missed by his family, fellow soldiers, and all those who knew him well.

CONCERNING THE IMPORTANCE OF THE DISTRIBUTION OF FOOD IN SCHOOLS TO HUNGRY OR MALNOURISHED CHILDREN AROUND THE WORLD

SPEECH OF

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. MORAN of Kansas. Mr. Speaker, I rise today in support of S. Con. Res. 114, a resolution that recognizes the importance of food distribution in schools and expresses gratitude to former Senators George McGovern of South Dakota and Robert Dole of Kansas for their efforts to eliminate hunger and poverty.

The McGovern-Dole International Food for Education program began in 2001 as an initiative called the Global Food for Education program. This program provided food to improve nutrition for mothers, infants, preschoolers and schoolchildren in developing countries.

During the pilot program, the U.S. Department of Agriculture donated about 800,000 metric tons of commodities, providing school meals for nearly 7 million children in 38 countries.

Because of the Global Food for Education program's success, this initiative was expanded, renamed the McGovern-Dole International Food for Education Program, and authorized by the Farm Security and Rural Investment Act of 2002. As a conferee on the Farm Bill, I am proud to have played a part in enacting the McGovern-Dole program.

Through the McGovern-Dole program, the USDA is able to distribute foods such as wheat, flour, rice, corn and other basic items. Being from Kansas, I am glad that one of my State's main crops—wheat—goes to such a noble cause.

This noble cause includes three main goals: to reduce hunger, to improve literacy and to improve primary education. Private, voluntary organizations, cooperatives, intergovernmental organizations and governments of developing countries all contribute to achieving these goals.

McGovern-Dole was launched on March 10, 2003, on the 50th anniversary of the creation of the Foreign Agricultural Service. This timing is appropriate since McGovern-Dole combines two of the USDA's broad goals: to provide food in schools and to provide foreign food assistance.

About 120 million school-aged children around the world are not enrolled in school, in part because of hunger or malnutrition. A disproportionate number of these children are girls. By supporting this resolution, we in Congress can help reaffirm the U.S. commitment to education and child development.

Supporting this resolution demonstrates support for a better future for our global society. By providing food for schoolchildren in developing countries, we can help to reduce poverty and malnourishment. We can increase the number of children attending schools. By feeding and educating children around the world, we are able to open doors for these children and give them a real chance to someday achieve their dreams.

I want to thank Senator ELIZABETH DOLE for introducing this resolution in the Senate and my colleague, Congressman JAMES MCGOVERN, for introducing it in the House. I thank these Members for recognizing the efforts of my fellow Kansan and predecessor, Bob Dole. I also thank the House International Relations Committee for their consideration of this resolution.

SENATE—*Monday, July 19, 2004*

The Senate met at 1 p.m. and was called to order by the Honorable SAXBY CHAMBLISS, a Senator from the State of Georgia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

Almighty and Everlasting God, with Your words You divide night from day. Thank You for Your glory that brightens our path to the future and for the brilliance of Your hope that beckons us to new beginnings. Forgive us when we are unfaithful, when we desire to sing solo and disrupt the harmony of Your will.

Bless the Members of this body. Guard them from the evil one. Give them hearts large enough to take the honesty of their skepticism and transform it with the confidence of faith. Imbue them with reverence for life and guide them toward unity.

As they find peace with You, give them peace with each other. Give each of us gentleness fashioned after the pattern of Your mercy.

We pray in Your compassionate name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAXBY CHAMBLISS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 19, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAXBY CHAMBLISS, a Senator from the State of Georgia, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. CHAMBLISS thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Today the Senate will consider the nomination of Williams Myers III to be a U.S. circuit judge for the Ninth Circuit. Last week we attempted to reach a time agreement on the Myers nomination; however, there was an objection from the Democratic side of the aisle. I filed a cloture motion on the nomination and that vote will occur at 2:15 on Tuesday. We will debate that nomination throughout today's session, and I expect a number of Members will come to the floor and speak on this nomination.

As I announced on Friday, there will be no rollcall votes during today's session.

This week we also expect the Appropriations Subcommittee on Defense conference report. This is a very important piece of legislation that we will need to address before we adjourn for the scheduled recess. In addition, there is a conference report regarding some expiring tax provisions. We will consider that measure if and when it becomes available.

This is the final legislative week prior to the August recess. With the cooperation of all Senators, we should be able to complete our work and begin the recess on time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

THANKING THE SENATE CHAPLAIN

Mr. REID. Mr. President, I have a couple of questions I would like to ask through the Chair to the majority leader.

First, we tend to dwell on the negative around here quite a bit. But one of the good things that happens to me every day that I come is to hear the prayer. Today, for example, I wish I were good enough to live up to the expectations of the prayer offered by Admiral Black. Really, he does a wonderful job, setting the tone for how we should work in the Senate. A lot of times I think we don't listen very closely to him. But, even though he is not in the Chamber now, I want to have the RECORD spread with my appreciation of the thoughtfulness he goes through every day in preparing his very meaningful prayers.

CONSIDERATION OF CERTAIN MEASURES

Mr. REID. Mr. President, I am wondering if the majority leader could give us an idea of whether we might get to the Morocco Free Trade Agreement this week, and also do we have any word on the childcare conference report? It is my understanding that the Appropriations Committee is going to report out of the committee the military construction and legislative branch bills this week. I would ask about Moroccan free trade, the childcare conference, and those two appropriations bills, military and legislative branch, if we are going to be able to get to those this week?

Mr. FRIST. Mr. President, all four issues are issues important to the Senate. Progress is being made on all of them. With regard to Morocco, we will need to check with the chairman and the ranking member to see what their intentions are, which I will do and get back with the assistant Democratic leader.

The conference report on the child credit, again I very much would like to see action on it over the course of the week. I know there was discussion over the last several days and over the weekend itself. I will be able to update him once people return to town in the course of the day.

On the appropriations bills, we will see what progress can be made before we leave. It would be nice to be able to make progress on those appropriations bills. We will need to aggressively consider all of these appropriations bills, either now or in September, and finish before we complete the session.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF WILLIAM GERRY MYERS III TO BE A UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the nomination of William Gerry Myers III to be a circuit judge.

The assistant legislative clerk read the nomination of William Gerry Myers III, of Idaho, to be U.S. Circuit Judge for the Ninth Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 5 p.m. shall be equally divided for debate only between the chairman and ranking member or their designees.

The Senator from Utah.

Mr. HATCH. Mr. President, I yield such time as he needs to the distinguished Senator from Idaho, and I will defer my remarks until after he finishes because he has a hearing scheduled in just a number of minutes, so we will turn to him first.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank the chairman of the Judiciary Committee for yielding me time at this moment. At 2 I have a special Committee On Aging hearing to chair, so I do appreciate the accommodation.

Mr. President, today we are here to visit about, and I hope confirm, a good friend of mine, William G. Myers III, whom the President nominated for a judgeship to the Ninth Circuit Court of Appeals. I commend President Bush for nominating Bill Myers.

I would like to spend a few moments today talking about the reasons my colleagues should vote for Bill Myers and set aside the larger political issues surrounding judicial nominations. Bill Myers was nominated by the President on May 15 of 2003 not May 15 of 2004 so it has been well over a year since the President sent up the nomination of Bill Myers.

Bill is an extraordinary person, and I believe his nomination deserves our full and focused consideration.

He was reported out of the Judiciary Committee on April 1, 2004. Once confirmed, Bill will fill the vacancy of Judge Thomas Nelson, who became the senior judge of the Ninth Circuit.

At this juncture, I would like to remind my colleagues that this is a vacant seat on the Ninth Circuit, a vacant Idaho seat we are proposing to be filled. The caseload of the Ninth Circuit judges at this moment is one of the largest in the country—as some would suggest, even overpowering and not allowing reasonable and appropriate justice to go forward simply because this seat and others are not filled and the caseload is so substantial.

As my colleagues know, Federal law requires that every State within a circuit be represented by at least one judge. I believe the Senate is in danger of failing to fulfill this requirement if it prevents an up-or-down vote on Bill Myers because he will be the Idaho judge of the Ninth Circuit.

A few critics of this administration's natural resource policy would have you believe Bill should not be confirmed. They have bandied about previous wrongs, if you will, but all they have demonstrated is the certainty of what?

First, these critics desire to capture the judiciary by opposing nominees who do not display activist tendencies that might work to their own political advantage. In other words, if you aren't our politics and we can make an example of your politics, you are not fit to serve. We all know that judges shouldn't be involved in politics.

Second, these critics have done nothing more than confirm that Solicitor Myers is the chief legal officer at the Department of the Interior, which is controversial in every administration by the very nature of the mission and the responsibility of the Solicitor at the Department of Interior.

By enforcing political litmus tests against judicial nominees, some are suggesting that in order to be a nominee, you should have no experience in the law. Let me repeat that. Some are suggesting, some of my colleagues on the Judiciary Committee—and you will probably hear it on the Senate floor—that it is the experience of the nominee that is giving him the problem. So are we to assume, then, that nominees should have no experience? How can they be a wise and thoughtful judge within the law if they have not had that kind of experience both in the public and private sector?

Make no mistake, Bill Myers' opponents are for enforcing just this test. The substance of their test is this: If you have represented farmers, ranchers, miners, and, frankly, anyone else who advocates a balanced multiple-use policy on public and private lands in the West, the radical left environmental groups have decreed that you do not even merit a vote in the U.S. Senate. And the Democrats at this moment are playing that game: Sorry, Mr. Myers. You did your job down at Interior; you don't deserve to get a vote on the floor of the U.S. Senate in an up-or-down fashion. Senators should be ashamed to enforce such an edict from those liberal interest groups. The interest groups in this instance have grabbed the power of those on the other side. That is a tragedy.

Among their many factual misstatements, critics of this nomination confuse the appropriate roles of the lawyer or the judge by suggesting that because Bill Myers has been a strong advocate for his clients, he will continue to advocate for them from the bench. Of course, they offer nothing but bland or bald assertions in support of their logic.

Of course, we know that as men and women come to the bench, quite the opposite happens. They have a role in the private sector to represent their clients—that is their job—or in the public sector, in the case of Bill Myers, the Solicitor to represent his client, the Secretary of Interior. Is it to suggest that he will continue to do that as a judge? Quite the opposite. Let me tell you, that is the argument we will hear today on the floor of the Senate, and that is the argument being placed.

If their theory is correct, no practitioner who has ever represented committed clients in adversarial proceedings or political policy battles would be qualified to serve in the judiciary. Even so, any fears are allayed by a fair review of Bill's public service. His record as Solicitor shows balance and mainstream decisionmaking.

Let me give you a few examples: opposition to trespass by inholders in national parks of Alaska, impoundment of trespass livestock on Federal lands in Nevada, expansion of a national monument in New York, support for reinterment of Native-American remains, recognition of tribal boundary rights in New Mexico, record penalties for failure of a company to pay gas royalties, and support for settlement of tribal water rights claims.

I remind my colleagues that as Solicitor, Bill Myers was not a decisionmaker. He was the legal advisor to the Secretary of the Interior. In this role, as with all other roles in his life, Bill Myers has been an advocate for his clients.

I see no reason to believe Bill Myers would not continue to do this as a judge. But in this situation, his client will be the law, and he will be the advocate of truth and justice. That is the responsibility of a judge. The law becomes the client. Exactly what we all want in a judge is just what I have stated.

In addition, leaders in the field of law, including Democratic leaders in the West, have written to the committee supporting Bill's qualification to be a circuit judge. Letters of support have been written by the following, and all letters can be found in the committee's hearing record: Congressman HENRY HYDE, Wyoming Supreme Court Justice Marilyn Kite, Idaho Democrat Senator Chuck Cuddy, Chairman Carol Dinkins for the ABA Committee on Federal Judiciary, former Democrat Governor Mike Sullivan of Wyoming, and former Democrat Governor Cecil Andrus of Idaho. In neither of these two Governors' cases can you suggest they were anti-environment. They stood for balanced use, they stood for environment, and they stood for protecting our public lands and providing reasonable and responsible management. Of course, that is why we are supporting Bill Myers, because that is how Bill Myers handled his position as Solicitor at the Department of the Interior.

Democratic State attorney generals of Oklahoma and Colorado are also in support of this nominee.

Is this the message we want to send to hard-working families of farmers and ranchers and miners in South Dakota, North Dakota, Montana, Nevada, Oregon, and other Western States? I hope not. I think just the opposite. I think any one Senator could review the Myers record and could go to those who now oppose him and simply say this: I have reviewed William Myers' record. I find his integrity is beyond reproach. His intellect shows he is a man who has served a variety of capacities and the law extremely well. He has a solid, well-balanced temperament that would serve him well if we put him on the bench. That is what they ought to be saying.

No, today they are winking and nodding and saying to their environmental friends, we gave you one. We gave you a vote. Instead of saying, we have reviewed the record of William Myers, he is the one who deserves the vote, they are saying to the special interest votes, we gave you a vote.

I hope my colleagues hear that. I hope they weigh that in their consideration of this nominee. That is not the way nominations ought to be handled in our committees or in the Senate. Tragically enough, that is exactly what is happening.

Let it be said that the President of the United States has nominated a quality person. That person is William Myers. He is before the Senate now for a seat on the Ninth Circuit. He deserves our full consideration and a vote, not a political pass by. I wholeheartedly recommend we consent to this nomination. The President has treated this post well with the selection and the nomination of William Myers.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, the distinguished Senator from Idaho has made some very important points. That is, this is now eight judges who the Democrats have indicated they would filibuster in the Senate, including this very excellent candidate for the Federal bench, William G. Myers III. We have never had filibusters of judicial nominees in the history of this country, not one time before. No one in the past has been willing to violate the rules in such a fashion until this President was elected.

It began with Miguel Estrada who, of course, removed his name from consideration. After having sat there for better than 2 years, he decided he better get back to his law practice. It includes another seven, including Mr. Myers, who the Democrats have indicated they will filibuster—in other words, try to talk to death this nomination. Since they have been able to keep control of almost everybody in their caucus, needing only 41 votes against cloture—in other words, against ending the debate so a vote can be taken—they have subverted the rules and have caused what is going to be called a crisis unless we can find a way around it.

It is a crisis now because excellent nominees have been badly mistreated in the Senate by not even getting a vote up or down. Once a nominee is brought to the floor, that nominee deserves, under the advice and consent clause of the Constitution, article II, section 2, a vote up or down.

If my colleagues on the other side do not like people, they can do everything they can within the committee to try and block the nomination there. But once that nominee is brought to the Senate, that nominee, under the advice and consent clause, deserves a vote up or down. Mr. Myers is no exception. He deserves a vote up or down. He is an excellent nominee, one who would have that vote up or down if the Senate were acting responsibly.

I rise today in strong support for the confirmation of William G. Myers III who has been nominated to fulfill the Idaho vacancy on the Ninth Circuit Court of Appeals.

Let me emphasize, when current Circuit Judge Trott takes senior status at the end of this year, and if the Senate refuses to even vote on Mr. Myers' nomination, there would be no Idaho representative on the Ninth Circuit Court of Appeals.

Federal Law 28 United States Code section 44(c) requires each State within a circuit must have at least one active judge serving on that circuit. We have heard a lot of discussion over the past few months about how circuit court seats should not be switched from one State to another out of respect for home-State senators. I hope the Senators who have raised those valid concerns afford Senators CRAIG and CRAPO and the rest of us in the West the same respect they believe they themselves and their States deserve.

Again, this is not about Idaho having two or three or even one or two seats on the Ninth Circuit. It is about whether the Senate will refuse to even vote on filling Idaho's only active seat on the Ninth Circuit.

As I will discuss further, it is also about whether a qualified nominee can be blocked by a minority of Senators because he at one time or another represented ranchers, farmers, and miners in their efforts to make balanced use of public and private uses of public lands in the Western United States of America. These are among the greatest pioneers and greatest leaders of the intermountain West, these farmers, ranchers, and miners. These are good people. These are people who, like everyone else in our society, deserve representation. Many of them came to William G. Myers III for such representation. He represents them well, as he should, as an advocate. The fact that some on the other side of aisle do not agree with his advocacy is no reason to stop him from being the sole active Idaho judge on the Ninth Circuit Court of Appeals.

Bill Myers was nominated by President Bush in May of 2003, over a year ago, and his nomination was carefully examined, debated, and favorably reported out of the Judiciary Committee in early April. Democrats who opposed him in committee voted against him. That is their right. But they should not now delay all Senators the right to vote on this confirmation. Bill Myers deserves and is overdue for an up-or-down vote in the Senate.

I remind my colleagues that the Ninth Circuit is the most notoriously liberal Federal circuit in the United States. It is and has been for at least a decade quintessentially out of the mainstream of American jurisprudence. The infamous case in which this court held our Pledge of Allegiance is unconstitutional because it contains the word "God" is but one of many examples of its all too frequent perversions of Federal jurisprudence.

Fortunately, the Supreme Court unanimously reversed the Ninth Circuit in that case, one of 16 times in the 2003–2004 term alone the Court unanimously reversed or summarily vacated the Ninth Circuit Court of Appeals.

This past Supreme Court term, the Ninth Circuit was reversed or vacated 81 percent of the time. Even my liberal friend from New York, Senator SCHUMER, once noted the Ninth Circuit is "way out of the mainstream on the left."

As Senator FEINSTEIN noted in the 1996–1997 term, the Ninth Circuit was reversed 20 of 21 cases. While some circuits had similar reversal rates, no other circuit came close to the number of cases considered and reversed. The same has been true since then. The Ninth Circuit has been reversed 86.5 percent of the time since 1998. That is a disgrace to the Federal bench. In 58 cases the Court didn't even need to hear argument, they simply vacated the Ninth Circuit summarily. In the 2003–2004 term, Ninth Circuit appeals accounted for about one-third of the Supreme Court's docket, suggesting that the Court feels the need to focus disproportionately intense scrutiny on decisions from that circuit.

As I noted, about two-thirds of the Ninth Circuit reversals this past term, 64 percent, to be exact, were unanimous. This is a court that is desperately in need of good, nonactivist judges who will be faithful to the Constitution.

There is no doubt in my mind or in the mind of anybody who knows him that Bill Myers would be such a judge. One would think the Senate would welcome the confirmation of an expert on public lands and natural resources law to a court that has enormous influence over how disputes over the uses of these resources are resolved. Western Senators know all too well that the Ninth Circuit is the 900-pound gorilla of public lands, natural resources, and environmental law. Its decisions have significant and often adverse impacts well beyond the borders of its jurisdiction.

Yet today, and tomorrow, I suppose, we will hear it is Bill Myers who is out of the mainstream and not fit to join the ranks of the Ninth Circuit judges who routinely ignore law and precedent to rule based on their own personal policy preferences, both on natural resources issues and in many other areas of the law, including, but not limited to, the constitutionality of the Pledge of Allegiance and the death penalty.

The prejudices against Bill Myers reflect today's poisoned confirmation process: Nominees who somehow offend any well-funded liberal interest group are subject to distortions and baseless personal attacks, which the media echo chamber dutifully resound as proof positive of unfitness for the Federal bench. And with Bill Myers and his record, the distortions continue, baseless as ever.

His record as the Interior Department's Solicitor, where he was doing his duty to represent the policy positions of the United States of America, has been attacked because the liberal environmentalists do not like those policies. He has been vilified for daring to represent farmers, ranchers, and miners while in private practice, as if ranchers, farmers, miners, and those who make economic uses of Western lands are less entitled to representation than the elite, liberal environmental groups that attempt to dictate Western land policy from Eastern cities, while they derisively refer to most of our Nation as a flyover country.

So what is at stake is this: Is a judicial nominee disqualified from service on the Federal bench solely because he or she has advocated, successfully and competently, for people or policies that liberal groups of various stripes dislike? If the answer from my Democratic colleagues is yes, then I do not want to hear one more word—not one—from any of them about how it is Republicans who are politicizing the judiciary.

There is no more blatant way for Senators to politicize and degrade the confirmation process than to reflexively disqualify nominees who have represented people and groups or advanced policies they do not like. Ask yourselves, is this vote on Bill Myers really about Bill Myers? If it is, you know and I know there is no reason on the merits to deny him an up-or-down vote. Or will this vote be a reflection of liberal disdain for policies favored by farmers, ranchers, miners, the Bush Interior Department, or anyone else who advocates balanced uses of Western lands?

If the latter is true, let me emphasize again for those who still do not get it, the Constitution did not and does not establish Federal courts as the policymaking branch of the Government. Federal judges should not make policy, though too often, especially on the Ninth Circuit, they do.

Policy debates ought to have no place in our consideration of a nominee's qualifications to serve as a Federal judge—unless we think he or she does not understand the proper role of Federal judges under our constitutional system.

Absent absurd and unfair distortions of his record, there is zero evidence that Bill Myers does not understand that proper role.

I would also like to remind my colleagues of some facts about Bill Myers that the liberal interest groups and the media have willfully ignored or deliberately misrepresented.

He has an exemplary record that includes service as a successful, committed advocate and public servant. As Solicitor for the Department of Interior, a position to which he was confirmed in 2001 without opposition, Mr. Myers supervised over 300 attorneys and 100 support staff in 19 different offices throughout the United States, and managed a $47 million annual budget. He has served as counsel here in the Senate to our former colleague Senator Al Simpson, and, as well, in the Department of Justice and the Department of Energy.

His confirmation is supported by Democrats, including former Wyoming Governor Mike Sullivan and former Idaho Governor Cecil Andrus, who also served President Carter as Secretary of the Interior, plus the Democratic attorneys general in both Colorado and Oklahoma, and Republicans alike. Five Western Governors, including the Governors of Hawaii, Montana, and Nevada, have written to the committee expressing their support and emphasizing "the need for quality judges who will provide a balanced perspective to the Ninth Circuit's extraordinary caseload."

I also want to respond to a blatant misrepresentation about Mr. Myers' record that was made by one of my colleagues who suggested, falsely, that Bill Myers "thinks the Clean Air Act and the Endangered Species Act have harmed the environment."

Well, as anyone who has bothered to read Mr. Myers' hearing testimony and written questions or even conducted a cursory review of his record would know, he thinks no such thing. In fact, I do not think he has ever said anything about the Clean Air Act at all.

Now in his responses to Senator FEINSTEIN's written questions, Mr. Myers affirmed that congressional intent in passing the Clean Water Act was to "restore and maintain the chemical, physical and biological integrity of our Nation's waters," and that "the health of our Nation's waters is often inextricably connected to the health of adjacent wetlands." This is an extreme conservative position? Only in the sense that Bill Myers failed to endorse the full policy platform of Greenpeace.

Similarly, regarding the Endangered Species Act, we all know there have been cases in which Government authorities have abused their power under this law to confiscate private property without compensation. Let me give you one example, the 2001 Ninth Circuit decision in the Arizona Cattle Growers case. Here, a unanimous appellate panel, composed of two judges appointed by President Clinton and one judge appointed by President Reagan, wrote the following:

> [T]he Fish and Wildlife Service acted in an arbitrary and capricious manner by issuing Incidental Take Statements imposing terms and conditions on land use permits, where there either was no evidence that the endangered species existed on the land or no evidence that a take would occur if the permit were issued. We also find that it was arbitrary and capricious for the Fish and Wildlife Service to issue terms and conditions so vague as to preclude compliance therewith.

So Bill Myers has been an advocate for farmers and ranchers who have challenged such abuses of this law, because their families' lives and fortunes depend on their ability to responsibly use land they own or lease. For such efforts, he is unfit for Federal judicial service? Give me a break.

Here is what Bill Myers has actually said about the Endangered Species Act. Contrast what he has said with what his opponents believe he thinks. He has said Federal agencies should not use it as a zoning tool on public lands.

Now, is that unreasonable? He argued in a brief on behalf of the American Farm Bureau and others that the Babbitt Interior Department regulations that defined the term "harm" in the Endangered Species Act in a way that essentially precluded any private landowners' use of property on which an endangered species might find habitat should be invalidated.

That sounds like a reasonable position to me. And I think it would be to anybody under similar circumstances. Why, it might even be a reasonable position for some of my more liberal legal colleagues on the other side, if they bother to think about it.

Importantly, the Government had no intention of compensating affected landowners if these regulations rendered their land valueless, despite the Fifth Amendment's takings clause, and despite provisions in the Endangered Species Act itself that authorize the Government to compensate landowners in such situations.

So, again, are the positions taken by the American Farm Bureau and other farmers and ranchers extreme and unreasonable, disqualifying their lawyer from Federal judicial service? I think the obvious answer is no—unless every nominee to the Ninth Circuit must share the policy positions of the elitist and more radical environmental groups.

Let me make one related point. I will refer to a news report dated March 17, 2004, headlined: "Grad Student Charged in SUV Arson."

According to the article, a student with connections to the radical environmentalist group Earth Liberation Front firebombed and vandalized 125 vehicles at Los Angeles area car dealerships and private homes in August 2002. The words "ELF" and "Fat Lazy Americans" were spray-painted onto some of the vehicles.

ELF also took responsibility for a 2002 fire in San Diego that destroyed an apartment building and caused $50 million worth of damage. Just 2 weeks ago ELF is suspected of carrying out an attack in my home State of Utah at Brigham Young University.

When ELF extremists are arrested, they are represented by attorneys. Without in any way suggesting that anything Bill Myers has ever done or advocated approaches such actual extremism, are these attorneys presumptively disqualified from service on the Federal bench because of the criminal actions of their clients? Can we assume that they sympathize with the criminals' actions? In light of some Senate Democrats' apparently closed minds against a growing number of President Bush's nominees, perhaps we all need to think more carefully about how we answer such questions.

Some Senators apparently believe that nominees who do not think like they do, and will not advocate their pet causes while on the bench, deserve nothing more than to be filibustered—denied an up-or-down vote because they—a minority—know that a Senate majority stands ready to confirm these nominees.

Unlike those who are supporting such filibusters for purely ideological reasons, I do not believe that a nominee must share all of my favorite interest groups' policy views in order to deserve an up-or -down vote. And let me read what Bill Myers had to say on this at his hearing.

> I would stand on my personal record that I cited a moment ago that I have spent my free time in serving national parks, such as picking cigarette butts out of fire pits. I have a great love for the national parks. That is where we recreate and that is where we go for sustenance, for spiritual refreshment, and that is a personally-held view. The larger view, though, and the one that is really important for this Committee is whether I would carry into a judicial position, if I were so lucky as to be confirmed, an ideology that would result in a bias against or for any litigant.
>
> And I think it should be noted that every nominee, I suspect, that comes before you has both proponents and opponents, and some of those people may hope that once that person becomes a judge that they can either count on them to do the right thing or cower in fear that they will do the wrong thing.
>
> I hope that both of those groups, the proponents and the opponents, are disappointed; that when a person takes on those robes, takes the oath of office, swears to uphold the Constitution, that that means that they will follow the law and the facts, wherever the law and the facts take them, without regard to personal opinion, public opinion, friends, or foes.

Ask yourselves, is this an ideological nominee? Out of the mainstream? As I said before, only in the eyes of the well-funded environmental extremist groups who cannot stand the idea of a Ninth Circuit judge who might not buy into all of their propaganda.

Finally, Bill Myers would fill an Idaho seat recently vacated by an Idaho judge. While no Federal judge should represent anyone or anything but Federal law, to the extent the Ninth Circuit currently represents anything other than embarrassment and summary reversals, it represents President Clinton, who appointed 14 of its active 26 judges four during election year 2000 alone. And let me note, for the benefit of those who now say it is too late in an election year to confirm judges, that Clinton nominee and current Ninth Circuit Judge Rawlinson was confirmed to his position on July 21, 2000, in the last year of the Clinton administration.

Bill Myers was a successful advocate for people and causes that deserve representation just as much as any environmental activist group, or any liberal's pet causes. As the Interior Department's solicitor, Mr. Myers defended balanced policy solutions to difficult questions of how our public lands and natural resources in the west should be managed. His confirmation will help balance a very out-of-balance Ninth Circuit, as well as ensuring that Idaho maintains its only seat on that court. I hope my colleagues will join me in voting to confirm this good man to the Ninth Circuit.

We have heard from the other side about the mythical "Thurmond rule" and all kinds of other suggestions that judges should not be confirmed from here on, this late in a Presidential election year. I remember way back when, cases where we confirmed judges, Democratic nominees, Carter nominees, even after President Reagan had won the election. In fact, one of them is sitting on the Supreme Court of the United States of America.

I remember when my colleagues came to me back in the year 1980 and asked if I would be willing to support then-Harvard law professor Stephen Breyer for the First Circuit Court of Appeals. I have to say there were some Republicans who didn't want that to happen. But he had been a wonderful chief of staff for Senator KENNEDY on the Judiciary Committee. He was honest, decent, honorable, kind, worked well with both sides. He had all of the qualifications. There was no question about intelligence and ability. I led the fight to make sure he was confirmed. That was later in that year. There have been other cases as well.

It is wrong to set any arbitrary limits on when during the year the Senate can confirm judges. If a person is not qualified, that is one thing. But everybody we have brought to the floor has not only been qualified, they have been among the best nominees of my 28 years in the Senate. Mr. Myers is one of them. He is knowledgeable. He has held high-level positions in our Government. He has served with distinction. He has served well. He is one of the brightest people. He would represent Idaho in the only active seat Idaho would have. He certainly understands all of the problems in the intermountain West, an area where the Ninth Circuit Court of Appeals could use his knowledge. He is one of the top public lands and natural resource lawyers in the country.

He is a person of inestimable ability, great charm, decency, honorable ways, and capacity. He is a person who would have great temperament on the court. In other words, he is a person we ought to confirm. We should not get into these Mickey Mouse filibusters that fly in the face of the advise and consent clause itself, and which basically have cost the dignity of the Senate to a large degree.

Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. What is the matter now before the Senate?

The ACTING PRESIDENT pro tempore. We are in executive session for Calendar No. 603.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. REID are printed in today's RECORD under "Morning Business.")

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I wish to speak on the William Myers' nomination to the Ninth Circuit Court of Appeals. He is a man of skill, a man with a proven record of public service, a man with a broad background in legal matters, a man perfectly suited to help improve the Ninth Circuit Court of Appeals, which has had an extraordinary number of problems in recent years.

William Myers has bipartisan support. He has had a distinguished legal career. Ranging from his service as a solicitor for the Department of Interior, the chief legal officer at the Department of Interior, to his extensive private practice at Holland & Hart, one of Idaho's most prestigious law firms, where he specialized in Federal litigation involving public lands and natural resource issues.

He served for close to 4 years on the staff of former Senator Alan Simpson as legislative counsel. Senator Simpson served for many years in the Senate. William Myers has also served as an assistant to the Attorney General in the U.S. Department of Justice and as Deputy General Counsel for Programs in the United States Department of Energy.

These are broad experiences, the kinds of experiences that will be most valuable to him as a Federal judge because many Federal cases involve relations and litigation affecting Federal agencies in matters of land, conservation, and energy. This is particularly true of the West.

He is qualified to serve. The American Bar Association, certainly not a conservative organization, has rated him qualified to serve, and he has won many plaudits from across party lines.

Cecil Andrus, former Idaho Democratic Governor, had this to say about Mr. Myers:

> He possesses the necessary personal integrity, judicial temperament, and legal experience, as well as the ability to act fairly on matters of law that will come before him on the court.

Mike Sullivan, former Democratic Governor of Wyoming and U.S. Ambassador under the Clinton administration, calls Mr. Myers a thoughtful, well-grounded attorney who has reflected by his career achievements a commitment to excellence. He would provide serious, responsible, and intellectual consideration to each matter before him as an appellate judge and would not be prone to extreme or ideological positions unattached to the legal precedence or the merits of a given matter.

That is a high compliment. I think it goes to the heart of what a judge is; that, yes, one can be active politically; yes, one can be a person who has public policy views about what America should do to make this a better country. But when the question is, when one comes on the bench, what is their philosophy about judging? How do they think about judging? What do they think the role of a judge should be? Do they think the role of a judge is to try to use the power of the robe, the power of the bench, to implement their political views?

Frankly, if people come up for a judgeship and have never been active in any way in public policy issues, I wonder if they are qualified. Surely, they ought to have some views about issues that come before this country and care about America and have spoken out on them. The question simply is, do they understand when they put on that robe they are not a politician. They are judicial officers required to interpret the laws of this country as best they can, to give plain meaning to the words of the statute and the Constitution and not to utilize that bench as a mechanism to impose their personal views on the people in their district or their circuit? Because, of course, Federal judges have lifetime appointments.

Some would think our Founding Fathers, if they made an error, it was when they gave one group of people, the third branch of our Government, unreviewable power. So we need judges who show personal restraint, and that is Judge Myers' judicial philosophy. Frankly, it could be utilized on the Ninth Circuit to a great degree.

Some have questioned his commitment to environmental issues, even called him anti-environment. His record indicates otherwise. In fact, he is most knowledgeable and skilled in these areas. He has been a leader in the American Bar Association's Section on Environmental Energy and Resources and has served as vice chairman of the ABA's Public Lands Committee.

Now, as my colleagues know, the ABA is certainly not a right-wing organization, but they have rated him qualified. They know him. He has been active in their issues in a professional and legal manner, not in a partisan way but on the American Bar Association committees.

He has done a number of things such as settling a big case on behalf of the Government against the Shell Oil Company for flaring and venting natural gas in the Gulf of Mexico. They had to pay $49 million as a result of that settlement. An environmental group sought Mr. Myers' aid to protect Atlantic salmon and 10 other species of native fish in a dispute over removing two dams on the Penobscot River.

At the end of the day, the Myers' settlement allowed a dramatic increase in raising the population of these fish and the environmental groups called the agreement "the biggest restoration project north of the Everglades."

He understands environmental issues. He understands legitimate concerns about the American environment, the need for us to make sure that the environment is protected and that the law is followed. I hope, however, he is not one who believes the environmental laws the Congress has passed, some of them somewhat complex, can be twisted around and utilized as a weapon to further a personal political environmental agenda. I do not believe that is his idea.

From what we have seen from some of our Federal judges, too often in the Ninth Circuit, that is how they have acted.

Some have expressed concern about this nominee being one who is from the West. He understands the Government lands issue. He has served on ABA committees and served in areas of the Government that have dealt with those issues. He is knowledgeable on environmental issues and other issues that are important to that region of the country in which he is called on to serve. Now, what is wrong with that?

I am sure we have Members of this body from Massachusetts out on Martha's Vineyard, and they would like to tell everyone that if someone is a member of the Cattleman's Association and a lawyer for them, that person cannot be trusted, they do not understand what life is about, they are not committed to the environment; you know, the cows eat grass, and it is not helpful, that kind of thing.

Mr. Meyers is a nominee who has a record of adhering to the law. I have no doubt he will be a fine judge, and he deserves to be confirmed.

I think it is important that we take a minute to say this: If we get a judge who is committed to the rule of law, committed to showing restraint, committed to the judicial philosophy that a judge ought to follow the law and not make it, where better should they be sent than the Ninth Circuit Court of Appeals?

I will share some thoughts about that circuit. Politically, let's just say that party affiliation should not affect a judge's ruling, but to those who say this man is conservative, he is a Republican, and he ought not be confirmed, let me point this out about the Ninth Circuit: Of the 26 active judges, 17 were appointed by Democratic Presidents. Only 9 are Republican appointees. A remarkable 14 of the 26 judges, 54 percent, over half were appointed by President Clinton alone. In the year 2000, a Presidential year, President Clinton appointed four judges to this court. The last year in office, he appointed and we confirmed four judges to this court.

Of course, it is the biggest circuit in America and having quite a bit of difficulty, frankly. It needs some help, and we need to see in what kind of bipartisan way we can work to improve this Ninth Circuit. We need some rule of law balance on this court. I believe that Mr. Meyers will provide that.

I will go on. The Ninth Circuit has established a pattern of issuing the most activist decisions in the country. On one day earlier this year, the U.S. Supreme Court reversed three decisions from the Ninth Circuit. The Supreme Court ended its 2003–2004 term having reversed the Ninth Circuit in 81 percent of the cases appealed from it.

As the Presiding Officer knows—and I see Senator CORNYN from Texas, who is a former attorney general and a member of the Texas Supreme Court, who would also know—the Supreme Court of the United States can only hear a small fraction of the cases that come from the entire United States. They can hear only a small fraction of the cases that are appealed from the Ninth Circuit, and they reversed them 81 percent of the time. That means hundreds and perhaps thousands of other litigants in California and the West did not have their cases heard by the Supreme Court. Perhaps they, too, would have been reversed had they been heard, but they are stuck with the Ninth Circuit as the final court that ever heard their case.

The Ninth Circuit has established a pattern of issuing the most activist decisions in the country. I will give some more examples.

During the last decade, in the last 10 years, the Ninth Circuit has reversed death sentences at an increasingly high rate.

The Supreme Court has affirmed the legality of the death penalty in America, and Congress and States like California and other States in the West have it, as does my home State. But they are being reversed at an increasingly high rate which moves it out of step with the other circuits in America. While all the other circuits uphold approximately 80 percent of death penalty convictions, the Ninth Circuit has gone the other way, reversing a majority of convictions in most years, and approximately 80 percent of the convictions over the last 3 years.

I served as a prosecutor for most of my professional career—almost 17 years. An 80-percent reversal by the Federal court, which is simply to review the State court's decisions to see if fundamental Federal principles have been violated, is a stunning statistic. So I say, if Myers has a little different view of these things, we need him in a hurry on the Ninth Circuit.

Most recently, in September of 2003, an 11-judge en banc Ninth Circuit panel ruled 8 to 3 that the U.S. Supreme Court's decision in Ring v. Arizona, which held that capital defendants have a constitutional right to a jury determination of the facts supporting their death sentences, applies retroactively to over 100 death row inmates who were sentenced by judges. Of the 11 panel judges—I want to point this out, how this circuit is made up—of the 11 judges on this panel, one was appointed by a Republican President.

Fortunately, the U.S. Supreme Court reversed the Ninth Circuit's decision, but such lack of balance on that court has produced the almost tiresomely predictable set of results. The balance I speak of is rule of law balance, not conservative versus liberal balance.

In 2001, the Ninth Circuit acted to invalidate an application of California's three-strikes law as a violation of the eighth amendment's protection against cruel and unusual punishment, a decision fortunately overturned by the U.S. Supreme Court.

It would be funny, if it were not so serious.

There is no doubt that the rather significant decline in criminal activity in America today is driven by tough sentences and things like California's "three strikes and you are out" laws which have sent repeat offenders off to jail for longer periods of time. It has saved the lives of hundreds, thousands of Californians who would have been murdered by some of these people, much less raped, assaulted, had their homes vandalized and burglarized, their automobiles stolen, and drugs sold in their neighborhoods. This law was struck down by the Ninth Circuit.

Fortunately, it was reversed by the Supreme Court. The Ninth Circuit opinion, of course, was authored by Clinton nominee Richard Paez, who came through here and was confirmed in this Senate several years ago. I opposed his confirmation.

The Ninth Circuit, then, after the Supreme Court reversed the decision, only implemented the reversal of through a divided panel. After the Supreme Court told them what to do, the panel still divided, with Judge Reinhardt, the epitome of judicial activism in America, upholding the defendant's sentence only under the Supreme Court "compulsion," he said. And Judge Pregerson stated that "in good conscience" he could not follow the Supreme Court's decision.

This kind of contempt and disrespect for the U.S. Supreme Court is a matter of concern, of real concern. What is not a matter of concern is that Mr. Myers represented the Cattlemen's Association and understands land issues in the West. That is what we need on this court, some respect for law.

The Ninth Circuit reinstated in another case a claim by a prisoner who had been convicted of making terrorist threats and sentenced to 100 years to life. They ruled he had a constitutional right to artificially inseminate his wife from prison via overnight mail. The en banc Ninth Circuit reversed the decision over the dissents of four Clinton appointees, including Marsha Berzon and Richard Paez, who I voted against, but I voted not to filibuster, to bring them out so they could get an up-or-down vote in this body. My suspicions about their activist nature have been confirmed in case after case, unfortunately.

In 2002, the Ninth Circuit struck down Alaska's Megan's Law, a sex offender notification law. Both plaintiffs in the case had been convicted of sexual abuse of a minor. Judge Reinhardt's opinion was joined by Clinton nominee Sidney Thomas and Carter nominee Dorothy Nelson. The Supreme Court reversed their decision 6 to 3. Many of those cases have been reversed by the Supreme Court 9 to nothing.

The Ninth Circuit infamously declared the Pledge of Allegiance unconstitutional. The Ninth Circuit panel, including Stephen Reinhardt, ruled the Pledge of Allegiance unconstitutional because it contained the word "God." The en banc court later refused to reconsider the ruling and the case thankfully was reversed earlier this summer on summary grounds by a unanimous Supreme Court.

The Ninth Circuit ruled that California State courts erred as a matter of State law when they found that a defendant, convicted of selling cocaine, had failed to present sufficient evidence to warrant a jury instruction on entrapment.

This is a Federal court sitting in review of an oversight of a State court ruling. They are State judges, by the way, who are sworn to uphold the Constitution and sworn to uphold the laws of the State of California. Judge Susan Graber, writing in dissent, faulted the majority for failing to adhere to the proper standard of review of State court decisions. She noted that:

> [t]he Supreme Court of the United States has just chastised this court, in the strongest possible terms, for substituting our judgment for that of a state court on matters of federal law. . . . We have even less justification for substituting our judgment for that of a state court on matters of its own state law.

I am pleased that one justice spoke up there.

There are quite a number of other cases I could mention. I will not go into them. Actually, there are quite a number of others.

I will say this. This judge has the "qualified" rating by the American Bar Association. He has had broad public experience. He has had private litigation experience with a good law firm in Idaho and in the West and back here in Washington. He knows what he is doing. He has bipartisan support, Democrats and Republicans. He is a person who is qualified and should take this position. But we have a small group who thinks these people in the South, they put judges up who want to turn back the clock. They believe we have nominees, if they come from the West and represent the Cattlemen's Association, that they do not believe in the Constitution, they don't believe in the environmental laws. It is a conceit of the elites. It is not correct. This judge is committed to following the law. He would be a wonderful addition to a circuit that is in serious trouble today and needs some reform and needs some judges with good skills, a commitment to the law, common sense, personal integrity, and a willingness to follow the Supreme Court rulings whether they agree with them.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Texas.

Mr. CORNYN. I will ask unanimous consent I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CORNYN are printed in today's RECORD under "Morning Business.")

Mr. DEWINE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I rise in support of the nomination of my good friend, William G. Myers III. I recommend him highly, and I believe the United States Senate should approve his nomination to serve as a judge on the Ninth Circuit Court of Appeals. He has earned that position by his dedication and a remarkable record of service to the country and to our legal system.

I am concerned we won't hear about his impressive record, however, I am afraid we are going to hear a lot of needlessly harsh rhetoric about Bill being a radical who has only represented extreme conservative interests during the course of his outstanding legal career. That isn't the truth, of course, but it does make for good soundbites and unfortunately, that is often what is promoted as the truth.

The truth is that Bill is not a radical extremist, nor does he have a political agenda that he is trying to pursue in agreeing to be nominated for the Ninth Circuit. A radical judge would be one who is intent on making extreme, sweeping changes in the political and social make up of the west. A radical judge is someone who stands out as being significantly different from the community he represents, who pursues his ideology regardless of its impact on those affected by his actions, and who doesn't care if his actions do not represent the interests of the people he serves.

No, Bill is not a radical for he is none of those things. In fact, he is quite the opposite. He is someone who has lived and worked with the people of the West. He knows them, respects them, and he understands the demands they face every day as they try to make a living. He knows their dreams and he shares their values. He is looking to serve on the bench to make life better for them and for all those in the West who will be affected by his decisions.

It is unfortunate that this is an election year. Any other year and we would see Bill for who and what he is. We would see him, not as a radical, but a typical Westerner who has a well established and outstanding reputation for his work representing the West.

Who else shall we appoint to the Ninth Circuit to truly represent the typical West? I believe it would be very safe to say that the Ninth Circuit Court is made up predominantly of judges who are sympathetic to radical agendas with very few if any of them representing the hardworking miners and ranchers who have for generations made up the backbone of the Western economy.

Of the 26 active judges on the Ninth Circuit Court, 17 were appointed by Democrat presidents. Only 9 judges are Republican appointees. A remarkable 14 of the 26 judges—54 percent of the court—were appointed by President Clinton. In 2000 alone—a presidential election year—President Clinton appointed four judges to the court.

The Ninth Circuit has established a pattern of issuing the most activist decisions in the country. In one day earlier this year, the U.S. Supreme Court reversed three decisions from the Ninth Circuit, and the Supreme Court ended its 2003–2004 term having reversed the Ninth Circuit in 81 percent of the cases appealed from it. Needless to say, that's not a good record. That means, in every five cases that were appealed, the Supreme Court ruled that these judges got it wrong 4 out of every 5 cases. Worse still, this was an improvement over their embarrassingly high reversal rate over the past several years—86.5 percent since 1998. This trend is likely to continue unless we help correct the situation by confirming good, honest judges who respect the Constitution and Federal law. Judges who will bring some balance to the Ninth Circuit equation.

Why do they call Bill a radical? If you examine his record, you will see that he represents and understands those under the jurisdiction of the Ninth Circuit Court—the average person in the West who relies more on common sense than complicated legal arguments to determine right from wrong. That ought to erase that label. But, for some reason, it doesn't. Could the placing of this label on this good, fair, honest, and decent individual be another ploy at politicizing this nomination for the sake of obstruction?

Most of the Judges on the Ninth Circuit Court come from the Circuit's most populated States, such as California. The other States that make up the Ninth Circuit, such as the State of Idaho, are allowed only one judge. Right now Idaho's seat is vacant. Will Idaho only be allowed representation on the court when it has a nominee from California?

We begin every session here in the Senate with the Pledge of Allegiance. We join together to say those special words. As we do, I know that my colleagues, on both sides of the aisle, say those words with a firm heartfelt commitment to this country and that they mean every word of pledging their allegiance to the flag and to this Nation. But I have to wonder if they haven't forgotten the meaning of all the words in the pledge when they take a hardline stance like this against a fully qualified nominee.

The last six words of the Pledge of Allegiance, "with liberty and justice for all," mean that we do not preserve justice or liberty for a few people, or for most of the people, and leave a few, or even an individual, behind. It means we have justice for all, for everyone, and that we don't make exceptions because they come from a State that doesn't have as many people as California, or may not be as liberal as California.

In fact, this is one of the situations that the courts were created to protect—the rights of each individual. I think it is a little ironic that there are those here in the Senate that would be willing to withhold justice and rights from some people, in this case the average, hardworking people who make up the population within the Ninth Circuit just because those individuals don't share their political philosophy.

I hope we will do the right thing by Bill Myers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY

Mr. REID. Mr. President, this is a time when American families take their vacations. I can remember as a young man working in a service station in Las Vegas and Henderson. This was a busy time of the year. It was always interesting to see the cars loaded with kids going every place. Even today, these many years later, families still drive. This summer, although the price of gas is not quite as high as it was a few months ago, it is still near record levels in many parts of the country, including the State of Nevada. Every time a family stops for gasoline, it is a reminder that our country needs reliable sources of energy that are not subject to wild price swings.

Every time we see a scene from the Middle East on TV news—and that is often—it is a reminder that our Nation depends too heavily on oil from that volatile region. Every time a parent tells a child with asthma that he cannot play outside because the air is unsafe, we are reminded that fossil fuels do tremendous harm to our environment and to ourselves.

Our Nation desperately needs a new energy policy, one that protects consumers, safeguards our environment, and makes us stronger by reducing our dependence on Mideastern oil. We cannot create an energy policy for the future by simply repeating the past. We need new ideas. We need some new approaches.

We use about 25 percent of the oil that is produced worldwide, but we only have less than 3 percent of the proven oil reserves in the world, including ANWR. So it is a cinch we cannot drill our way out of the problems we have dealing with the production of fossil fuel. We need to remember the words of Benjamin Franklin who said a penny saved is a penny earned. In the case of oil, a barrel saved is better than a barrel drilled and consumed. Why? Because it does not pollute the air or contribute to global warming.

After the Arab oil embargo of 1973, our Nation got serious about conserving oil. By 1990, less than 20 years later, our vehicles were using about 40 percent as much fuel as they did in 1973. We can do this again.

America's talented engineers and scientists can still design vehicles that save fuel without sacrificing safety if we make conserving oil a national priority. We have to do a better job of conserving oil and we have to develop new sources of energy that are clean and reliable.

Again, we in America are fortunate because this great land of ours is blessed with an abundance of clean, renewable energy sources. We can harness the warmth of the Sun, the power of the wind, and the heat within the Earth. All it takes is good old American ingenuity, and a little bit of incentive but we should be clear. For decades we have provided subsidies and tax breaks for the big oil companies. Today we need some incentives to help spur production of renewable energy.

I have been in Congress a long time, and I know how things work. It takes time to get things done. I try to be very patient, but when we not only fail to make progress on an important issue but actually move backward instead of forward, then I think an alarm must be sounded, and that is what has happened on renewable energy. Instead of making progress, we seem to be taking steps backward.

Over the last 15 years, wind power has been the fastest growing source of renewable energy, thanks to the section 45 production tax credit. This incentive spurred billions of dollars of investment in new technology. As a result, wind energy has become increasingly cost effective and it provides jobs and electricity. In parts of the Midwest, some farmers make more money producing electricity from wind turbines than they do selling their crops.

I worked for years to expand this incentive to other forms of renewable energy, especially solar and geothermal power. But instead of expanding the tax credit that has been so successful in promoting wind power, we have allowed it to expire. It is hard to believe but it is true. This seems crazy. It is like allowing insurance on one's home to lapse for failing to properly maintain a vital piece of equipment, equipment that is used every day.

The tax incentive for wind energy expired 31 December 2003. We need to restore it as soon as possible, and we need to extend it to solar, geothermal, and biomass energy.

I was encouraged that the FSC bill passed by the Senate last month contains these section 45 production tax credits. That is great work by Senators GRASSLEY and BAUCUS, and I have told them personally how much I think they have the right idea of what it is going to take to help this country from an energy perspective.

Unfortunately, the companion House bill would only extend the production tax credit for wind. We are beginning to see again, as we always do, the powerful interests of the oil companies who want all the subsidies, but we now have another chance to get it right because this bill is going to conference. That was agreed last week. We must not squander this opportunity. We must get back on the path to renewable energy and energy independence.

America, our Nation, is blessed with abundant renewable energy resources, especially in the western part of the United States. Last month, the Governors of nine Western States, including Nevada, formally signed a plan that commits the region to developing 30,000 megawatts of electricity. That is about 15 percent of current demand from renewable sources by the year 2015, which is going to be soon.

I applaud their determination. I applaud their vision. They know that developing renewable energy is not only good for consumers and the environment but also for creating jobs.

Because renewable energy is "Made in the USA," it can reduce our dependence on oil from the Middle East. Many Western States have already adopted renewable portfolio standards requiring a fixed percentage of energy sold in-State come from renewable energy resources. As we speak, 13 States have set these goals, and the number will increase.

I am happy that Nevada has adopted one of the most aggressive renewable portfolio standards of any place in the country. It commits the State of Nevada to produce 15 percent of our electricity from renewable sources by the year 2013. A goal had been set of 5 percent by the end of 2003. We didn't do that. We could have. We didn't. There were a number of reasons. One was there was uncertainty about whether the tax incentive for wind power would be extended or expanded to solar and geothermal power. The other reason is utilities in Nevada and other Western States are still reeling, they are in bad shape, from the western energy crisis of 2000–2001, when Enron and other traders manipulated the energy market to jack up prices for no reason other than to generate obscene profits. Because of the exorbitant contracts with Enron, the State of Nevada's utilities are near bankruptcy. As a result, companies that want to develop renewable energy and sell it to these utilities have not been able to attract the investment they need. The investment community evaluates renewable energy projects based on the strength of long-term purchase agreements between the proposed facilities and the local utility, but if the utility is in trouble, investors shy away.

To address this problem, Kenny Guinn, the Governor of Nevada, will ask the legislature which meets next year to create a temporary renewable energy development trust that will provide some protection to renewable energy power plants if our utilities file for bankruptcy.

We need action at the Federal level also. The Federal Energy Regulatory Commission, referred to as FERC, must provide relief to utilities and ratepayers in Nevada and other Western States. FERC needs to act, and now, to vacate the exorbitant contracts of the energy crisis. We know that two of the FERC Commissioners were recommended by Kenny Lay, the Enron CEO, who was a major contributor of the President's campaign, and the President referred to him as "Kenny Boy." These Commissioners should either step down or clean up this mess. I am happy to report that Kenny Boy is now under indictment.

Our Nation must have energy markets that function properly. We must have incentives to develop our clean, renewable energy resources, and we must apply American ingenuity to do a better job conserving energy. These are critical steps toward the kind of farsighted energy policy this country needs. These steps will protect consumers, they will safeguard the environment, and they will make our Nation stronger by moving us closer to energy independence.

SUPPORTING U.S. EFFORTS IN IRAQ

Mr. CORNYN. Mr. President, on July 7, 2004, the Senate Select Committee on Intelligence issued an important report regarding flaws in our prewar intelligence on Iraq. Last week, Lord Butler issued a similar report on British intelligence. In a related vein, the 9/11 Commission will issue its report this Thursday.

Each of these reports either already has, or no doubt will, shed light on how we can improve our ability to protect this country and our allies from future terrorist attacks.

Coming almost 3 years after 9/11, it is important to note that many reforms have already been implemented by Congress and the administration without waiting on a committee or a commission report. Still, the recommendations of each of these reports ought to be carefully considered and debated by Congress.

If this were not a Presidential election year, we might be able to even undertake this important work without playing the blame game in order to score political points. My hope is that we will, to the extent humanly possible, strive to do so. If not, we risk politicizing the process to the detriment of long-term solutions to our intelligence problems.

Some have used the occasion to criticize our Nation's policies in Iraq and the broader war on terror. Some say, on the one hand, that our leaders did too little before 9/11 to stop the horrible events of that day. Some say, on the other hand, that our leaders did too much in removing Saddam based in part on the remarkable clarity that comes with 20/20 hindsight.

I did not say, and consciously so, President Bush's policies but, rather, our Nation's policies because our policies in Iraq and in the broader war on terror have generally been a consensus policy authorized by the Congress and ultimately implemented by President Bush. In fact, the policy of regime change in Iraq was shared by the Clinton and Bush administrations and is now being criticized for political gain by some who voted for those very policies.

It is important that we set the record straight. The Senate Intelligence Committee report in particular directly rebuts some of the more outrageous claims that administration officials, including the President himself, intentionally misled the American people. Indeed, due to systemic flaws in our intelligence apparatus, it appears that it was the administration itself that was misled to some extent. But that does not mean we were wrong to remove Saddam Hussein from power. There were many good reasons for the regime change in Iraq in addition to those which have at least so far turned out to be mistaken.

There is no question that the world is better off with Saddam Hussein in a prison cell instead of remaining in his royal palaces. There is every reason to believe he is precisely where he belongs.

When the Senate voted overwhelmingly on a bipartisan basis in October 2002 to authorize military force to defend the national security of the United States and enforce all relevant United Nations security council resolutions, the resolution this body passed noted that Iraq, in 1991, entered into a United Nations-sponsored cease-fire agreement pursuant to which Iraq unequivocally agreed among other things to eliminate its nuclear, biological, and chemical weapons programs and the means to deliver and develop them and to end its support for international terrorism.

That resolution also noted that the efforts of international weapons inspectors, U.S. intelligence agencies, and Iraqi defectors led to the discovery in 1991 that Iraq had large stockpiles of chemical weapons and a large scale biological weapons program and that Iraq had an advanced nuclear weapons development program that was much closer to producing a nuclear weapon than intelligence reporting had previously indicated.

That resolution also said that Iraq in direct and flagrant violation of the cease-fire attempted to thwart the efforts of weapons inspectors to identify and destroy Iraq's weapons of mass destruction and development capabilities which finally resulted in the withdrawal of inspectors from Iraq on October 31, 1998.

That resolution went on to note that the current Iraqi regime at that time under Saddam Hussein has demonstrated its capability and willingness to use weapons of mass destruction against other nations and against its own people.

Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of U.S. citizens.

It was on this last point that Acting Director of Central Intelligence John McLaughlin said just yesterday in an interview:

> We could, through intelligence reporting, say with some credibility that there had been meetings between senior Iraqi officials and Al Qaida officials. We could also say that there had been some training that had flown back and forth between the two sides. And we could say that there was some degree of safe haven that Al Qaida-related people had obtained in Iraq for a variety of reasons. We could also say with some assurance that operating from Iraq, someone like Abu Musab Zarqawi had arranged the assassination of an American diplomat in Jordan.

Saddam dared the United Nations Security Council and the free nations of the world to act and act we, the coalition, did. Congress expressly recognized in the authorization it gave President Bush that "the attacks on the United States of September 11, 2001, underscored the gravity of the threat posed by the acquisition of weapons of mass destruction by international terrorist organizations."

We knew that Saddam had them but we did not yet know what he did with them. Why he kicked out United Nations weapons inspectors in 1998 and never accounted for them, all the while defying resolution after resolution of the United Nations Security Council we may never know for sure.

I once thought that no one would question whether America was safer and that the Iraqi people are better off without Saddam but some, during this political season, have come awfully close. Put another way: Does any reasonable person truly believe that America and Iraq were better off with Saddam Hussein in power? Surely not. Surely not. But you simply can't have it both ways. You must choose, and choose we did.

I believe the Senate made the right decision in supporting our efforts in Iraq to remove Saddam Hussein from power. Nothing we learned since then has changed my mind. It has been our official consensus policy since 1998 under both Presidents Clinton and Bush, under both Democrat and Republican leadership in the Senate. For example, in the Iraq Liberation Act of 1998, we said:

> It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.

Everyone, Republican and Democrat, knew that the dictatorship of Saddam raised the prospect of a dangerous and irrational government in the Middle East. Everyone knew that the Iraqi people were living under a brutal and murderous tyrant. And at that time everyone knew that Saddam was armed with weapons of mass destruction.

It was in a speech to the Joint Chiefs of Staff and the Pentagon staff generally that President Clinton eloquently described the consequences of inaction. He said:

> What if [he] fails to comply, and we fail to act, or we take some ambiguous third route which gives him yet more opportunities to develop this program of weapons of mass destruction. . . . He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you, he'll use the arsenal.

That was President Clinton in 1998.

Our intelligence community told us before the Iraq war that Saddam Hussein had weapons of mass destruction programs—chemical, biological, and possibly nuclear. Now in the past, in 1991, our intelligence had sometimes underestimated Saddam's capabilities; so there was no question that there was reasonable cause for concern for an armed Saddam, ready to lash out, without warning, against Israel, Kuwait, or other countries in the region. We also feared that because of his hatred for America, Saddam might give the weapons he was developing to terrorists for whom he provided sanctuary. These concerns were nearly universally shared, as articulated in the quote I read from President Clinton.

At the outset of our military operations against Iraq in December of 1998, President Clinton described the risks of leaving Saddam in power. He said:

> The hard fact is that so long as Saddam remains in power, he threatens the well-being of his people, the peace of his region, the security of the world. The best way to end that threat once and for all is with the new Iraqi government, a government ready to live in peace with its neighbors, a government that respects the rights of its people.

Again, a statement by President Clinton in 1998.

We should all be glad Saddam Hussein is out of power. Iraq's fledgling government is taking the first steps toward freedom and democracy. Neither we nor they have to fear Saddam's regime cooperating at any level with al-Qaida or other terrorists who wish to do violence against the American people or our allies. But it is also true that the weapons programs we found in Iraq were not what our intelligence information predicted before hostilities broke out in 2003. Saddam Hussein had the capability and the raw resources to do many things, but he did not at that time have the fully operational weapons systems we believed he possessed.

So why, it is logical to ask, did we have this problem with our intelligence? We know, as the unanimous, bipartisan report of the Select Committee on Intelligence said, that despite the insinuations of administration critics, the intelligence we had was not rigged or interfered with in any way. The same conclusion was echoed by Lord Butler's report in Great Britain which found no evidence of deliberate distortion of the intelligence material or of culpable negligence. It is clear that any such allegations to the contrary are baseless, partisan, and have no foundation in the truth.

The Select Committee on Intelligence of the Senate found in conclusion 83:

> The Committee did not find any evidence that Administration officials attempted to coerce, influence or pressure analysts to change their judgments related to Iraq's weapons of mass destruction capabilities."

In conclusion 84, the Senate Select Committee on Intelligence said:

> The Committee found no evidence that the Vice President's visits to the Central Intelligence Agency were attempts to pressure analysts, were perceived as intended to pressure analysts by those who participated . . . Or did pressure analysts to change their assessments.

And in conclusion 102:

> The Committee found that none of the analysts or other people interviewed by the Committee said that they were pressured to change their conclusions related to Iraq's links to terrorism.

How did we get here? How did we know that Saddam had these weapons of mass destruction, defied resolution after resolution of the U.N. Security Council, defied every request that he open his country to U.N. weapons inspectors and reveal what he had or, we might say, what he no longer had?

Consider in 1993 we saw the first successful terrorist strike by radical Islamists on U.S. soil—a car bomb that exploded in the basement garage of the World Trade Center, killing 6 and wounding 1,000. Then in 1996, there was another attack on the Khobar Towers barracks in Saudi Arabia, killing 19 Americans and wounding 515 Americans and Saudis. In 1998, the United States embassies in Kenya and Tanzania were attacked by al-Qaida suicide bombers who killed 234 people and wounded more than 5,000. And in 2000, al-Qaida attacked the USS Cole, killing 17 American sailors and wounding 39.

It was during these same years that Congress made dramatic cuts in funding for the Government agencies most involved in the fight against terror, particularly the Central Intelligence Agency. These cuts were significant, including letting go nearly 40 percent of those recruited to spy for America's interests. The number of officers in the clandestine service was downsized by roughly 25 percent and nearly one-third of our overseas offices were shut down. All of these cuts seriously hampered the intelligence community's ability to monitor and analyze the rising threat posed by terrorism. Again, Acting Director of the Central Intelligence Agency, John McLaughlin, said yesterday, because of these cuts, we were almost in Chapter 11 in terms of our human intelligence collection. This much seems clear: Our early warning system was blinded by a self-inflicted wound.

There is simply no way that President Bush's administration could have filled all the holes of an underfunded and demoralized intelligence community in a mere 8 months after it had been dismantled systematically and deliberately during the preceding years. So when President Bush came to office, he inherited an intelligence community that was ill prepared to meet the challenges of the war on terrorism.

We should not make this merely a game of election year "gotcha." We must debate the causes of our intelligence flaws in a way that commands the confidence of the American people and in a way that makes them safer and freer. We must also remain committed to our task in Iraq, to finishing that task and not allow election-year politics to create a climate that undermines the morale of our brave troops in the field.

Let us finish the task we have undertaken in good faith and with the noblest of aspirations on behalf of free people around the world. Let us not let partisan politics lead us into the trap identified by Winston Churchill when he said:

> Nothing is more dangerous in wartime than to live in the temperamental atmosphere of the Gallup Poll, always feeling one's pulse and taking one's temperature.

September 11 forced the civilized world to realize that the terrorist foe we had been fighting for years sought a more deadly goal than we ever suspected. Once Congress and the administration came to grips with the horrible truth of this new breed of terrorism, we knew what had to be done. We knew we had to take action. Under President Bush's leadership, we resolved that our aim was to defeat terrorism as a threat to our very freedom and our very lives.

Nor could we achieve our aim merely by maintaining a defensive posture. Fighting terrorism on American soil is not enough. That is merely a holding pattern and a capitulation of our responsibility. When it comes to confrontation with terrorists, we must either change the way we live or we must change the way they live. We chose the latter, and I believe we chose wisely. It is a policy of action rather than inaction, and one clearly warranted by the new reality of our post-9/11 world.

Mr. President, I yield the floor.

HONORING OUR ARMED FORCES

ARMY PRIVATE FIRST CLASS GAVIN NEIGHBOR

Mr. DEWINE. Mr. President, I rise this afternoon to honor and remember a young man from Somerset, OH. I rise to honor Gavin Neighbor, a soldier who gave the last full measure of devotion to our Nation on June 10, 2003. On that date, Gavin was killed by a rocket-propelled grenade while serving in Iraq as part of Company C, 3rd Battalion, 325th Infantry Regiment, of the 82nd Airborne Division. At the time of his death, Gavin Neighbor was 20 years old.

When Gavin Neighbor was killed, Marisa Porto, who at the time was a journalist with the Zanesville Times Recorder, had a very difficult time writing about Gavin. She struggled to write about his life and his death because she said she knew she had to balance the reporting of the news with the personal connection she felt knowing that someone so young from her own community had just been killed. She managed, though, to find the right words and wrote the following:

> My thoughts [are] simple. Gavin Neighbor's family won't get the chance to see his wedding announcement in his newspaper. They won't ever have the opportunity to see his son's birth announced in this newspaper. These next few days may be the last time his name is ever published in this newspaper. . . . So, let's give him the homecoming he deserves.

Mr. President, Members of the Senate, since his death, I have learned that Gavin Neighbor, in his all-too-brief 20 years on this Earth, did, in fact, live life fully. He was an outgoing, determined young man, who felt great love and affection for his family, for his fiancee, his friends, and his country.

Gavin was born in Newark, OH, on November 25, 1982. He graduated from New Lexington High School in 2001, where high school friends described him as dependable and fun loving. Gavin was a gifted artist. He had a signature piece: a drawing of a dragon. His friends say he would draw that dragon anywhere, anytime.

He loved to draw, and he was good at it. According to his high school art teacher, Jody Bowen:

> Gavin would work on projects on the side, after his classwork was done. I saw something more in him. . . . He certainly impacted my life. I feel fortunate I met him and got to know him.

Equal in his devotion to art, Gavin was committed to serving his country and making his family proud. Gavin had a strong sense of duty and a strong sense of family. He was always trying to take care of others and protect others. That is part of what compelled him to join the military. He wanted to follow in the footsteps of several relatives. Like them, he wanted to protect his family and his friends and his country. So after his high school graduation in 2001, Gavin enlisted in the U.S. Army.

According to Gavin's grandmother, Gladys Hykes:

> He was wonderful. He loved the service. That was his goal.

Gavin planned to make a career for himself in the military, aspiring to join an elite Ranger battalion. He was well on his way toward achieving that dream. Gavin earned his paratrooper wings and was known for performing, with ease, some of the most difficult airplane jumps. Known as a "Javelin Jumper," he would jump from planes while carrying part of an antitank missile system strapped to his leg. Upon receiving an award of recognition for this accomplishment, Gavin dedicated it to his parents and had his thanks to them engraved on the plaque.

Gavin loved his family very much. He had an especially strong bond with his mother Cathy. Oh, he loved her cooking. He loved to spend time with her. He wrote and called home often, and when he did he had simple requests. According to his mom, Cathy:

> I kept sending him letters and boxes. He wanted Kool-Aid and chips. And Copenhagen. He wanted Copenhagen. I didn't want to send it, but I did.

Gavin called home on February 13, 2003, to say his unit was leaving on Valentine's Day for Iraq. Soldiers only had an hour for family visits. Cathy and her husband Willie drove more than nine hours to visit one last time with Gavin. As Cathy said:

> All I knew was that I had to get there. I had to be there to hug him.

Many of his fellow comrades have said that Gavin Neighbor was the kind of soldier you wanted by your side—any time, any place. He was dependable. He was tough. He was a real leader.

Gavin was also known for his ability to make light of serious situations—an admirable quality in the face of war. While training in California, to humor his comrades, he would walk around flapping his arms like a chicken and then claim to be a dinosaur. During a punishing mountain hike, Gavin lightheartedly asked his leader, "Are we there yet? Are we there yet?" The other members of the platoon could not help but smile. As Sergeant Arthur Swartz said at Gavin's memorial service:

> When we were at our lowest, Gavin could turn the whole platoon around just by making a joke or saying something funny. . . . He was definitely the best, youngest soldier in my platoon.

Gavin's unique sense of humor did not cloak the fact that he was also a very hard worker and a very independent young man. Captain Todd Hollins, a chaplain with the 82nd Airborne Division, said that when he thinks of Gavin:

> I see a young man who chose to walk the road less traveled—a man who gave 100 percent, all the way, all the time. . . . I see a young man, one who cared about others more than himself, a man with a zest for life, who was willing to face his fears. . . . I see a volunteer, a bold spirit. I see a young man who was genuine in all regards.

Gavin Neighbor's dependability, commitment, and fun-loving attitude will never be forgotten. His life is an example for us all. Left to cherish his memory are his parents; his sisters, Roxanne Lewis and Tracy Neighbor; brother Willie Neighbor, Jr.; and Gavin's special friend—his fiancé, his soulmate—Rachel Sanderson.

Gavin Neighbor was just a good kid, who died too young. I think that Brigadier General Abe Turner, assistant division commander of operations with the 82nd Airborne, said it best:

> He quickly became a very important part of our band of brothers. We asked him if he'd be willing to pay the ultimate sacrifice, and he did. . . . He was our hero.

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT

Mr. ENZI. Mr. President, I rise today to talk about patient safety. There is bipartisan legislation pending in the Senate that is absolutely critical to reducing health care errors and increasing health care quality. It is S. 720, the Patient Safety and Quality Improvement Act.

The HELP Committee reported this bill to the Senate in November of last year. It was approved in committee by a unanimous vote. It is past time for the Senate to vote on and pass this important legislation.

This patient safety legislation is an important step toward building a culture of safety and quality in health care. The Patient Safety and Quality Improvement Act would create a framework through which hospitals, doctors, and other health care providers can work to improve the health care quality in a protected legal environment.

The bill grants privilege and confidentiality protections to health care providers to allow them to report health care errors and near-misses to patient safety organizations.

The bill also allows these patient safety organizations to collect and analyze the data confidentially. After analyzing the data, patient safety organizations would report on trends in health care errors and offer guidance to providers on how to eliminate or minimize these errors.

Some of this takes place today, but much more information could be collected and analyzed if providers felt confident that reporting these errors did not increase the likelihood that they or their colleagues would be sued for honest mistakes.

This legislation would not permit anyone to hide information about a medical mistake. Under the bill, the lawyers still can access medical records or other information that would normally be recoverable in legal proceedings. However, the bill would ensure that the analysis of that information by patient safety organizations would take place on a separate track than in a protected legal environment.

Health care providers would be much more likely to share information about honest mistakes and how to prevent them if they have some assurance the analysis of their information will not result in a tidy package of information a personal injury lawyer could use against them in court.

Errors in medical treatment take place far too often today. Unfortunately, providers live in fear of our unpredictable and unfair medical litigation system, and this legal fear inhibits efforts to address the root causes of health care errors. Without appropriate protections for the collection and analysis of patient safety data, providers are unwilling to report mistakes and errors, which is one of the reasons health care quality today is not what it could be.

Litigation does nothing to improve quality or safety. The constant threat of litigation indeed stifles honest analysis of why health errors happen. This is one more reason why we need wholesale reform of our medical litigation system. We need to foster alternatives that restore trust between patients and providers and result in fair and reliable outcomes for both parties. We need to scrap the present system, not just cap it. Until we do so, we should take whatever steps we can to create an environment that protects the collection and analysis of patient safety data so providers can learn from their mistakes and the mistakes of others and prevent them from happening in the future.

The Patient Safety and Quality Improvement Act is one of these steps. Last week, our committee chairman, Senator GREGG, asked for unanimous consent that we move to consideration of this legislation in the Senate. This is the third time since November he has done so. Each time he has been blocked by our colleagues in the minority, even though the committee of jurisdiction was unanimous—you cannot get more bipartisan than that—in support for the bill.

My colleagues in the minority keep talking about problems with health care quality, as they keep on talking about the loss of American jobs. However, talk is cheap when their actions don't match their words.

If they are really so concerned about improving health care in our Nation, why would they object to a bill that would reduce errors and improve patient safety, particularly a bipartisan bill with unanimous committee support? If they are really so concerned about American workers and jobs, why won't they let a bill improving the Nation's job training system go to conference?

Another example of what is happening or not happening in the Senate: We have a bill, a bipartisan bill, that will help workers get back to work or find better jobs. This bill will equip our workforce with skills necessary for America to compete and succeed in the global economy. It reauthorizes and improves the Nation's job training that was created under the Workforce Investment Act. The Workforce Investment Act provides job training and employment services to more than 900,000 unemployed workers each year. Just like the patient safety legislation, this bipartisan bill passed out of the Health, Education, Labor, and Pensions Committee unanimously. We passed it on the Senate floor by unanimous consent last November. Remember, that is as bipartisan as you can get.

Where is the bill now? Well, it passed in the House, too. The House has a somewhat different version. When there is a different version between the House and the Senate, you normally would have a conference committee, and the conference committee would work out the differences so that both Houses could pass it again as a unified bill that would then go to the President to be signed. It has to be one bill that goes to the President, not two bills that go to the President. You have a conference committee to work those bills out.

Now, the House appointed a conference committee. It is a very simple task. You just figure out how many Members are going to be in the conference committee, and Members are chosen from both sides of the aisle in both Chambers to meet together to talk about the differences, to propose alternatives, to vote on those alternatives, and to come up with a compromise bill. Sometimes the compromise is taking all of one Chamber's bill and eliminating the other one. Usually it is somewhere in between.

The first excuse I heard on this Workforce Investment Act, which will train 900,000 people to do jobs they do not have now or definitely to have better jobs than what they might have now, with a particular emphasis on moving women into higher paying jobs was how bad the outsourcing is in this country. Yes, because we do not have trained workers to take those jobs at the present time. We hear about the wages in this country. Yes, because the people do not have the higher skills for which you get paid higher wages.

This bill would provide training for jobs we are having to send overseas right now or better paying jobs for American workers. We passed it unanimously. The House passed it. The House appointed a conference committee. We are not even allowed to appoint a conference committee, to get together and talk about it with the House. That is nothing final. It would have to be voted on again before it could be passed. There is an opportunity for a filibuster at that final point. Instead what we are getting is a filibuster at this point, a very subtle filibuster but nevertheless a filibuster.

If jobs are important, why aren't we doing this JOBS bill that was unanimously passed out of committee and unanimously passed on the floor of the Senate? A lot of opportunity, and it is passing by. I guess because there is a Presidential election, and it might help President Bush if there were more jobs. Actually, the only ones it would help, if there are more jobs, is the people getting those jobs. None of us ought to be stopping people from getting jobs or getting better jobs. We recognize that. That is why we passed it unanimously.

So where is that bill now? We can't get a conference committee appointed to resolve the differences with the House. There was enough trust in what I did in committee that it passed unanimously. There was enough trust when it came to the Senate floor that we passed the bill unanimously. The only thing I can see that has happened in the meantime is that we have gotten closer to an election. That should not happen in America. We teach people bad things about elections when we hold up important things such as workforce investment for jobs. If we really want to take care of jobs and workers in this country, we should appoint conferees for the Workforce Investment Act legislation.

I could run through a few more excuses that I have heard on this bill. One of the excuses was that we might put something in that would allow faith-based groups to participate in job training and, under that scenario, put in something that would allow them to not hire people who are averse to their religion.

Members may be surprised to find out that we already have statutes that do provide that churches, when they are involved in government work, can't discriminate, except they don't have to hire people who are averse to their religion. That would be a very small change if it made it in there at all, but we are not even allowed to get together and discuss whether that would make it in there for fear that maybe it would. Again, that is just an excuse for not passing the bill, an excuse to keep jobs from being created which would make the economy better and which would improve the President's chances of getting reelected. That is not how politics is supposed to work.

I have to say there is a difference between Republicans and Democrats on most of the big issues facing our Nation. If my colleagues in the minority want to bottle up legislation with which they disagree, that is their prerogative. But that is not what I am talking about. I am not talking about bottling up issues with which they disagree. We have members of the minority party holding up bipartisan bills that received unanimous approval in committee—that is where the patients safety bill is—and holding up conferences on a bill that received unanimous support on the Senate floor. That is where the workforce bill is.

The only logical conclusion I could draw to these roadblocks is based on politics, not policy, and that is a shame.

Right now, the Senate floor reminds me of the airspace above a busy airport. We have a number of bipartisan bills lined up for final approach, but our colleagues in the minority are holding those bills up and won't allow them to land. The tactics of my colleagues in the minority give new meaning to the term "holding pattern." That should not happen. There is going to be a crash.

It is time for our Democratic colleagues to break this holding pattern so we can pass bipartisan bills such as the Patient Safety Act and the reauthorization of the Workforce Investment Act. These are not only bipartisan bills, they received unanimous committee support. Let's set election politics aside for a moment. These are bipartisan bills, so no one party can claim credit for their passage.

The Patient Safety Act was introduced by the distinguished Senator from Vermont, Mr. JEFFORDS, who is the lone independent in the Senate. This bill is more than bipartisan. My distinguished Senator from Nevada, Mr. REID, suggested last week that we should approve the House-passed patient safety bill. He suggested we should take up the House bill rather than pass the Senate bill because Members of the House are the true experts on such complex legislation.

I wonder if my colleague's opinion would be the same on medical liability reform. After all, the expert legislators in the House have sent us some excellent legislation to reform our medical litigation system. Perhaps we should stop working on this in the Senate and approve the House bill, as he is suggesting we should do with patient safety.

I mentioned the Workforce Investment Act. The House passed that one. Their version is considerably more difficult, perhaps more conservative than the version I worked through with unanimous consent on this side, but if we are going to consider them the experts on patient safety, why don't we consider them the experts on workforce investment and take their version of the bill? We didn't do that on that bill.

No, the right way to do it is to pass the patient safety bill, hopefully, by unanimous consent over here because there is no dissension on it. The dissension is with what they are doing over on the House side. So we would go ahead and pass it, and then we have a conference committee, a conference committee in the old-fashioned style. Not this "let's preconference and give somebody on the minority side a veto right over anything that is done." That is a brandnew twist around here. What we have always done is appointed the conference committee, recognizing that there are majorities and minorities even on the conference committee, but that the point is to get the agreement between the House and the Senate. We will get that agreement between the House and the Senate, and will have better patient safety.

I hope our colleagues in the minority will agree to take 2 hours of their time to debate and vote on the bipartisan safety act. Two hours is not a lot of time. It is the least we can do on such an important piece of legislation. We have spent hour upon hour working on this bill in committee and crafting a bill that received unanimous bipartisan support. Let's spend 2 more hours on the Patient Safety Act so that we can improve the quality and safety of health care in America. I don't think that is too much to ask.

DEPARTURE OF REPRESENTATIVE C.J. (CHIEN-JEN) CHEN

Mr. ALLEN. Mr. President, a good friend of the Senate Taiwan caucus, Ambassador C.J. (Chien-Jen) Chen, will soon be leaving Washington, D.C., after having served for nearly 4 years here as Taiwan's principle representative. We are going to miss him very much. As chairman of the Taiwan caucus, I would like to bring special attention to his accomplishments for his country and his commitment to the advancement of freedom.

Ambassador Chen brought a wealth of experience to his job. He was first assigned to Washington, D.C. in 1971, and he spent most of his distinguished 37-year career promoting good relations between Taiwan and the United States. Over the years, he won many friends for himself and for his country. An eloquent speaker and polished diplomat, Ambassador Chen also has a reputation for being a "straight shooter." He was always prepared to provide an informed, balanced, and fair opinion on the complex relationship between Taiwan and the United States as well as the broad range of political, economic, cultural and other issues of common interest to our two countries.

Ambassador Chen's skill and determination as a representative of Taiwan have been made plain in many ways, but I want to mention one in particular. He has persistently pushed for Taiwan to have a role in international organizations. That is a real challenge, because Beijing opposes it at every turn, but Mr. Chen has pressed on. Owing in large part to his efforts, much progress has been made on these issues. During his most recent assignment in Washington, with U.S. support, Taiwan has acceded to the World Trade Organization and become our eighth largest trading partner. At the same time, Taiwan has also contributed greatly to U.S.-led international humanitarian efforts in places such as Afghanistan and Iraq, and it has cooperated with the United States in fighting proliferation, terrorism, and money laundering in Asia.

All these matters required intensive communication and coordination, and we were lucky to have someone like C.J. Chen in place to lead the way. He understands that the people of Taiwan are as entitled to the blessings of liberty such as shared knowledge and the free exchange of information. Fighting for this freedom, he has had a special determination to secure Taiwan's entrance into the World Health Organization, an issue on which he and I have worked together. As the SARS virus swept Asia and frightened the entire globe, he seized the moral initiative to say the Taiwanese people are also vulnerable to this disease and that Taiwanese doctors also may heal. He clearly stated that they have a right to seek help and to give it, and that no petty, technical political agenda should stand in the way of that simple affirmation of humanity. When the doors to the WHO are thrown open for Taiwan, and they will be, people will remember with gratitude how C.J. Chen moved us toward that day.

One of the most notable and likable things about C.J. is his inexhaustible optimism. While the United States-Taiwan relationship has certainly experienced its fair share of twists and turns, ups and downs—as Mr. Chen will surely attest—he has always remained consistently upbeat. His confidence is contagious, and I agree wholeheartedly with his observation, that Taiwan and the United States—united by shared values and common interests—will continue to work closely together, not only for their mutual benefit but also for the sake of lasting peace and prosperity in the Asia-Pacific.

Now, after having served as his chief representative in the United States, as his country's foreign minister, as member of Taiwan's Legislative Yuan, and as a university professor, this man of extraordinary talent and vision is leaving Washington, DC. While he will be sorely missed, I am certain that he has established an admirable legacy of friendship, trust, and cooperation that will long endure.

WOMEN IN TECHNOLOGY

Mr. INOUYE. Mr. President. Today I would like to recognize women in technology. While gender equity is not found on the agenda when discussing homeland security, it certainly is a key strategy for maintaining our Nation's preeminent status in science and technical innovation. The last 30 years have seen women make great strides in education and employment. Women are receiving more than 50 percent of the bachelor degrees conferred and are close to reaching parity in the once male-dominated fields, such as law. Unfortunately, these gains have not been uniform in all fields. Women continue to be persistently underrepresented in high-demand, high-wage science, technology, engineering and math, STEM, education and employment. While women make up 46 percent of the American labor force, they are less than 25 percent of the total science and engineering workforce, and have not been able to break through a 10 percent ceiling in engineering.

At a time when we face a shortage of skilled STEM workers who are U.S. citizens, women provide an untapped national resource to fill the workforce pipeline. Recent studies from the National Science Foundation and the Department of Commerce confirm these conclusions, including the September 2000 Report of the Congressional Commission on the Advancement of Women and Minorities in Science, Engineering and Technology, which concludes that, "Unless the STEM labor market becomes more representative of the general U.S. workforce, the nation may likely face severe shortages in [STEM] workers and thus risks undermining its global competitiveness."

We are at a serendipitous time, when our Nation's economic and security imperatives are aligned with social justice. We must leverage this opportunity to build the requisite partnerships with stakeholders in government, academia, and industry to recruit, train, and retain women and underrepresented minorities in STEM fields. Not only is it a strategy that will ensure our global competitiveness and national security, but it is the right thing to do to ensure that all our citizens have equal access to the education and training needed to succeed.

In 1999, when I recognized that the jobs at the Maui High Performance Computer Center and other related research and development contract activities were being filled by males recruited from the mainland, I secured Department of Labor funding to launch the Women in Technology project designed to bring Hawaii's women into these emerging STEM fields. The island of Maui reflects the characteristics of many rural American communities: professional isolationism, limited access to higher education, overdependence on a single economic engine, and perceived limited career opportunities for its young people. These conditions uniquely position Maui to pilot workforce development programming that can be exported to other rural communities.

The Women in Technology, WIT, project is administered by the Maui Economic Development Board, a private nonprofit organization well respected for its leadership in helping to diversify the economy through high technology industry development. The board of directors, comprised of community leaders in industry, academia, business, and government gave the project access to key partners. Interviews, focus groups, and roundtable discussions helped establish the workforce challenges and skill sets needed to sustain industry growth projections. Workshops were designed to provide tools to educators and industry on how to overcome the barriers that had created the chilly climate for women. Buy-in was established that even though teachers and employers had no intent to track girls and women into different fields than boys and men, long-established cultural stereotypes of gender roles were imbedded throughout society and insidious messages of what were appropriate female jobs versus male jobs were very strong. The WIT project provides ongoing technical assistance to educators, guidance counselors, and industry partners on recruitment and retention skills to overcome these societal barriers.

We must start young. By middle school our girls lose interest in math and science, unless proactive efforts are exerted. In a survey of Maui students, boys were five times more likely than girls to express interest in careers in computer science and engineering. Despite the fact that girls outperformed boys academically in math and science, their personal esteem in these areas was significantly lower and they did not self-select into the physical sciences. After compiling a database of female industry role models, WIT has developed a multitrack program to keep girls engaged in the STEM pipeline. Job shadowing programs, career days, science camps, and mentoring are anchor events in the program designed to influence career intent.

Attrition has been another factor in keeping the number of women in STEM low. Mentoring has been identified as the most successful intervention strategy. WIT successfully negotiated with MentorNet, a Presidential award winning program that has been deployed at elite engineering research universities. Maui Community College was accepted into MentorNet's first community college cohort and the program has significantly reduced the female attrition from its STEM courses.

The Women in Technology project continues to work with local industry to develop internship and apprenticeship programs. Four years later, the number of women in technical employment at the Maui Research & Technical Park has gone from 0 percent in November 1999 to 23 percent in June 2004. This is the direct result of a local industry and education commitment to build a qualified resident workforce that reflects the diverse demographics of its community, including gender balance.

We must use this time when both our Nation's security and its economic strength are dependent on producing more citizens trained in STEM fields, to assure that we do not perpetuate the climate which has precluded women and minorities from entering these fields. Gender equity in science, technology, engineering, math, education, and employment equals homeland security.

VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I would like the record to reflect that I was necessarily absent for the vote on the DeWine-Kennedy Amendment offered to the FSC/ETI bill on Thursday, July 15, 2004. Had I been present, I would have voted in favor of the amendment.

ADDITIONAL STATEMENTS

RETIREMENT OF NEWMAN A. FLANAGAN

• Mr. KENNEDY. Mr. President, it is a privilege to pay tribute to Newman Flanagan, a dedicated public servant from Massachusetts who is retiring after a distinguished career in law enforcement. Mr. Flanagan served as a Boston prosecutor for 32 years, with the last 14 of those years as Boston District Attorney. For the last 12 years, he has served as the Executive Director of the National District Attorneys Association, a position from which he is now retiring. I commend him on his many years of outstanding work and dedication.

Newman is a son of Boston who graduated from Boston College and the New England School of Law. I had the privilege of serving under him and learning from him when I was an assistant district attorney in the office in the early 1960s, before I came to the Senate. He was elected district attorney in 1978, and was re-elected for four additional terms. During his long and impressive career, he represented the state in more than 2,500 criminal prosecutions, including 75 murder cases. Scott Harshbarger, former Attorney General of Massachusetts, described him as "Mister District Attorney of the United States."

Newman also deserves great credit, in his years at NDAA, for his leadership in creating the National Advocacy Center, which trains local and Federal prosecutors, and is one of the finest training centers of its kind in the country. As James C. Backstrom, Dakota County Attorney in Minnesota and a past vice president at NDAA said, "He will be deeply missed by all members of NDAA's Board of Directors and prosecutors throughout America. Newman Flagagan has been a timeless leader of America's prosecutors for more than three decades. We all owe him our thanks and gratitude for his efforts on our behalf."

I know that his wife, Eileen, and his children and grandchildren are proud of all he has accomplished. Newman Flanagan has served the people of Massachusetts and our country well, and I wish him a long and happy retirement.•

LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On October 14, 2003, a gay man named Ricardo Lorenzana, 47, was struck in the head with a baseball bat and needed 14 stitches to close the wound. He said the attack makes him constantly worry about his safety. Soon after Lorenzana was attacked, a 19-year-old gay man was assaulted, warding off blows from the bat but getting cut by a knife. Authorities said the assailants used antigay slurs during that attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

TRIBUTE TO LAURANCE SPELMAN ROCKEFELLER

● Mr. JEFFORDS. Mr. President, I wish to recognize a great American, a true Vermonter and a good friend who passed away on July 11th. That friend is Laurance Spelman Rockefeller.

Thirty-five years ago, Mr. Rockefeller received the highest honor that our country can bestow upon a civilian when President Johnson awarded him the Presidential Medal of Freedom for his philanthropic and conservation efforts. That award did not culminate a lifetime of accomplishment, but rather served as a milestone for the beginning of another three-and-a-half decades of benevolent contributions by Mr. Rockefeller. In 1991, Laurance Rockefeller was again honored with the Congressional Gold Medal awarded by President George H.W. Bush.

Laurance Rockefeller was instrumental in establishing the Virgin Islands National Park and donated land for, or helped with the acquisition of 11 other national parks, national battlefields and national monuments.

In 1958 Mr. Rockefeller chaired the Outdoor Recreation Resources Review Commission. The Commission's landmark report led to creation of our national system of wilderness areas, wild and scenic rivers, and Federally protected trails.

I knew Laurance Rockefeller and his wife, Mary French Rockefeller, as residents of and benefactors to the town of Woodstock, VT. Laurance and Mary Rockefeller preserved the character of Woodstock, as an historic village surrounded by rolling hills and farms, while also building its economic vitality. The Rockefellers built the Woodstock Inn and Suicide Six ski area into successful economic engines for the area, and established the Billings Farm and Museum. Conservation easements were also secured on surrounding lands to help protect the village from sprawl.

These projects were all undertaken with a careful eye towards sustainability. The businesses are viable enterprises and the nonprofit entities are generously endowed and tended to by the Woodstock Foundation, also created by the Rockefellers.

Mr. Rockefeller was a quiet and unassuming man who sought no personal recognition for his work in Woodstock and truly loved the small villages and agricultural landscape of rural Vermont.

The crown jewel of the Rockefellers' contributions to Woodstock and to the Nation is the Marsh-Billings-Rockefeller National Historical Park, encompassing the buildings and grounds of their family estate, which they donated to the United States. As the only national park dedicated to the history and future of conservation thought and practice, the park is a fitting legacy for a man known as America's leading conservationist.

Laurance will be sorely missed by all those who knew him and by those who have been able to enjoy the fruits of his conservation efforts.●

LEWIS AND CLARK EXPEDITION: PRESERVING HISTORY AND PERPETUATING TRADITION

● Mr. NELSON of Nebraska. Mr. President, today I would like to share with you and my colleagues my appreciation for Neal Corey of McCook, NE. Neal is my cousin and a role model to Americans, a preserver of history, and a perpetuator of tradition.

Neal Corey, who is now a retired conductor for Burlington Northern Railroad, is the third generation of his family to maintain a farm in Red Willow County, a homestead that is still on its original site in Nebraska. A pioneer of subsurface irrigation in his county, Neal has helped others in his area to set up similar irrigation systems during his retirement to improve farming efficiency.

As you can see, Neal has been perpetuating tradition and preserving history through a lifetime of service to his family at the farm, to the railroad, and to his neighbors. History has always interested him, but it literally took a greater vessel to move him to become an active part in preserving it. Neal's curiosities were piqued when he read a small article in the hometown newspaper we share, the McCook Gazette, about the recreation of the Lewis and Clark Expedition.

After Neal sent in his $50 membership fee to the Discovery Expedition of Saint Charles, MO, he decided that wasn't enough. No, Neal decided he wanted to contribute something more than $50. So he looked into what it would take to be a part of this expedition.

He thought it might be fun to get out and do some "camping" during his retirement. It was only during his training for the expedition, when he found himself wearing historical fashions that include long-sleeved cotton shirts, canvas pants, and a wool army coat during the summertime, that he realized just which kind of camping he would do.

To this day, Neal selflessly contributes his time, his enthusiasm, and his energy to the Discovery Expedition of Saint Charles, MO. Through this expedition, Neal's goal is to preserve the history made by Meriwether Lewis and William Clark when they first set out to explore the unknown of a new Nation.

Each year, the Discovery Expedition reenacts a different part of the original river journey—a journey that began in 1803 in Elizabeth, PA, and extends to Great Falls, MT.

This year, Neal will be participating in the Nebraska portion of the river journey of the Lewis and Clark Expedition. This portion is scheduled to reach the Missouri River around July 16, and will include week-long activities at Fort Calhoun, NE, beginning July 30.

I have been so inspired by Neal's energy and enthusiasm that I, too, will take part in a portion of this great commemoration. Through his example and his service, Neal Corey has been a force in both the preservation of American history, and the perpetuation of American traditions.●

HONORING THE CITY OF FREEMAN

● Mr. JOHNSON. Mr. President, today I wish to publicly recognize and acknowledge the 125th anniversary of the founding of the city of Freeman, SD.

Freeman was settled throughout the 1870s by German and Russian immigrants. By 1879, like many cities throughout South Dakota, a railroad stop had been established in Freeman and was a center for immigrants arriving at that period of time. In 1893, the town was officially incorporated.

By 1893, Freeman had established numerous businesses, schools, and many residences. The town of Freeman combines a rich heritage with strong hopes for the future. The Freeman Area Veterans Memorial and the Heritage Hall Museum are two examples of the town's appreciation for its rich history. Two strong schools give the town an appeal to families raising children and comprehensive medical services attract people to retire in Freeman. A strong, diverse economy including retail businesses, professional services, and manufacturing components keeps Freeman strong.

Freeman is the type of town that forms the backbone of rural life in South Dakota. Hometown values, respect for neighbors, and a commitment to its past all point to a prosperous future for Freeman. It is with great honor that I advise my colleagues of the achievements made by this great community.●

TRIBUTE TO FRANCIS MATTHEW McFAUN

• Mr. JEFFORDS. Mr. President, I wish to congratulate and thank Francis Matthew McFaun, an outstanding citizen and a Vermont leader in the fight against poverty. As he prepares to retire from his position as manager of the Central Vermont and White River district offices of the Vermont Department of Employment and Training, it is significant to recognize how much one person can achieve in serving others.

"Topper," as he is known to his colleagues, family, and friends, has had a distinguished 37-year career with the State of Vermont. He moved to Vermont in 1966 to start a pilot of the Neighborhood Youth Corps Program with the Central Vermont Community Action Agency. He moved up through the organization, quickly becoming director of the Vermont Office of Economic Opportunity. From there he began working for the Vermont Department of Employment and Training, where he has become an institution. Topper is deeply committed to improving the quality of life of Vermonters through strengthening communities and improving our workforce. He has also served with great distinction and exhibited leadership at both the State and local level and is involved with numerous community activities. From his current role as chairperson of the Barre Town Select Board to his veteran position as the Spaulding High School Varsity Ice Hockey coach, Topper is tireless in his devotion to his State.

I also have the pleasure of having his daughter, Molly McFaun, on my State staff. Molly exhibits the work ethic and compassion that has driven her father throughout his career. Topper established himself through his efforts to help others, and the legacy of his work lives on in his daughter. We are truly fortunate to have Topper and Molly working in a field where the benefits of their kindness and support are reaped by people all around the State. I thank Topper not only for his many years of exemplary service, but also for teaching his children the value that is public service.

It is people like Topper, who give so greatly of themselves without expectation of recognition or personal gain, that make our communities stronger, better places to live. I want Topper McFaun to know that his years of dedicated service have not gone unnoticed. I am proud to stand here and tell you about such a great Vermonter. I wish him and his wife, Mary Ann, best wishes as they venture into the next chapter of their lives.•

HONORING THE CITY OF BROOKINGS

• Mr. JOHNSON. Mr. President, today I would like to honor and publicly recognize the 125th anniversary of the founding of the city of Brookings, SD.

The city and the county were both named for Wilmot W. Brookings, one of the first settlers in the Dakota Territory. Arriving in June of 1857, Brookings was a highly respected explorer with great amounts of courage, energy, ability, and perseverance. He settled in Sioux Falls on August 27, 1857. Beginning the trip in January of 1858, he was soon set upon by a heavy blizzard, the result of which required the amputation of both feet. Not to be deterred, Brookings continued settle the area, eventually becoming a leader in a number of government entities. The town and county were named for him in his honor and out of respect for all he did in the settlement of Dakota Territory.

Before Brookings' arrival, the area was populated by American Indians. Large mounds that were used as burial grounds have been found in the area, as well as stone hammers and other stone tools. Fur traders entered the area as early as 1750.

Originally, settlers founded the town of Medary in 1857 in what would become Brookings County. Oakwood and Fountain, two other small settlements, were also founded at this time and all were hopeful that railroad tracks would be laid through the city. On October 18, 1879, the railroad passed through Main Street in Brookings, which greatly helped the town to grow and prosper. Many of the residents and businessmen in Medary and Fountain would eventually move to Brookings.

Currently, over 18,000 people live in Brookings. The town boasts numerous businesses, as well as South Dakota State University. The city has already started celebrations for its 125th anniversary and will continue them throughout the year. These include a "Crazy Days" celebration, a large art exhibit, and a tour of historic homes throughout the city. It is with great honor that I advise my colleagues of the achievements made by this great community.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 3:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1914. An act to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

H.R. 2768. an act to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

H.R. 3277. An act to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

H.R. 4012. An act to amend the District of Columbia College Access Act of 1999 to reauthorize for 5 additional years the public school and private school tuition assistance programs established under the Act.

H.R. 4818. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 462. Concurrent resolution reaffirming unwavering commitment to the Taiwan Relations Act, and for other purposes.

MEASURES REFERRED

The following bills were read the first time and the second times by unanimous consent, and referred as indicated:

H.R. 4012. An act to amend the District of Columbia College Access Act of 1999 to reauthorize for five additional years the public school and private school tuition assistance programs established under the Act; to the Committee on Governmental Affairs.

H.R. 4818. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 462. Concurrent resolution reaffirming unwavering commitment to the Taiwan Relations Act, and for other purposes; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2678. A bill to ensure that Members of Congress do not receive better prescription drug benefits than Medicare beneficiaries.

S. 2679. A bill to strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses, and for other purposes.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3277. An act to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United

States Marine Corps, and to support construction of the Marine Corps Heritage Center.

H.R. 1914. An act to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8569. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report relative to the Family Subsistence Supplemental Allowance (FSSA) program; to the Committee on Armed Services.

EC–8570. A communication from the Federal Register Liaison Officer, Plans and Policy Directorate, Department of the Air Force, transmitting, pursuant to law, the report of a rule entitled "Department of Defense Commercial Air Transportation Quality and Safety Review Program" (RIN0701–AA67) received on July 15, 2004; to the Committee on Armed Services.

EC–8571. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–8572. A communication from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Chief Financial Officer, Department of Housing and Urban Development, received on July 15, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8573. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986; to the Committee on Banking, Housing, and Urban Affairs.

EC–8574. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, a report relative to the Administration's notification of its 2004 compensation program adjustments; to the Committee on Banking, Housing, and Urban Affairs.

EC–8575. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Inseason Adjustments Management Measures" (ID062304A) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8576. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Modify the Management of the 'Other Species' Community Development Quota (CDQ) Reserve" (RIN0648–AQ88) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8577. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Prohibiting Directed Fishing for Atka Mackerel with Gears Other Than Jig in the Eastern Aleutian District (Statistical Area 541) and the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area, and Announcing Opening and Closure Dates of the First and Second Directed Fisheries Within the Harvest Limit Area (HLA) in Statistical Areas 542 and 543" received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8578. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Inseason Adjustment Opening Directed Fishing for Pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 12 Hours" (ID020204B) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8579. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Notification to Owners and Operators of Registered Vessels of Their Assignments for the A Season Atka Mackerel Fishery in Harvest Limit Area (HLA) 542 and/or 543 of the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area" received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8580. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report relative to foreign-policy based export controls on certain energetic materials and other chemicals; to the Committee on Commerce, Science, and Transportation.

EC–8581. A communication from the Secretary, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule") (Central Air Costs)" (RIN3084–AA74) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8582. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Dinosaur and Rangely, CO, Frankin and Preson, ID, Beaver, Coalville, Elsinore, Manilla, Monroe, Nephi, Richfield, Smithfield, and Tremonton, UT, and Fort Brider, Green River, Lyman, Rock Springs, Saratoga, and Wamsutter, WY" (MD Doc. No. 02–290) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8583. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Sierra Vista and Corona de Tuscon, AZ" (MB Doc. No. 03–141) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8584. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Newcastle, Pine Haven, Warren AFB, Centennial, Casper, Wright, Douglas, and Kaycee, WY, Rapid City, SD, and Gering and Scottsbluff, NE" (MB Doc. No. 03–258) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8585. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Roswell, NM" (MB Doc. No. 04–16) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8586. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Anniston, AL" (MB Doc. No. 03–229) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8587. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Arlington, The Dalles, Moro, Fossil, Astoria, Gladstone, Portland, Tillamook, Coos Bay, Springfield-Eugene, Manzanita and Mermiston, OR, and Covington, Trout Lake, Shoreline, Bellingham, Forks, Hoquiam, Aberdeen, Walla Walla, Kent, College Place, Long Beach, and Ilwaco, WA" (MB Doc. No. 02–136) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8588. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Amboy, Baker, and Desert Center, CA; Kingman, Mohave Valley, Parker, and Seligman, AZ, and Boulder City, Caliente, Henderson, and Pahrump, NV" (MB Doc. No. 02–124) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8589. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Tullahoma, TN and New Market, AL" (MB Doc. No. 03–244) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8590. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Ponce, PR" (MB Doc. No. 04–78) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8591. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Jackson, MS" (MM Doc. No. 01–43) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8592. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Mitigation of Orbital Debris" (IB Doc. No. 02–54) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8593. A communication from the Associate Bureau Chief, Enforcement Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Forfeiture Maxima to Reflect Inflation" (FCC04–139) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8594. A communication from the AMD-Performance Evaluation and Records Management, Office of Managing Director, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2004" (FCC04–146) received on July 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8595. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Removal of Transitional Rule for Vested Accrued Vacation Pay" (RIN1545–BD12) received on July 15, 2004; to the Committee on Finance.

EC–8596. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Partnership Transactions Involving Long-term Contracts" (RIN1545–BA81) received on July 15, 2004; to the Committee on Finance.

EC–8597. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: IRC 351 Contingent Liability Capital Loss Transactions" (UIL9300.17–00) received on July 15, 2004; to the Committee on Finance.

EC–8598. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, documents related to the United States-Morocco Free Trade Agreement; to the Committee on Finance.

EC–8599. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Offsets Under 6402 and the Community Property Laws of Texas" (Rev. Rul. 2004–74) received on July 15, 2004; to the Committee on Finance.

EC–8600. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–8601. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Mexico; to the Committee on Foreign Relations.

EC–8602. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Sweden; to the Committee on Foreign Relations.

EC–8603. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates; Proposed Rule" (RIN1400–AB94) received on July 16, 2004; to the Committee on Foreign Relations.

EC–8604. A communication from the Chairman, Parole Commission, Department of Justice, transmitting, pursuant to law, the Commission's annual report for calendar year 2003; to the Committee on Governmental Affairs.

EC–8605. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Office's report to Congress on law enforcement classification, pay, and benefits; to the Committee on Governmental Affairs.

EC–8606. A communication from the Human Resources Specialist, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Policy, Department of Labor, received on July 15, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–8607. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a change in previously submitted reported information for the position of Assistant Secretary for Special Education and Rehabilitative Services, Department of Education, received on July 15, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–8608. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy for the position of Assistant Secretary, Office of Civil Rights, Department of Education, received on July 15, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–8609. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a change in previously submitted reported information for the position of Assistant Secretary, Office of Civil Rights, Department of Education, received on July 15, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–8610. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy for the position of Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education, received on July 15, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–8611. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Three Threatened Mussels and Eight Endangered Mussels in the Mobile River Basin" (RIN1018–AI73) received on July 16, 2004; to the Committee on Energy and Natural Resources.

EC–8612. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Removal of Federal Protection Status from Two Manatee Protection Areas in Florida" (RIN1018–AJ23) received on July 16, 2004; to the Committee on Energy and Natural Resources.

EC–8613. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Arabis Perstellata (Braun's Rock-cress)" (RIN1018–AI74) received on July 16, 2004; to the Committee on Energy and Natural Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD:

S. 2683. A bill for the relief of Majan Jean; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 2684. A bill for the relief of Maria Cristina Degrassi; to the Committee on the Judiciary.

By Mr. GRAHAM of Florida:

S. 2685. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. GREGG, Mr. KENNEDY, Mr. DODD, Mr. ALEXANDER, Mr. JEFFORDS, Mr. SESSIONS, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, and Mrs. CLINTON):

S. 2686. A bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN:

S. 2687. A bill to provide coverage under the Railway Labor Act to employees of certain air and surface transportation entities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FITZGERALD (for himself and Mr. AKAKA):

S. 2688. A bill to provide for a report of Federal entities without annually audited financial statements; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 740

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 740, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the medicare program.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Rhode Island (Mr. REED) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1411

At the request of Mr. KERRY, the name of the Senator from Vermont

(Mr. JEFFORDS) was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1704

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1704, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 1735

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1735, a bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2302

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2351

At the request of Mr. FEINGOLD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

S. 2361

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2361, a bill to amend the Public Health Service Act to enhance research, training, and health information dissemination with respect to urologic diseases, and for other purposes.

S. 2370

At the request of Mr. KENNEDY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2370, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 2449

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2449, a bill to require congressional renewal of trade and travel restrictions with respect to Cuba.

S. 2461

At the request of Mr. DEWINE, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2461, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2505

At the request of Mr. MCCAIN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2505, a bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low power FM service.

S. 2519

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2519, a bill to authorize assistance for education and health care for women and children in Iraq during the reconstruction of Iraq and thereafter, to authorize assistance for the enhancement of political participation, economic empowerment, civil society, and personal security for women in Iraq, to state the sense of Congress on the preservation and protection of the human rights of women and children in Iraq, and for other purposes.

S. 2526

At the request of Mr. BOND, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2526, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2602

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2602, a bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes.

S. 2603

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 2603, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

At the request of Mr. SMITH, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2603, supra.

S. 2623

At the request of Mr. SMITH, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2623, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide a 2-year extension of supplemental security income in fiscal years 2005 through 2007 for refugees, asylees, and certain other humanitarian immigrants.

S.J. RES. 41

At the request of Mr. CAMPBELL, the names of the Senator from Nevada (Mr. REID) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S.J. Res. 41, a joint resolution commemorating the opening of the National Museum of the American Indian.

S. CON. RES. 41

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Con. Res. 41, a concurrent resolution directing Congress to enact legislation by October 2005 that provides access to comprehensive health care for all Americans.

S. CON. RES. 106

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 106, a concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

S. CON. RES. 113

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Con. Res. 113, a concurrent resolution recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month.

S. CON. RES. 119

At the request of Mr. CAMPBELL, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KERRY), the Senator from North Carolina (Mr. EDWARDS), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. Con. Res. 119, a concurrent resolution recognizing that prevention of suicide is a compelling national priority.

S. CON. RES. 124

At the request of Mr. CORZINE, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. Con. Res. 124, a concurrent resolution declaring genocide in Darfur, Sudan.

At the request of Mr. BROWNBACK, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. Con. Res. 124, supra.

S. CON. RES. 126

At the request of Mr. COLEMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Con. Res. 126, a concurrent resolution condemning the attack on the AMIA Jewish Community Center in Buenos Aires, Argentina, in July 1994, and expressing the concern of the United States regarding the continuing, decade-long delay in the resolution of this case.

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. Con. Res. 126, supra.

S. RES. 271

At the request of Mr. COLEMAN, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 271, a resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

S. RES. 389

At the request of Mr. CAMPBELL, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Virginia (Mr. WARNER), the Senator from New York (Mr. SCHUMER), the Senator from Minnesota (Mr. DAYTON), the Senator from Oregon (Mr. WYDEN) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Res. 389, a resolution expressing the sense of the Senate with respect to prostate cancer information.

S. RES. 404

At the request of Mr. SMITH, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. Res. 404, a resolution designating August 9, 2004, as "Smokey Bear's 60th Anniversary."

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida:

S. 2685. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the Medicaid and State children's health insurance programs; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, I am introducing the Immigrant Children's Health Improvement Act today.

This legislation would allow States the option to once again provide Medicaid and State Children's Health Insurance Program (SCHIP) coverage to legal immigrant children and pregnant women.

Traditionally, Medicaid and SCHIP have served as vital components of our nation's health care safety net. These programs have provided coverage to over 50 million non-elderly, low-income Americans, most of them children, and have helped to dramatically reduce infant mortality and provide health care for millions of poor children whose families cannot afford the high cost of private health insurance.

However, for many low-income families that are income eligible for Medicaid and SCHIP, these safety programs are today little more than a mirage—an illusion to those who need them most. The 1996 welfare reform law arbitrarily barred states from using Federal funds to provide health coverage to low-income legal immigrants during their first 5 years in the United States.

While the goal of welfare reform was to encourage self-sufficiency in adults, the legislation unfortunately has punished children. Today, half of all legal immigrant children from families making less than 200 percent of the Federal Poverty Level are uninsured. That's over two and a half times the uninsured rate for children who are United States citizens.

In the long term, ignoring the health care needs of legal immigrant children and pregnant women will prove more costly than providing care today. Children and pregnant women who do not have access to preventive care often use the emergency room as a first resort—an expensive treatment for conditions that could have been treated at a fraction of the cost or possibly even prevented.

The American Journal of Obstetrics and Gynecology in 2000 estimated that $1 spent on prenatal care for immigrant women saved $3 in short-term postnatal costs and $5 in longer-term costs. By spending on prevention today, we can reduce health care costs in the future.

Another result of the 1996 legislation was to push the costs of care to the States. The 20 states with the highest number of legal immigrants all used to have state-financed health care programs for legal immigrant children or pregnant women. States put these programs in place because they recognized the enormous toll the 1996 rules have taken on state budgets, when states have to provide preventable emergency-room care to thousands of uninsured legal immigrants.

But due to the recent State budget crisis, some of these states cannot now afford programs that are exclusively state-financed. In my home state of Florida, for example, new enrollment in the program has been frozen.

This amendment allows states the option to use Medicaid and SCHIP funding to cover legal immigrant children and pregnant women. Over the last 6 years, Senator CHAFEE and I, along with our colleagues in the House and Senate, have worked to restore this option and we've come very close to achieving our goal.

Last year, a 3-year restoration provision was included in the Senate-passed Medicare prescription drug bill, with 65 Members supporting it. Over 400 national, state, and local organizations have supported this legislation, including the National Governors Association, the National Conference of State Legislatures, the American Academy of Pediatrics, and numerous immigrant, ethnic, labor, health and faith-based organizations.

Despite this support, Congress has yet to enact legislation that restores health benefits to legal immigrant families.

Why?

Some Members argued it didn't belong on a Medicare bill but instead on a welfare reauthorization bill. That was one of the reasons it was dropped from the Medicare bill. But the same argument has been made when it was discussed in the context of welfare—that it is not a welfare issue, it's a health care issue.

Well, while this volleyball match continues, legal immigrant families in this country continue to work hard and pay taxes, while being denied the benefits of the system they are paying into. Meanwhile, States continue to provide as much care as they can from strapped state budgets. We need to send a clear message about our concern for uninsured children and we need to stop pretending that our federal penny-pinching is cost free to the states or to taxpayers.

Mr. President, legal immigrants pay taxes, serve in the military, and have the same social obligations as United States citizens. Legal immigrant children are, as much as citizen children, the next generation of Americans. It is important that all children start off on the right foot towards good health. This provision can help them do just that.

This legislation is offset by a custom user fee extension included in the President's budget.

I hope that we will begin consideration of this important measure before the August recess. The health and lives of many children is at stake, and there is simply no reason to delay any further.

By Mr. ENZI (for himself, Mr. GREGG, Mr. KENNEDY, Mr. DODD, Mr. ALEXANDER, Mr. JEFFORDS, Mr. SESSIONS, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, and Mrs. CLINTON):

S. 2686. A bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce the Carl D. Perkins Vocational and Technical Education Improvement Act of 2004. The Perkins Act is a central part of a combination of federal education and training programs that provide opportunities for lifelong learning to our workforce. The Perkins Act, together with the Workforce Investment Act, the Higher Education Act, and other federal education programs, provides the resources that are needed to help adequately prepare students of all ages for jobs in high-wage and high-skilled occupations. In this technology driven, global economy, everyone is a student who must adapt to the changing needs of their jobs and the workforce by continuing to pursue an education in their chosen field. In turn, Congress must ensure that education and training are connected to the needs of business, including small businesses, now and into the future as well.

It is my hope that this body will take the necessary action to reauthorize the Carl D. Perkins Vocational and Technical Education Act. The Act is an essential part of a combination of federal education and training programs that will strengthen our workforce and enable America to compete—and succeed—in the global economy.

At a hearing held on June 24, 2004, before the Health, Education, Labor and Pensions Committee, members heard testimonies from leaders in career and technical training emphasizing the importance of constant training, retraining and upgrading of the skills today's jobs require. Many students leaving high school or college and entering the workforce find that they are unprepared for life because they lack the skills they need to succeed in the workforce. This country created over 1 million new jobs since January. That's great news. Unfortunately, the complaint heard from employers is that there are too few skilled workers to meet their needs. We have a strong interest in making sure this is corrected. The Perkins Act, along with the Higher Education and Workforce Investment Act would provide both strong academic and relevant job skill training to promote and sustain the long-term competitiveness of this country.

A unique aspect of the Perkins program that addresses the needs of the changing workforce is that it targets funds to both secondary and postsecondary schools. This unique aspect also provides a good platform from which we can better coordinate workforce preparation policy and training with an emphasis on lifelong learning. It is essential to facilitate a sequence of career or technical education courses that a student can complete before they even get to college, and that they can continue at the postsecondary level, whenever they decide to go on. Dr. Michael Rush, the Idaho Division of Professional-Technical Education, Boise, ID, Administrator, used the example of student Chelsie Lea Marier in his testimony to stress this point. He said Chelsie took professional-technical classes in welding, auto technology, mechanics and power technology at her home high school, Meridian High. As a high school senior, she enrolled in an automotive collision repair program at the Dehryl Dennis Technology Center. During this time, Chelsie took advanced placement academic classes and was President of her Skills-USA chapter. She is now enrolled in the auto body program at the College of Southern Idaho, and she intends to continue her education and become an auto collision forensics investigator. She is an excellent example of how linking academic and technical skills attainment can lead to success in the workforce.

In order to strengthen schools programs at both the secondary and postsecondary level that meet local workforce needs, provisions in the Perkins Act must include the participation of business, including small business. In my home state of Wyoming, a career and technical education instructor by the name of Ted Schroeder is doing a lot of what I've just described. He has met with the local Chamber of Commerce in Rock Springs, WY, to identify workforce needs and matched his programs with industry standards to meet those needs. When the local business community suggested they needed students with computerized accounting skills, he took on the task of designing curriculum to help his students acquire the skills the businesses had requested. His efforts are a good example of what Perkins funds are intended to accomplish. It is my hope that we can increase the successes of the Perkins program, just like Ted has done in the community of Rock Springs.

I'm pleased to have worked with the Members of the Committee and stakeholders on a bipartisan bill that will improve the Perkins Act to better meet the needs of students, workers, and business. The legislation I am introducing today, with my colleagues Senators GREGG, KENNEDY, ALEXANDER, DODD, JEFFORDS, BINGAMAN, MURRAY, SESSIONS, REED and CLINTON, will help strengthen the Perkins program by improving accountability, involving businesses in career and technical education programs, emphasizing challenging academic instruction, and advancing the field of career and technical education by linking those programs to advances in industry.

This legislation would also encourage greater collaboration between state agencies responsible for education and workforce activities. This legislation requires state agencies to work together on identifying the needs of the workforce and designing curriculum to match those needs. It also emphasizes the needs of nontraditional students and other lifelong learners, who are returning to school for the first time, or those who are seeking additional skill training.

This legislation also continues to emphasize the need to introduce women and girls to high skill, high wage jobs. It is important that we help expand the vision of our students to ensure they consider all the options that are available to them, not just the ones that fit general, and sometimes erroneous, conceptions.

I hope our bipartisan efforts will continue to produce results as we move the bill through the Senate and into Conference. I do not wish to see another piece of bipartisan legislation lost in the legislative limbo of election year politics. An important step that the Senate must take is to appoint conferees to finish the reauthorization of the Workforce Investment Act. That program offers the resources that are needed to help adequately prepare more than 900,000 unemployed workers find work each year. It passed the Senate unanimously, both in Committee and the floor. Conferees must now be appointed before the August recess. It we are going to help workers in this country, we must send this important legislation to Conference so that it will ultimately reach the President and be signed into law.

I cannot stress enough the importance of federal initiatives like the Carl D. Perkins Vocational and Technical Education Act and the Workforce Investment Act to keep American workers and businesses competitive. The Perkins Act can help close the gap that threatens America's long-term competitiveness. It is essential that we take advantage of the opportunity we have during this reauthorization process to improve the link between education and relevant academic and skills preparation. By so doing, we will create a pathway to prosperity for American workers and businesses alike, that both will make good use of for years to come.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senators GREGG, ENZI, DODD, JEFFORDS, BINGAMAN, MURRAY, REED and CLINTON in introducing the bipartisan reauthorization of the Carl Perkins Vocational Education Act. We have worked closely with leaders of the secondary and postsecondary vocational education community to make important improvements in this important program in current law. Among the key issues we addressed are the more effective integration of academic and technical education, the use of funds for secondary and post-secondary programs, the Tech Prep Programs that form the bridge between the high school and college training programs, and the need for students to have access to good information about emerging and existing job opportunities in high-wage, high-skill and high-demand careers.

Since passage of the original Smith-Hughes Act in 1917, the Federal Government has recognized the importance of good preparation for technical occupations. Over the years, we have made a series of revisions in the law to reflect the growing importance of combining academic learning with technical skill learning in order to meet the changing needs of American business and industry.

This bill is an example of how we can work well together when we focus on good policy. I look forward to action on this bill in our Labor Committee before the recess, and to its enactment into law this year.

By Mr. HARKIN:

S. 2687. A bill to provide coverage under the Railway Labor Act to employees of certain air and surface transportation entities; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I am introducing a bill that will help ensure that employees of "express carrier" delivery companies are treated like employees who perform the same duties for other delivery, companies when it comes to Federal labor law jurisdiction.

Over the years, there have been many advances made in the way citizens and businesses ship goods from city to city. Numerous air-carrier and cargo services make the delivery of goods speedy, reliable and affordable. Truck, air and rail delivery networks are in place across the country. These operations employ large workforces that perform various types of work in a range of conditions.

Some of the leading delivery companies appear to have similar organizational structure and clientele. But there is a disparity in the terms and conditions of their workers' employment. Some of the companies provide full- and part-time workers with good wages and benefits, including medical plans, dental coverage and paid vacation time. Others take a lower road, in part by using independent contractors and anti-union campaigns.

Unfortunately, Federal law facilitates this difference. It ensures that all of the workers at one of the largest companies which delivers by air are covered by the Railway Labor Act (RLA), even when those workers do the same jobs as employees at other delivery companies who are covered by the National Labor Relations Act (NLRA). What is the difference? Under the NLRA, workers can act locally in seeking to organize and bargain collectively. Under the RLA, workers must organize nationally, an enormous challenge in today's labor environment.

Congress created the concept of an "express carrier" in 1996, putting all the employees of one large company under RLA jurisdiction, regardless of individual employees' relation to air transportation. That means those workers cannot organize a union chapter locally, weakening their opportunity to bargain for better wages, benefits and workplace conditions.

This bill provides that employees of an express carrier will be governed under the RLA only if they are licensed airmen, aircraft maintenance technicians or aircraft dispatchers. That is consistent with the treatment of other delivery companies' workers.

The bill delivers fairness to responsible employers trying to do the right thing for workers while remaining competitive. It seeks to raise living standards, not encourage a race to the bottom. Workers can decide for themselves whether or not to collectively bargain, but in all businesses similarly situated, workers should be regulated the same.

Let's deliver fairness to those who deliver for us.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Monday, July 19, 2004, at 2:30 p.m., to consider the nominations of Neil McPhie to be Chairman, Merit Systems Protection Board, and Barbara J. Sapin to be Member, Merit Systems Protection Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. HATCH. Mr. President, I ask unanimous consent that the Special Committee on Aging by authorized to meet Monday, July 19, 2004 from 2 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Angie Williams and Romney Hogaboam, law clerks in my office, during the consideration of the nomination of William Myers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent Spencer Kiggins, James Mainord, and Anand Singh be granted floor privileges during the debate on the nomination of Mr. Myers.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE—REGISTRATION OF MASS MAILINGS

The filing date for 2004 second quarter mass mailings is Monday, July 26, 2004. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 9 a.m. to 5:30 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

MEASURES PLACED ON CALENDER—S. 2678 and S. 2679

Mr. ENZI. Mr. President, I understand there are two bills at the desk which are due for a second reading. I ask unanimous consent that the bills be given a second reading en bloc, and then in order to place the bills on the calendar under the provisions of rule XIV, I object to further proceedings on the measures en bloc at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bills en bloc.

The legislative clerk read as follows:

A bill (S. 2678) to ensure that Members of Congress do not receive better prescription drug benefits than Medicare beneficiaries.

A bill (S. 2679) to strengthen the anti-terrorism investigative tools, promote information sharing, punish terrorist offenses, and for other purposes.

The PRESIDING OFFICER. Objection is heard.

The bills will be placed on the calendar.

SANTIAGO E. CAMPOS UNITED STATES COURTHOUSE

JAMES V. HANSEN UNITED STATES COURTHOUSE

WINSTON E. ARNOW UNITED STATES COURTHOUSE

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 596, 597, and 598, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bills by title.

The legislative clerk read as follows:

A bill (S. 2385) to designate the United States courthouse at South Federal Place in Sante Fe, New Mexico, as the "Santiago E. Campos United States Courthouse."

A bill (S. 2398) to designate the Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, as the "James V. Hansen Federal Building."

A bill (H.R. 1572) to designate the United States courthouse located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow United States Courthouse."

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. ENZI. Mr. President, I ask unanimous consent that the bills be read the third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1572) was read the third time and passed.

The bills (S. 2385 and S. 2398) were read the third time and passed, as follows:

S. 2385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF SANTIAGO E. CAMPOS UNITED STATES COURTHOUSE.

The United States courthouse at South Federal Place in Santa Fe, New Mexico, shall be known and designated as the "Santiago E. Campos United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Santiago E. Campos United States Courthouse".

S. 2398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, shall be known and designated as the "James V. Hansen Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "James V. Hansen Federal Building".

SERGEANT FIRST CLASS PAUL RAY SMITH POST OFFICE BUILDING

Mr. ENZI. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 4380, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4380) to designate the facility of the United States Postal Service located at 4737 Mile Stretch Drive in Holiday, Florida, as the "Sergeant First Class Paul Ray Smith Post Office Building".

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4380) was read the third time and passed.

AMENDING THE ACT OF NOVEMBER 2, 1966

Mr. ENZI. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. 2277, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2277) to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2277) was read the third time and passed, as follows:

S. 2277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BINDING ARBITRATION FOR SALT RIVER PIMA-MARICOPA INDIAN RESERVATION CONTRACTS.

(a) IN GENERAL.—Section 2(c) of the Act of November 2, 1966 (25 U.S.C. 416a(c)), is amended—

(1) in the first sentence—

(A) by striking "Any lease" and all that follows through "affecting land" and inserting "Any contract, including a lease, affecting land"; and

(B) by striking "such lease or contract" and inserting "such contract"; and

(2) in the second sentence, by striking "Such leases or contracts entered into pursuant to such Acts" and inserting "Such contracts".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Indian Tribal Economic Development and Contract Encouragement Act of 2000 (Public Law 106–179).

ORDERS FOR TUESDAY, JULY 20, 2004

Mr. ENZI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, July 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for the transaction of morning business for statements only for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, and the final 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate proceed to executive session and resume consideration of Executive Calendar No. 603, the nomination of William Myers III; provided further that the time until 12:30 p.m. be equally divided for debate only between the chairman and the ranking member or their designees. I further ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party luncheons; provided that at 2:15 p.m. the Senate proceed to the cloture vote on the nomination, as provided under the previous order.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, I wish to express, through the Chair, to my friend from Wyoming my appreciation for waiting. I am sorry he had to wait for me to close shop tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ENZI. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the nomination of William Myers III to be a U.S. Circuit Court Judge for the Ninth Circuit. Under the previous order, the Senate will vote on the motion to invoke cloture on the nomination at 2:15 p.m.

Over the next several days, it is the leader's intention to move forward with several important issues. We need to complete action with respect to the Department of Defense appropriations conference report and the conference report to accompany the Tax Relief, Simplification, and Equity Act. The House is expected to act on these items this week, and it is the leader's intention to bring them before the Senate. In addition, the Senate may act on the Morocco free trade bill and any appropriations bills which can be dispensed with in a timely manner. Therefore, Senators are encouraged to expect a busy week with rollcall votes throughout.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ENZI. Mr. President, if there is no further business to come before the Senate, I thank the Democratic whip for being here and I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:03 p.m., adjourned until Tuesday, July 20, 2004, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 19, 2004:

DEPARTMENT OF COMMERCE

MICHAEL D. GALLAGHER, OF WASHINGTON, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION, VICE NANCY VICTORY, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

THEODORE WILLIAMS KASSINGER, OF MARYLAND, TO BE DEPUTY SECRETARY OF COMMERCE, VICE SAMUEL W. BODMAN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

AMTRAK

FLOYD HALL, OF NEW JERSEY, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE AMY M. ROSEN, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

JACK EDWIN MCGREGOR, OF CONNECTICUT, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION, VICE VINCENT J. SORRENTINO, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MISSISSIPPI RIVER COMMISSION

BRIGADIER GENERAL DON T. RILEY, UNITED STATES ARMY, TO BE A MEMBER AND PRESIDENT OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 2 OF AN ACT OF CONGRESS, APPROVED JUNE 1879 (21 STAT. 37) (33 USC 642).

DEPARTMENT OF STATE

B. LYNN PASCOE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDONESIA.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DANIEL R. LEVINSON, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE JANET REHNQUIST, RESIGNED.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

To be medical director

TIMOTHY D. MASTRO
STEPHEN C. REDD

To be senior surgeon

DAVID R. ARDAY
DIANE E. BENNETT
DAVID B. CANTON
LOUISA E. CHAPMAN
ISABELLA A. DANEL
KAREN M. FARIZO
JAMES R. GRAHAM
STEPHEN G. KALER
MARCEL E. SALIVE
GAIL M. STENNIES
KIM M. WILLARD-JELKS

To be surgeon

JOHN T. BROOKS
ELIZABETH C. CLARK
RODNEY W. CUNY
REUBEN GRANICH
LISA A. GROHSKOPF
PAUL T. HARVEY
DANIEL B. JERNIGAN
AMY J. KHAN
MATTHEW J. KUEHNERT
RACHEL E. LOCKER
SHARON L. LUDWIG
JEFFREY B. NEMHAUSER
LISA D. ROTZ
JEFFREY C. SALVON-HARMAN
LAURA A. TILLMAN
STEPHEN H. WATERMAN
CYNTHIA G. WHITNEY

To be senior assistant surgeon

ROXANNE Y. BARROW
MARK E. BEATTY
FELICIA L. COLLINS
SRIPARNA D. DATTA
LISA K. FITZPATRICK
IDALIA M. GONZALEZ
SHANNON L. HADER
JAMES D. HEFFELFINGER
TERRI B. HYDE
DAVID E. JOHNSON
SHERYL B. LYSS
LOIS R. NISKA
KELTON H. OLIVER
BERNARD W. PARKER
FARAH M. PARVEZ
MICHALE D. RATZLAFF
SCOTT S. SANTIBANEZ

To be dental director

GERALYN S. JOHNSON

To be senior dental surgeon

JOEL J. AIMONE
HIROFUMI NAKATSUCHI
WILLIAM V. STENBERG

To be dental surgeon

RANDOLPH A. COFFEY
MARK R. FREESE
ARLENE M. LESTER
JAMES M. SCHAEFFER

To be senior assistant dental surgeon

KENNETH S. CHO
CIELO C. DOHERTY
RONALD L. FULLER
TAMEKA D. LEWIS-BAKER
LAURA J. LUND
ROBIN G. SCHEPER
ROBERT P. SEWELL
ANTHONY VITALI
JAMES H. WEBB JR.

To be senior nurse officer

MARJORIE E. EDDINGER
ROSE A. JENKINS

To be nurse officer

ROSA J. CLARK
PHILIP JARRES
IVY L. MANNING
JOYCE A. PRINCE
DORIS L. RAYMOND
MICHAEL L. ROBINSON

To be senior assistant nurse officer

DIANE M. AKER
ILEANA BARRETO-PETTIT
KELLY L. BARRY
THEODORA R. BRADLEY
FRANK L. CORDOVA
WILLIAM F. COYNER
DERWENT O. DANIEL
BELINDA E. DEAN
JENNY DOAN
DEANNA M. GEPHART
JOHN S. HARTFORD
ERIK S. HIERHOLZER
ERIC M. HOWSER
CHAD W. KORATICH
DELIA MARQUEZ-ELLIS
LISA A. MARUNYCZ
CAROLYN J. MCKEOWN
ANTONIO PALLADINO
SHELLY K. PAYNTER
THUYLE T. PHAM
PHIL B. SARGENT
DONNA K. STRONG
JUDITH B. SUTCLIFFE
AMY O. TAYLOR
NANCY L. TONE
THERESA TSOSIE-ROBLEDO
VICTORIA F. VACHON
DAWN L. WILL
ZENJA D. WOODLEY

To be assistant nurse officer

GLENN R. ARCHAMBAULT
JOYCE T. DAVIS
CHANNEL R. MANGUM
HUNG P. PHAN
MONICA D. RANKINS

To be senior engineer officer

VERNON L. TOMANEK

To be engineer officer

DANIELLE DEVONEY
KELLY B. LESEMAN
KARL R. POWERS
ARTHUR D. RONIMUS III

To be senior assistant engineer officer

KENNETH J. GRANT
DAVID E. HARVEY
DAVID E. JOHNSON
MARCUS C. MARTINEZ
ANDREW M. MELTZER
JAMIE D. NATOUR
RICK A. RIVERS
ERIC Y. SHIH
JACK S. SORUM
CHARLES H. WEIR

To be senior scientist

PAMELA L. CHING

To be scientist

LAILA H. ALI
CLEMENT J. WELSH

To be senior assistant scientist

CARMA S. AYALA
DIANA M. BENSYL
AMANDA S. BROWN
MICHAEL J. COOPER
KAREN A. HENNESSEY
DAPHNE B. MOFFETT
MEREDITH A. REYNOLDS
CYNTHIA A. STRILEY

To be sanitarian

JAN C. MANWARING

To be senior assistant sanitarian

GARY W. CARTER
JULIA E. CHERVONI
VIVIAN GARCIA
KIT C. GROSCH
WAYNE L. HALL
BRIAN E. HROCH
HARRICHAND RHAMBAROSE
DONALD B. WILLIAMS JR.

To be senior veterinary officer

YVETTE M. DAVIS
STEPHANIE R. OSTROWSKI
LOWREY L. RHODES JR.

To be veterinary officer

ESTELLA Z. JONES-MILLER

To be senior assistant veterinary officer

GREGORY L. LANGHAM

To be pharmacist director

DIANE L. FRANKENFIELD

To be senior pharmacist

SHARON K. GERSHON
GEORGE A. LYGHT
JO ANN M. SPEARMON

To be pharmacist

MICHAEL S. FORMAN
PAMELA M. SCHWEITZER
PAUL N. SHEDD
SHARON K. THOMA
ADOLPH E. VEZZA

To be senior assistant pharmacist

SEAN J. BELOUIN
SEAN K. BRADLEY
ROSALIND P. CHORAK
CARMEN C. CLELLAND
JAMES L. COBBS
THOMAS C. DURAN
JENNIFER E. FAN
CAROL A. FELDOTTO
REBECCA E. GARNER
PATRICIA N. GARVEY
EUGENE HAMPTON JR.
CLINT E. HINMAN
TOMMY E. HOREIS
KRISTINA M. JOYCE
MARIANN KOCSIS
YOON J. KONG
REY V. MARBELLO
JEEN S. MIN
DENISE A. NORMAN
LISA D. OLIVER
MARGARET A. RINCON
AMY D. RUBIN
JANE J. RUSSELL
SPENCER S. SALIS
MELISSA R. SCHWEISS
CATHERINE W. WITTE

To be assistant pharmacist

KRISTEN L. MAVES
PARAS M. PATEL
EMILY T. THAKUR

To be senior assistant dietitian

KARI R. BLASIUS
ALEXANDRA M. COSSI
CAROL A. TREAT
KIRSTEN M. WARWAR

To be senior assistant therapist

ANDRA F. BATTOCCHIO
CYNTHIA E. CARTER
FREDERICK V. LIEP
WILLIAM H. PEARCE JR.
TARRI ANN RANDALL
JEFFREY D. RICHARDSON
JOSEPH B. STRUNCE
CHRISTA L. THEMANN

To be health services officer

MALCOLM B. JOHNS
HENRY LOPEZ JR.
GUY J. MAHONEY
GEORGE J. MAJUS

NICOLE M. SMITH
LOLA R. STAPLES

To be senior assistant health services officer

JANE M. BARNES
MICHAEL A. CANDREVA
ROBERT P. CHELBERG
DAVID S. DE LA CRUZ
BETH D. FINNSON
GREGORY J. FLAITZ
ARNOLD L. HOWARD
ERICH KLEINSCHMIDT
AUDREY G. LUM
MARSHA R. MCCRIMMON
DANIEL H. REED
RUBEN T. SABATER
DAVID C. STATEN JR.
MICHAEL D. WEAHKEE

To be assistant health services officer

MICHELLE M. BLETH
CARRIE L. EARNHEART
CHERYL L. FAJARDO
RYAN D. HILL
DAVID J. LUSCHE
ANTHONY A. WALKER

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

JACQUELINE BELL, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

ZAC T. BAO, OF FLORIDA
GEORGE H. BUZBY, OF FLORIDA
THOMAS L. MCCLANAHAN, OF COLORADO
JOHN P. NICHOLSON, OF FLORIDA
JOHN D. VERNON, OF VIRGINIA
TERRY G. YOUNGBLOOD, OF TEXAS

DEPARTMENT OF COMMERCE

CHRISTOPHER R. QUINLIVAN, OF WASHINGTON

DEPARTMENT OF STATE

KATELYN CHOE, OF FLORIDA
LYNN M. FERENC, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ALICIA P. ALLISON, OF THE DISTRICT OF COLUMBIA
JOSEPH RAY BABB, OF CALIFORNIA
JULIANA KINAL BALLARD, OF THE DISTRICT OF COLUMBIA
DANA LYNN BANKS, OF PENNSYLVANIA
ALEXANDER LUCIAN BARRASSO, OF THE DISTRICT OF COLUMBIA
ROIS MEGHAN BEAL, OF GEORGIA
SCOTT A. BLOMQUIST, OF FLORIDA
TOMEKAH L. BURL, OF ARKANSAS
YAN CHANG, OF GEORGIA
JOHN REID CROSBY, OF TEXAS
MARY EILEEN DASCHBACH, OF NEW HAMPSHIRE
GENE J. DEL BIANCO, OF MASSACHUSETTS
BRADLEY RICHARD EVANS, OF TEXAS
FIONA SCHOLAND EVANS, OF TEXAS
DAN O. FULWILER, OF WASHINGTON
ANN ELISE GABRIELSON, OF MINNESOTA
MICHELLE MARIE GIDASPOVA, OF NEW YORK
DAVID LINDGREN GEHRENBECK, OF RHODE ISLAND
STEPHEN P. GOLDRUP, OF CALIFORNIA
JOHN GORKOWSKI, OF VIRGINIA
CHRISTOPHER LEE GREEN, OF TEXAS
DANIEL O'CONNELL HAMILTON, OF MISSOURI
PATRICK N. HANISH, OF WASHINGTON
MARGARET REIKO HARTLEY, OF CALIFORNIA
IDA EVE HECKENBACH, OF LOUISIANA
JANELLE S. HIRONIMUS, OF CALIFORNIA
JOEY ROBERT HOOD, OF NEW HAMPSHIRE
PATRICK WYNTERS HORNBUCKLE, OF NEW YORK
DARRAGH JONES, OF OREGON
DENNIS T.P. KEENE, OF FLORIDA
ROBERT L. KINGMAN, OF WASHINGTON
LAURA HOPE KIRKPATRICK, OF VIRGINIA
JAMES GORDON LAND, OF FLORIDA
KAMAL IMHOTEP LATHAM, OF NEW YORK
CLAIRE LE CLAIRE, OF MINNESOTA
JASON ROSS MACK, OF NEW YORK
BETTINA ANNE MALONE, OF VIRGINIA
TYLER L. MASON, OF NEW YORK
GREGORY CHARLES MAY, OF TEXAS
KARA CHERISE MCDONALD, OF VIRGINIA
JOHN W. MCINTYRE, OF MISSOURI
EMILY ANN MESTETSKY, OF NEW JERSEY
SHANTE J. MOORE, OF MICHIGAN
CARLA J. MUDGETT, OF VERMONT
ADRIENNE B. NUTZMAN, OF TEXAS
NICHOLAS PAPP III, OF FLORIDA
SUSAN PARKER-BURNS, OF MASSACHUSETTS
JONATHAN P. POST, OF CALIFORNIA
GABRIELLE M. PRICE, OF PENNSYLVANIA
MARCO GLEN PROUTY, OF WASHINGTON
DANIEL J. RICCI, OF CALIFORNIA
JOHN G. ROBINSON, OF MISSISSIPPI
PETER A. SCHROEDER, OF WASHINGTON
MARC LONDON SHAW, OF MISSOURI
ANDREW KENNETH SHERR, OF COLORADO
JEFFERSON DAVID SMITH, OF TEXAS
TIMOTHY LYLE SMITH, OF MICHIGAN
TIMOTHY M. STANDAERT, OF FLORIDA
DANIEL ALEXANDER STEWART, OF VIRGINIA
TOM S. TARGOS, OF WISCONSIN
TIMOTHY P. TRENKLE, OF KANSAS
JOSEPH FINCH TRIMBLE JR., OF TEXAS
DAVID NATHANIEL GARTLAND WHITING, OF SOUTH DAKOTA
DANA RENEE WILLIAMS, OF TEXAS
MICHELLE ELIZABETH WOLLAM, OF CALIFORNIA
EBONI YORK, OF MICHIGAN

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

GEOFFREY S. BOGART, OF CALIFORNIA
VAL E. HUSTON, OF INDIANA
JUSTIN D. MYLROIE, OF WASHINGTON
CHRISTOPHER D. WOOSLEY, OF VIRGINIA

DEPARTMENT OF STATE

JASON ANDREW ABELL, OF ILLINOIS
ANGELA C. ALEXANDER, OF VIRGINIA
ANTHONY ALEXANDER, OF CALIFORNIA
CHRISTOPHER C. ALLISON, OF MISSOURI
FARIS Y. ASAD, OF OHIO
BENJAMIN S. BAILEY, OF WASHINGTON
ANNE ELIZABETH BAKER, OF PENNSYLVANIA
ERIN C. BARCUS, OF MARYLAND
ALISTAIR C. BASKEY, OF THE DISTRICT OF COLUMBIA
MATTHEW HAROLD BLONG, OF MARYLAND
SCOTT CHARLES BOLZ, OF WASHINGTON
PAULINE N. BORDERIES, OF VIRGINIA
JENNIFER F. BOSWORTH, OF THE DISTRICT OF COLUMBIA
RYAN E. BOWLES, OF MINNESOTA
TOBIAS ALYN BRADFORD, OF TEXAS
ROBIN S. BROOKS, OF COLORADO
JUSTIN PATRICK BROWN, OF CALIFORNIA
TIMOTHY PATRICK BUCKLEY, OF NEW YORK
TODD A. CAMPBELL, OF ILLINOIS
CHERYL BARNES CARSON, OF VIRGINIA
CHRISTOPHER JAMES CHAISSON, OF VIRGINIA
MIN CHANG, OF CALIFORNIA
ALICE RUTH CHU, OF VIRGINIA
THEODORE H. CLARK, OF VIRGINIA
ELISE C. COCKE, OF THE DISTRICT OF COLUMBIA
JOHN D. CULP, OF VIRGINIA
KIM D'AURIA-VAZIRA, OF CALIFORNIA
MARK G. DAVENPORT, OF VIRGINIA
ERFANA S. DAR, OF WASHINGTON
TIMMY T. DAVIS, OF MISSISSIPPI
GREGORY W. DEPUTY, OF VIRGINIA
DAVID DOLAHER, OF VIRGINIA
ANDREA SUSANA MARTINEZ DONNALLY, OF TEXAS
JED TARO DORNBURG, OF THE DISTRICT OF COLUMBIA
JULIE A. EADEH, OF MICHIGAN
MICHAEL G. EDWARDS, OF WASHINGTON
RICHARD J. FAILLACE, OF NEW JERSEY
MAHA GAMAL FARID, OF THE DISTRICT OF COLUMBIA
SITA M. FARRELL, OF VIRGINIA
YURIY R. FEDKIW, OF OHIO
JULIA C. FENDRICK, OF MARYLAND
MARY ANN FREEMAN, OF CALIFORNIA
ENRIQUE RODRIGO GALLEGO, OF ILLINOIS
JULIE C. GIBSON, OF VIRGINIA
ALEXANDER PAUL GOGULSKI, OF VIRGINIA
MATTHEW B. GOLDEN, OF CALIFORNIA
LYNNETTE LYNN GORDON, OF TEXAS
JOHN HARRISON GREGG, OF ALABAMA
LINDA A. GREGUS, OF VIRGINIA
JOHN ARTHUR HAID, OF VIRGINIA
MATTHEW S. HAND, OF VIRGINIA
ALEXANDER KEITH HARDIN, OF OHIO
GAYLE R. HARNEST, OF VIRGINIA
ANBEREEN HASAN, OF VIRGINIA
PRISCILLA ANN HERNANDEZ, OF TEXAS
TRACY E. HILL, OF THE DISTRICT OF COLUMBIA
JULIUS E. HOFFMAN JR., OF THE DISTRICT OF COLUMBIA
MICHAEL JOHN HOUGAARD, OF VIRGINIA
KEVIN E. HULBERT, OF THE DISTRICT OF COLUMBIA
AARON L. HUMMELDORF, OF VIRGINIA
JERRY ISMAIL, OF NEW YORK
ROBERT A. IVEY, OF VIRGINIA
JOSEPH SAMUEL JACANIN, OF VIRGINIA
DAYLE REBECCA JOHNS, OF TEXAS
MATTHEW P. JOHNSON, OF VIRGINIA
TODD M. KATSCHKE, OF THE DISTRICT OF COLUMBIA
PAMELA R. KAZI, OF MINNESOTA
CHARLES J. KELLY, OF VIRGINIA
STEPHEN GYULA KOVACSICS, OF FLORIDA
ERIC J. KRAMP, OF FLORIDA
COBY DAWNE LASTUKA, OF WASHINGTON
THADDEUS C. LAW, OF VIRGINIA
JEFFREY MICHAEL LOREE, OF THE DISTRICT OF COLUMBIA
ADHAM ZIBAS LOUTFI, OF CALIFORNIA
KATHERINE M. F. LOWNDES, OF VIRGINIA
ROSE A. MANOR, OF VIRGINIA
JOHN A. MARCINEK, OF VIRGINIA
MICHAEL H. MARGOLIES, OF LOUISIANA
ANN L. MASON, OF MICHIGAN
JOSIAH D. MAYNE, OF VIRGINIA
JOHN WILLIAM MCCLURE, OF VIRGINIA
JAMES P. MCDONALD, OF MASSACHUSETTS
BERNADETTE M. MEEHAN, OF NEW YORK
LAURA P. MERKLE, OF VIRGINIA
GREGORY C. MORRIS, OF VIRGINIA
JAMES M. MORRIS, OF MASSACHUSETTS
HEATHER MULVENNA, OF VIRGINIA
JUNAID MUNIR, OF MICHIGAN
FAHEZ A. NADI, OF NEW YORK
DAVID C. NG, OF ARIZONA
SADIA NIAZI, OF VIRGINIA
MARLENE E. OLSEN, OF FLORIDA
TREVOR R. OLSON, OF IDAHO
ADAM PACKER, OF THE DISTRICT OF COLUMBIA
CHRISTINE D. PARKER, OF ILLINOIS
VANESSA M. PAULOS, OF TEXAS
DEXTER C. PAYNE, OF VIRGINIA
ELIZABETH LYNNE PERRY, OF MASSACHUSETTS
MICHAEL E. PIGNATELLO, OF NEVADA
MATTHEW P. POLITTE, OF VIRGINIA
MAURICIO H. PUERTO, OF VIRGINIA
HELAENA W. RATHORE, OF TENNESSEE
NAZIMA H. RAZICK, OF VIRGINIA
KELSEY THOMAS RIDEOUT, OF VIRGINIA
RYAN J. ROBERTS, OF TEXAS
JEFF ROTERING, OF KANSAS
LENORE MARIE SANTONE, OF VIRGINIA
JULIE MICHELLE SCHOHN, OF NORTH CAROLINA
MAHVASH SIDDIQUI, OF CALIFORNIA
DANIEL E. SLAVEN, OF TEXAS
PATRICK T. SLOWINSKI, OF UTAH
ALYSSA SMITH, OF THE DISTRICT OF COLUMBIA
WILLIAM H. STEELE JR., OF FLORIDA
WILLIAM B. STEVENS, OF VIRGINIA
BRIAN K. STIMMLER, OF NEW JERSEY
AMY L. STORROW, OF TEXAS
RACHEL ELIZABETH SUBLER, OF VIRGINIA
KARAN ELIZABETH SWANER, OF VIRGINIA
B. RICHARD SWITZER, OF VIRGINIA
DMITRI TARAKHOVSKY, OF MICHIGAN
SHAWN HARRIS TRIBE, OF CALIFORNIA
KAREN K. TSAI, OF NEW YORK
FRANK F. TU, OF CALIFORNIA
DILLON R. TWOMBLY, OF VIRGINIA
KEVIN D. VAIL, OF VIRGINIA
KEVIN A. VAILLANCOURT, OF VIRGINIA
PERRY M. VENTURINI, OF VIRGINIA
SCOTT LEE WHITMORE, OF MASSACHUSETTS
BRENDAN R. WHITWORTH, OF VIRGINIA
PATRICK C. WILLIAMS III, OF WEST VIRGINIA
MAMIE WILLIS, OF VIRGINIA
WOODS, JODY L., OF VIRGINIA
ELIZABETH L. WOUDENBERG, OF MARYLAND
CARSON H. WU, OF MICHIGAN
BAIMBA M. YILLA, OF VIRGINIA
MICHAEL H. YOUNG, OF CALIFORNIA
ALEXANDER YUAN, OF NEW YORK
JIM ZIX, OF OREGON

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 19, 2004, withdrawing from further Senate consideration the following nomination:

ALBERT CASEY, OF TEXAS, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2009, WHICH WAS SENT TO THE SENATE ON JANUARY 21, 2004.

HOUSE OF REPRESENTATIVES—*Monday, July 19, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. NUNES).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 19, 2004.

I hereby appoint the Honorable DEVIN NUNES to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

IRAQI HANDOVER: GIFT OF INDEPENDENCE

Mr. STEARNS. Mr. Speaker, while we were in our districts late June and early July, celebrating the anniversary of our independence day, we handed over to the citizens of Iraq the gift of their independence, 2 days early no less.

Barely on anyone's radar screen, sovereignty passed from the Coalition Provisional Authority to the new Iraqi provisional government. By most barometers, except for the naysayers of this administration, this was a big success. In the United States, we kept our word of giving the Iraqi people back their country. On Wall Street, in Asia and in Europe, the stock markets rallied. Gas prices continued their slide down: Average gasoline prices tumbled 7 cents a gallon from mid June to mid July, according to the new report from AAA. But to whom was this triumph most important? The free Iraqi people.

As I say, there are naysayers who likely did not celebrate this good news: The radical Islamist world, terrorists, al Qaeda, and a few political partisans. To them, it is not about Iraq, the people, it is about the President they want to see fail.

On what grounds do I say this? Well, on Monday, June 28, CNN heard Wendy Sherman, a former State Department counselor in the Clinton administration, say "I hope we have turned a corner, but obviously I think we need a change in presidents to really change the corner."

The President overthrew a brutal dictatorship, he arrested Saddam Hussein, he has since handed him over to Iraqi courts, restored or built new infrastructure, and set up a provisional government within 1 year following the attacks, and we need a change in the Presidency? Mr. Speaker, if you had to pick a team, would you rather play with those who see victory or those who see defeat?

Now, back to the Iraqi people. A recent poll of 2,200 Iraqi households by an Iraqi firm shows that half of Iraqis interviewed believe Iraq is headed in the right direction; 65 percent think they will be better off; 73 percent believe the handover of authority to the interim government will improve the current situation.

The Iraqi people now enjoy an administrative law system with sovereignty, justice, and rights of free expression, justice, thought, and conscience. That such optimism abounds following decades of tyranny, war, and terror reminds me of a speech by a citizen of a former colony of the British empire at its waning days, spoken at their handover, a citizen who made an impassioned plea for his countrymen to march into the destiny before them and create a land of democracy and freedom. That was August 14, 1947, by the eventual prime minister, Mr. Nehru, when he gave his speech on the granting of Indian independence.

Of course, there are spectacular differences, Mr. Speaker, between the two countries and the situation. India was a colony of another nation, not a sovereign country; whereas, Iraq has been hostage to an internal tyrant of their own blood and nationality. However, the mood of a nation and a people on the cusp of a new day, standing in the sun on their own, with the blessings of the free world, is somewhat transferable.

Mr. Nehru's entire speech is inspiring and lyrical, but there are two particular passages I find applicable to the handover the world is watching now. Nehru begins, "A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. It is fitting that at this solemn moment we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity."

Mr. Speaker, the Iraqis too are the soul of a nation, long suppressed, finding utterance, and I wish them the joys and the blessings of liberty. And I close with this uplifting benediction of Mr. Nehru's. "To the nations and peoples of the world we send greetings and pledge ourselves to cooperate with them in furthering peace, freedom, and democracy."

Nehru admonished his fellow Indians that it would not be enough to work for peace within India's border, or the border with Pakistan, but that to be truly peaceful citizens of the world, Indians must cooperate with their international neighbors in "furthering peace, freedom, and democracy."

I wish and I hope that citizens of Iraq will think this, and think not only of civil rest within their great nation, but the opportunity for the dawning of a new day across the troubled swath of their neighborhood of the world.

LACK OF RULE OF LAW IN RUSSIA

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from California (Mr. LANTOS) is recognized during morning hour debates for 5 minutes.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the topic of my 5-minute speech, and that I may include extraneous material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to my serious concern with the lack of the rule of law in Russia.

Fifteen years ago, all of us watched with great excitement and great optimism as the Communist system came to a resounding close while the Russian people and the government went through an historic transformation. We saw President Boris Yeltsin stand up against tanks in the streets of Moscow, and we watched as Russia moved to embrace Democratic change.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, unfortunately, in the last few years, we have watched as the government of Mr. Putin has slowly but surely pulled back from Democratic change. Freedom of the press has increasingly declined, particularly in the realm of television. Elections have been less open and less Democratic. The rule of law has been proscribed by government regulation. Increasingly, government control has restricted the freedoms that had just begun to blossom in post-Soviet Russia.

Mr. Speaker, the most recent, and in many ways the most dramatic, example of this decline of the rule of law in Russia has been the Russian government's political prosecution and persecution of Mikhail Khodorkovsky, the former chairman of Yuko Oil, one of Russia's largest companies, and the one that had gone the farthest in moving towards transparent western market-oriented business practices. It was the Russian company which had made the greatest progress in corporate transparency. The company was on the verge of an unprecedented business deal with Western oil companies.

The Russian prosecutors, clearly at the demand of the political leadership, initiated a political prosecution of Mr. Khodorkovsky. He was arrested last summer by a mob of armed security forces as his plane landed at a Siberian airfield. Since that time, he has been held in a Russian jail. He has been limited in his contact with his own attorneys, he is not permitted to communicate with the outside world, and he appears in court in a steel cage.

This treatment of an individual who at this point has a tax dispute with the Putin regime violates all principles of due process and the rule of law.

Mr. Speaker, I am calling attention today of our colleagues in the Congress to this decline of civil and human rights in Russia. Together with my distinguished colleague, the gentleman from California (Mr. COX), we have established the Russia Democracy Caucus to work for the development of the rule of law and the consolidation of civil and human rights in Russia.

Mr. Speaker, a number of my colleagues will be submitting their statements joining me in deploring the rollback of freedom and civil rights in Russia during recent years.

Mr. Speaker, last month, on a visit to Moscow, I met with Ambassador Alexander Vershbow and other embassy officials to get an update on the political situation in that country. I also met with legal experts and human rights groups who provided a grim account of the recurring threats to individual and political freedoms that regrettably harkens back to the old Soviet days.

Respect for human rights is the cornerstone of a civilized society. Even the Russian constitution recognizes this fact, as provided in Article 2:

> The individual and the individual's rights and freedoms represent the highest value. It is the duty of the state to recognize, respect, and protect the rights and freedoms of the individual and the citizen.

Our own commitment to human rights as it relates to Russia and other former Communist countries is manifest in the Helsinki Final Act in 1975, in which we effectively utilized the so-called "Basket Three" of that document to publicly hold the Soviet Union accountable for its violations of human rights and civil liberties.

For a brief moment, during President Yeltsin's presidency, we thought indeed there would be freedom and liberty in Russia. It was during this time, the G–8 member nations allowed Russia to participate as an ad-hoc member, so long as it adhered to the principles of Constitutional democracy, rule of law and human rights. My colleague CHRIS COX and Senator JOE BIDEN have spoken out recently about whether Russia, under President Vladimir Putin, deserves a place at the G–8 table and indeed if that country should host the next session in 2006.

I would also remind my colleagues that Resolution H. Con. Res. 336, which enumerates these shortfalls and recommends that Russia be denied participation in G–8 sessions until it demonstrates its worthiness as a Democratic state, recently passed the House International Relations Committee. A similar measure is cosponsored by Senators MCCAIN and LIEBERMAN.

Mr. Speaker, our own State Department has documented what we have learned from a variety of sources concerning the deteriorating situation as it relates to rule of law, freedom of expression, and human rights in Russia. Over the past year, reports from human rights groups, NGOs, the European Union, legal scholars, and wide spread media reporting of conditions in Russia bear out what our own government has reported. On Secretary of State's last trip to Russia, he made it a point to voice his concerns directly to President Putin and publicly expressed them through the limited media outlets that exist in Moscow.

There is much that concerns me about Russia today. In view of the time limitation I cannot address all of them, but I would like to mention a few that I believe deserve urgent attention.

First is the case against Mr. Mikhail Khodorkovsky, chairman of YUKOS Oil Company. This week Mr. Khodorkovsky goes to trail in a court that is hardly known for its integrity or independence. Virtually all of the legal entities and courts outside Russia have ruled against the Russian government, generally finding the cases lack in legal merit and being political in nature. Little wonder Mr. Khodorkovsky is already a condemned man. Hardly anyone inside or outside Russia seriously believes he will receive a fair and just trial.

Since his arbitrary arrest last fall by masked gunmen and detention, Mr. Khodorkovsky has been subjected to numerous violations of his due process rights. The Kremlin has directed the case against him for purposes that are widely seen as political, not criminal. Indeed the case is being held in the notoriously corrupt Basmanny Court, which is controlled by Kremlin and Russia security forces. His corporate and lawyers' offices, foundations, daughter's school have been repeatedly searched without warrant or warning.

The relentless attacks on the YUKOS Company and efforts to cripple the once prominent and Western-oriented company raises questions about the true motives by the authorities involved. It is one thing to bring a case against Mr. Khodorkovsky and other officers in the company, depending on the charges brought against them. But clearly the Kremlin has other motives as well, not the least of which is to bring about a stake takeover or ownership of the once thriving private company.

Mr. Speaker, I draw the attention of my colleagues to Senate Res. 258, which expresses concern about the circumstances surrounding Mr. Khodorkovsky's case, and which has passed the full Senate.

My second concern has to do with state ownership and control of the media in Russia. Under President Boris Yeltsin, privately owned and independently operated media began to take root and for the first time citizens of that country could read and view objectively reported news and even criticism of government officials, even the president himself.

The vanguard of this new era was Mr. Vladimir Gusinky, an entrepreneur who had the genius of a William Randolph Hearst and the resources to build a media empire worthy of any in the West. However, Boris Yeltsin's successor had no tolerance and certainly not the temperament to allow any criticism of him or his politics.

The result, as we have seen in subsequent events, was predictable. An angry Vladimir Putin, utilizing extralegal means, forced a shutdown of Mr. Gusinsky's media outlets, save one—the prominent and popular NTV television station, which was taken over by the state-owned Gazprom and has been under Kremlin influence ever since. Just a few weeks ago, the one newscaster on NTV who dared to lightly criticize government officials was sacked on orders from intelligence agencies inside the Kremlin. Mr. Leonid Parfyonov, a popular host of a Sunday-night political news program and one of the most independent voices in Russia, apparently crossed over the line on the Kremlin-directed censorship.

I was personally well acquainted with Mr. Gusinsky, who today operates a media conglomerate in Israel. Not only did he lose his media businesses in Russia, but he suffered personal hardship and humiliation. President Putin ordered raids by masked gunmen on his business headquarters and the arrest and detention in Moscow's infamous Butyrskaya prison, and eventually forced him into exile. Since then Russian authorities have sought his extradition by way of requests to Interpol, and the courts of Spain and Greece. In every single case, the requests were denied for lacking in legal merit and being political in nature.

Finally, I would like to address the issue of expropriation of property. There is little secret that many of Russia's crown jewels, its natural resources, were acquired by individuals during the privatization that occurred in the early 1990s. Whatever the circumstances and the controversial amounts that were paid for these acquisitions, they were conducted within the laws that existed at the time. Yet there are recurring threats, some outright as in the case of YUKOS and others implied, that the government may renationalize these assets.

This poses several disturbing questions. One, of course, is the overall affect on direct foreign investment in the country. At the moment, Russia's economy is performing well only because of the sizable revenue that is pouring in from the exportation of energy, primarily oil and gas. Foreign investment and Western business cooperation, which is necessary if Russia is to truly develop its industrial and exporting sectors, will be jeopardized if the Kremlin-directed assaults on these enterprises is allowed to continue.

Other questions concern the Russian government's official position with regard to these privatized businesses, most of which are in the resource-based sectors. At the moment, the government policy is, if anything, arbitrary and unpredictable, if not outright threatening to the privatized companies involved. At best, President Putin has sent conflicting messages by making reassuring statements, on the one hand, while authorizing contrary actions on the other.

A case in point is the SPI Group, which acquired production and distribution rights to Russia's most famous vodka trademarks (including Stolichnaya). In 1997, a group of investors, headed by Mr. Yuri Shefler, bought the rights to 43 Russian vodka brands from the original investors who acquired the production and trademark rights during the privatization of this and other resource-based sectors. They assumed a $50 million debt and promptly invested another $20 million, and today it is a well managed and successful business.

SPI Group has registered the trademarks for its vodka brands in more than 150 countries. It has a 10 year distribution deal with Allied Domecq in the United States and equally well established distributors throughout Europe. Yet the Russian authorities, principally Rospatent and the Ministry of Agriculture, have aggressively challenged the SPI Groups rights inside Russia and elsewhere, and while court rulings have been mixed in Russia they have been uniformly in favor, of the SPI Group outside the country. Among the more prominent cases, ruling in favor of the SPI Group, occurred in Germany, a Rotterdam decision affecting the Benelux countries, France, and more recently in Kazakhstan.

Mr. Speaker, what I have recounted here is limited simply because there is no time to go on further. But it underscores the disturbing trends in Russia today.

I have always counted myself as a friend of Russia and have expressed on many occasions my gratitude for the huge sacrifices made by the people of the country to halt the march of Nazism in Europe. It greatly saddens me, therefore, to witness the unraveling of democratic freedoms in that country today. The Russia democracy Caucus, cochaired by CHRISTOPHER COX and myself, is fully committed to helping guide Russia through this period so that it can be counted among the truly great democracies of the world.

Mr. Speaker, in conclusion to this discussion of concerns about the rule of law and related problems, there is an urgent humanitarian issue that I want to bring to your attention. That is the grave medical condition of Mr. Platon Lebedev, a prominent businessman who, along with his partner, Mr. Mikhail Khodorovosky, is in detention under rather inhuman conditions in Moscow. The gravity of Mr. Lebedev's deteriorating health and the absolute neglect of his condition by the Russian authorities demands international outrage and it underscores why I, along with many of our colleagues, have asked for this time on the floor today.

Last week, a dozen of the leading human rights activists in Russia representing major human rights groups issued a statement critical of the treatment by Russian authorities of Platon Lebedev, the head of Group Menatep, the parent company of YUKOS Oil.

Mr. Lebedev has been detained and jailed for nearly a year and has not been allowed to have an independent medical examination or treatment, despite the fact that credible Russian and foreign experts have confirmed that he has severe and life-threatening ailments. In fact Mr. Lebedev was originally taken into custody from a hospital bed and in December 2003 had to have an ambulance take him from a court hearing.

Russian human rights activists point out that the denial of appropriate medical attention violates several articles of Russian law that indicate that detainees may receive medical treatment at medical establishments should this be required by the detainees condition. It is clear that Russia is not only violating universal human rights and the rule of law but their own laws.

Let me read a quote from the recent statement:

> It is out conviction that in order to protect the sacred human rights—the right to live and the right to a fair trial—the court must change the custodial restraint for Platon Lebedev to a format that does not involve prison detention so that an independent medical examination and full-fledged treatment can be provided immediately.

Mr. Speaker, the treatment of Platon Lebedev is clear evidence that the Russian legal system is broken.

Mr. Speaker, I am submitting for the RECORD a series of articles and extraneous material on the lack of the rule of law in Russia. These articles are from the Washington Post, the Wall Street Journal, and the International Herald Tribune.

[From the Washington Post, July 13, 2004]

SAME OLD RUTHLESS RUSSIA

(By Michael R. Caputo)

American journalist Paul Klebnikov was shot to death outside my office building on Friday. At least it used to be my office. I worked with Klebnikov, Forbes magazine's maverick correspondent, several times in the past 10 years, sometimes in Moscow, sometimes in New York. Our paths crossed often through one of Russia's wildest decades.

Eight years after we first met as he covered Boris Yeltsin's 1996 presidential election, his murder brings clarity: Nothing has changed. Brutal criminals still run amok in Russia, operating with impunity and no fear of prosecution.

Klebnikov had high hopes for Russia and was determined to urge democracy along. He grew up in the United Sates, cradled in the close-knot Russian American community; his Russian skills were perfect and his devotion to the culture ran deep. He blossomed in journalism just as the communist bloc crumbled, and his unique understanding of "the story" in the region propelled his career.

As we toured the Russian countryside eight years ago, he talked to peasants waiting in line to vote and grilled me with questions, too. Had I run across billionaire Boris Berezovsky in my work with the Yeltsin administration? I hadn't. Klebnikov had recently been scratching the surface of Berezovsky's brazen get-rich-quick schemes. He was convinced there was much more to the oligarch. He was in town to investigate him as well as to cover the elections.

Berezovsky was one of several superwealthy men who had back doors to Yeltsin's Kremlin. His popularity waxed and waned, but as he amassed wealth he gained unparalleled power. Experienced expatriates in Russia shared an essential rule: Don't cross these brutal billionaires, ever, or you're likely to go home in a box.

Klebnikov knew this well. In Russia the mafia kills every day. He knew Paul Tatum, the Oklahoma entrepreneur who ran afoul of Moscow's mafia and was shot dead just a few hundred yards from a hotel he had founded and had fought against Mayor Yuri Luzhkov to control. After Tatum's murder. Hizzoner promised swift justice. We're still waiting.

Tatum had led a loud life in Moscow. Klebnikov told me he knew Tatum's battle with city "authorities" was never a sound strategy for survival. The Tatum murder shook him, but he was determined to go forward with what grew into a series of articles exposing Russian corruption. After all, he was a reporter, not a businessman.

As a journalist, Klebnikov was the real deal. He was based in New York through the 1990s but had more contacts in Moscow than most reporters on the ground full time.

During his frequent trips to the region he accomplished more meetings before lunch than many of us could pull off in a week.

Klebnikov listened as intently to the griping of a pensioner as he did to the drone of politicians. He was quick to the point, wasted no time, and drove to the center of his story like a tank. Some thought he was bold, others thought him brash, but everyone was reading.

"Godfather of the Kremlin," his December 1996 Forbes cover story on Berezovsky, threw new light on the doings of Russia's oligarchs. The story grew into Klebnikov's first book, with the same title, published in 2001. The exiled industrialist took the magazine to court in London, and eventually Forbes recanted accusations of violence. Those of us who lived in Moscow during Berezovsky's heyday still believe.

His follow-up stories on Russian industrialists were always fair and thorough, but he didn't make many friends in the country. Soon after Vladimir Putin stepped into the presidency, Klebnikov and I met in New York. I told him he needed to watch his back with so much change afoot. He shrugged and said he was uniquely positioned to get to the heart of corruption in Russia. "Who else is going to do it?" he asked. I had no answer.

When Forbes announced Klebnikov would lead its new Russian publications and relocate to Moscow, I immediately feared for his safety. A few months later he was dead. I think about him, sprawled bleeding on the sidewalk, coughing his final words to a reporter colleague who found him dying.

Russia hasn't changed in the past decade and at this trajectory it won't be truly civilized for generations. Those who killed Klebnikov are killing today, plan to kill tomorrow, and know they'll roam free to kill for years to come. Hellbent on getting rich, they have no boundaries. Raised in a communist world devoid of morals, they have no soul.

There is no valid reason why a nation so tolerant—even complicit—in organized crime should stand on par with world leaders in groups such as the World Trade Organization. Putin must stand as the guarantor of media freedom. And the Bush administration must demand results in this murder investigation and require the assassins and their bosses be detected, arrested, tried and punished to the fullest extent of the law.

Or will it let Paul Klebnikov, like Paul Tatum, be just another footnote in Russia's disingenuous flirtation with world-class rule of law? We're waiting.

[From the Wall Street Journal, July 12, 2004]

Lawless Russia

The murder of Forbes Russia Editor-in-Chief Paul Klebnikov on a Moscow street Friday night was the most dramatic display yet of the lawlessness that has Russia in its grip. Prosecutor General Vladimir Ustinov says he has taken "personal control" of the case, a suggestion that the Russian state is finally conscious of its bad image in the world. But under its present leadership, the state is itself an important part of the problem.

The 41-year-old Mr. Klebnikov was a brilliant journalist and student of Russian history. He had written for our pages several times, most recently last November when he argued that the arrest of Russia's richest businessman, Mikhail Khodokovsky, was a blow against the "kleptocracy" that had enriched itself with state assets under Boris Yeltsin's privatization program.

He knew a lot about the subject, having written a controversial 2000 book, "Godfather of the Kremlin," about one of the leading Russian oligarchs, Boris Berezovsky, In the May issue of Forbes Russia, Mr. Kelbnikov broke the news that Moscow has more dollar billionaires than New York City.

The magazine, licensed by Forbes of the U.S. and published by the German Axel Springer organization, published the names of Russia's 100 richest business leaders, giving them the sort of attention many don't welcome. Mr. Klebnikov was not afraid to make powerful enemies in the interest of honest journalism.

In a recent book, "Darkness at Dawn," David Satter, a former Journal Moscow correspondent, wrote that Russia has been taken over by a criminal elite in which gangsters, business and corrupt officials work together. The result is a climate of fear and public cynicism. The collapse of communism, with its history of state-sponsored violence, left a moral vacuum that persists in a different form. Some of the modern thugs got their training with the Soviet secret police.

The Committee to Protect Journalists, which records attacks on journalists throughout the world, cites Russia as a special problem. Attempts to shut up the press have been made by the Federal Security Bureau, formerly the KGB. Russian President Vladimir Putin, who has systematically seized control of Russian TV, retains some of the habits he developed when he himself was a KGB functionary.

Yet Mr. Putin is welcomed to international parleys, such as G–8 meetings, as if he were the leader of a normal country. The murder of Paul Klebnikov demonstrates that Russia is not a normal country. Perhaps it's time for the leaders of free democracies to ask Mr. Putin whether the rule of law exists in Russia.

[From the Washington Post, July 7, 2004]

Russian Government Begins Seizing Yukos Assets

(By Peter Baker and Susan B. Glasser)

Moscow, July 7.—The Russian government moved Wednesday to begin seizing assets of Yukos Oil Co. in the culmination of a politically charged tax battle that could either bankrupt or break up the country's largest oil producer.

Court marshals accompanied by special police forces raided the company's registry office in Moscow at the end of the business day to search for ownership documents for various Yukos properties. The marshals were enforcing last week's court judgment giving Yukos a Wednesday deadline to pay a $3.4 billion back tax bill.

Yukos said this week that it had no more than $1.4 billion in cash and could not pay the full charge in time without an installment plan. Yukos reportedly offered to turn over some or all of the controlling stake owned by the company's imprisoned chief shareholder, Mikhail Khodorkovsky, and his partners, but all attempts at negotiations appeared to have failed so far.

"The debtor was given a five-day deadline for voluntary execution, after which the court bailiffs service of the city of Moscow began to enforce the court decision," the Russian Justice Ministry said in a statement carried by the Interfax news service after the raid began.

The ministry statement immediately threatened a new criminal investigation and obstruction charges against officials at Yukos' registry for allegedly trying to avoid cooperating with the marshals who arrived at their building.

Authorities can seize the company's assets and either keep them to satisfy the tax debt or sell them off. But it is possible they were not able to find the right documents at the office of the registry, a firm called Reyester-M. Yukos said registry documents of its subsidiaries in Siberia and along the Volga River were transferred last week after the court ruling, apparently to those regions.

The confrontation stems from a year-long power struggle between Khodorkovsky and President Vladimir Putin. Khodorkovsky is a brash former communist youth league leader who bought Yukos at bargain-basement price during the privatization auctions of state property during the 1990s. He built the company into a major international player and himself into Russia's richest man.

But he angered some in the Kremlin with his outspoken political activities and soon found himself and his company under legal threat. Khodorkovsky was arrested at gunpoint last October and remains in prison awaiting trial on fraud and tax evasion charges, while the federal tax service has hit Yukos with two tax bills from 2000 and 2001 adding up to nearly $7 billion. The country's chief prosecutor said Tuesday that more bills from 2002 and 2003 were still to come.

The situation endangers a company that pumps more oil than Libya and accounts for one-fifth of foreign petroleum sales by Russia, the world's second-largest oil exporter. The latest figures published by brokerage houses Monday showed that Yukos produces 1.7 million barrels a day, surpassing its own records and every other Russian oil company.

Bruce Misamore, the company's chief financial officer, said Tuesday that production had not been disrupted yet and that the company has prepaid transport and other fees to keep shipping oil until at least the third week in July. The bank accounts frozen so far have just $20 million in them, he said. Misamore met Tuesday with representatives of Western banks that declared Yukos in default on a $1 billion loan and they have not demanded payment yet.

Misamore said the government abruptly halted secret settlement discussions last week and has not been willing to compromise. "We're just trying to make our best efforts to reach a resolution to the situation," Misamore told a conference call with investors. "But first they've got to talk to us."

The Financial Times reported that Yukos sent a fresh proposal to the government Tuesday, offering some or all of Khodorkovsky's shares in exchange for a three-year payment plan. Prime Minister Mikhail Fradkov's office denied receiving any written proposal, and a Yukos spokesman said it sent no letter, however, he would not say whether the idea was floated in some other form.

Prosecutor General Vladimir Ustinov, who imprisoned Khodorkovsky, expressed little sympathy for what he sarcastically called "poor Yukos" and doused hopes for a deal. "This is like a snowball," he said on Echo Moskvy radio Tuesday. "This case has a beginning, but it's very difficult to see its end."

He asserted that the company should have no trouble paying the tax bills even though the government obtained a court order freezing its assets. "The profits that Yukos made could easily pay the company's debts," he said.

The case drew international criticism this week for the politicization of Russian business and courts. "The so-called 'Yukos case' reflects these problems," the Paris-based Organization for Economic Cooperation and Development, said in its annual report on Russia, released Wednesday. "Whether the charges against the company and its core shareholders are true or not, it is clearly a case of highly selective law enforcement."

A senior U.S. diplomat said Tuesday that the case is "raising fundamental questions in the minds of many investors." There are "increasing signs that destruction of the company is the intended endpoint," he said. "At a minimum," he added, it's "an extraordinary game of brinkmanship" akin to a game of chicken with two cars racing toward a cliff and "they're getting very close."

In his analysis, the diplomat said, it appears likely that a "sizable percentage of the company's assets [will] move into the hands of the state."

[From the Herald Tribune, June 15, 2004]

Russia on Trial

The Russian government's fraud and tax evasion case against two billionaires, Mikhail Khodorkovsky and Platon Lebedev, opens Wednesday in a Moscow court. The trial has already attracted enormous attention; the extraordinary fortunes of the two defendants, and the parallel struggle for survival of the oil company that made them rich, Yukos, has turned this case into a microcosm of the struggles that are shaping the new Russia. Much depends on the outcome, not least how investors will look at Russia in the future. In effect, it is Russia and the rule of law that go on trial.

Khodorkovsky, to be sure, is not the model, philanthropic businessman his supporters make of him. Like all the other so-called oligarchs, he made his billions in the dirty plunder of Russia's riches in the chaotic aftermath of the Soviet Union's disintegration. But neither is President Vladimir

Putin the champion of civic virtue he would have us see. If tax evasion were the real issue, every oligarch, and most every Russian, would be in the dock. And even if Putin needed to pillory a couple of oligarchs to set an example, there are far more unsavory examples to go after. Khodorkovsky at least turned Yukos into a globally admired, relatively transparent business.

To all appearances, Putin is leaning on the judiciary to settle scores with tycoons who dared show an interest in politics. In this regard, Khodorkovsky, who has contributed generously to reform-minded parties, is only Putin's latest target, following in the footsteps of Boris Berezovsky and Vladimir Gusinsky, two Russian tycoons now residing in exile.

Equally ominous, in pushing Yukos to the brink in a parallel tax-avoidance case, Moscow has raised fears that it is trying to bring Russia's natural resources back under direct state control. Last Friday, the government was able to remove a judge from the case who seemed open-minded in considering an appeal by Yukos.

We do not argue that all oligarchs should go scot-free. No state can tolerate enterprises operating above the law. But at play here is a different danger, of a state capriciously and selectively applying laws to suit its political interests.

Russia's judiciary faces an unenviable challenge in tempering excess prosecutorial zeal, without endorsing blanket immunity for past misdeeds. In the end, the critical question is not whether the court finds the two men guilty or not, but whether it succeeds in demonstrating that it has delivered justice. Russia's courts have shown themselves sadly subservient to the government so far. Most Russians expect that they will continue down this familiar road, rubber-stamping the government's charges until Khodorkovsky and Lebedev are found guilty.

For the sake of Russian democracy, the judiciary needs to declare its independence. Courts in such high-profile cases can do so in the way they handle the objections and arguments of the defense, in the way they rule on the crude methods of the investigators and in the way they separate the political demands of the Kremlin from the legal facts of the case. Given Russia's past, few things could be more corrosive to democracy than a show trial.

The Russian government's fraud and tax evasion case against two billionaires, Mikhail Khodorkovsky and Platon Lebedev, opens Wednesday in a Moscow court. The trail has already attracted enormous attention; the extraordinary fortunes of the two defendants, and the parallel struggle for survival of the oil company that made them rich, Yukos, has turned this case into a microcosm of the struggles that are shaping the new Russia. Much depends on the outcome, not least how investors will look at Russia in the future. In effect, it is Russia and the rule of law that go on trial.

Khodorkovsky, to be sure, is not the model, philanthropic businessman his supporters make of him. Like all the other so-called oligarchs, he made his billions in the dirty plunder of Russia's riches in the chaotic aftermath of the Soviet Union's disintegration. But neither is President Vladimir Putin the champion of civic virtue he would have us see. If tax evasion were the real issue, every oligarch, and most every Russian, would be in the dock. An even if Putin needed to pillory a couple of oligarchs to set an example, there are far more unsavory examples to go after. Khodorkovsky at least turned Yukos into a globally admired, relatively transparent business.

To all appearances, Putin is leaning on the judiciary to settle scores with tycoons who dared show an interest in politics. In this regard, Khodorkovsky, who has contributed generously to reform-minded parties, is only Putin's latest target, following in the footsteps of Boris Berezovsky and Vladimir Gusinsky, two Russian tycoons now residing in exile.

Equally ominous, in pushing Yukos to the brink in a parallel tax-avoidance case, Moscow has raised fears that it is trying to bring Russia's natural resources back under direct state control. Last Friday, the government was able to remove a judge from the case who seemed open-minded in considering an appeal by Yukos.

We do not argue that all oligarchs should go scot-free. No state can tolerate enterprises operating above the law. But at play here is a different danger, of a state capriciously and selectively applying laws to suit its political interests.

Russia's judiciary faces an unenviable challenge in tempering excess prosecutorial zeal, without endorsing blanket immunity for past misdeeds. In the end, the critical question is not whether the court finds the two men guilty or not, but whether it succeeds in demonstrating that it has delivered justice. Russia's courts have shown themselves sadly subservient to the government so far. Most Russians expect that they will continue down this familiar road, rubber-stamping the government's charges until Khodorkovsky and Lebedev are found guilty.

For the sake of Russian democracy, the judiciary needs to declare its independence. Courts in such high-profile cases can do so in the way they handle the objections and arguments of the defense, in the way they rule on the crude methods of the investigators and in the way they separate the political demands of the Kremlin from the legal facts of the case. Given Russia's past, few things could be more corrosive to democracy than a show trial. The Russian government's fraud and tax evasion case against two billionaires, Mikhail Khodorkovsky and Platon Lebedev, opens Wednesday in a Moscow court. The trial has already attracted enormous attention; the extraordinary fortunes of the two defendants, and the parallel struggle for survival of the oil company that made them rich, Yukos, has turned this case into a microcosm of the struggles that are shaping the new Russia. Much depends on the outcome, not least how investors will look at Russia in the future. In effect, it is Russia and the rule of law that go on trial.

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Mr. CHANDLER. Mr. Speaker, last March, I had the opportunity to meet with human rights groups, legal experts, media representatives, and others concerning the situation on the ground in Russia. I learned firsthand that Russia is enduring a difficult transition to what hopefully will become a modern, fully democratic nation. While there have been many positive developments in Russian society over the past decade, particularly with regard to the freedoms that average Russian citizens now enjoy, there are disturbing signs that Russia under President Vladimir Putin may be slipping back to its old authoritarian ways.

My primary concern is with the rule of law. Prior to coming to Congress, I served for eight years as the Attorney General of Kentucky. I understand that there are inherent principles in any constitutional democracy, chief among them the rule of law. Recent events have called into question Russia's unequivocal commitment to a transparent judicial system, defendants' rights, and the presumption of innocence within the Russian legal system.

As we speak, there is a major trial taking place in Moscow. It concerns the controversial arrest and detention of prominent Russian businessman Mikhail Khodorkovsky. The case of Mr. Khodorkovsky has raised concerns from legal experts, human rights groups, and the media that his trial may have more to do with his opposition to President Putin's policies rather than the crimes for which he is accused.

The most disturbing element of Mr. Khodorkovsky's trial is that it may signify a reassertion of state influence over Russia's private sector economy. Such a move by the Russian government, I fear, would raise questions about the state of property rights in Russia, discourage foreign investment, and slow progress towards Russia's full integration into the global economy.

Mr. Speaker, the U.S. must continue to deliver the message that adherence to the rule of law and support for political and economic freedom is essential to developing successful free-market economies and prosperity. As I mentioned earlier, Russia is truly at a crossroads in its history. I urge my colleagues to work with me to convince Russia to choose the path of transparency, adherence to the rule of law, and a commitment to the security of private investment.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the distinguished gentleman from California for requesting this time to discuss rule of law in Russia. Not only is this an issue of great importance to the citizens of Russia but

U.S.-Russia relations are affected by the regard given to this critical component of democratic and civil society.

I have the privilege of serving as chairman of the Commission on Security and Cooperation in Europe, commonly known as the "Helsinki Commission," an independent agency of the United States Government charged with monitoring and encouraging compliance with the Helsinki Final Act of 1975 and subsequent documents of the Organization on Security and Cooperation in Europe. The fate of rule of law in Russia, an OSCE member, will determine to a great degree the future of the Russian state and its role in the world community.

With the collapse of the Soviet Union in 1991, Russia moved from an authoritarian police state under communist rule to a sovereign nation with democratically elected leadership and many of the civil liberties that we in this country take for granted. We were encouraged by those positive and historic steps. On paper at least, there have been significant reforms designed to bring the Russian political and legal system into conformity with the accepted norms and practices of the United Nations, the OSCE, the Council of Europe, etc.

In recent years, though, the Putin government has undermined these reforms. In its Nations in Transit 2004 report, Freedom House sums it up: "Russia is backsliding in key areas of democratic governance and rule of law."

Two months ago, on May 20th, the Hensinki Commission held hearings on the issue of human rights in President Putin's Russia. One of our distinguished witnesses, Mr. Gary Kasparov, chairman of the Free Choice 2008 Committee in Russia and world-famous chess champion, spoke with passion about restrictions on freedom of speech in the electronic media, a process that we see continuing today.

In the area of rule of law per se, we are also seeing some disturbing moves against individuals who have apparently offended the powers-that-be in the Kremlin or the intelligence apparat.

The first case is that of industrialist Mikhail Khodorkovsky, former head of the Yukos Oil Company. Mr. Khodorkovsky's arrest on charges of fraud and tax evasion has received a lot of publicity. I don't claim to know whether Khodorkovsky is guilty or innocent, but this appears to be very much a case of selective justice. His real crime seems to have been, as David Satter wrote in the Wall Street Journal last week, that he "had demonstrated independence, and, by financing opposition political parties, had contributed to political pluralism."

Will Khodorkovsky get a fair trial? Let me jut quote from a report by the Organisation for Economic Cooperation and Development: "The courts are often subservient to the executive, while the security services, the prosecutors and the police remain highly politicized . . . the so-called 'Yukos case' reflects these problems." As if to confirm the OECD assessment, officials at the Matrosskaya Tishina prison confiscated documents from one of his lawyers after she met with her client.

Another case is that of Dr. Igor Sutyagin, a Russian scientist who was sentenced to 15 years of labor camp for espionage, i.e., passing military secrets to British intelligence agents. Sutyagin never denied that he had worked with foreign scholars or that he shared previously published material with them. Indeed, Federal Security Service (FSB) agents never found evidence of any classified documents in his possession, and he had neither security clearance nor access to classified material. However, the FSB and the court came to the conclusion that Sutyagin's research was so accurate that he must have used classified documents to draw his conclusions. Think of it: one may be imprisoned for espionage for being too competent an analyst in military-security issues.

Deputy Assistant Secretary Steven Pifer of the State Department has testified before the Commission that "most observers agree that [Sutyagin] had no access to classified information and consider the severe sentence an effort to discourage information-sharing by Russians with professional colleagues from other countries."

The final case I would mention in this brief presentation is that of Mikhail Trepashkin, an attorney and former FSB officer who was arrested on October 24, 2003, a week before he was scheduled to represent relatives of a victim who perished in an apartment explosion at a trial in Moscow. At the trial, Trepashkin was expected to present the findings of his investigation which implicated the FSB in the 1999 apartment bombing in Moscow and the aborted attempted bombing of Ryazan.

A week before the trial opened, the police just happened to pull Trepashkin over on the highway, and just happened to find a revolver in his car. Trepashkin claims the gun was planted, a venerable KGB tactic. Three weeks later, he was put on trial and sentenced to four years labor camp for allegedly divulging state secrets to a foreign journalist.

I don't know all the details of this case, but it has the whiff of the proverbial mackeral by moonlight. It is very possible that Trepashkin was arrested in order to prevent him from releasing potentially damaging information regarding the activities of the FSB.

These are just few examples of the challenges to rule of law and human rights that Russia is now experiencing under President Putin. Let us hope that he will soon realize that the way to a genuinely stable and prosperous society is paved with rule off law and civil society, not the high price of crude oil.

Mr. DOGGETT. Mr. Speaker, the Khodorkovsky/Lebedev trial resumed on Monday last week before a three judge panel in Moscow. Since the last hearing three weeks ago, the physical appearance of the court was much improved: the courtroom had been air conditioned and the halls outside had been refurbished and painted.

Appearances are important, but substance is critical.

Respect for the rule of law in Russia is essential for the same reason it is essential in every democratic society—citizens, the press, and the business community must have confidence that the legal system affords them protection of their rights and that everyone is treated equally under that law.

In Russia there is a pattern of troubling signs that the rule of law and a free press are threatened. I know a number of my House colleagues share these concerns. Members of the Congressional Human Rights Caucus, the Helsinki Commission, and the Russia Democracy Caucus are just some of those who have expressed their misgivings.

One high profile example of concern is the seizure of the assets of Russia's largest oil company, YUKOS, and the trial of two of YUKOS's largest stockholders, Mikhail Khodorkovsky and Platon Lebedev.

Many Russian and Western observers view the Russian Government seizure of the assets of YUKOS as a result of political motivations.

Here are just a few recent statements on these events:

On July 7, the Washington Post quoted a senior level U.S. diplomat as saying "there are increasing signs that destruction of the company is the intended endpoint," and that it appears likely that a "sizeable percentage of the company's assets will move into the hands of the state."

On July 7, the Organization for Economic Cooperation and Development (OECD) called the YUKOS affair "a case of highly selective law enforcement" and a case that reveals how "the courts are often subservient to the executive, while the security services, prosecutors and police remain highly politicized."

What is now occurring in Russia has significant human, political, and economic consequences. Justice, freedom, and human rights are all directly tied to the rule of law, open and accountable government, and a free press, which are increasingly absent in Russia.

There are several disturbing trends that demonstrate problems with the rule of law in Russia.

The general prosecutor and courts cannot be merely an extension of the political will and agenda of the Kremlin. In his visit to Moscow earlier this year, Secretary of State Colin Powell was unambiguous in his concern over the rule of law in Russia, saying "Russia's democratic system seems not yet to have found the essential balance among the executive, legislative and judicial branches of government. Political power is not yet fully tethered to the law."

Furthermore, the selective and arbitrary use of judiciary power by the Kremlin undermines the rule of law.

Mikhail Khodorkovsky, as many observers have noted, shows how a businessman has been singled out for prosecution because his political activities are not appreciated.

Journalist German Galkin was thrown into jail and prosecuted for revealing the corrupt behavior of local government officials. His appeal was denied and he was only freed under the weight of international pressure.

Aleksandr Nikitin is a former submarine officer and nuclear safety inspector who was pursued relentlessly through the courts by the Russian security service in retaliation for his outspokenness about radioactive contamination by the Russian military. These rulings bear out what prominent legal experts have been saying about the flawed legal system in Russia.

More recent events in Russia threaten a free press, an essential element of any strong democracy.

We do not know who murdered Paul Klebnikov, the editor in chief of Forbes Russia, who was writing the truth about Russia's dark underside, but the government must insist on a thorough, open, and full investigation of his killers. As one observer noted in the New York Times, "Twenty journalists have now been assassinated in Russia for their work; 14 since Mr. Putin became president. Not one of the murders has been solved."

A crackdown of media freedom has resulted in all major TV networks under state control. The last independent TV station disappeared last summer. TV is the number one way Russians get their news.

If Russia continues down this path, she will never fully become the peaceful and democratic nation that the Russian people and the international community desire. It is essential that Russia undertake a sincere effort to reform its judicial system and establish the highest degree of credibility for the rule of law and free press, which are essential for a prosperous and peaceful Russia.

Mr. WOLF. Mr. Speaker, as co-chair of the Congressional Human Rights Caucus I continue to be concerned that Russia has significant problems in honoring the universal human rights standards that are widely accepted in many parts of the world. Russia aspires to be a leading force on the world economic and political scene, but it is failing to respect some of the fundamental and universal principles of the rule of law, human rights and freedom of speech and expression.

I am concerned about freedom of expression in Russia, given the fact that the Russian government's commitment to independent and free media, freedom of assembly, and religious freedom appear to be wavering. In fact, Russia's last major non-state television station was eliminated in 2003 as a result of government pressure. This is a disturbing trend which is in stark contrast to the value placed on freedom of speech by other democracies around the world.

Earlier this year the State Department released its annual Country Reports on Human Rights Practices, which included documentation of many abuses. Serious violations of basic human rights in Chechnya were highlighted including unlawful killings, abuse of civilians and Chechen fighters and politically motivated disappearances. The report also mentioned that the December 7, 2003, Duma elections failed to meet international standards. Factors undermining party competition included criminal charges and threats of arrest or actual arrest against major financial supporters of opposition parties and the seizure of party materials from opposition parties.

I remain concerned that Russia is named in the State Department's annual report on trafficking in persons as a tier two country and this year was placed on the tier two "special watch list." Trafficking in persons is an evil that must be directly confronted and ended. Countries that fall under the special watch list have high numbers of trafficking victims and fail to provide evidence of increasing efforts to combat severe forms of trafficking from the previous year. Russia is named as the largest source country in Europe for trafficking and is a significantly large transit country. It is my hope that the Russian government will acknowledge the extent of its trafficking problem and play a more active role in ending trafficking in the region.

I also am concerned that Russia still does not fully accept or encourage religious freedom. The 2004 annual report on religious freedom by the United States Commission on International Religious Freedom states about Russia:

"A federal law on religious organizations enacted in 1997 contains provisions that have prevented some religious groups from registering and thus practicing freely. Regional governments have often passed ordinances that result in discrimination against minority religious groups, and acts of violence against members of religious minorities are widespread.

"In the past few years, however, trends have emerged that have raised serious questions about Russia's commitment to democratic reform and protection of religious freedom. Russian authorities have denied registration efforts of certain religious communities, based on the allegedly insufficient time they have existed, despite a February 2002 Russian Constitutional Court decision that found that an active religious organization registered before the 1997 law could not be deprived of its legal status for failing to re-register. The government has meddled in the internal affairs of religious communities, including the Jewish and orthodox Old Believer communities."

The U.S. Congress must speak out about human rights abuses around the world. It is my hope that Russia will begin to encourage religious freedom, crack down on trafficking in persons and comply with international standards on human rights.

I would like to submit for the RECORD an article from The Wall Street Journal, highlighting the concern for the lack of rule of law in Russia.

[From the Wall Street Journal, July 12, 2004]

LAWLESS RUSSIA

The murder of Forbes Russian Editor-in-Chief Paul Klebnikov on a Moscow street Friday night was the most dramatic display yet of the lawlessness that has Russia in its grip. Prosecutor General Vladimir Ustinov says he has taken "personal control" of the case, a suggestion that the Russian state is finally conscious of its bad image in the world. But under its present leadership, the state is itself an important part of the problem.

The 41-year-old Mr. Klebnikov was a brilliant journalist and student of Russian history. He had written for our pages several times, most recently last November when he argued that the arrest of Russia's richest businessman, Mikhail Khodorkovsky, was a blow against the "kleptocracy" that had enriched itself with state assets under Boris Yeltsin's privatization program.

He knew a lot about the subject, having written a controversial 2000 book, "Godfather of the Kremlin," about one of the leading Russian oligarchs, Boris Berezovsky. In the May issue of Forbes Russia, Mr. Klebnikov broke the news that Moscow has more dollar billionaires than New York City.

The magazine, licensed by Forbes of the U.S. and published by the German Axel Springer organization, published the names of Russia's 100 richest business leaders, giving them the sort of attention many don't welcome. Mr. Klebnikov was not afraid to make powerful enemies in the interest of honest journalism.

In a recent book, "Darkness at Dawn," David Satter, a former Journal Moscow correspondent, wrote that Russia has been taken over by a criminal elite in which gangsters, businesses and corrupt officials work together. The result is a climate of fear and public cynicism. The collapse of communism, with its history of state-sponsored violence, left a moral vacuum that persists in a different form. Some of the modern thugs got their training with the Soviet secret police.

The Committee to Protect Journalists, which records attacks on journalists throughout the world, cites Russia as a special problem. Attempts to shut up the press have been made by the Federal Security Bureau, formerly the KGB. Russian President Vladimir Putin, who has systematically seized control of Russian TV, retains some of the habits he developed when he himself was a KGB functionary.

Yet Mr. Putin is welcomed to international parleys, such as G–8 meetings, as if he were the leader of a normal country. The murder of Paul Klebnikov demonstrates that Russia is not a normal country. Perhaps it's time for the leaders of free democracies to ask Mr. Putin whether the rule of law exists in Russia.

Mr. INSLEE. Mr. Speaker, I would like to share with my colleagues information that raises serious concerns about the development of a free-market system in Russia. Many of my constituents who develop products such as software and biological drugs rely on the enforcement of strong intellectual property rights laws and copyright protection, and therefore have an interest in ensuring that countries such as Russia maintain fair and enforceable laws in this regard. For this reason, there is cause for concern regarding the Russian government placing significant pressure on SPI, the company that produces the Stolichnaya beverage, in an effort to reclaim the intellectual property rights of its brands. Stolichnaya, nicknamed Stoli to many Americans, is one of many brands of production the Russian government is attempting to reclaim from SPI in the wake of the privatization of other beverage companies in the 1990's.

I am concerned about the implications of such actions on international global property rights, Russia's potential WTO and G–8 membership, and the direction of Russian Democracy and rule of law. This case is emblematic of a general situation and is part of a pattern of disrespect for the rule of law that has unnerved foreign investors who are concerned about long-term economic, legal and political stability of Russia. If we are to hope to crack down on the copyright infringements on software produced in the Puget Sound, I believe that proper enforcement of this issue is an important step.

I would like to offer my colleagues some background on SPI and its issues.

SPI is a Dutch-based company that owns the trademark rights to a large number of beverage brands including Russia's most famous brands, Stolichnaya and Moscovskaya as well as Russkaya and Limonnaya. It is my understanding that the SPI Group acquired the rights for these trademarks by means of buying out the minority shareholders of a Russian company, which owned the above-mentioned trademarks worldwide and was privatized between 1990–1992. It also assumed a $50 million debt that was inherited by the previous owner from its state-owned predecessor. SPI has since invested another $100 million to develop into a successful international competitor.

The SPI Group has registered the trademarks for the 43 brands in more than 150 countries. It has a 10-year distribution deal with Allied Domecq in the U.S. as well as a distribution deal with First Drinks in the UK and Bacardi in Greece. Last year, SPI recorded sales of $680 million. This success, however, has merely brought the company to the forefront of the debate over who owns these trademarks.

It is also my understanding that from 2000 onwards, certain entities within the Russian State have started various actions against SPI to obtain its trademark registrations.

In late 2001, in a case brought by the Russian State Trademark Organization, the Russian courts ruled that the original privatization of the company that owned the brand before SPI was invalid (on a technicality) and returned the rights for 17 brands controlled (now) by the SPI Group to the Russian Ministry of Agriculture.

Since then, SPI, while producing the product in Russia, has been forced to move its bottling plant to Riga in Latvia, after the Russian authorities seized and blocked its exports from the Russian port of Kaliningrad. Various heated legal battles have been fought in a number of Russian and foreign courts as SPI continues to sell Stolichnaya internationally. In Russia, a company resurrected by the Government markets its own Stolichnaya brand after confiscating back the trademark there.

On 4 March 2002, the Leninsk-Kuznetskiy City Court seemingly resolved the dispute by ruling that the Ministry of Agriculture had illegally registered 17 trademarks belonging to SPI, including the Stolichnaya trademark, and ordered that SPI be reinstated as the registered trademark owner.

However, Russian authorities ignored the Leninsk-Kuznetskiy City Court's ruling and employed intimidation and police-state tactics to grab the company's assets and trademark rights for its own purposes. Some examples of these tactics include:

The Government's Federal Security Service, in a letter dated March 5, 2002, ordering Kaliningrad Customs to prohibit bulk export of Stolichnaya produced by SPI in Kaliningrad.

The confiscation of more than 150,000 cases of SPI products seized in Kaliningrad along with related packaging material.

The filing of criminal charges levied against Audrey Skurikhin, president of SPI Spirits-Russia, and its Kaliningrad facility.

As a result of these events, it is my understanding that the Ministry of Agriculture currently produces these products in Russia with virtually identical labeling and uses libel and intimidation to force distributors and customers to stop doing business with SPI. In addition, the Russian Patent Agency gave the rights for the re-nationalized trademarks to the newly incorporated company of the Russian Ministry for Agriculture.

International courts have ruled in favor of SPI. Court rulings in October 2002 in Hamburg, Germany and May 2003 in Rotterdam, Netherlands, rejected the lawsuits brought against SPI, substantiating SPI's claims.

Mr. Speaker, in conclusion, the SPI case is about something larger and more fundamental for Russia and its relationship with the United States and other nations of the world—adherence to the rule of law and political, social and economic freedom. SPI is an example of the need to uphold the rule of law and ensure a better business environment for Russian business. A stable and democratic Russia, based on a rule of law, is critical to U.S. interests; not only for U.S. firms interested in doing business there, but also for the overall, long-term U.S.-Russia relationship. Many of my constituents depend on adherence to the rule of law and copyright protections to ensure that their products, particularly software and biotechnology, are not stolen. We should not let this SPI case set precedence or be a harbinger for software and other U.S. industries.

THE WORLD MUST ACT

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Virginia (Mr. WOLF) is recognized during morning hour debates for 5 minutes.

Mr. WOLF. Mr. Speaker, after visiting Darfur, Sudan, and seeing firsthand the horrific conditions and oppression, and I have here a picture of a camp that was burned down by the Janjaweed, but having seen the horrific conditions and oppression, and having talked to eyewitnesses, I believe genocide is taking place in Darfur.

The United States and others around the world said never again after the genocide in Rwanda. So now I call on the United States, the United Nations, and world leaders to call it what it is, genocide, and to take action before more die. We have the ability to prevent further deaths and to stop genocide in its tracks. Our actions should follow our words.

Amnesty International just released a new report. It documents hundreds of cases of women who have been raped in Darfur. To highlight one story, I quote:

"I was sleeping when the attack on Disa started. I was taken away by the attackers, they were all in uniform. They took dozens of other girls and made us walk for 3 hours. During the day, we were beaten. And they kept telling us, 'You, the black women, we will exterminate you, you have no God.' At night, we were raped several times. We were not given food for 3 days."

This story echoes the stories of rape that I heard when I was in Darfur. We were given a letter by 44 women who were raped. The translation is heartbreaking.

It said, and this was to Senator BROWNBACK and myself, "We are 44 raped women. As a result of that savagery, some of us became pregnant, some have aborted, some took out their wombs and some are still receiving medical treatment. Hereunder, we list the names of the raped women and state that we have high hopes in you and the international community to stand by us and not forsake us to this tyrannical, brutal, and racist regime, which wants to eliminate us racially, bearing in mind that 90 percent of our sisters at this village are widows."

Women are systematically raped on a massive scale. These are crimes against humanity. The overall situation constitutes genocide.

Despite promises to rein in the militia, the violence continues to escalate. Over the weekend, U.N. humanitarian agencies reported that local authorities and militia continued to loot convoys and gang rape women.

The United Nations Convention on the Prevention and Punishment on the Crime of Genocide describes genocide as acts committed with the intent to destroy, in whole or in part, national, ethnic, racial or religious groups. Specifically cited is:

Number one. Killing members of the group.

Thousands of black Africans have been killed. There are reports of mass graves.

Number two. Causing serious bodily or mental harm to members of the group.

One woman told us that the Janjaweed told her that she was being raped to create "lighter-skinned babies."

Number three. Deliberately inflicting on the group conditions of life calculated to bring about physical destruction in whole or in part.

It is clear that the eradication of the Darfurian African population will occur if people do not return to their homes.

Number four. Forcefully transferring children of the group to another group.

There are constant stories of the abduction of children.

No matter what we call it, Mr. Speaker, genocide, ethnic cleansing, crimes against humanity, people are dying on a massive scale, and that is not acceptable. What matters now is action.

The international community has a moral and a legal obligation to stop what is occurring, and those responsible must be brought to justice. The United Nations Security Council needs to take immediate action to end this crisis.

In closing, Mr. Speaker, a large peacekeeping force made up of troops in the African union is now needed to allow the Darfurians to return to their homes and to verify that the government of Sudan is disarming the rebels. We must remember that the government of Sudan armed the rebels. We need independent monitors to ensure that they are disarmed. We need monitors and forensic experts on the ground to preserve the evidence for a future war crimes trial.

Mr. Speaker, in closing, two points: Every day that we delay and hesitate, more people die. The United States must speak out loudly. We must not shy from calling it what it is: Genocide.

THE G-8 NATIONS MUST END HUNGER AND SUPPORT EDUCATION FOR ALL

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Massachusetts (Mr. McGOVERN) is recognized during morning hour debates for 5 minutes.

Mr. McGOVERN. Mr. Speaker, on June 7, I had the pleasure of participating in a press conference in Savannah, Georgia, to call upon the leaders of the G-8 nations to get serious and to work to end child hunger and support education for all.

The press conference was organized by NetAid and supported by the Basic Education Coalition. David Morrison, the President of NetAid, and Eveline Herfkens, the executive coordinator of the U.N. Secretary general's Millennium Project, joined me at the podium. I was especially impressed by the efforts of the children of Savannah, who, with the support of NetAid, have launched a campaign to raise awareness and funds so that children around the world can have a chance to go to school.

Mr. Speaker, I have always believed that central to the American Dream has been the desire by parents to make sure that their children receive a better education and get a chance at having a better life than they did. This was true when our country was founded, and it is still true today. So it is fitting that the United States should lead the world in achieving universal basic education for the world's children.

Around the time of World War II, the United States discovered another important key to good education: Food. Many of the soldiers volunteering for the military, who we now refer to as the greatest generation, had problems associated with poor nutrition or hunger. Ultimately, this discovery led to the U.S. establishing a full-fledged universal school lunch program, and today many of our schools also offer breakfast to those in need.

The combination of global basic education and school feeding programs contributes not only to achieving the Millennium Development Goal of universal primary education by the year 2015, but also to the Goal to cut hunger in half. But it is not going to happen unless donor nations make a significantly greater commitment of funds and resources.

Right now, wealthy nations commit an estimated $1.4 billion to basic education. For fiscal year 2004, Congress appropriated $326.5 million in foreign aid for basic education and another $37 million provided through the Department of Labor to combat child labor. Sadly, only $125 million was made available for global school feeding programs through all USAID and Department of Agriculture programs combined.

At this rate, the world will not be able to achieve universal primary education for another 150 years, or end child hunger for another century. So what should we do?

The G-8 leaders need to do much more than issue glowing statements in support of universal education. Photo-ops and juggling the books will not build schools or put more teachers and materials in the classroom or provide meals to students too hungry to learn. Only new money, new resources, and, most important, the political will to turn promises into reality can do that.

Developing countries need an additional $5.6 billion to ensure that every child can go to primary school. For the U.S. to exercise genuine leadership, President Bush should make a firm commitment that the United States will provide at least $1 billion by fiscal year 2006 for basic education, and a minimum of $300 million for U.S. funded international school feeding programs. The other G-8 nations should make similar commitments and fulfill them.

I am pleased to note that the fiscal year 2005 foreign aid bill that we passed last week includes $400 million for basic education programs, and today we will vote on a resolution in support of global school feeding programs.

Our world will not achieve economic prosperity or social and political stability as long as children cannot go to school and continue to die from hunger. And we can only win the war against intolerance and terrorism when the children of the world are no longer hungry and illiterate, and their parents, families, and communities have hope for a better future.

On Sea Island, Georgia, the leaders of the world issued another set of glowing proclamations about how to create the better future. We now must wait and see if they have the political will to put their money on the table and make it happen.

A GREAT NATIONAL DEBATE AND OPEN GLOBAL DIALOGUE WILL WIN WAR ON TERRORISM

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Washington (Mr. McDERMOTT) is recognized during morning hour debates for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, we know the President landed on the deck of an aircraft carrier and declared "mission accomplished" in Iraq. We know there have been more casualties in Iraq after the President's declaration than before. We know that Iraq was a wrong war at the wrong time in the wrong place. We know the justifications offered by the administration for war were either outright wrong or grossly misrepresented. We know that the work of the United Nations' weapons inspectors was finding the truth. We know Iraq did not pose a clear and present danger or an imminent threat to the United States. We know the President has led us into a blind, box canyon. We know we have diverted U.S. resources and international attention away from the hunt for the real terrorist. We need to remember that the war goes on. The U.S. casualties mount.

When the administration pulled out of Iraq, it left 160,000 U.S. soldiers in Iraq in harm's way. Not a day goes by without more U.S. soldiers being killed or injured in combat. Is the world safer or more dangerous? Did we succeed in Iraq because the administration pulled out on time, or did we fail in Iraq by going there in the first place?

A new book, published by a 20-year national security veteran, bluntly concludes that Iraq was "a bloody and unsuccessful tool." Worse yet, the book is another voice saying that the war in Iraq will nurture more terrorism around the world. The book, entitled Imperial Hubris, ought to be required reading by every American, regardless of political party. Whether one agrees or disagrees with the author, you reach one inescapable conclusion: It is time for America to seriously debate and define a national terrorism policy.

Today, America has the so-called PATRIOT Act, passed in the middle of the night, that endangers the very freedoms the President claims to be defending. Today, we have a useless, so-called terror alert system fixed in permanent threat mode, as if scaring Americans on a daily basis somehow comforts them. Today, resolutions are rushed through the Congress, as if a rush to judgment will somehow make us safer. Today, we have a constant stream of terror rhetoric from the administration that speaks in broad generalities.

Some way, someday, somehow, someplace, something bad is going to happen. We will not be surprised. What we need to know as a Nation is, what are we going to do about it? Osama bin Laden may be the face of the terror, but the arms, the legs, and the rest of the body is much more than one person, and the issues involved are much deeper than the daily dose of rhetoric out of the White House.

America must face the choice before us: that we can confront the roots of terrorism by listening to everyone involved, by looking at all sides of the story, and acting from one of America's founding principles: Equal justice for all.

The Middle East is a place that wobbles on the brink of madness. A war without borders is a war carried on by people from place to place. A war without borders is a war against an invisible enemy standing in plain sight. We can confront the roots of terrorism by debating their cause, our role, and the worlds's future.

The alternative is to accept a world where we imagine that bullets and bombs can win a war without soldiers, where guns will prevail on a battlefield no one can walk on because we are standing on it, and where U.S. casualties risk going unnoticed by the Nation because the media has moved on, even as the blood of our beloved ones continue to flow.

Today, 160,000 soldiers are fighting and dying in Iraq. There is no end in sight, there is no homecoming anywhere soon. The bombs and the bullets and the madness are limitless, unless we choose to stop them. We best honor those who have fallen by resolving to face the consequences of war and by confronting the origins of terror. Words alone will not end the war on terrorism, but words are the only way to stop.

The war on terrorism can be won: First, with a great national debate, followed by an honest and global dialogue with all the parties involved. Every day we delay is another day of bloodshed, another soldier dies, another casket comes home, another family buries their loved one, and it is another day further away from real peace and real judgment for all.

Mr. Speaker, the President has 106 days to begin this debate. If he fails, we will have a new president.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 56 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. STEARNS) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, You are the Daystar of a new day.

From the darkness of night and phantom dreams, You awaken us to the brightness of reality.

As from a mother's womb, You bring us forth to smile and delight or frown and cry over another passing day.

By the tasks You set before us, You strengthen our whole being and bring us to accomplishment. You lighten our burden and brighten our face by knowing love and friendship.

Help Congress and all in this Nation to awaken and respond as Your people now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arizona (Mr. HAYWORTH) come forward and lead the House in the Pledge of Allegiance.

Mr. HAYWORTH led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

> H.R. 1303. An act to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.
>
> H.R. 4759. An act to implement the United States-Australia Free Trade Agreement.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 4520. An act to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4520) "An Act to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRASSLEY, Mr. HATCH, Mr. NICKLES, Mr. LOTT, Ms. SNOWE, Mr. KYL, Mr. THOMAS, Mr. SANTORUM, Mr. SMITH, Mr. BUNNING, Mr. MCCONNELL, Mr. GREGG, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. BREAUX, Mr. CONRAD, Mr. GRAHAM of Florida, Mr. JEFFORDS, Mr. BINGAMAN, Mrs. LINCOLN, Mr. KENNEDY, and Mr. HARKIN to be the conferees on the part of the Senate.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

> S. 2261. An act to expand certain preferential trade treatment for Haiti.
>
> S. 2479. An act to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes.

The message also announced that pursuant to Public Law 70–770, the Chair, on behalf of the Vice President, appoints the Senator from Arkansas (Mrs. LINCOLN) to the Migratory Bird Conservation Commission, vice the Senator from Louisiana (Mr. BREAUX).

REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. WOLF, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108–610) on the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

KEEP AMERICANS INFORMED ON HOMELAND SECURITY

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, as we enter this week and begin a very legislatively-intense week, members of the Select Committee on Homeland Security will be meeting this afternoon to begin to legislate and implement the reauthorization of the homeland security efforts.

I call today for a unified effort. I call today for telling the American people the truth and being able to explain to them the substance of chatter and the importance of unifying around a single theme of securing the homeland.

It is important to note as we leave this body at the end of the week, going to our respective home sites but also to our respective conventions, selecting nominees for the Presidency of the United States, it is important for local communities to be informed aptly. We must explain more extensively the color system, use what is right, pronounce when it is important to pronounce, and not utilize any of this for political purposes.

The debate this afternoon in our Select Committee on Homeland Security should be vigorous, special interest should have no place. The only place that should be in this mark-up should be the place of the American people, to ensure their safety. For many do believe that we are not as safe as we were 4 years ago, and we need to work in a unified policy to ensure that happens.

Internationally and domestically, securing the homeland is balanced between our freedom and our rights, as well as our ability to secure our local communities. I constantly believe that we should engage the American people in the security of our homeland.

WHATEVER IT TAKES TO DEFEND THE NATION

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I welcome many of the comments from my colleague from Texas. Homeland security and our national security, indeed, the survival and the continued success of the American people is what is at stake as we find ourselves engaged in this new type of warfare, this war on terror.

I believe it is important, despite this time of year and the pending political season, to understand that it is important not to politicize but at the same time to point out genuine differences of opinion that may exist because, after all, that is the purpose of the House of Representatives.

But, Mr. Speaker, to those who might misinterpret abroad, to those who perhaps fail to understand our tradition of vigorous debate and honest disagreement, Mr. Speaker, at this time in this place in the well of the people's House, let us reaffirm as a Nation our resolve to do, in the words of my constituents from the Fifth Congressional District of Arizona, "whatever it takes" to protect our homeland and to ensure that the American Nation not only survives but thrives.

Good people can disagree; but on this point there should be no disagreement.

There are those who are tempted to strike the homeland; severe consequences will follow those actions.

THE RIGHT PRESCRIPTION

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I am a doctor and I have seen some prescriptions in my time that were the wrong medicine for the right illness. I am here to tell you that is exactly what the Republicans did with their prescription drug bill. The big drug companies got the overwhelming benefit, and the seniors get the underwhelming Republican rhetoric.

Well, there is a doctor in the House and Democrats are doing something about a Republican drug bill that needs steroids to help seniors and the disabled. Democrats are circulating what is called a "discharge petition."

I urge every citizen, Mr. Speaker, to write, call, cajole, pester, or otherwise demand that your elected representatives go on it.

This petition would require, require, the Federal Government to use its substantial clout and purchasing power to negotiate real discounts for seniors and disabled on prescription drugs. This is the right medicine for the right illness.

I am a doctor, and I do not play one on TV. Sign the petition. Give the seniors something they deserve: real benefits.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

ALLOWING BINDING ARBITRATION CLAUSES TO BE INCLUDED IN CONTRACTS AFFECTING LAND WITHIN SALT RIVER PIMA-MARICOPA INDIAN RESERVATION

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4115) to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

The Clerk read as follows:

H.R. 4115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BINDING ARBITRATION FOR SALT RIVER PIMA-MARICOPA INDIAN RESERVATION CONTRACTS.

(a) In General.—Section 2(c) of the Act of November 2, 1966 (25 U.S.C. 416a(c)), is amended—

(1) in the first sentence—

(A) by striking "Any lease" and all that follows through "affecting land" and inserting "Any contract, including a lease, affecting land"; and

(B) by striking "such lease or contract" and inserting "such contract"; and

(2) in the second sentence, by striking "Such leases or contracts entered into pursuant to such Acts" and inserting "Such contracts".

(b) Effective Date.—The amendments made by this section shall take effect as if included in the Indian Tribal Economic Development and Contract Encouragement Act of 2000 (Public Law 106–179).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4115.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4115 is a bill I have sponsored along with my friend and colleague, the gentleman from the State of Arizona (Mr. FLAKE), to resolve a problem affecting an Indian tribe in my district.

It is basically a technical correction to a provision in existing law pertaining to leases and contracts on the Salt River Pima-Maricopa Reservation which is located in the Phoenix metropolitan area.

The Committee on Resources ordered the bill reported by unanimous consent on May 19, 2004.

The need for this bill originates in the Act of November 2, 1966, and in subsequent amendments to related leasing laws affecting Indian lands. The Act of November 2, 1966, authorizes the Salt River Pima-Maricopa Indian community to put binding arbitration clauses into leases and contracts for business development on its reservation.

Without such binding arbitration clauses, many investors would not be interested in doing business with the tribe because there would be no means of enforcing contracts. Unfortunately, an amendment to a related provision of law has made it unclear whether the tribe may put the binding arbitration clauses into all of its contracts and leases. This bill clarifies that the tribe may include binding arbitration clauses in all contracts for business developments on its reservation.

There are sometimes concerns expressed over passing bills that affect tribal land rights without securing the consent of the affected tribe. In this case, H.R. 4115 was specifically requested by the Salt River Pima-Maricopa Indian community which has informed me and my colleagues who join me on the Committee on Resources that it stands to lose major economic development opportunities on its reservation unless this bill is enacted. According to the tribe's attorneys, the language of the bill will solve the tribe's problem.

The Salt River Pima-Maricopa Indian community should be applauded for its aggressive pursuits of economic development and diversification. It is taking advantage of its location in a major metropolitan area to attract investors and create jobs and prosperity for the tribe, its members, and also for the surrounding communities.

Enacting H.R. 4115 enables the tribe to execute leasing contracts that will benefit the tribe and its members far into the future.

Mr. Speaker, this legislation may seem like just a minor fix to a technical leasing issue, but in fact there is much at stake for the tribe's economic future in the passage of the bill. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4115 would allow binding arbitration clauses to be included in all contracts that affect the lands within the Salt River Pima-Maricopa Indian Reservation.

The idea behind this legislation is to provide a comfort level to those wanting to enter into business agreements with this particular tribe. Should a conflict arise in any business contract, this legislation would allow both the tribe and the business partner to avoid the normal channel of the tribal court system.

Mr. Speaker, I support adoption of H.R. 4115 by the House today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 4115.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1415

EXTENDING AUTHORIZATION FOR CERTAIN NATIONAL HERITAGE AREAS

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4492) to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXTENSIONS

SECTION 101. AUTHORIZATION AND APPROPRIATION EXTENSIONS.

Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 16 U.S.C. 461 note) is amended—

(1) in each of sections 107, 208, 408, 507, 811, and 910, by striking "September 30, 2012" and inserting "September 30, 2027";

(2) in each of sections 108(a), 209(a), 409(a), 508(a), 812(a), and 909(c), by striking "$10,000,000" and inserting "$20,000,000"; and

(3) in title VIII, by striking "Canal National Heritage Corridor" each place it appears in the section headings and text and inserting "National Heritage Canalway".

TITLE II—NATIONAL AVIATION HERITAGE AREA

SEC. 201. SHORT TITLE.

This title may be cited as the "National Aviation Heritage Area Act".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Few technological advances have transformed the world or our Nation's economy, society, culture, and national character as the development of powered flight.

(2) The industrial, cultural, and natural heritage legacies of the aviation and aerospace industry in the State of Ohio are nationally significant.

(3) Dayton, Ohio, and other defined areas where the development of the airplane and aerospace technology established our Nation's leadership in both civil and military aeronautics and astronautics set the foundation for the 20th Century to be an American Century.

(4) Wright-Patterson Air Force Base in Dayton, Ohio, is the birthplace, the home, and an integral part of the future of aerospace.

(5) The economic strength of our Nation is connected integrally to the vitality of the aviation and aerospace industry, which is responsible for an estimated 11,200,000 American jobs.

(6) The industrial and cultural heritage of the aviation and aerospace industry in the State of Ohio includes the social history and living cultural traditions of several generations.

(7) The Department of the Interior is responsible for protecting and interpreting the Nation's cultural and historic resources, and there are significant examples of these resources within Ohio to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Aviation Heritage Foundation, Incorporated, the State of Ohio, and other local and governmental entities to adequately conserve, protect, and interpret this heritage for the educational and recreational benefit of this and future generations of Americans, while providing opportunities for education and revitalization.

(8) Since the enactment of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419), partnerships among the Federal, State, and local governments and the private sector have greatly assisted the development and preservation of the historic aviation resources in the Miami Valley.

(9) An aviation heritage area centered in Southwest Ohio is a suitable and feasible management option to increase collaboration, promote heritage tourism, and build on the established partnerships among Ohio's historic aviation resources and related sites.

(10) A critical level of collaboration among the historic aviation resources in Southwest Ohio cannot be achieved without a congressionally established national heritage area and the support of the National Park Service and other Federal agencies which own significant historic aviation-related sites in Ohio.

(11) The Aviation Heritage Foundation, Incorporated, would be an appropriate management entity to oversee the development of the National Aviation Heritage Area.

(12) Five National Park Service and Dayton Aviation Heritage Commission studies and planning documents: "Study of Alternatives: Dayton's Aviation Heritage", "Dayton Aviation Heritage National Historical Park Suitability/Feasibility Study", "Dayton Aviation Heritage General Management Plan", "Dayton Historic Resources Preservation and Development Plan", and Heritage Area Concept Study, demonstrated that sufficient historical resources exist to establish the National Aviation Heritage Area.

(13) With the advent of the 100th anniversary of the first powered flight in 2003, it is recognized that the preservation of properties nationally significant in the history of aviation is an important goal for the future education of Americans.

(14) Local governments, the State of Ohio, and private sector interests have embraced the heritage area concept and desire to enter into a partnership with the Federal government to preserve, protect, and develop the Heritage Area for public benefit.

(15) The National Aviation Heritage Area would complement and enhance the aviation-related resources within the National Park Service, especially the Dayton Aviation Heritage National Historical Park, Ohio.

(b) PURPOSE.—The purpose of this title is to establish the Heritage Area to—

(1) encourage and facilitate collaboration among the facilities, sites, organizations, governmental entities, and educational institutions within the Heritage Area to promote heritage tourism and to develop educational and cultural programs for the public;

(2) preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, structures, facilities, and sites within the National Aviation Heritage Area;

(3) encourage within the National Aviation Heritage Area a broad range of economic opportunities enhancing the quality of life for present and future generations;

(4) provide a management framework to assist the State of Ohio, its political subdivisions, other areas, and private organizations, or combinations thereof, in preparing and implementing an integrated Management Plan to conserve their aviation heritage and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the Heritage Area; and

(5) authorize the Secretary to provide financial and technical assistance to the State of Ohio, its political subdivisions, and private organizations, or combinations thereof, in preparing and implementing the private Management Plan.

SEC. 203. DEFINITIONS.

For purposes of this title:

(1) BOARD.—The term "Board" means the Board of Directors of the Foundation.

(2) FINANCIAL ASSISTANCE.—The term "financial assistance" means funds appropriated by Congress and made available to the management entity for the purpose of preparing and implementing the Management Plan.

(3) HERITAGE AREA.—The term "Heritage Area" means the National Aviation Heritage Area established by section 104 to receive, distribute, and account for Federal funds appropriated for the purpose of this title.

(4) Management plan.—The term "Management Plan" means the management plan for the Heritage Area developed under section 106.

(5) Management entity.—The term "management entity" means the Aviation Heritage Foundation, Incorporated (a nonprofit corporation established under the laws of the State of Ohio).

(6) Partner.—The term "partner" means a Federal, State, or local governmental entity, organization, private industry, educational institution, or individual involved in promoting the conservation and preservation of the cultural and natural resources of the Heritage Area.

(7) Secretary.—The term "Secretary" means the Secretary of the Interior.

(8) Technical assistance.—The term "technical assistance" means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary.

SEC. 204. NATIONAL AVIATION HERITAGE AREA.

(a) Establishment.—There is established in the States of Ohio and Indiana, the National Aviation Heritage Area.

(b) Boundaries.—The Heritage Area shall include the following:

(1) A core area consisting of resources in Montgomery, Greene, Warren, Miami, Clark, Champaign, Shelby, and Auglaize Counties in Ohio.

(2) Space Museum, Wapakoneta, Ohio.

(3) Sites, buildings, and districts within the core area recommended by the Management Plan.

(c) Map.—A map of the Heritage Area shall be included in the Management Plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.

(d) Management Entity.—The management entity for the Heritage Area shall be the Aviation Heritage Foundation.

SEC. 205. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

(a) Authorities.—For purposes of implementing the Management Plan, the management entity may use Federal funds made available through this title to—

(1) make grants to, and enter into cooperative agreements with, the State of Ohio and political subdivisions of that State, private organizations, or any person;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) Duties.—The management entity shall—

(1) develop and submit to the Secretary for approval the proposed Management Plan in accordance with section 106;

(2) give priority to implementing actions set forth in the Management Plan, including taking steps to assist units of government and nonprofit organizations in preserving resources within the Heritage Area;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area in developing and implementing the Management Plan;

(4) maintain a collaboration among the partners to promote heritage tourism and to assist partners to develop educational and cultural programs for the public;

(5) encourage economic viability in the Heritage Area consistent with the goals of the Management Plan;

(6) assist units of government and nonprofit organizations in—

(A) establishing and maintaining interpretive exhibits in the Heritage Area;

(B) developing recreational resources in the Heritage Area;

(C) increasing public awareness of and appreciation for the historical, natural, and architectural resources and sites in the Heritage Area; and

(D) restoring historic buildings that relate to the purposes of the Heritage Area;

(7) conduct public meetings at least quarterly regarding the implementation of the Management Plan;

(8) submit substantial amendments to the Management Plan to the Secretary for the approval of the Secretary; and

(9) for any year in which Federal funds have been received under this title—

(A) submit an annual report to the Secretary that sets forth the accomplishments of the management entity and its expenses and income;

(B) make available to the Secretary for audit all records relating to the expenditure of such funds and any matching funds; and

(C) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of such funds.

(c) Use of Federal Funds.—

(1) In general.—The management entity shall not use Federal funds received under this title to acquire real property or an interest in real property.

(2) Other sources.—Nothing in this title precludes the management entity from using Federal funds from other sources for authorized purposes.

SEC. 206. MANAGEMENT PLAN.

(a) Preparation of Plan.—Not later than 3 years after the date of the enactment of this title, the management entity shall submit to the Secretary for approval a proposed Management Plan that shall take into consideration State and local plans and involve residents, public agencies, and private organizations in the Heritage Area.

(b) Contents.—The Management Plan shall incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area and shall include the following:

(1) An inventory of the resources contained in the core area of the Heritage Area, including the Dayton Aviation Heritage Historical Park, the sites, buildings, and districts listed in section 202 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419), and any other property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, or maintained because of its significance.

(2) An assessment of cultural landscapes within the Heritage Area.

(3) Provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with the purposes of this title.

(4) An interpretation plan for the Heritage Area.

(5) A program for implementation of the Management Plan by the management entity, including the following:

(A) Facilitating ongoing collaboration among the partners to promote heritage tourism and to develop educational and cultural programs for the public.

(B) Assisting partners planning for restoration and construction.

(C) Specific commitments of the partners for the first 5 years of operation.

(6) The identification of sources of funding for implementing the plan.

(7) A description and evaluation of the management entity, including its membership and organizational structure.

(c) Disqualification From Funding.—If a proposed Management Plan is not submitted to the Secretary within 3 years of the date of the enactment of this title, the management entity shall be ineligible to receive additional funding under this title until the date on which the Secretary receives the proposed Management Plan.

(d) Approval and Disapproval of Management Plan.—The Secretary, in consultation with the State of Ohio, shall approve or disapprove the proposed Management Plan submitted under this title not later than 90 days after receiving such proposed Management Plan.

(e) Action Following Disapproval.—If the Secretary disapproves a proposed Management Plan, the Secretary shall advise the management entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed Management Plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(f) Approval of Amendments.—The Secretary shall review and approve substantial amendments to the Management Plan. Funds appropriated under this title may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

SEC. 207. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) Technical and Financial Assistance.—Upon the request of the management entity, the Secretary may provide technical assistance, on a reimbursable or non-reimbursable basis, and financial assistance to the Heritage Area to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(1) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) Duties of Other Federal Agencies.—Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this title;

(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(4) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 208. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE AND THE ADMINISTRATOR OF NASA.

The decisions concerning the execution of this title as it applies to properties under the control of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall be made by such Secretary or such Administrator, in consultation with the Secretary of the Interior.

SEC. 209. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 210. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

(b) FIFTY PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent.

SEC. 212. SUNSET PROVISION.

The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date that funds are first made available for this title.

SEC. 213. STUDY REGARDING INCORPORATION OF WRIGHT COMPANY FACTORY AS A UNIT OF DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK.

(a) STUDY REQUIRED.—The Secretary shall conduct a special resource study updating the study required under section 104 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419) and detailing alternatives for incorporating the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park, including detailing management and development options and costs for each alternative.

(b) CONSULTATION.—In conducting the study, the Secretary shall consult with the Delphi Corporation, the Aviation Heritage Foundation, State and local agencies, and other interested parties in the area.

(c) REPORT.—Not later than three years after funds are first made available for this section, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study conducted under this section.

TITLE III—NATIONAL COAL HERITAGE AREA

SEC. 301. NATIONAL COAL HERITAGE AREA.

(a) NATIONAL COAL HERITAGE AREA AUTHORITY; BOUNDARY REVISION.—Title I of division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 16 U.S.C. 461 note) is amended as follows:

(1) In section 103(b), by inserting "(1)" before "the counties" and by inserting the following before the period: "; (2) Lincoln County, West Virginia; and (3) Paint Creek and Cabin Creek in Kanawha County, West Virginia".

(2) In section 104, by striking "Governor" and all that follows through "organizations" in the matter preceding paragraph (1) and inserting "National Coal Heritage Area Authority, a public corporation and government instrumentality established by the State of West Virginia, pursuant to which the Secretary shall assist the National Coal Heritage Area Authority".

(3) In section 105—

(A) by striking "paragraph (2) of"; and

(B) by adding at the end the following new sentence: "Resources within Lincoln County, West Virginia, and Paint Creek and Cabin Creek within Kanawha County, West Virginia, shall also be eligible for assistance as determined by the National Coal Heritage Area Authority.".

(4) In section 106(a)—

(A) by striking "Governor" and all that follows through "and Parks" and inserting "National Coal Heritage Area Authority"; and

(B) in paragraph (3), by striking "State of West Virginia" and all that follows through "entities" and inserting "National Coal Heritage Area Authority".

(b) AGREEMENT CONTINUING IN EFFECT.—The contractual agreement entered into by the Secretary of the Interior and the Governor of West Virginia prior to the date of the enactment of this Act pursuant to section 104 of title I of division II of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 461 note) shall be deemed as continuing in effect, except that such agreement shall be between the Secretary and the National Coal Heritage Area Authority.

TITLE IV—COASTAL HERITAGE TRAIL ROUTE IN NEW JERSEY

SEC. 401. REAUTHORIZATION OF APPROPRIATIONS FOR COASTAL HERITAGE TRAIL ROUTE IN NEW JERSEY.

(a) REAUTHORIZATION.—Section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) in subsection (b)(1), by striking "$4,000,000" and all that follows and inserting "such sums as may be necessary."; and

(2) in subsection (c), by striking "10" and inserting "12".

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—The Secretary of the Interior shall, by not later than 2 years after the date of the enactment of this Act, prepare a strategic plan for the New Jersey Coastal Heritage Trail Route.

(2) CONTENTS.—The strategic plan shall describe—

(A) opportunities to increase participation by national and local private and public interests in planning, development, and administration of the New Jersey Coastal Heritage Trail Route; and

(B) organizational options for sustaining the New Jersey Coastal Heritage Trail Route.

TITLE V—ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR

SEC. 501. SHORT TITLE.

This title may be cited as the "Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2004".

SEC. 502. TRANSITION AND PROVISIONS FOR NEW MANAGEMENT ENTITY.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98–398; 16 U.S.C. 461 note) is amended as follows:

(1) In section 103—

(A) in paragraph (8), by striking "and";

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) the term 'Association' means the Canal Corridor Association (an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code).".

(2) By adding at the end of section 112 the following new paragraph:

"(7) The Secretary shall enter into a memorandum of understanding with the Association to help ensure appropriate transition of the management entity to the Association and coordination with the Association regarding that role.".

(3) By adding at the end the following new sections:

"SEC. 119. ASSOCIATION AS MANAGEMENT ENTITY.

"Upon the termination of the Commission, the management entity for the corridor shall be the Association.

"SEC. 120. DUTIES AND AUTHORITIES OF ASSOCIATION.

"For purposes of preparing and implementing the management plan developed under section 121, the Association may use Federal funds made available under this title—

"(1) to make loans and grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person;

"(2) to hire, train, and compensate staff; and

"(3) to enter into contracts for goods and services.

"SEC. 121. DUTIES OF THE ASSOCIATION.

"The Association shall—

"(1) develop and submit to the Secretary for approval under section 123 a proposed management plan for the corridor not later than 2 years after Federal funds are made available for this purpose;

"(2) give priority to implementing actions set forth in the management plan, including taking steps to assist units of local government, regional planning organizations, and other organizations—

"(A) in preserving the corridor;

"(B) in establishing and maintaining interpretive exhibits in the corridor;

"(C) in developing recreational resources in the corridor;

"(D) in increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the corridor; and

"(E) in facilitating the restoration of any historic building relating to the themes of the corridor;

"(3) encourage by appropriate means economic viability in the corridor consistent with the goals of the management plan;

"(4) consider the interests of diverse governmental, business, and other groups within the corridor;

"(5) conduct public meetings at least quarterly regarding the implementation of the management plan;

"(6) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary;

"(7) for any year in which Federal funds have been received under this title—

"(A) submit an annual report to the Secretary setting forth the Association's accomplishments, expenses and income, and the identity of each entity to which any loans and grants were made during the year for which the report is made;

"(B) make available for audit all records pertaining to the expenditure of such funds and any matching funds; and

"(C) require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

"SEC. 122. USE OF FEDERAL FUNDS.

"(1) IN GENERAL.—The Association shall not use Federal funds received under this title to acquire real property or an interest in real property.

"(2) OTHER SOURCES.—Nothing in this title precludes the Association from using Federal funds from other sources for authorized purposes.

"SEC. 123. MANAGEMENT PLAN.

"(a) PREPARATION OF MANAGEMENT PLAN.—Not later than 2 years after the date that Federal funds are made available for this purpose, the Association shall submit to the Secretary for approval a proposed management plan that shall—

"(1) take into consideration State and local plans and involve residents, local governments and public agencies, and private organizations in the corridor;

"(2) present comprehensive recommendations for the corridor's conservation, funding, management, and development;

"(3) include actions proposed to be undertaken by units of government and nongovernmental and private organizations to protect the resources of the corridor;

"(4) specify the existing and potential sources of funding to protect, manage, and develop the corridor; and

"(5) include the following:

"(A) Identification of the geographic boundaries of the corridor.

"(B) A brief description and map of the corridor's overall concept or vision that show key sites, visitor facilities and attractions, and physical linkages.

"(C) Identification of overall goals and the strategies and tasks intended to reach them, and a realistic schedule for completing the tasks.

"(D) A listing of the key resources and themes of the corridor.

"(E) Identification of parties proposed to be responsible for carrying out the tasks.

"(F) A financial plan and other information on costs and sources of funds.

"(G) A description of the public participation process used in developing the plan and a proposal for public participation in the implementation of the management plan.

"(H) A mechanism and schedule for updating the plan based on actual progress.

"(I) A bibliography of documents used to develop the management plan.

"(J) A discussion of any other relevant issues relating to the management plan.

"(b) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary within 2 years after the date that Federal funds are made available for this purpose, the Association shall be ineligible to receive additional funds under this title until the Secretary receives a proposed management plan from the Association.

"(c) APPROVAL OF MANAGEMENT PLAN.—The Secretary shall approve or disapprove a proposed management plan submitted under this title not later than 180 days after receiving such proposed management plan. If action is not taken by the Secretary within the time period specified in the preceding sentence, the management plan shall be deemed approved. The Secretary shall consult with the local entities representing the diverse interests of the corridor including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners prior to approving the management plan. The Association shall conduct semi-annual public meetings, workshops, and hearings to provide adequate opportunity for the public and local and governmental entities to review and to aid in the preparation and implementation of the management plan.

"(d) EFFECT OF APPROVAL.—Upon the approval of the management plan as provided in subsection (c), the management plan shall supersede the conceptual plan contained in the National Park Service report.

"(e) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed management plan within the time period specified in subsection (c), the Secretary shall advise the Association in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan.

"(f) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve all substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan. Funds made available under this title may not be expended to implement any changes made by a substantial amendment until the Secretary approves that substantial amendment.

"SEC. 124. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

"(a) TECHNICAL AND FINANCIAL ASSISTANCE.—Upon the request of the Association, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Association to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the Association and other public or private entities for this purpose. In assisting the Association, the Secretary shall give priority to actions that in general assist in—

"(1) conserving the significant natural, historic, cultural, and scenic resources of the corridor; and

"(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the corridor.

"(b) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting activities directly affecting the corridor shall—

"(1) consult with the Secretary and the Association with respect to such activities;

"(2) cooperate with the Secretary and the Association in carrying out their duties under this title;

"(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

"(4) to the maximum extent practicable, conduct or support such activities in a manner which the Association determines is not likely to have an adverse effect on the corridor.

"SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

"(b) 50 PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent of that cost.

"SEC. 126. SUNSET.

"The authority of the Secretary to provide assistance under this title terminates on September 30, 2027.".

SEC. 503. PRIVATE PROPERTY PROTECTION.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 is further amended by adding after section 126 (as added by section 502 of this title) the following new sections:

"SEC. 127. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

"(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the corridor until the owner of that private property has been notified in writing by the Association and has given written consent for such preservation, conservation, or promotion to the Association.

"(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the corridor, and not notified under subsection (a), shall have their property immediately removed from the boundary of the corridor by submitting a written request to the Association.

"SEC. 128. PRIVATE PROPERTY PROTECTION.

"(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

"(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

"(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

"(b) LIABILITY.—Designation of the corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

"(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

"(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN CORRIDOR.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the corridor to participate in or be associated with the corridor.

"(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the corridor represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the corridor or its viewshed by the Secretary, the National Park Service, or the Association.".

SEC. 504. TECHNICAL AMENDMENTS.

Section 116 of Illinois and Michigan Canal National Heritage Corridor Act of 1984 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) by striking "(a)" and all that follows through "For each" and inserting "(a) For each";

(B) by striking "Commission" and inserting "Association";

(C) by striking "Commission's" and inserting "Association's";

(D) by redesignating paragraph (2) as subsection (b); and

(E) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

TITLE VI—OIL REGION NATIONAL HERITAGE AREA

SEC. 601. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the "Oil Region National Heritage Area Act".

(b) DEFINITIONS.—For the purposes of this title, the following definitions shall apply:

(1) HERITAGE AREA.—The term "Heritage Area" means the Oil Region National Heritage Area established in section 603(a).

(2) MANAGEMENT ENTITY.—The term "management entity" means the Oil Heritage Region, Inc., or its successor entity.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Oil Region of Northwestern Pennsylvania, with numerous sites and districts listed on the National Register of Historic Places, and designated by the Governor of Pennsylvania as one of the State Heritage Park Areas, is a region with tremendous physical and natural resources and possesses a story of State, national, and international significance.

(2) The single event of Colonel Edwin Drake's drilling of the world's first successful oil well in 1859 has affected the industrial, natural, social, and political structures of the modern world.

(3) Six national historic districts are located within the State Heritage Park boundary, in Emlenton, Franklin, Oil City, and Titusville, as well as 17 separate National Register sites.

(4) The Allegheny River, which was designated as a component of the national wild and scenic rivers system in 1992 by Public Law 102–271, traverses the Oil Region and connects several of its major sites, as do some of the river's tributaries such as Oil Creek, French Creek, and Sandy Creek.

(5) The unspoiled rural character of the Oil Region provides many natural and recreational resources, scenic vistas, and excellent water quality for people throughout the United States to enjoy.

(6) Remnants of the oil industry, visible on the landscape to this day, provide a direct link to the past for visitors, as do the historic valley settlements, riverbed settlements, plateau developments, farmlands, and industrial landscapes.

(7) The Oil Region also represents a cross section of American history associated with Native Americans, frontier settlements, the French and Indian War, African Americans and the Underground Railroad, and immigration of Swedish and Polish individuals, among others.

(8) Involvement by the Federal Government shall serve to enhance the efforts of the Commonwealth of Pennsylvania, local subdivisions of the Commonwealth of Pennsylvania, volunteer organizations, and private businesses, to promote the cultural, national, and recreational resources of the region in order to fulfill their full potential.

(b) PURPOSE.—The purpose of this title is to enhance a cooperative management framework to assist the Commonwealth of Pennsylvania, its units of local government, and area citizens in conserving, enhancing, and interpreting the significant features of the lands, water, and structures of the Oil Region, in a manner consistent with compatible economic development for the benefit and inspiration of present and future generations in the Commonwealth of Pennsylvania and the United States.

SEC. 603. OIL REGION NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Oil Region National Heritage Area.

(b) BOUNDARIES.—The boundaries of the Heritage Area shall include all of those lands depicted on a map entitled "Oil Region National Heritage Area", numbered OIRE/20,000 and dated October, 2000. The map shall be on file in the appropriate offices of the National Park Service. The Secretary of the Interior shall publish in the Federal Register, as soon as practical after the date of the enactment of this Act, a detailed description and map of the boundaries established under this subsection.

(c) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Oil Heritage Region, Inc., the locally based private, nonprofit management corporation which shall oversee the development of a management plan in accordance with section 605(b).

SEC. 604. COMPACT.

To carry out the purposes of this title, the Secretary shall enter into a compact with the management entity. The compact shall include information relating to the objectives and management of the area, including a discussion of the goals and objectives of the Heritage Area, including an explanation of the proposed approach to conservation and interpretation and a general outline of the protection measures committed to by the Secretary and management entity.

SEC. 605. AUTHORITIES AND DUTIES OF MANAGEMENT ENTITY.

(a) AUTHORITIES OF THE MANAGEMENT ENTITY.—The management entity may use funds made available under this title for purposes of preparing, updating, and implementing the management plan developed under subsection (b). Such purposes may include—

(1) making grants to, and entering into cooperative agreements with, States and their political subdivisions, private organizations, or any other person;

(2) hiring and compensating staff; and

(3) undertaking initiatives that advance the purposes of the Heritage Area.

(b) MANAGEMENT PLAN.—The management entity shall develop a management plan for the Heritage Area that—

(1) presents comprehensive strategies and recommendations for conservation, funding, management, and development of the Heritage Area;

(2) takes into consideration existing State, county, and local plans and involves residents, public agencies, and private organizations working in the Heritage Area;

(3) includes a description of actions that units of government and private organizations have agreed to take to protect the resources of the Heritage Area;

(4) specifies the existing and potential sources of funding to protect, manage, and develop the Heritage Area;

(5) includes an inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historic, recreational, or scenic significance;

(6) describes a program for implementation of the management plan by the management entity, including plans for restoration and construction, and specific commitments for that implementation that have been made by the management entity and any other persons for the first 5 years of implementation;

(7) lists any revisions to the boundaries of the Heritage Area proposed by the management entity and requested by the affected local government; and

(8) includes an interpretation plan for the Heritage Area.

(c) DEADLINE; TERMINATION OF FUNDING.—

(1) DEADLINE.—The management entity shall submit the management plan to the Secretary within 2 years after the funds are made available for this title.

(2) TERMINATION OF FUNDING.—If a management plan is not submitted to the Secretary in accordance with this subsection, the management entity shall not qualify for Federal assistance under this title.

(d) DUTIES OF MANAGEMENT ENTITY.—The management entity shall—

(1) give priority to implementing actions set forth in the compact and management plan;

(2) assist units of government, regional planning organizations, and nonprofit organizations in—

(A) establishing and maintaining interpretive exhibits in the Heritage Area;

(B) developing recreational resources in the Heritage Area;

(C) increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the Heritage Area;

(D) the restoration of any historic building relating to the themes of the Heritage Area;

(E) ensuring that clear signs identifying access points and sites of interest are put in place throughout the Heritage Area; and

(F) carrying out other actions that the management entity determines to be advisable to fulfill the purposes of this title;

(3) encourage by appropriate means economic viability in the Heritage Area consistent with the goals of the management plan;

(4) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area; and

(5) for any year in which Federal funds have been provided to implement the management plan under subsection (b)—

(A) conduct public meetings at least annually regarding the implementation of the management plan;

(B) submit an annual report to the Secretary setting forth accomplishments, expenses and income, and each person to which any grant was made by the management entity in the year for which the report is made; and

(C) require, for all agreements entered into by the management entity authorizing expenditure of Federal funds by any other person, that the person making the expenditure make available to the management entity for audit all records pertaining to the expenditure of such funds.

(e) Prohibition on the Acquisition of Real Property.—The management entity may not use Federal funds received under this title to acquire real property or an interest in real property.

SEC. 606. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) Technical and Financial Assistance.—

(1) In general.—

(A) Overall assistance.—The Secretary may, upon the request of the management entity, and subject to the availability of appropriations, provide technical and financial assistance to the management entity to carry out its duties under this title, including updating and implementing a management plan that is submitted under section 605(b) and approved by the Secretary and, prior to such approval, providing assistance for initiatives.

(B) Other assistance.—If the Secretary has the resources available to provide technical assistance to the management entity to carry out its duties under this title (including updating and implementing a management plan that is submitted under section 605(b) and approved by the Secretary and, prior to such approval, providing assistance for initiatives), upon the request of the management entity the Secretary shall provide such assistance on a reimbursable basis. This subparagraph does not preclude the Secretary from providing nonreimbursable assistance under subparagraph (A).

(2) Priority.—In assisting the management entity, the Secretary shall give priority to actions that assist in the—

(A) implementation of the management plan;

(B) provision of educational assistance and advice regarding land and water management techniques to conserve the significant natural resources of the region;

(C) development and application of techniques promoting the preservation of cultural and historic properties;

(D) preservation, restoration, and reuse of publicly and privately owned historic buildings;

(E) design and fabrication of a wide range of interpretive materials based on the management plan, including guide brochures, visitor displays, audio-visual and interactive exhibits, and educational curriculum materials for public education; and

(F) implementation of initiatives prior to approval of the management plan.

(3) Documentation of structures.—The Secretary, acting through the Historic American Building Survey and the Historic American Engineering Record, shall conduct studies necessary to document the industrial, engineering, building, and architectural history of the Heritage Area.

(b) Approval and Disapproval of Management Plans.—The Secretary, in consultation with the Governor of Pennsylvania, shall approve or disapprove a management plan submitted under this title not later than 90 days after receiving such plan. In approving the plan, the Secretary shall take into consideration the following criteria:

(1) The extent to which the management plan adequately preserves and protects the natural, cultural, and historical resources of the Heritage Area.

(2) The level of public participation in the development of the management plan.

(3) The extent to which the board of directors of the management entity is representative of the local government and a wide range of interested organizations and citizens.

(c) Action Following Disapproval.—If the Secretary disapproves a management plan, the Secretary shall advise the management entity in writing of the reasons for the disapproval and shall make recommendations for revisions in the management plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(d) Approving Changes.—The Secretary shall review and approve amendments to the management plan under section 605(b) that make substantial changes. Funds appropriated under this title may not be expended to implement such changes until the Secretary approves the amendments.

(e) Effect of Inaction.—If the Secretary does not approve or disapprove a management plan, revision, or change within 90 days after it is submitted to the Secretary, then such management plan, revision, or change shall be deemed to have been approved by the Secretary.

SEC. 607. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this title and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner that the management entity determines shall not have an adverse effect on the Heritage Area.

SEC. 608. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after the expiration of the 15-year period beginning on the date that funds are first made available for this title.

SEC. 609. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) Landowner Withdraw.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 610. PRIVATE PROPERTY PROTECTION.

(a) Access to Private Property.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) Liability.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) Participation of Private Property Owners in Heritage Area.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) Effect of Establishment.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 611. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this title shall preclude the management entity from using Federal funds available under Acts other than this title for the purposes for which those funds were authorized.

SEC. 612. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out this title—

(1) not more than $1,000,000 for any fiscal year; and

(2) not more than a total of $10,000,000.

(b) 50 Percent Match.—Financial assistance provided under this title may not be used to pay more than 50 percent of the total cost of any activity carried out with that assistance.

The SPEAKER pro tempore (Mr. Stearns). Pursuant to the rule, the gentleman from Arizona (Mr. Hayworth) and the gentlewoman from Guam (Ms. Bordallo) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. Hayworth).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4492, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4492, introduced by the gentleman from Ohio (Mr. Regula), would amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain National Heritage Areas, and for other purposes.

The bill was subsequently amended by the Committee on Resources where five additional titles were added. As amended, Title I would extend the existing authorities of six established National Heritage Areas. Titles II and VI would establish the National Aviation Heritage Area in Ohio and the Oil Region National Heritage Area in northwestern Pennsylvania, respectively. Titles III, IV, and V would make technical changes to two existing National Heritage Areas and one Heritage Trail Route.

The existing Heritage Areas seek to transition their management authority to a nonprofit organization, which is in line with more recent Heritage Area management, and the Trail Route seeks to produce an economic feasibility plan in an effort to move away from Federal appropriations.

Mr. Speaker, H.R. 4492 is supported by the majority and minority of the committee.

I urge adoption of this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, National Heritage Areas protect and interpret some of the best stories and places in American history. Heritage Areas have been enormously popular and successful partnerships between the local communities and the National Park Service.

This legislation makes important technical changes to several existing Heritage Areas and establishes several new ones.

We urge our colleagues to support this measure.

Mr. WELLER. Mr. Speaker, I rise today to express my support for H.R. 4492. Among its provisions, H.R. 4492 reauthorizes the Illinois and Michigan (I&M) Canal National Heritage Corridor to receive appropriations and transfers management entity status from the federal, I&M Commission to the non-profit Canal Corridor Association. I would like to commend Chairman POMBO and the House Committee on Resources for their hard work on this important piece of legislation.

The I&M Canal changed the nation in 1848 when it opened the first shipping route between New York and New Orleans, designating Chicago as the nation's greatest inland port. While the canal eventually fell into disuse due to new transportation methods and routes, in 1982, business and industry leaders founded the Canal Corridor Association to help revitalize the I&M Canal region, and in doing so, created a national model for regional partnership, conservation and renewal. I am proud to say that the I&M Canal National Heritage Corridor was America's charter National Heritage area, being created by an act of Congress in 1984. For 20 years, the federal I&M Commission has worked to carry out the mission of the I&M Canal National Heritage Corridor. Its efforts have been particularly successful during the past five years that Phyllis Ellin has provided strong leadership as the Executive Director of the Commission.

Since 1984, the I&M Canal National Heritage Corridor has increasingly become an engine of economic growth in communities up and down the length of the Corridor; primarily through an increase in tourism but also in the use of the Corridor for recreational purposes. After consulting with local officials and those most interested and involved in the I&M Canal, it seems that the private sector approach offers more advantages to handle the increased work load brought on by the recent success of the canal and interest in heritage tourism.

As a result, H.R. 4492 designated the Canal Corridor Association (CCA) as the new management entity of the I&M Canal National Heritage Corridor. The CCA seeks to enhance economic vitality by raising awareness of and expanding the parks, trails, landscapes, and historic sites that make the I&M Canal region a special place. They have also successfully implemented education programs and improved the cultural, environmental, historic and tourism resources that the canal offers.

Under the leadership of Ana Koval I am firmly convinced that the CCA, through their governance of the I&M Canal, will continue to successfully educate citizens of the nationally historical importance of the I&M Canal and to play a pivotal role in the continued economic redevelopment of the region.

Mr. LoBIONDO. Mr. Speaker, I rise today to urge my colleagues to support H.R. 4492, which includes legislation to reauthorize the New Jersey Coastal Heritage Trail Route. I would first like to take this opportunity to thank my colleagues in the New Jersey delegation for their support of this reauthorization, especially Representative JIM SAXTON whose assistance helped to bring this legislation to the floor today. I would also like to thank Chairman POMBO and his staff for their support and guidance.

I firmly believe the New Jersey Coastal Heritage Trail incorporates the very best of what the great state of New Jersey has to offer the rest of the Nation. Established by Congress in 1988, the Trail unifies New Jersey's many scenic points of interest. These points of interest include a wealth of environmental, historic, maritime and recreational sights found along New Jersey's coastline, stretching 300 miles from Perth Amboy to the north, Cape May in the extreme southern tip of the State and Deepwater to the west.

The Trail's area includes three National Wildlife Refuges, four tributaries of a Wild and Scenic River system, a Civil War fort and National cemetery, several lighthouses, historic homes, and other sites tied to southern New Jersey's maritime history. Through a network of themes and destinations, the New Jersey Coastal Heritage Trail connects people with places of historic, recreational, environmental and maritime interest.

H.R. 4492 would extend the authorization of the Trail to provide additional funding over 2 years to continue the work began in 1988. It would also require that during this period, a Strategic Plan be created in order to explore opportunities to increase participation by national and local private and public interests, as well as organizational options for sustaining the Trail.

The New Jersey Coastal Heritage Trail has helped New Jersey residents develop pride, awareness, experience with, and understanding of our coastal resources and its history. This reauthorization will allow the Trail to continue and flourish.

I urge my colleagues in the House to support this legislation.

Ms. BORDALLO. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 4492, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RIVERSIDE COUNTY, CALIFORNIA, LAND CONVEYANCE

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3874) to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal, as amended.

The Clerk read as follows:

H.R. 3874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF BUREAU OF LAND MANAGEMENT LAND IN RIVERSIDE COUNTY, CALIFORNIA.

(a) IN GENERAL.—

(1) CONVEYANCE.—The Secretary of the Interior shall convey, without consideration and subject to valid existing rights, to S.V.D.P. Management Inc-DBA Father Joe's Villages (referred to in this section as the "Villages"), all right, title, and interest of the United States in and to the parcel described in paragraph (2) for use by the Villages for the purposes described in subsection (b).

(2) PARCEL.—The parcel referred to in paragraph (1) is the parcel of land identified for disposal and consisting of approximately 44 acres under the jurisdiction of the Bureau of Land Management, as generally depicted on the map entitled "H.R. 3874 Coachella Valley Land Transfer" and dated March 5, 2004.

(b) PURPOSES OF CONVEYANCE.—The purposes of the conveyance under section (a) are to provide a homeless shelter, a training center, and affordable housing.

(c) REVERTER.—If the Villages or any subsequent owner of the land transferred under this section uses that land for purposes other than those described in subsection (b), all right, title, and interest to the land (and any improvements thereon) shall revert to the United States to be administered by the Bureau of Land Management if the Secretary of the Interior determines that such a reversion is in the best interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3874, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3874, introduced by the gentlewoman from California (Mrs. BONO), as amended by the Committee on Resources, would authorize the Secretary of the Interior to convey 44 acres of Federal land identified for disposal in Riverside County, California, to Father Joe's Villages, a successful nonprofit organization that assists the homeless in California. Father Joe's plans to develop a comprehensive operation that will address both housing and training needs for the homeless in the greater Coachella Valley.

Mr. Speaker, H.R. 3874 is supported by the majority and minority of the Committee on Resources and by the administration.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from California's (Mrs. BONO) bill, H.R. 3874, would transfer a parcel of BLM land in North Palm Springs, California, to a charitable organization.

As the administration testified before our committee, the Federal Government would normally require some amount of compensation for a land conveyance such as this one, a requirement this legislation waives. However, it appears that, in this instance, making this conveyance free of charge may be in the best interests of the entire community.

Father Joe's Village has a long history of working in the community to address the problems of unemployment, substance abuse and homelessness. It is our hope that this conveyance will enable this organization to continue its fine work and expand whatever projects that are currently ongoing.

Mrs. BONO. Mr. Speaker, it is truly rewarding when we, as Members of Congress, can move a bill that will make such a positive impact in our own communities. This bill, H.R. 3874, does just that.

As we all know, no matter how well our economy does, there will always be a segment of our population in need of a safety net. H.R. 3874 takes a step in the right direction as it relates to helping those less fortunate in our society.

This legislation conveys 44 acres of BLM land, which is already on the disposal list, to Father Joe's Villages. Together, with a local charity called Martha's Village and Kitchen, the plan is to build a residential center for the homeless, a job training center and 100 units of affordable housing.

Many would be surprised to learn that even Palm Springs and its surrounding community have numerous people in dire need of a helping hand. But my community, much like everyone else's, unfortunately has a need for shelters, worker training and other forms of assistance.

Father Joe's, located in San Diego and part of Congresswoman SUSAN DAVIS's district, and Martha's Village and Kitchen, which is headquartered in my district, are two very reputable and successful organizations. That is why Congressman DAVIS and I want to help them make this village a reality.

Thanks to the most generous individuals I know, Mr. Tom Martin and his wife Rita, much of the money to build this project is secured. Mr. and Mrs. Martin have helped Martha's Village and Kitchen and have again put themselves on the front line of fighting for compassion by getting involved in this effort. Furthermore, we have the energy and enthusiasm of Father Joe Carroll to run this project. We are ready to go.

Our contribution of this land will enable new workers to enter the workforce, provide shelter and assume other functions that will take the burden off the local, State and Federal governments. The relative cost of this land will come back to us tenfold. In short, this is a perfect example of how a private-public partnership can work for the betterment of so many.

So while I fully realize H.R. 3874 does not create new broad sweeping national policy, it helps people I really care about the people I really care about and that is reward enough.

Mr. Speaker, I would like to offer a very special thank you to Chairman RICHARD POMBO who is responsible for this bill being on the floor of the House today. My heartfelt thanks go out also to Chairman RADANOVICH and Ranking Member RAHALL for shepherding this legislation through committee. These three gentlemen showed great care and dedication in moving this bill through the process. And thanks also to their very able staff, especially Rob Howarth, as well as my staff, Linda Valter, for their help on this important piece of legislation.

I look forward to your support of this bill.

Ms. BORDALLO. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 3874, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INCREASING CEILING ON FEDERAL SHARE OF ORANGE COUNTY, CALIFORNIA, REGIONAL WATER RECLAMATION PROJECT

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1156) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project.

The Clerk read as follows:

H.R. 1156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN CEILING ON FEDERAL SHARE OF WATER RECLAMATION PROJECT.

Section 1631(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–13(d)) is amended—

(1) in paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) The Federal share of the costs of the project authorized by section 1624 shall not exceed $80,000,000.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1156, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1156, introduced by the gentlewoman from California (Ms. LORETTA SANCHEZ), increases the authorized Federal cost ceiling of the phase I Regional Water Reclamation Project in Orange County, California, by $60 million.

Local project sponsors have expressed a desire to expand the groundwater replenishment system, which injects highly treated wastewater blended with other sources of water into the local groundwater aquifer. This project will provide an additional water supply for future use and create a freshwater barrier to prevent seawater intrusion.

The project reduces the region's dependency on imported water supplies and provides drought-proofing safeguards.

I urge my colleagues to support this important bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as many of my colleagues know, the Colorado River Basin is now experiencing the worst drought in 500 years. H.R. 1156 authorizes a modest increase in Federal financial support to expand water recycling in southern California's Orange County water district.

There is a strong Federal interest in completing this project, as it will help reduce the amount of water that now must be imported from the Colorado River. I would like to take this opportunity to congratulate the gentlewoman from California (Ms. LORETTA SANCHEZ) for introducing this important legislation.

I urge support for H.R. 1156.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the gentlewoman from Guam (Ms. BORDALLO) for yielding me this time.

Mr. Speaker, I rise in support of H.R. 1156, a bill that I authored. I am pleased to see that the bill is on the Suspension Calendar today, and I thank the leadership for putting it on today's calendar.

H.R. 1156 would increase the authorized Federal share for the Orange County, California, groundwater replenishment system from $20 million to $80 million. This will allow Orange County to complete its innovative groundwater replenishment system. The groundwater replenishment system will serve about 2.3 million residents of north and central Orange County, and it will create a new water supply of 72,000 acre-feet per year. It is basically a recycling program, a very innovative one; and many States and nations around the world have come to Orange County to look at our tertiary cleaning system that we have.

What this bill does is to increase the Federal share of the project, bringing it closer to the 25 percent level, the level at which almost every other reclamation project is funded in the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 and the Reclamation Cycling and Water Conservation Act.

The project is not just important to Orange County, California, but is important to the entire western United States because by recycling our own water, we would not rely so heavily on the Colorado River Aqueduct or the San Francisco Bay Delta water.

Members from both sides of the aisle recognize the need for this project, and I would like to particularly recognize the gentleman from California (Mr. GARY G. MILLER) for his cosponsorship and his continued support. The gentleman from California (Mr. GARY G. MILLER) is also offering H.R. 142 today, authorizing the Interior Secretary to participate in Inland Empire water projects; and I am pleased to be a cosponsor of that, and I urge my colleagues to support that as well.

At the same time, I would like to thank the Committee on Resources chairman, the gentleman from California (Mr. POMBO); the ranking member, the gentleman from West Virginia (Mr. RAHALL); as well as the chairman of the Subcommittee on Water and Power, the gentleman from California (Mr. CALVERT); and the ranking member, the gentlewoman from California (Mrs. NAPOLITANO) for their overwhelming support of H.R. 1156.

I would also like to say in a very bipartisan manner, the rest of the Orange County delegation, including the gentleman from California (Mr. COX), the gentleman from California (Mr. ROHRABACHER), and the gentleman from California (Mr. ROYCE), have been strong supporters of H.R. 1156; and I thank them as well.

Lastly, let me thank Denis Bilodeau, Virginia Grebbien, Craig Miller, and everyone affiliated with the Orange County Water District and Orange County Sanitation District for their hard work and leadership in groundwater recycling. Their innovation has put Orange County in the forefront of water recycling and groundwater replenishment technology. I thank them for their continued support.

Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I have no additional speakers; I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 1156.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY TRANSFER ACT

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2831) to authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District, as amended.

The Clerk read as follows:

H.R. 2831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Newlands Project Headquarters and Maintenance Yard Facility Transfer Act".

SEC. 2. CONVEYANCE OF NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY.

(a) CONVEYANCE.—The Secretary of the Interior shall convey to the Truckee-Carson Irrigation District, Nevada, as soon as practicable after the date of the enactment of this Act and in accordance with all applicable law and the terms of the memorandum of agreement between the District and the Secretary dated June 9, 2003 (Contract No. 3–LC–20–8052), all right, title, and interest of the United States in and to real property within the Newlands Projects, Nevada, known as 2666 Harrigan Road, Fallon, Nevada, and identified for disposition on the map entitled "Newlands Project Headquarters and Maintenance Yard Facility".

(b) TREATMENT OF PROCEEDS FROM FALLON FREIGHT YARD AS CONSIDERATION.—Notwithstanding any other provision of law to the contrary, amounts received by the United States for the lease and sale of Newlands Project lands comprising the Fallon Freight Yard shall, for purposes of this section, be treated as payment in full of consideration for the property conveyed under subsection (a).

(c) REPORT.—If the Secretary has not completed such conveyance within 12 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress explaining the reasons the conveyance has not been completed and stating the date by which the conveyance will be completed.

(d) ENVIRONMENTAL REVIEW, REMEDIATION, AND REMOVAL.—The Secretary may not make any conveyance under this section until the completion with respect to the conveyance, in accordance with the memorandum of agreement referred to in subsection (a), of—

(1) compliance with requirements relating to the National Environmental Policy Act of 1969 (42 U.S.C. et seq. 4321 et seq.) and cultural resources; and

(2) environmental site assessments, remediation, or removal.

(e) LIABILITY.—The United States shall not be liable for damages of any kind arising out of any act or omission by, or occurrence relating to, the Truckee-Carson Irrigation District or its employees, agents, or contractors relating to the property conveyed under this section and occurring prior to, on, or after the date of such conveyance.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2831, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2831, authored by the gentleman from Nevada (Mr. GIBBONS), our distinguished Committee on Resources vice chairman, directs the Secretary of the Interior to transfer 35 acres to the Truckee-Carson Irrigation District as soon as practicable. This transfer, which includes the Newlands Projects headquarters and maintenance yard facility, would occur after adjustments for the lease and sale of other project lands have been included in the valuation process.

The bill also stipulates that environmental analyses, including those under the National Environmental Policy Act, must be completed prior to the transfer.

I urge my colleagues to support this important bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2831 would provide for the transfer of the Bureau of Reclamation land in Nevada to the Truckee-Carson Irrigation District. My Republican colleagues have already explained the legislation, and we have no objection.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, first of all, I would like to thank my good friend and colleague, the gentleman from Arizona (Mr. HAYWORTH), for yielding me the time on which to speak on this bill. I also would like to thank the gentleman from California (Mr. POMBO), the chairman, and the gentleman from West Virginia (Mr. RAHALL), the ranking member, as well as the gentleman from California (Mr. CALVERT), the subcommittee chairman, for working with me to bring this important piece of legislation to the floor today.

H.R. 2831, Mr. Speaker, as my colleagues have already heard, will require the Secretary of the Interior to convey to the Truckee-Carson Irrigation District, or TCID, as we say in Nevada, all rights, title and interest of the Newlands Reclamation Project located in Fallon, Nevada.

On June 9, 2003, a little over a year ago, the Bureau of Reclamation and the TCID reached an agreement and signed a Memorandum of Agreement specifying the details of this transfer. This transfer of approximately 35 acres will allow the irrigation district to make permanent improvements on the property for the continued operation and maintenance of the Newlands Reclamation Project. This transfer is necessary so that financing can be obtained for these improvements.

It is important to note that in 1996, the Bureau of Reclamation certified that the TCID had repaid to the United States all of the original construction charges that were designated for repayment to the U.S. Government on this project.

This legislation, Mr. Speaker, is of utmost importance to the people of the State of Nevada and especially those in the Second District of Nevada. Consequently, I have received letters of support from the governor of the State of Nevada, Mr. Kenny Guinn; Churchill County Commissioners; the mayor of Fallon; State representatives Grady and Goicoechea; as well as State senator Mike McGinness.

Obviously, Mr. Speaker, there is a great deal of support and commonsense agreement on this bill, and so I would urge all Members of this body to vote in favor of H.R. 2831.

□ 1430

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 2831, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GATEWAY COMMUNITIES COOPERATION ACT

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1014) to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gateway Communities Cooperation Act".

SEC. 2. IMPROVED RELATIONSHIP BETWEEN FEDERAL LAND MANAGERS AND GATEWAY COMMUNITIES TO SUPPORT COMPATIBLE LAND MANAGEMENT OF BOTH FEDERAL AND ADJACENT LANDS.

(a) FINDINGS.—Congress finds the following:

(1) Many communities that abut or are near Federal lands, including units of the National Park System, units of the National Wildlife Refuge System, units of the National Forest System, and lands administered by the Bureau of Land Management, are vitally impacted by the management and public use of these Federal lands.

(2) Some of these communities, commonly known as gateway communities, fulfill an integral part in the mission of the Federal lands by providing necessary services, such as schools, roads, search and rescue, emergency service, medical support, logistical support, living quarters, and drinking water and sanitary systems for visitors to the Federal lands and employees of Federal land management agencies.

(3) Provision of these vital services by gateway communities is an essential ingredient for a meaningful and enjoyable experience by visitors to the Federal lands because Federal land management agencies are unable to provide, or are prevented from providing, these services.

(4) Many gateway communities serve as an entry point for persons who visit the Federal lands and are ideal for establishment of visitor services, including lodging, food service, fuel, auto repairs, emergency services, and visitor information.

(5) Development in some gateway communities may impact the management and protection of these Federal lands.

(6) The planning and management decisions of Federal land managers can have unintended consequences for gateway communities and the Federal lands when the decisions are not adequately communicated to, or coordinated with, the elected officials and residents of gateway communities.

(7) Experts in land management planning are available to Federal land managers, but persons with technical planning skills are often not readily available to gateway communities, particularly small gateway communities.

(8) Gateway communities are often affected by the policies and actions of several Federal land management agencies and the communities and the agencies would benefit from greater interagency coordination of those policies and actions.

(9) Persuading gateway communities to make decisions and undertake actions in their communities that would also be in the best interest of the Federal lands is most likely to occur when such decisionmaking and actions are built upon a foundation of cooperation and coordination.

(b) PURPOSE.—The purpose of this section is to require Federal land managers to communicate, coordinate, and cooperate with gateway communities in order to—

(1) improve the relationships among Federal land managers, elected officials, and residents of gateway communities;

(2) enhance the facilities and services in gateway communities available to visitors to Federal lands when compatible with the management of these lands, including the availability of historical and cultural resources; and

(3) result in better local land use planning in gateway communities and decisions by the relevant Secretary.

(c) DEFINITIONS.—For the purpose of this section, the following definitions apply:

(1) GATEWAY COMMUNITY.—The term "gateway community" means a county, city, town, village, or other subdivision of a State, a federally recognized Indian tribe, or Alaska Native village, that—

(A) is incorporated or recognized in a county or regional land use plan or within tribal jurisdictional boundaries; and

(B) the relevant Secretary (or the head of the tourism office for the State) determines is significantly affected economically, socially, or environmentally by planning and management decisions regarding Federal lands administered by the relevant Secretary.

(2) RELEVANT SECRETARY—The term "relevant Secretary" means the Secretary of the Interior or the Secretary of Agriculture, as appropriate.

(d) PARTICIPATION IN FEDERAL PLANNING AND LAND USE.—

(1) PARTICIPATION IN PLANNING.—At the earliest possible time, the relevant Secretary shall solicit the involvement of elected and appointed officials of governments of gateway communities in the development of land use plans, programs, land use regulations, land use decisions, transportation plans, general management plans, and any other plans, decisions, projects, or policies for Federal lands under the jurisdiction of these Federal agencies that are likely to have a significant impact on these gateway communities.

(2) INFORMATION PROVIDED.—To facilitate such involvement, the relevant Secretary shall provide the appropriate officials, at the earliest possible time but not later than the scoping process, with the following:

(A) A summary, in nontechnical language, of the assumptions, purposes, goals, and objectives of the a plan, decision, project, or policy.

(B) A description of any anticipated significant impact of the plan, decision, project, or policy on gateway communities.

(C) Information regarding the technical assistance and training available to the gateway community.

(3) TRAINING SESSIONS.—At the request of a gateway community, the relevant Secretary shall offer training sessions for elected and appointed officials of gateway communities at which such officials can obtain a better understanding of—

(A) the agency planning processes; and

(B) the methods by which they can participate most meaningfully in the development of the agency plans, decisions, and policies referred to in paragraph (1).

(4) TECHNICAL ASSISTANCE.—At the request of a gateway community, the relevant Secretary shall make available personnel, on a temporary basis, to assist gateway communities in development of mutually compatible land use or management plans.

(5) COORDINATION OF LAND USE.—The relevant Secretary may enter into cooperative agreements with gateway communities to coordinate the management of—

(A) the land use inventory, planning, and management activities for the Federal lands administered by the relevant Secretary; and

(B) the land use planning and management activities of other Federal agencies, agencies of the State in which the Federal lands are located, and local and tribal governments in the vicinity of the Federal lands.

(6) INTERAGENCY COOPERATION AND COORDINATION.—To the extent practicable, when the plans and activities of 2 or more Federal agencies are anticipated to have a significant impact on a gateway community, the Federal agencies involved shall consolidate and coordinate their plans and planning processes to facilitate the participation of affected gateway communities in the planning processes.

(7) TREATMENT AS COOPERATING AGENCIES.—To the earliest extent practicable, but not later than the scoping process, when a proposed action is determined to require an environmental impact statement, the relevant Secretary shall allow any affected gateway communities the opportunity to be recognized as cooperating agencies under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) GRANTS TO SMALL GATEWAY COMMUNITIES.—

(1) IN GENERAL.—The relevant Secretary may make grants to any gateway community with a population of 10,000 or less to carry out the purposes of this section.

(2) AUTHORIZATION OF APPROPRIATIONS FOR GRANTMAKING.—There are hereby authorized to be appropriated $10,000,000 for each fiscal year for grants under this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to carry out this Act (other than for grants under subsection (e)), $10,000,000 for each fiscal year.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1014, introduced by the gentleman from California (Mr. RADANOVICH), would facilitate better communication between the Secretaries of Agriculture and the Interior and those designated communities located adjacent to our Federal lands which have come to be known as gateway communities. These gateway communities have and continue to be impacted by decisions made by managers of our public lands and oftentimes fulfill an integral part in the mission of these Federal lands by providing necessary services such as schools, roads, search and rescue, emergency and medical support, drinking water and sanitary systems, to name just a few. It would improve the relationship among Federal land managers, elected officials, and residents of gateway communities, enhance facilities and services available to visitors to our Federal lands, and improve the coordination of land use planning and decisions made by Federal land managers.

In addition, this legislation would make grants available to eligible gateway communities to participate in the Federal land planning process, further giving these communities a place at the table when decisions are being made.

H.R. 1014 is supported by the majority and the minority of the committee. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as introduced, the gateway community legislation sponsored by the gentleman from California (Mr. RADANOVICH) was controversial. However, over the last 2 years, committee staff, outside groups, and the agencies themselves have worked cooperatively to resolve many of the issues presented by this legislation. Recently, enough progress was made that the bill is before us today.

We agree with the National Parks Conservation Association, however, H.R. 1014 is not perfect. It is our hope as this legislation is considered by the other body, all of the interested parties might continue working cooperatively to resolve some of the remaining issues. Furthermore, Members should realize that H.R. 1014 represents yet another piece of legislation placing new duties upon our Federal land managers.

As we continue to work on the Interior appropriations legislation, I would call on all Members to work together to ensure that our Federal land management agencies receive funding sufficient to meet not only their current operations and maintenance needs, but also to cover any new responsibilities we are placing on them through legislation such as H.R. 1014. In many ways, an increase in funding will do as much to improve the communication and cooperation between Federal land management agencies and their neighbors as new authorizing legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. RADANOVICH), the chairman of the Subcommittee on National Parks and Public Land.

Mr. RADANOVICH. Mr. Speaker, first of all, I like to call this bill "the good neighbor act" even though its real name is the Gateway Communities Cooperation Act. The purpose of the bill is to make certain that small communities located just outside the Federal properties have input in the Federal land planning processes. This measure is critical to many of my constituents and important for numerous small communities throughout the country that are impacted by the Federal land management decisions. Many times they are the ones that provide solutions to Federal management problems.

As someone who represents several small towns located just outside Yosemite National Park and near the Stanislaus and Sierra National forests, I know that too often these communities are left out of the process.

This bill ensures that communities serving as gateways to our Nation's Federal lands, including Park Service and Forest Service properties, have a voice in that process. Gateway communities can greatly benefit or be severely harmed by the decisions of Federal land managers, so it is critical that their views are heard before land managers make final decisions. That is why H.R. 1014 encourages a more open discussion between Federal agencies and local communities.

Additionally, this bill makes grants available to qualified gateway communities to provide technical assistance to local communities, allowing them to more readily participate in the Federal land planning process. For these reasons, I encourage my colleagues to support H.R. 1014.

Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr.

HAYWORTH) that the House suspend the rules and pass the bill, H.R. 1014, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

KILAUEA POINT NATIONAL WILDLIFE REFUGE EXPANSION ACT OF 2004

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2619) to provide for the expansion of Kilauea Point National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 2619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kilauea Point National Wildlife Refuge Expansion Act of 2004".

SEC. 2. EXPANSION OF KILAUEA POINT NATIONAL WILDLIFE REFUGE.

(a) IN GENERAL.—The Secretary of the Interior may acquire by donation, purchase with donated or appropriated funds, or exchange, all or a portion of the land or interests in land described in subsection (b), as depicted on a map on file with the United States Fish and Wildlife Service entitled "Kilauea Point Wildlife Refuge Expansion Area" and dated April 22, 2004.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is the following:

(1) Parcel 1, consisting of approximately 12 acres known as the Kilauea Bay property.

(2) Parcel 2, consisting of approximately 40 acres known as the Kilauea Vistas property.

(3) Parcel 3, consisting of approximately 162 acres known as the Kilauea Falls Ranch.

(4) Parcel 4, consisting of approximately 5 acres known as the Kauai Public Land Trust Kahili Beach property.

(5) Parcel 5, comprised of lot 10c of the parcel known as Kilauea Garden Farms, and consisting of approximately 15 acres.

(c) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries of any of the parcels described in subsection (b) as may be appropriate to facilitate the acquisition of land or interests under subsection (a).

(d) INCLUSION IN REFUGE.—Land and interests acquired under this section shall become part of the Kilauea Point National Wildlife Refuge.

(e) MANNER OF ACQUISITION.—All acquisitions of land or waters under this Act shall be made in a voluntary manner and shall not be the result of forced takings.

(f) ADDITIONAL PURPOSES.—In addition to the purposes of the Refuge under other laws, regulations, Executive orders, and comprehensive conservation plans, the Refuge shall be managed for—

(1) the protection and recovery of endangered Hawaiian water birds and other endangered birds, including the Nene (Hawaiian goose); and

(2) the conservation and management of native coastal strand, riparian, and aquatic biological diversity.

(g) PRIORITY GENERAL PUBLIC USES.—Nothing in this Act shall be considered to affect any policy or requirement, under paragraph (3) or (4), respectively, of section 4(a) of the National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd(a)), to treat compatible wildlife-dependent recreational uses as priority general public uses of the Refuge.

SEC. 3. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer all federally owned land, water, and interests in land and water that are located within the boundaries of the Kilauea Point National Wildlife Refuge in accordance with—

(1) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.); and

(2) this Act.

(b) ADDITIONAL AUTHORITY.—The Secretary may, in the administration of the Kilauea Point National Wildlife Refuge, use such additional statutory authority available to the Secretary for the conservation of fish and wildlife, and the provision of opportunities for fish- and wildlife-dependent recreation, as the Secretary determines to be appropriate to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary—

(1) to acquire land and water within the Refuge under section 2(a); and

(2) to develop, operate, and maintain the Refuge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill introduced by the gentleman from Hawaii (Mr. CASE), would allow the Fish and Wildlife Service to acquire up to 234 acres of land from private landowners who have expressed an interest in selling or donating their property for inclusion in the refuge.

The Kilauea Point Refuge was established in 1984. The centerpiece of this unit is a 90-year-old lighthouse which served as a navigational aid for thousands of commercial vessels and boats that sailed between Hawaii and Asia. The Coast Guard has now deactivated the lighthouse, but it has been placed on the National Register of Historic Places.

This refuge provides essential habitat to a number of listed plant, avian and wildlife species, including the Hawaiian monk seal and the official State bird, which is called the nene. It is estimated that more than 400,000 people annually visit this beautiful refuge on the island of Kauai; and this expansion will assist in the recovery of these listed species, conserve native coastal strand and riparian habitat, and help ensure aquatic biological diversity in the future.

During the committee process, an amendment in the nature of a substitute was successfully offered that clarified that the owners of this property may donate their land if they so desire, all acquisitions shall be made in a voluntary manner, and wildlife-dependent recreation will be a priority use when compatible with the purposes of the refuge. This is a good piece of legislation, and I urge an "aye" vote on H.R. 2619.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the adequate description of the legislation provided by the gentleman from Arizona (Mr. HAYWORTH).

To briefly reiterate, H.R. 2619 would virtually double the size of the existing Kilauea Point National Wildlife Refuge on the Hawaiian island of Kauai.

The purpose of this 219-acre expansion would be to protect the scarce and threatened habitats for several endangered species of Hawaiian wildlife. This noncontroversial legislation is strongly supported by the State of Hawaii, the mayor of Kauai, the Kauai County Council, and the citizens of the Kilauea.

That this expansion will be executed entirely through willing seller purchases is testament to the tireless consensus-building which has been accomplished by the gentleman from Hawaii (Mr. CASE). Both the Committee on Resources ranking member, the gentleman from West Virginia (Mr. RAHALL), and I commend the gentleman from Hawaii for his efforts to protect special areas of the Hawaiian environment. I urge Members to support this legislation.

Mr. CASE, Mr. Speaker, I rise today in support of H.R. 2619, my Kīlauea Point National Wildlife Expansion Act. This bill authorizes the addition of 234 invaluable acres to the Refuge, a national treasure, currently home to a variety of endangered and threatened seabirds as well as Hawai‘i's endangered state bird, the nēnē (Hawaiian Goose).

This bill is a vital component of one of my principal goals in Congress: to ensure that federal and/or state or private protection is extended to as many of Hawai‘i's threatened and irreplaceable areas as possible, both to ensure the survival and recovery of Hawai‘i's unique endangered and threatened species and to preserve the dwindling unspoiled resources of our beautiful islands for future generations.

The Kīlauea National Wildlife Refuge, located at the northernmost tip of Kaua‘i, was established in 1985. The initial acreage of 31 acres was increased to 203 acres through additional acquisitions in 1993 and 1994. The refuge provides invaluable habitat for many native seabirds, including the Laysan Albatross, the Red-footed Booby, and the Wedge-tailed Shearwater, as well as for the endangered nēnē. Endangered native plants have also been reintroduced to the area. The Refuge and its historic lighthouse have become one of Hawai'i's world-class tourist destinations, visited by some 300,000 visitors each year. It is one of the most heavily visited refuges in the United States.

The proposed expansion area comprises five parcels of some 234 acres adjoining the boundary of the Refuge on both the east and west sides. The Kīlauea River runs through a portion of the land, which also includes an extensive lo'i (irrigated terrace for traditional cultivation of taro, the staple crop of Native Hawaiians) which could be restored to support endangered Hawaiian water birds, including the Hawaiian duck (Kōloa), Hawaiian coot ('Alae 'ke'oke'o), Hawaiian stilt (Ae'o), and Hawaiian moorhen ('Alae 'ula). There is also a high quality estuarine ecosystem at the lower reaches of the river, which includes habitat for endangered birds as well as native stream life, such as the hihiwai (an endemic snail), o'opu (native goby), the native sleeper fish, flagtail, mullet, prawn, shrimp, invertebrates and juveniles of several important recreational and commercial marine fish species. The proposed addition also provides excellent additional habitat for the nēnē, which was only recently saved from extinction. The beach is also sometimes used by endangered Hawaiian monk seals, and threatened and endangered sea turtles nest in the area.

The upper end of the proposed expansion area contains one of the largest waterfalls (Kīlauea Falls) in the state of Hawai'i.

One of the parcels, 5 acres of valuable beachfront property, was donated after introduction of the bill by a private owner to the Kauai Public Land Trust for eventual transfer to the Fish & Wildlife Service. The owner of another 15-acre parcel has expressed his desire to donate it to the Refuge. The other parcels are on the market, although their owners are amenable to acquisition by the Refuge.

The Kīlauea community strongly supports the Refuge. In fact, the Kīlauea Point National Wildlife Refuge is a model for management of other federal refuges nationwide. The operations of the Refuge are supported by community volunteers, who give daily tours of the Refuge and help in the preservation and propagation of native plant species. The principal volunteer group, Kīlauea Point Natural History Association, even has a small store in the Visitor Center, the proceeds of which support environmental education programs throughout Kaua'i.

H.R. 2619 is supported by Kaua'i's Mayor Bryan Baptiste, State Senator Gary L. Hooser, State Representatives Hermina M. Morita and Ezra Kanoho, the Kaua'i County Council, the State Department of Land and Natural Resources, the Kīlauea Neighborhood Association, the Kaua'i Public Land Trust, the Kīlauea Point Natural History Association, and the Hawai'i Chapter of the Sierra Club. I want to take a moment to thank some of the individuals in Kaua'i whose dedication and commitment to the Refuge and the endangered species it protects inspired development of this bill: Gary Smith, Gary and Beryl Blaich, Susan Boynton, Janis Lyon, and Katie Pickett.

I also want to take this opportunity to thank Resources Subcommittee on Fisheries Conservation, Oceans and Wildlife Chair WAYNE GILCHREST and Ranking Member FRANK PALLONE for moving this bill through their subcommittee, as well as Committee Chair RICHARD POMBO and Ranking NICK RAHALL for helping to bring the bill to the floor today. I would also like to recognize the work of Committee and Subcommittee staff, in particular Dave Jansen and Jim Zoia on the minority staff and Harry Burroughs, Dave Whaley, Mike Correia, and Steve Ding on the majority staff.

I respectfully ask my colleagues to support H.R. 2619 and invite you to come to the Island of Kaua'i to visit our Refuge. I know that if you did so, you would be as convinced as I am of the importance of protecting these previous lands.

Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 2619, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1445

AUTHORIZING PARTICIPATION IN CERTAIN RECYCLING PROJECTS

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2991) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga County Water District recycling program, as amended.

The Clerk read as follows:

H.R. 2991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INLAND EMPIRE AND CUCAMONGA COUNTY RECYCLING PROJECTS.

(a) SHORT TITLE.—This section may be cited as the "Inland Empire Regional Water Recycling Initiative".

(b) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, Title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1636. INLAND EMPIRE REGIONAL WATER RECYCLING PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Inland Empire Utilities Agency, may participate in the design, planning, and construction of the Inland Empire regional water recycling project described in the report submitted under section 1606(c).

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.

"SEC. 1637. CUCAMONGA COUNTY WATER RECYCLING PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Cucamonga County Water District, may participate in the design, planning, and construction of the Cucamonga County Water District pilot satellite recycling plant in Rancho Cucamonga, California, to reclaim and recycle approximately 2 million gallons per day of domestic wastewater.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the capital cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000.".

(c) CONFORMING AMENDMENTS.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the item relating to section 1635 the following:

"Sec. 1636. Inland Empire Regional Water Recycling Program.
"Sec. 1637. Cucamonga County Water Recycling Project.".

The SPEAKER pro tempore (Mr. STEARNS). Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2991, introduced by the gentleman from California (Mr. DREIER), provides Federal resources for two water recycling projects in southern California. The projects authorized in the bill would add an estimated 75,000 acre-feet of water annually to one of the largest recycled water distribution systems in the Santa Ana River Watershed. The projects will treat contaminated surface and ground waters and deliver the recycled water to nearby localities, including underground storage. The bill limits the Federal cost share to 25 percent of the total cost of the projects.

This bill is yet another step toward utilizing currently untapped sources of water and providing clean and dependable water supplies for future generations. I urge my colleagues to support this important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the drought in the Colorado River Basin is a serious crisis. H.R. 2991 would help support the construction of regional water recycling projects in southern California. These projects can help stabilize water supplies and reduce the need to use water from the Colorado River. Local communities have made substantial investments in the projects, and they deserve our support.

I urge my colleagues to support this legislation authored by my colleague from California (Mr. DREIER).

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules and the author of this legislation.

Mr. DREIER. Mr. Speaker, I rise obviously in strong support of this legislation. I thank my friend from Guam for her very nice remarks, and I would especially like to express my appreciation to my friend from Arizona. This initiative deals with water, and both of our States right now are dealing with very serious fire problems. Obviously, I would like to say that our thoughts and prayers go out to the victims in both of our States, Arizona and California, of those who are suffering and have been over the last several weeks. I would also like to express appreciation to the gentleman from California (Mr. POMBO), the very distinguished chairman of the Committee on Resources, as well as my friend from California (Mr. CALVERT), chairman of the Subcommittee on Water and Power. We appreciate their hard work and that of all the members of the committee, and I see a lot of staff members here on the floor. I know they have played a big role in helping us move H.R. 2991 to the floor here.

This measure was introduced as the Inland Empire Regional Water Recycling Initiative to authorize water recycling projects under the U.S. Bureau of Reclamation's title XVI program. This initiative includes two projects which, combined, will produce 75,000 acre-feet of new water annually. With the passage of the CalFed authorization legislation, which we have been working for a decade and a half on, and I mentioned the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CALVERT) last when we brought this measure up 2 weeks ago, it is very imperative that we continue to approve measures preventing water supply shortages in the western United States. This recycling initiative will help meet the water needs of the Inland Empire and begin a strategic Federal-local partnership to bring a significant amount of new water supply to our region.

I am very pleased that this bill has the support of all member agencies of the Inland Empire Utilities Agency as well as the water agencies downstream in Orange County. The IEUA encompasses approximately 242 square miles and serves the cities of Chino, Chino Hills, Fontana, Ontario, Upland, Montclair, and Rancho Cucamonga.

The Inland Empire Utilities Agency produces recycled water for a variety of nonpotable purposes, such as landscape irrigation, agricultural irrigation, construction and industrial cooling. By replacing these water-intensive applications with high-quality recycled water, fresh water can be conserved or used for drinking, thereby reducing the dependence on expensive imported water.

In addition, by recycling water which would otherwise be wasted and unavailable, the Inland Empire Utilities Agency provides that the water available goes through at least one more cycle of beneficial use before it is ultimately returned to the environment.

Again, Mr. Speaker, I want to reiterate my thanks to the Committee on Resources which under the leadership of the gentleman from California (Mr. POMBO) and the subcommittee led by the gentleman from California (Mr. CALVERT) has really accomplished landmark water legislation this year. This is just a small but, for me, a very important part of that.

I also want to express appreciation to the bipartisan delegation from southern California that joined as cosponsors of this legislation: the gentlewoman from California (Mrs. NAPOLITANO), whom I share representing the San Gabriel Valley with, has long been very involved in water issues; the gentleman from Diamond Bar, California (Mr. GARY G. MILLER), who has spent a lot of time representing actually three counties, Orange County, Los Angeles County and San Bernardino County, and has been very focused on these issues; and, of course, the gentleman from California (Mr. BACA) who represents a large part of the Inland Empire. Those were the lead cosponsors we had on this legislation.

Last but not least I do want to express my appreciation for the hard work and dedication of Mr. Robert DeLoach, the general manager of the Cucamonga County Water District, and Mr. Rich Atwater, the CEO and general manager of the Inland Empire Utilities Agency, who have worked tirelessly in behalf of the Inland Empire.

Again, I thank my friend from Arizona for generously yielding me this time. I will join with my friends from Guam and from Arizona in urging all of our colleagues to provide unanimous support for this effort.

Mr. Speaker, I am pleased to be here with my colleagues who serve on the House Resources Committee, and extend my appreciation to Chairman POMBO and Subcommittee Chairman CALVERT, for their hard work in moving this bill to the House floor. I introduced the Inland Empire Regional Water Recycling Initiative, H.R. 2991, to authorize water recycling projects under the U.S. Bureau of Reclamation's Title XVI program.

This initiative includes two projects, the first of which will be constructed by the Inland Empire Utilities Agency (IEUA) and will produce 70,000 acre-feet of new water annually. This project is expected to be fully constructed and on-line by 2008. The second of these projects, to be constructed by the Cucamonga County Water District (CCWD), will produce an additional 5,000 acre-feet of new water annually. This project is expected to be fully constructed and on-line by 2010. Between these two projects, 75,000 acre-feet of new water will be produced annually before the end of the decade.

With the recent passage of the CalFed authorization, it is imperative that we continue to approve measures preventing water supply shortages in the Western United States. This recycling initiative will help meet the water needs of the Inland Empire, and help alleviate California's dependence on the Colorado River. The passage of H.R. 2991 will begin a strategic Federal-local partnership to bring a significant amount of new water supply to the region.

IEUA produces recycled water for a variety of non-potable purposes, such as landscape irrigation, agricultural irrigation, construction, and industrial cooling. By replacing these water-intensive applications with high-quality recycled water, fresh water can be conserved or used for drinking, thereby reducing the dependence on expensive imported water. In addition, by recycling water which would otherwise be wasted and unavailable, IEUA provides that the water available goes through at least one more cycle of beneficial use before it is ultimately returned to the environment.

The Inland Empire Regional Water Recycling Initiative has the support of all member agencies of IEUA, as well as the water agencies downstream in Orange County. IEUA encompasses approximately 242 square miles and serves the cities of Chino, Chino Hills, Fontana (through the Fontana Water Company), Ontario, Upland, Montclair, Rancho Cucamonga (through the Cucamonga County Water District), and the Monte Vista Water District.

I want to reiterate my thanks to the House Resources Committee, which under the leadership of Chairman POMBO and Subcommittee Chairman KEN CALVERT, has really accomplished landmark water legislation this year. I also want to thank my colleagues GRACE NAPOLITANO, GARY MILLER, and JOE BACA for cosponsoring H.R. 2991. And last but certainly not least, I appreciate the hard work and dedication of Mr. Robert DeLoach, general manager of the Cucamonga County Water District, and Mr. Rich Atwater, CEO and general manager of the Inland Empire Utilities Agency who work tirelessly on behalf of the Inland Empire.

Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 2991, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING EXCHANGE OF CERTAIN LAND IN EVERGLADES NATIONAL PARK

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3785) to authorize the exchange of certain land in Everglades National Park, as amended.

The Clerk read as follows:

H.R. 3785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EVERGLADES NATIONAL PARK.

Section 102 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–6) is amended—

(1) in subsection (a)—

(A) by striking "The park boundary" and inserting the following:

"(1) IN GENERAL.—The park boundary";

(B) by striking "The map" and inserting the following:

"(2) AVAILABILITY OF MAP.—The map"; and

(C) by adding at the end the following:

"(3) ACQUISITION OF ADDITIONAL LAND.—

"(A) IN GENERAL.—The Secretary may acquire from 1 or more willing sellers not more than 10 acres of land located outside the boundary of the park and adjacent to or near the East Everglades area of the park for the development of administrative, housing, maintenance, or other park purposes.

"(B) ADMINISTRATION; APPLICABLE LAW.—On acquisition of the land under subparagraph (A), the land shall be administered as part of the park in accordance with the laws (including regulations) applicable to the park."; and

(2) by adding at the end the following:

"(h) LAND EXCHANGES.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of General Services.

"(B) COUNTY.—The term 'County' means Miami-Dade County, Florida.

"(C) COUNTY LAND.—The term 'County land' means the 2 parcels of land owned by the County totaling approximately 152.93 acres that are designated as 'Tract 605–01' and 'Tract 605–03'.

"(D) DISTRICT.—The term 'District' means the South Florida Water Management District.

"(E) DISTRICT LAND.—The term 'District land' means the approximately 1,054 acres of District land located in the Southern Glades Wildlife and Environmental Area and identified on the map as 'South Florida Water Management District Exchange Lands'.

"(F) GENERAL SERVICES ADMINISTRATION LAND.—The term 'General Services Administration land' means the approximately 595.28 acres of land designated as 'Site Alpha' that is declared by the Department of the Navy to be excess land.

"(G) MAP.—The term 'map' means the map entitled 'Boundary Modification for C–111 Project, Everglades National Park', numbered 160/80,007A, and dated May 18, 2004.

"(H) NATIONAL PARK SERVICE LAND.—The term 'National Park Service land' means the approximately 1,054 acres of land located in the Rocky Glades area of the park and identified on the map as 'NPS Exchange Lands'.

"(2) EXCHANGE OF GENERAL SERVICES ADMINISTRATION LAND AND COUNTY LAND.—The Administrator shall convey to the County fee title to the General Services Administration land in exchange for the conveyance by the County to the Secretary of fee title to the County land.

"(3) EXCHANGE OF NATIONAL PARK SERVICE LAND AND DISTRICT LAND.—

"(A) IN GENERAL.—As soon as practicable after the completion of the exchange under paragraph (2), the Secretary shall convey to the District fee title to the National Park Service land in exchange for fee title to the District land.

"(B) USE OF NATIONAL PARK SERVICE LAND.—The National Park Service land conveyed to the District shall be used by the District for the purposes of the C–111 project, including restoration of the Everglades natural system.

"(C) BOUNDARY ADJUSTMENT.—On completion of the land exchange under subparagraph (A), the Secretary shall modify the boundary of the park to reflect the exchange of the National Park Service land and the District land.

"(4) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.".

SEC. 2. BIG CYPRESS NATIONAL PRESERVE.

Subsection (d)(3) of the first section of Public Law 93–440 (16 U.S.C. 698f) is amended by striking "The amount described in paragraph (1)" and inserting "The amount described in paragraph (2)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3785, introduced by the gentleman from Florida (Mr. MARIO DIAZ-BALART) and amended by the Committee on Resources, would authorize the exchange of approximately 1,054 acres of land between the South Florida Water Management District and the Everglades National Park. The Federal lands conveyed are to be used by the South Florida Water Management District for the C–111 project, including restoration of the Everglades natural system. The C–111 project, located on the eastern boundary of the Everglades, would restore habitat in the national park that has been adversely affected by projects to restore more natural flows of water to the park's eastern panhandle, Taylor Slough and Florida Bay.

Mr. Speaker, H.R. 3785 is supported by the majority and minority of the Committee on Resources and by the administration. I would urge adoption of this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3785, as amended, represents a cooperative effort among the bill's sponsor, the Committee on Resources, the National Park Service and other Federal and State agencies to help restore natural water flows that are very important to the health and well-being of the Everglades in Florida. This legislation presents a workable solution to the resource management needs in this area, and we support adoption of the bill by the House today.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, it is an honor and privilege to yield such time as he may consume to the gentleman from Florida (Mr. MARIO DIAZ-BALART), the sponsor of this important legislation, a newcomer to the Congress but one who is well schooled in public affairs and in legislation as a former member of the Florida legislature.

Mr. MARIO DIAZ-BALART of Florida. I want to thank the gentleman for yielding me this time.

Mr. Speaker, I am actually glad that I am doing this now because the Speaker pro tempore is also from Florida, understands the Everglades very, very well, and has been a strong supporter of Everglades restoration.

Let me just briefly talk about what this is. First, the district that I am privileged to represent includes the Everglades National Park. I spent much of my State legislative career assisting with the implementation of the Everglades restoration plan. This plan is showing extreme success, and this legislation before us today will greatly contribute to that success, to continuing that success.

Mr. Speaker, the people of Florida have a strong commitment to the restoration of the Everglades. Not only is it a national treasure, a global treasure, really an international treasure, tourists from around the country and around the world come to experience the wonders, the beauty that is the Everglades. But the people of Florida as well as the taxpayers of the country have also put a lot of resources to try to make sure that the Everglades is as pristine as possible and gets back to as much of its natural state as is possible.

This legislation will allow for the implementation of a component of the 1994 general reevaluation report that provided for the construction of a buffer and detention system along the eastern boundary of Everglades National Park. This system seeks to establish a hydraulic ridge to both prevent excess loss of seepage from the park and to reestablish the historical surface water flow from Northeast Shark River Slough to Taylor Slough.

Again, as I mentioned before, these are not inexpensive propositions. These are not only expensive, they are also very time-consuming projects.

Again, the people of the State of Florida, the State legislature in the State of Florida, the governor in the State of Florida and again previous governors as well but particularly this governor, Governor Jeb Bush, have shown that they are extremely committed to this effort; and again, the taxpayers, the State legislature and the governor have put in a lot of money to make sure that it is not just the Federal taxpayer, the Federal Government, that is contributing to this wonderful effort.

Specifically, Mr. Speaker, this legislation will authorize the exchange of approximately 1,054 acres between the South Florida Water Management District and the Everglades National Park to carry out the construction of the buffer and detention system. Currently, 2.5 miles of the detention and buffer system have been already constructed, and the Federal lands conveyed in this legislation are to be used by the South Florida Water Management District to construct the remaining 5.5 miles of the system.

This is a vital part of the Everglades restoration that again, I repeat, that both the Federal Government has put a lot of emphasis, a lot of time, a lot of effort and a lot of money, and the State as well; not only the State but also the local taxpayers again through the water management district have also put up a lot of money, a lot of effort, a lot of time to try to get this done. This is a vital part of that restoration.

I particularly need to thank the efforts of Chairman POMBO. Chairman POMBO has been just wonderful to work with on this. His staff has been great. My staff has been working with his staff. They have been extremely receptive, not only receptive but their indepth knowledge of this national treasure has been wonderful to see. We have not had to educate them on something that those of us in Florida know and love so much. Chairman POMBO and his staff are so familiar with this project and it has been just a wonderful experience.

Again, one of the things that I want to just reemphasize is that this is not a State of Florida project, that this is a national treasure. The Everglades is a national treasure that is also a threatened national treasure, an extremely delicate ecosystem, one that is vital for the entire State and I would then say for the entire Nation. When we think about the Everglades, we should not only think about that swampland that a lot of people just see in the airplanes when they are flying by, but we should also think about the impact that that has on, for example, Florida Bay, Biscayne Bay, the Florida Keys, the reef system. It is all interconnected. The heart of that is a vital, clean, vibrant, alive Florida Everglades.

Mr. Speaker, I want to thank again Chairman POMBO and his staff for allowing me to bring this bill up here.

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Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 3785, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LEWIS AND CLARK NATIONAL HISTORICAL PARK DESIGNATION ACT

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3819) to redesignate Fort Clatsop National Memorial as the Lewis and Clark National Historical Park, to include in the park sites in the State of Washington as well as the State of Oregon, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LEWIS AND CLARK NATIONAL HISTORICAL PARK DESIGNATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Lewis and Clark National Historical Park Designation Act".

SEC. 102. DEFINITIONS.

As used in this title:

(1) PARK.—The term "park" means the Lewis and Clark National Historical Park designated in section 103.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 103. LEWIS AND CLARK NATIONAL HISTORICAL PARK.

(a) DESIGNATION.—In order to preserve for the benefit of the people of the United States the historic, cultural, scenic, and natural resources associated with the arrival of the Lewis and Clark Expedition in the lower Columbia River area, and for the purpose of commemorating the culmination and the winter encampment of the Lewis and Clark Expedition in the winter of 1805–1806 following its successful crossing of the North American Continent, there is designated as a unit of the National Park System the Lewis and Clark National Historical Park.

(b) BOUNDARIES.—The boundaries of the park are those generally depicted on the map entitled "Lewis and Clark National Historical Park, Boundary Map", numbered 405/80027, and dated December 2003, and which includes—

(1) lands located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop and designated as the Fort Clatsop National Memorial by Public Law 85–435, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) used by that expedition and adjacent portions of the old trail which led overland from the fort to the coast;

(2) lands identified as "Fort Clatsop 2002 Addition Lands" on the map referred to in this subsection; and

(3) lands located along the lower Columbia River in the State of Washington associated with the arrival of the Lewis and Clark Expedition at the Pacific Ocean in 1805, which are identified as "Station Camp", "Clark's Dismal Nitch", and "Cape Disappointment" on the map referred to in this subsection.

(c) ACQUISITION OF LAND.—

(1) AUTHORIZATION.—The Secretary is authorized to acquire land, interests in land, and improvements therein within the boundaries of the park, as identified on the map referred to in subsection (b), by donation, purchase with donated or appropriated funds, exchange, transfer from any Federal agency, or by such other means as the Secretary deems to be in the public interest.

(2) CONSENT OF LANDOWNER REQUIRED.—The lands authorized to be acquired under paragraph (1) (other than corporately owned timberlands within the area identified as "Fort Clatsop 2002 Addition Lands" on the map referred to in subsection (b)) may be acquired only with the consent of the owner.

(3) ACQUISITION OF FORT CLATSOP 2002 ADDITION LANDS.—If the owner of corporately owned timberlands within the area identified as "Fort Clatsop 2002 Addition Lands" on the map referred to in subsection (b) agrees to enter into a sale of such lands as a result of actual condemnation proceedings or in lieu of condemnation proceedings, the Secretary shall enter into a memorandum of understanding with the owner regarding the manner in which such lands shall be managed after acquisition by the United States.

(d) CAPE DISAPPOINTMENT.—

(1) TRANSFER.—Subject to valid rights (including withdrawals), the Secretary shall transfer to the Director of the National Park Service management of any Federal land at Cape Disappointment, Washington, that is within the boundary of the park.

(2) WITHDRAWN LAND.—

(A) NOTICE.—The head of any Federal agency that has administrative jurisdiction over withdrawn land at Cape Disappointment, Washington, within the boundary of the park shall notify the Secretary in writing if the head of the Federal agency does not need the withdrawn land.

(B) TRANSFER.—On receipt of a notice under subparagraph (A), the withdrawn land shall be transferred to the administrative jurisdiction of the Secretary, to be administered as part of the park.

(3) MEMORIAL TO THOMAS JEFFERSON.—All withdrawals of the 20-acre parcel depicted as a "Memorial to Thomas Jefferson" on the map referred to in subsection (b) are revoked, and the Secretary shall establish a memorial to Thomas Jefferson on the parcel.

(4) MANAGEMENT OF CAPE DISAPPOINTMENT STATE PARK LAND.—The Secretary may enter into an agreement with the State of Washington providing for the administration by the State of the land within the boundary of the park known as "Cape Disappointment State Park".

(e) MAP AVAILABILITY.—The map referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 104. ADMINISTRATION.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this title and with laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) MANAGEMENT PLAN.—Not later than 3 years after funds are made available for this purpose, the Secretary shall prepare an amendment to the General Management Plan for Fort Clatsop National Memorial to guide the management of the park.

(c) COOPERATIVE MANAGEMENT.—In order to facilitate the presentation of a comprehensive picture of the Lewis and Clark Expedition's experiences in the lower Columbia River area and to promote more efficient administration of the sites associated with those experiences, the Secretary may enter into cooperative management agreements with appropriate officials in the States of Washington and Oregon in accordance with the authority provided under section 3(l) of Public Law 91–383 (112 Stat. 3522; 16 U.S.C. 1a–2).

SEC. 105. REPEAL OF SUPERSEDED LAW.

(a) IN GENERAL.—Public Law 85–435 (72 Stat. 153; 16 U.S.C. 450mm et seq.), regarding the establishment and administration of Fort Clatsop National Memorial, is repealed.

(b) REFERENCES.—Any reference in any law (other than this title), regulation, document, record, map or other paper of the United States to "Fort Clatsop National Memorial" shall be considered a reference to the "Lewis and Clark National Historical Park".

SEC. 106. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to permit public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Designation of the park shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify any authority of Federal, State, or local governments to regulate the use of private land within the boundary of the park.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II—LEWIS AND CLARK EASTERN LEGACY STUDY

SEC. 201. DESIGNATION OF ADDITIONAL SITES FOR STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior shall update, with an accompanying map, the 1958 Lewis and Clark National Historic Landmark theme study to determine the historical significance of the eastern sites of the Corps of Discovery expedition used by Meriwether Lewis and William Clark, whether independently or together, in the preparation phase starting at Monticello, Virginia, and traveling to Wood River, Illinois, and the return phase from Saint Louis, Missouri, to Washington, District of Columbia, including sites in Virginia, Washington, District of Columbia, Maryland, Delaware, Pennsylvania, West Virginia, Ohio, Kentucky, Tennessee, Indiana, and Illinois.

(2) FOCUS OF UPDATE; NOMINATION AND ADDITION OF PROPERTIES.—The focus of the study under paragraph (1) shall be on developing historic context information to assist in the evaluation and identification, including the use of plaques, of sites eligible for listing in the National Register of Historic Places or designation as a National Historic Landmark.

(b) REPORT.—Not later than 1 year after funds are made available for the study under this section, the Secretary shall submit to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate a report describing any findings, conclusions, and recommendations of the study.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3819, introduced by the gentleman from Washington State (Mr. BAIRD), would redesignate Fort Clatsop National Memorial as the Lewis and Clark National Historical Park, to include in the park sites in the State of Washington as well as the State of Oregon, and for other purposes. Additionally, this bill directs the transfer of existing Federal lands currently under the jurisdiction of the BLM and the U.S. Army Corps of Engineers to the National Park Service for inclusion in the Lewis and Clark National Historical Park.

Finally, H.R. 3819 calls for a study of additional sites associated with the eastern legacy of the Lewis and Clark expedition to be completed by the Secretary of the Interior and the results transmitted to Congress within 1 year of this bill's passage. The study will serve to identify potential additions east of the Mississippi to the Lewis and Clark National Historic Trail, for which several pieces of legislation have recently been introduced. Mr. Speaker, without completing this important first step, determining which sites are truly worthy of recognition, designating further sites would stain the authenticity of the Lewis and Clark Historic Trail as a whole.

Mr. Speaker, H.R. 3819 is supported by the majority and the minority of the committee and by the administration. I would urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the significance of the Lewis and Clark Expedition in the history of the United States cannot be overstated. Once enacted, H.R. 3819 will ensure that the critical "turnaround" chapter of the Lewis and Clark story, which took place once they reached the west coast, can be fully explored and the relevant sites fully conserved and interpreted.

H.R. 3819, sponsored by the gentleman from Washington State (Mr. BAIRD), would implement the preferred alternative identified in the recently completed Lower Columbia Lewis and Clark Sites Boundary Study. The gentleman from Washington (Mr. BAIRD) is to be commended for his diligence in getting this measure to the floor and for his dedication as a steward of the Lewis and Clark story.

We urge our colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. BAIRD), the author of this legislation.

Mr. BAIRD. Mr. Speaker, I thank the gentlewoman from Guam for yielding me this time, and I thank my friend and colleague from Arizona as well for his support.

This is a very exciting day. As we all know, 200 years ago today, as we speak, Lewis and Clark and their Corps of Discovery were in the middle of their epic journey, actually in the early stages; and what a journey it was: thousands of miles of territory unexplored by U.S. citizens prior to that point and terminating, I am very proud to say, actually in my district on the west coast. And as the Members know, the Pacific Northwest is rich in history pertaining directly to Lewis and Clark's Corps of Discovery and to the many tribes that greeted their arrival.

The Lewis and Clark National Historical Park Designation Act will redesignate 560 acres in Washington and Oregon states as the Lewis and Clark National Historical Park and will make this a unit of the National Park System. The acreage will include Fort Clatsop National Memorial; the Megler Safety Rest Area, which was then called Clark's Dismal Nitch; Station Camp; and Cape Disappointment State Park.

I want to take just a second to talk about Station Camp because it was a miraculous place. Lewis and Clark were facing horrific weather. If we read their journals from the time, the rain was pouring down, their clothes were rotting off their bodies, their canoes were capsizing frequently, and they were really at a critical point. They sent a group to the coast itself to look out over the ocean, and they had hoped perhaps they might see a ship there. There were none. Ships had been plying those waters for some decades, but they thought perhaps we will get lucky and can take a ship back. No such luck.

The question then arose: Where shall we winter over? Will we winter on the Washington side, what is now the Washington side, or on the southern side, what is now Oregon? How did they resolve this debate? In true democratic spirit, they had a vote. But what is so remarkable about this vote is the record in the journal indicates that Sacagawea voted, as did York, who was Clark's slave at the time. So here we were 60 years before emancipation, 100 years before suffrage. We took a vote, and the African American and the woman, a Native American, were included in the vote. And that happened at Station Camp.

So this commemoration and designation will allow visitors to the area to fully appreciate the richness of this courageous journey and the heroism that these early explorers showed.

I believe inclusion of these sites as part of the National Historical Park represents the best means for comprehensive interpretation of the history of the Lewis and Clark Expedition in the Pacific Northwest and will continue to relate the importance of the Corps of Discovery's journey long after the bicentennial commemoration. has passed.

Fort Clatsop National Memorial, located near Astoria, Oregon, marks the spot where Lewis and Clark and the Corps of Discovery spent 106 days during the winter of 1805 through 1806. That memorial was established by an act of Congress in 1958 and is the only unit of the National Park System solely dedicated to the Lewis and Clark expedition.

During the bicentennial years, the National Park Service estimates that well over 1 million people will visit Fort Clatsop and the surrounding area. In fact, the memorial has already begun to notice a significant increase in visits; and to accommodate all of these visitors, to enhance visitor experience, it is vital that Fort Clatsop finish its expansion efforts immediately.

The inclusion of these sites is timely considering the bicentennial of the Corps of Discovery is already under way and the preparations are being made in southwest Washington and northwest Oregon for the Destination Pacific Signature Event in 2005.

In addition to preserving and enhancing the historic value of these sites, inclusion with the Lewis and Clark National Historical Park will bring important economic benefits to local communities that, quite frankly, have struggled with the decline of major industries and with high unemployment of late.

I would like to express my profound gratitude to the gentleman from West Virginia (Mr. RAHALL) and his staffers, Jim Zoia and David Watkins; the gentleman from California (Mr. POMBO) and staffer Frank Vitello. The gentleman from Oregon (Mr. WU) has been instrumental in this, as have members of both delegations and both sides of the aisle. This is truly a bistate, bicameral regional effort. And I also express my appreciation to Secretary of the Interior Gale Norton in the administration. The Secretary herself visited the area not long ago and has been a stalwart advocate. And, finally, Chip Jenkins, the superintendent of the park; David Nicandria of the Washington State Historical Society; and my own staffer, Ms. Paula Burg, have done outstanding work.

I thank my colleagues for their consideration in support of this legislation.

Mr. WU. Mr. Speaker, I rise today in support of H.R. 3819, the Lewis and Clark National and Historical Park Designation Act.

The bicentennial of Lewis and Clark's epic journey is upon us. H.R. 3819 commemorates the Corps of Discovery by renaming several state parks and Ft. Clatsop National Memorial as the Lewis and Clark National and Historical Park.

Through 15 National Heritage Events, tens of thousands of participants from all over the world will be able to experience the 200-year-old story of Lewis and Clark, and take away lessons that are still relevant today.

The Pacific is one of 15 nationally sanctioned events taking place along the Lewis and Clark trail. This is a bi-state collaboration between Washington and Oregon scheduled for Friday, November 11th through Tuesday, November 15th, 2005 and ends with the dedication of a new state/national park at Station Camp. Local businesses, national and state park staff, and volunteers are working tirelessly to make our signature event a success. Congress must also do its part by passing H.R. 3819.

As America ventures further and is lifted by the spark of discovery, today and in years to come, it behooves our nation to look to those who have paved the way before us. Whether pushing the frontiers of freedom here on earth, the frontiers of exploration in the heavens, or the frontiers of knowledge everywhere there is ignorance, the story of the Lewis and Clark expedition is one that demonstrates the power of what is possible when a people, and a nation, have the curiosity to ask, "why?"; the sense of unbounded possibility to ask, "why not?"; and the resolve to remake the world.

I urge a "yes" vote on H.R. 3819.

Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 3819, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT AMENDMENTS

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 142) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional water recycling project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, and to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, as amended.

The Clerk read as follows:

H.R. 142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRADO BASIN NATURAL TREATMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1636. PRADO BASIN NATURAL TREATMENT SYSTEM PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Orange County Water District, shall participate in the planning, design, and construction of natural treatment systems and wetlands for the flows of the Santa Ana River, California, and its tributaries into the Prado Basin.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 is further amended by inserting after the item relating to section 1634 the following:

"Sec. 1636. Prado Basin Natural Treatment System Project.".

SEC. 2. REGIONAL BRINE LINES.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is further amended by adding at the end the following:

"SEC. 1637. REGIONAL BRINE LINES.

"(a) SOUTHERN CALIFORNIA.—The Secretary, in cooperation with units of local government, may carry out a program under the Federal reclamation laws to assist agencies in projects to construct regional brine lines to export the salinity imported from the Colorado River to the Pacific Ocean as identified in—

"(1) the Salinity Management Study prepared by the Bureau of Reclamation and the Metropolitan Water District of Southern California; and

"(2) the Southern California Comprehensive Water Reclamation and Reuse Study prepared by the Bureau of Reclamation.

"(b) AGREEMENTS AND REGULATIONS.—The Secretary may enter into such agreements and promulgate such regulations as are necessary to carry out this section.

"(c) COST SHARING.—The Federal share of the cost of a project to construct regional brine lines described in subsection (a) shall not exceed—

"(1) 25 percent of the total cost of the project; or

"(2) $40,000,000.

"(d) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of any project described in subsection (a).".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 is further amended by inserting after the item relating to section 1635 the following:

"Sec. 1637. Regional brine lines.".

SEC. 3. LOWER CHINO DAIRY AREA DESALINATION DEMONSTRATION AND RECLAMATION PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is further amended by adding at the end the following:

"SEC. 1638. LOWER CHINO DAIRY AREA DESALINATION DEMONSTRATION AND RECLAMATION PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Chino Basin Watermaster, the Inland Empire Utilities Agency, and the Santa Ana Watershed Project Authority and acting under the Federal reclamation laws, shall participate in the design, planning, and construction of the Lower Chino Dairy Area desalination demonstration and reclamation project.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed—

"(1) 25 percent of the total cost of the project; or

"(2) $50,000,000.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 is further amended by inserting after the item relating to section 1636 the following:

"Sec. 1638. Lower Chino dairy area desalination demonstration and reclamation project.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 142, introduced by the gentleman from California (Mr. GARY G. MILLER), provides Federal assistance for three water projects to produce dependable water supplies in Southern California. The bill provides for the strategic placement of wetlands to naturally clean surface water in the Santa Ana Watershed. The bill also authorizes Federal funding for the design and construction of a regional brine wastewater pipeline from local groundwater treatment plans. Thirdly, the bill provides for the design and construction of a desalter to treat brackish groundwater. At full build-out, these projects will produce an estimated 50,000 acre-feet of new water.

This legislation, Mr. Speaker, is another example of how communities are utilizing new water technologies to provide water from varied sources of supply that are dependable and drought-proof. I urge my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 142 would support the construction of desalting and water recycling projects in Southern California. These projects can help stabilize water supplies and reduce the need to use water from the Colorado River. Local communities have made substantial investments in the project, and they do deserve our support.

I urge my colleagues to support this legislation.

Mr. GARY G. MILLER of California. Mr. Speaker, I am pleased to rise in support of H.R. 142, legislation I have sponsored to dramatically improve the water supply reliability of the Santa Ana watershed and the water basins in San Bernardino, Riverside and Orange counties. I thank Committee Chairman Pombo and Water Subcommittee Chairman Calvert for recognizing the importance of this bill to providing innovative solutions to the challenges posed by chronic water shortages in Southern California.

Many states today are faced with the formidable task of providing reliable and safe water resources for a rapidly increasing population. This is no exception to California and its growing population of more than 30 million people. Southern California's arid climate makes it difficult for this region to find variable and dependable sources of water. The Interior Department's ruling to reduce the availability of Colorado River water to Southern California has exacerbated the area's water supply problems by reducing approximately 700,000 acre feet of water this year alone. Such water supply deficiencies discourage economic growth, imperil the environment and compromise the health and safety of Southern California residents.

As a result of dwindling supplies and increasing demands, communities continue to seek non-traditional methods to produce dependable water sources, including through water recycling and desalination. H.R. 142 would enhance Southern California's water supply by constructing a water recycling project, a desalination demonstration and reclamation project, and a regional brine lines project. Upon full implementation, these projects will create an estimated 50,000 new acre feet of water annually for the region.

PRADO BASIN NATURAL TREATMENT SYSTEM

H.R. 142 will provide Southern California with additional new water annually through the construction of a water recycling project. The Prado Basin Natural Treatment System will naturally treat the Santa Ana River flow through wetlands development. By assisting Mother Nature in the creation of these wetlands, we will improve the water quality of the Santa Ana River, thereby recharging the Orange County Water District's groundwater basin.

Currently-constructed wetlands have demonstrated an ability to reduce nitrate contaminants to level that permit water supply use. The expanded program will result in more than 1,200 acres to treat three tributaries to the Santa Ana River. This will mean additional treated water that can be made available to the citizens of the region. The new system will help drought-proof the region and protect against salt water intrusion. In addition, the restoration of natural wetlands allows for the amount of water to be stored behind the currently underutilized Prado Dam to be increased.

In a region that is prone to droughts, the expansion of this water supply will deliver nonpotable (non-drinkable) water for irrigation and industrial purposes so that our limited supply of potable water can be reserved for drinking water purposes.

LOWER CHINO DAIRY AREA DESALINATION DEMONSTRATION AND RECLAMATION PROJECT

H.R. 142 expands groundwater desalination in the Chino Basin from the current 9,000 acre feet per year to 40,000 acre feet per year, which would provide a vital new drinking water supply for a rapidly increasing population in San Bernardino County, including Jurupa Community Services District, Santa Ana Mutual Water Company in Riverside County, and the cities of Norco, Chino, Chino Hills and Ontario in San Bernardino County.

As former President Dwight D. Eisenhower once said, "We need a farsighted program for meeting urgent water needs by converting saltwater to fresh water." Once deemed impractical and costly, desalination has evolved into one of America's most effective and reliable solutions to water supply shortages. Desalination provides drinking water directly into the delivery system and is blended with other sources of potable water in many cases. The construction of a desalination demonstration and reclamation project in the Lower Chino Dairy Area offers a viable method of meeting the region's water supply needs into the future.

BASIN NATURAL TREATMENT SYSTEM PROJECT

One of the main challenges to desalination is the transport of the salts, also known as brine, to outfall stations. H.R. 152 seeks to address this obstacle by providing a means to safely and efficiently discard excess brine from desalination plants. Specifically, this legislation calls for the construction of a regional line to transport excess brine to the Pacific Ocean, where it can be safely filtered through an ocean-outfall pump station. This will prevent many of the environmental hazards that can occur from inadequate disposal of excess brine, thus protecting groundwater reserves for the over six million resident of Orange, Riverside and San Bernardino counties.

These projects will help ensure the water needs of Southern California's communities are met, and I urge my colleagues to support this critical legislation.

Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 142, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, and to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project.".

A motion to reconsider was laid on the table.

AUTHORIZING CONTINUED USE OF CERTAIN LANDS WITHIN SEQUOIA NATIONAL PARK

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3932) to amend Public Law 99-338 to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project, as amended.

The Clerk read as follows:

H.R. 3932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION TO REISSUE PERMIT.

The first section of Public Law 99-338 is amended by striking "one renewal" and inserting "3 renewals".

SEC. 2. TERMS AND CONDITIONS.

Section 3 of Public Law 99-338 is amended to read as follows:

"SEC. 3. The permit shall contain the following provisions:

"(1) A prohibition on expansion of the Kaweah Project in Sequoia National Park.

"(2) A requirement that an independent safety assessment of the Kaweah Project be conducted, and that any deficiencies identified as a result of the assessment would be corrected.

"(3) A requirement that the Secretary prepare and submit to Congress an update of the July 1983 report on the impact of the operations of the Kaweah No. 3 facility on Sequoia National Park.

"(4) Any other reasonable terms and conditions that the Secretary of the Interior deems necessary and proper for the management and care of Sequoia National Park and the purposes for which it was established.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3932, introduced by the gentleman from California (Mr. NUNES) and amended by the Committee on Resources, would amend Public Law 99-338 to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

□ 1515

The legislation would provide the authority necessary for Southern California Edison Company to continue operating the Kaweah hydroelectric project partly located in the park until the year 2016, with an option to extend until 2026. The bill also requires the company to pay the park compensation, which shall be determined in consultation with the Secretary.

Mr. Speaker, H.R. 3932, as amended, is supported by the majority and the minority of the Committee on Resources and by the administration. I urge adoption of this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has already explained the purpose of H.R. 3932. While it is unusual to have a hydroelectric facility in a national park, this is a nearly 100-year-old use that has been and will continue to be held to a very high standard to ensure that there is no degradation of park resources.

The National Park Service supports this legislation, as amended, and we appreciate the willingness of the majority to work with us to see that high standards for the use of national parks are maintained and that the park is adequately compensated for this use of park resources.

We support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. NUNES), the author of this important legislation.

Mr. NUNES. Mr. Speaker, let me begin by expressing my thanks to the Committee on Resources, the gentleman from California (Chairman POMBO) and their staff for their hard work on this legislation, H.R. 3932.

This bill is a simple maintenance of the law which has to be accomplished every 20 years to renew the Secretary of the Interior's authority to issue permits for the operation of a hydroelectric power facility in Sequoia and Kings Canyon National Park. This facility was built over 100 years ago and continues to generate power today. If this authority is not renewed, power generation would be halted. This bill is critical, and I urge quick passage.

Again, I offer thanks to the Committee on Resources for moving this bill quickly to the floor.

Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 3932, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend Public Law 99-338 to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project, and for other purposes.".

A motion to reconsider was laid on the table.

PROVIDING FOR CONVEYANCE TO GOVERNMENT OF MEXICO OF DECOMMISSIONED NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION SHIP

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4158) to provide for the conveyance to the Government of Mexico of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

The Clerk read as follows:

H.R. 4158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF NOAA VESSEL WHITING.

(a) IN GENERAL.—The Secretary of Commerce shall convey to the Government of Mexico, without consideration, all right, title, and interest of the United States in and to the National Oceanic and Atmospheric Administration vessel WHITING—

(1) for use as a hydrographic survey platform in support of activities of the United States-Mexico Charting Advisors Committee; and

(2) to enhance coordination and cooperation between the United States and Mexico regarding hydrographic surveying and nautical charting activities in the border waters of both countries in the Gulf of Mexico and in the Pacific Ocean.

(b) OPERATION AND MAINTENANCE.—The Government of the United States shall not be responsible or liable for any remediation, maintenance, or operation of a vessel conveyed under this section after the date of the delivery of the vessel to the Government of Mexico.

(c) DEADLINE.—The Secretary shall seek to complete the conveyance by as soon as practicable after the date of the enactment of this Act.

(d) DELIVERY OF VESSEL.—The Secretary shall deliver the vessel WHITING pursuant to this section at the vessel's homeport location of Norfolk, Virginia, at no additional cost to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4158.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4158 will transfer a decommissioned NOAA vessel, the *Whiting*, to the Government of Mexico. The United States is an active partner in the U.S.-Mexico Charting Advisors Committee which addresses regional issues on charting, research and data collection. As part of the cooperative activities of this committee, the Government of Mexico contacted NOAA indicating an interest in obtaining the vessel from the United States. The Government of Mexico does not have a vessel dedicated to hydrographic surveys, and the *Whiting* would be the first ship to fill that role.

The *Whiting* is 163 feet in length, draws 12 feet of water, has a cruising speed of 12 knots and a cruising range of 5,700 nautical miles. It was removed from service in 2002 after 40 years of conducting hydrographic surveys in the Great Lakes and along the East and Gulf Coasts of the United States.

Under the terms of H.R. 4158, all rights, title and interest in the *Whiting* are transferred to the Government of Mexico. The vessel must be used as a hydrographic platform in support of activities of the U.S.-Mexico Charting Advisors Committee.

The ship will be delivered at the vessel's current home port of Norfolk, Virginia, and the United States will not be responsible for any remediation, maintenance or operation of the *Whiting* after delivery. I urge an "aye" vote on H.R. 4158, and compliment the author, the gentleman from Texas (Mr. ORTIZ), for his leadership.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as noted, H.R. 4158 is a noncontroversial piece of legislation to convey to the Government of Mexico at no cost to the U.S. taxpayer the decommissioned hydrographic survey vessel *Whiting* from the National Oceanic and Atmospheric Administration.

I want to go on record to commend the gentleman from Texas (Mr. ORTIZ) for recognizing the value of conveying the vessel to help strengthen the Mexican Government's civilian hydrographic survey capabilities in the Gulf of Mexico and to participate in joint hydrographic operations with the United States.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 4158, sponsored by Mr. ORTIZ, which seeks to convey to the Government of Mexico, the National Oceanic and Atmospheric Administration vessel, *Whiting*.

The NOAA and U.S. Navy are the main U.S. representatives of the MesoAmerican-Caribbean Sea Hydrographic Commission that coordinates the hydrographic surveys and charting activities of member nations. Since 1963, the *Whiting* had been in service for the NOAA, conducting hydrographic surveys along the east and Gulf Coast of the United States and the Great Lakes. In March 2003, NOAA replaced the *Whiting* with a former U.S. Navy hydrographic survey vessel.

As of August 2003, Mexico did not have a vessel dedicated to hydrographic surveys. The *Whiting* could fill that role, as it was decommissioned by the NOAA in May 2003. By conveying the *Whiting* to the Government of Mexico, Mexican dependence on NOAA and U.S. Navy assets for hydrographic surveys would decrease. In addition to the lessened dependence, the regional capacity would be strengthened. Such a conveyance would foster the exchange of information in the Gulf Coast and improve navigational safety for all vessels sailing in the Gulf of Mexico.

NOAA possesses no authority to transfer ships to foreign governments, and thus, this legislation would authorize such a transfer. With the passage of this legislation, the United States would bear no responsibility for any remediation, maintenance, or operation of the *Whiting* after delivery.

This legislation is exemplary in its effort to contribute globally, without putting a burden on the shoulders of the U.S. By conveying the *Whiting*, a vessel decommissioned by NOAA, to Mexico, Mexico would gain valuable and necessary infrastructure, without cost to the United States, and it would allow it to contribute to the NOAA efforts, for which the United States bears an enormous amount of energy. The United States would gain safer waters in the Gulf Coast, which is central to our national security. In addition, the transfer of the *Whiting* to the Government of Mexico would act to balance the level of responsibility of the countries who are bordered by the waters of the Gulf Coast.

I congratulate Mr. ORTIZ on his leadership in this matter.

Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 4158.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DEPARTMENT OF THE INTERIOR VOLUNTEER RECRUITMENT ACT OF 2004

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4170) to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of Interior, as amended.

The Clerk read as follows:

H.R. 4170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of the Interior Volunteer Recruitment Act of 2004".

SEC. 2. PURPOSE.

The purpose of this Act is to authorize the Secretary of the Interior to recruit and use volunteers to assist with, or facilitate, the programs of the Bureau of Indian Affairs, the United States Geological Survey, the Bureau of Reclamation, and the Office of the Secretary.

SEC. 3. VOLUNTEER AUTHORITY.

(a) IN GENERAL.—The Secretary of the Interior may recruit, train, and accept, without regard to the civil service classification laws, rules, or regulations, the services of individuals, contributed without compensation as volunteers, for aiding in or facilitating the activities administered by the Secretary through the Bureau of Indian Affairs, the United States Geological Survey, the Bureau of Reclamation, and the Office of the Secretary.

(b) RESTRICTIONS ON ACTIVITIES OF VOLUNTEERS.—

(1) IN GENERAL.—In accepting such services of individuals as volunteers, the Secretary shall not permit the use of volunteers in law enforcement work, in regulatory and enforcement work, in policymaking processes, or to displace any employee.

(2) PRIVATE PROPERTY.—No volunteer services authorized by this Act may be conducted on private property unless the officer or employee charged with supervising the volunteer obtains appropriate consent to enter the property from the property owner.

(3) HAZARDOUS DUTY.—The Secretary may accept the services of individuals in hazardous duty only upon a determination by the Secretary that such individuals are skilled in performing hazardous duty activities.

(4) SUPERVISION.—The Secretary shall ensure that an appropriate officer or employee of the United States provides adequate and appropriate supervision of each volunteer whose services the Secretary accepts.

(c) PROVISION OF SERVICES AND COSTS.—The Secretary may provide for services and costs incidental to the utilization of volunteers, including transportation, supplies, uniforms, lodging, subsistence (without regard to place of residence), recruiting, training, supervision, and awards and recognition (including nominal cash awards).

(d) FEDERAL EMPLOYMENT STATUS OF VOLUNTEERS.—

(1) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) Volunteers shall be deemed employees of the United States for the purposes of—

(A) the tort claims provisions of title 28, United States Code;

(B) subchapter I of chapter 81 of title 5, United States Code; and

(C) claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, in which case the provisions of section 3721 of title 31, United States Code, shall apply.

(3) Volunteers under this Act shall be subject to chapter 11 of title 18, United States Code, unless the Secretary, with the concurrence of the Director of the Office of Government Ethics, determines in writing published in the Federal Register that the provisions of that chapter, except section 201, shall not apply to the actions of a class or classes of volunteers who carry out only those duties or functions specified in the determination.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4170, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4170, introduced by the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, and subsequently amended by the Committee on Resources, would authorize the Secretary of the Interior to establish volunteer programs in the Bureau of Indian Affairs, the U.S. Geological Survey, the Bureau of Reclamation and the Office of the Secretary. With this authority, these four bureaus would be able to parallel the successful volunteer programs of the National Park Service and the U.S. Fish and Wildlife Service to recruit volunteers to assist with or facilitate the activities within these agencies.

Mr. Speaker, over 200,000 volunteers annually serve as campground hosts, clear trail, help with seasonal bird surveys, collect new information for maps and assist with many other day-to-day activities.

Mr. Speaker, simply put, volunteers provide the Department of the Interior vital services to help it meet its mission responsibilities. Volunteer programs within the Department also provide outstanding opportunity for community service and public involvement in conservation programs.

Mr. Speaker, H.R. 4170 is supported by the majority and the minority of the Committee on Resources and the administration. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has already explained the purpose of H.R. 4170, which was introduced by the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, at the request of the administration. At this point, Mr. Speaker, I would like to thank publicly the chairman, the gentleman from California (Mr. POMBO), for attending the 60th anniversary of Guam's liberation this past weekend in Tracy, California.

On behalf of the Committee on Resources ranking member, the gentleman from West Virginia (Mr. RAHALL), we appreciate the willingness of the chairman and his staff to make changes to the bill to address concerns about the use of volunteers in regulatory and legal offices within the Department of Interior.

Mr. Speaker, with those changes, we have no objection to the passage of H.R. 4170, as amended, by the House today.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H.R. 4170, the Department of the Interior Volunteer Recruitment Act of 2004. The legislation before us would authorize the Secretary of the Interior to recruit, train, and accept, without regard to the civil service classification laws, rules, ore regulations, the services of individuals, contributed without compensation as volunteers, for aiding in or facilitating the activities administered by the Secretary through the Bureau of Indian Affairs, the Office of Surface Mining Reclamation and Enforcement, the Minerals Management Service, the U.S. Geological Survey, the Bureau of Reclamation, the Office of the Solicitor, and the Office of the Secretary. This legislation will make it easier for those who want to volunteer to take part in the activities under the Department of the Interior.

I applaud Representative POMBO and the crafters of this legislation for taking into consideration the concerns of the Minority in the Resources Committee. Furthermore, this legislation is thorough in that it has protections for the volunteers who are eligible under this Act. This legislation authorizes the Secretary to accept the services of individuals in hazardous duty only upon a determination by the Secretary that such individuals are skilled in performing hazardous activities and it ensures that an appropriate U.S. officer or employee provides adequate and appropriate supervision of each volunteer. Perhaps most importantly this Act prohibits the Secretary from permitting the use of such volunteers in law enforcement work, in regulatory and enforcement work, in policy-making processes, or to displace any employee. It is vital that when we craft legislation such as this that we make sure it protects paid workers who could be compromised by the presence of unpaid volunteers. It is easy to be in favor of this legislation thanks to the protections instated in the language.

I am in full support of this legislation because it has an altruistic spirit. There are a great many Americans every year who give of their time to others without any compensation or material reward. We should be taking done the barriers that might needlessly keep them from these volunteer pursuits. This legislation allows those interested in volunteering for the Department of the Interior to take part in responsibilities that would have previously been blocked from them. The responsibilities under the management of the Department of the Interior are immense and require a great deal of good and willing manpower. This program will help alleviate that burden in a sensible manner. I hope this program will also be used to recuirt and train volunteers from areas such as the inner-city where many people never been get to see our grand National Parks. Perhaps in the future this program can be supplemented to provide grants and scholarships to college-age inner-city youths to spend time working in our great outdoors. These experiences have been proven to expand the horizons of young people who often only get to see blighted urban landscapes. It is time that Americans from all parts of our great nation get to experience all the various landscapes and environments our vast country has to offer. This legislation is a good start and I hope that we will continue to take the initiative to expand this program.

Ms. BORDALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, in the spirit of bipartisanship, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 4170, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SODA ASH ROYALTY REDUCTION ACT OF 2004

Mrs. CUBIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4625) to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes.

The Clerk read as follows:

H.R. 4625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soda Ash Royalty Reduction Act of 2004".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The combination of global competitive pressures, flat domestic demand, and spiraling costs of production threaten the future of the United States soda ash industry.

(2) Despite booming world demand, growth in United States exports of soda ash since 1997 has been flat, with most of the world's largest markets for such growth, including Brazil, the People's Republic of China, India, the countries of eastern Europe, and the Republic of South Africa, have been closed by protectionist policies.

(3) The People's Republic of China is the prime competitor of the United States in soda ash production, and recently supplanted the United States as the largest producer of soda ash in the world.

(4) Over 700 jobs have been lost in the United States soda ash industry since the Department of the Interior increased the royalty rate on soda ash produced on Federal land, in 1996.

(5) Reduction of the royalty rate on soda ash produced on Federal land will provide needed relief to the United States soda ash industry and allow it to increase export growth and competitiveness in emerging world markets, and create new jobs in the United States.

SEC. 3. REDUCTION IN ROYALTY RATE ON SODA ASH.

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of the enactment of this Act shall be 2 percent.

SEC. 4. STUDY.

After the end of the 4-year period beginning on the date of the enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to the Congress on the effects of the royalty reduction under this Act, including—

(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

(2) the number of jobs that have been created or maintained during the royalty reduction period;

(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wyoming (Mrs. CUBIN) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming (Mrs. CUBIN).

GENERAL LEAVE

Mrs. CUBIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4625.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wyoming?

There was no objection.

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to start by thanking the ranking member of the Committee on Resources, the gentleman from West Virginia (Mr. RAHALL), for his kindness in waiving the rule that establishes the ratio of suspension bills and allowing me to bring this bill up today, rather than having to wait until a later day. I also want to thank the gentleman from West Virginia (Mr. RAHALL) and his staff for all the courteous friendship and work that we have done on this bill.

Mr. Speaker, plainly stated, H.R. 4625 would help balance the unfair playing field in the world market and allow the United States trona producers to face growing competition from countries like China.

The United States soda ash industry, which until recently was the largest in the world, has operations in Wyoming, Colorado and California, with the bulk of the total production through four plants in the great State of Wyoming. The total estimated value of the industry is around $800 million.

If you read the papers or watch the news, you know that current economic indicators show that the Nation's economy on the whole is gaining momentum, but the hard-working men and women of Wyoming in the soda ash industry continue to lose their jobs to countries like China.

Seven hundred jobs have been lost in the Wyoming trona industry. The new, rosy economic numbers do not help these families put food on the table. They do not help them buy a new car or buy homes, and they do not help put their children through college. They do not help them sleep at night either. But this bill will provide reassurance for the 3,000 men and women who now work in the trona industry in Wyoming and the other States in the United States.

The future of the soda ash industry is being threatened by a number of factors, including China's announced plans to increase existing soda ash plant capacity by 600,000 tons this year and to construct another new plant that will produce 900,000 tons when completed. It is distressing indeed to consider this level of production, when we know how the Chinese exploit cheap labor and almost completely disregard environmental standards.

Furthermore, the domestic market for soda ash has been stagnant for nearly 20 years, and little growth is expected in the foreseeable future to meet the demand for glass or glass packaging.

Add to all of this the rising energy costs, including a 150 percent increase in natural gas prices over the past 4 years, that have only made matters worse. The much-needed growth will have to be found in places like Asia and Australia, and that means we must take the Chinese head on and with every boost our government can give the soda ash industry.

In order to allow all U.S. soda ash producers to compete on a level playing field with the likes of China, India and synthetic producers around the world and, in turn, create jobs here in the United States, we need to promote a lower tax burden on the industry, a reduced royalty rate and more affordable energy costs that are such a crucial part of the economic mix.

□ 1530

The U.S. soda ash industry pays in the ballpark of $100 million in taxes to Federal, State, and local governments. Due to the growth of China's soda ash exports, it is essential that we provide temporary relief to the soda ash industry in the form of royalty rate reduction. This reduction is intended not to increase the bottom line on soda ash companies; it is intended entirely to grow the market and increase the number of jobs.

H.R. 4625 reduces the royalty rate from 6 percent to 2 percent in order to help the industry achieve increased export growth and competitiveness in the emerging world market.

The hard-working men and women in the soda ash industry have my commitment to continue working to help open new markets and create the good-paying jobs that will help our communities grow and to push for a real energy policy for the Nation that will help smooth out some of the volatility in the natural gas markets by increasing domestic production.

Mr. Speaker, H.R. 4625 is supported by the majority and the minority of the committee, and I urge adoption of this bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 19, 2004.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4625, the Soda Ash Royalty Reduction Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,
ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 4625—Soda Ash Royalty Reduction Act of 2004

Summary: H.R. 4625 would provide royalty relief to producers of sodium compounds and related products on federal land. CBO estimates that enacting H.R. 4625 would increase direct spending by $3 million in 2005 and $15 million over the next five years (with no effect after 2009). Enacting the bill would not affect revenues.

H.R. 4625 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The royalty reduction required by the bill would temporarily reduce federal payments to three states—Wyoming, Colorado, and California—by about $3 million a year over the 2005–2009 period.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4625 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
Estimated budget authority	3	3	3	3	3	0	0	0	0	0
Estimated outlays	3	3	3	3	3	0	0	0	0	0

Basis of estimate: H.R. 4625 would reduce the federal royalty rate for sodium compounds and related materials produced on federal land over the 2005–2009 period. Based on information from the Minerals Management Service about the amount of royalties expected to be generated by production of those materials under current law, CBO estimates that this bill would reduce federal receipts by $6 million in 2005 and $30 million over the next five years. Those forgone receipts would be partially offset by a corresponding decrease in direct spending for payments to the states in which they are generated. Hence, CBO estimates that the next increase in direct spending under H.R. 4625 would total $3 million in 2005 and $15 million over the 2005–2009 period.

Intergovernmental and private-sector impact: H.R. 4625 contains no intergovernmental or private-sector mandates as defined in UMRA. The royalty reduction required by the bill would temporarily reduce federal payments to three states—Wyoming, Colorado, and California—by about $3 million a year over the 2005–2009 period.

Estimate prepared by: Federal Costs: Megan Carroll, Impact on State, Local, and Tribal Governments: Theresa Gullo, Impact on the Private Sector: Crystal Taylor.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. Speaker, I reserve the balanoe of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 4625, the Soda Ash Royalty Relief Act of 2004, authored by the gentlewoman from Wyoming (Mrs. CUBIN).

Soda ash, a chemical produced from trona ore, means mining jobs in southwest Wyoming. These jobs, however, may disappear if we do not provide some measure of relief for our domestic trona producers who are fighting to stay competitive in today's global economy.

Simply put, Mr. Speaker, unfair competition from China threatens to dismantle the American soda ash industry. The pending bill would, for a limited time, enhance the competitiveness of our domestic producers by providing a royalty reduction on trona produced on Federal lands.

At a time when too many American jobs are being lost, we must do what is necessary to keep our workforce here at home strong and competitive. We, on this side of the aisle, have no objection to passage of this bill.

Mr. Speaker, I have no further speakers; and I yield back the balance of my time.

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentlewoman from Guam (Ms. BORDALLO) for her work on this issue and for managing so many of the bills today. She certainly does a good job in the committee and it is great working with her. Always having someone that we can have confidence in really helps move the process along.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the bill, H.R. 4625.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HONORING SANDRA FELDMAN ON HER RETIREMENT FROM THE PRESIDENCY OF THE AMERICAN FEDERATION OF TEACHERS

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 714) honoring Sandra Feldman on the occasion of her retirement from the presidency of the American Federation of Teachers for her tireless efforts to improve the quality of teaching and learning.

The Clerk read as follows:

H. Res. 714

Whereas Sandra Feldman was born in New York City and attended its public schools;

Whereas Ms. Feldman is a former public elementary school teacher, having taught 2nd and 3rd graders at PS 34 in Manhattan;

Whereas Ms. Feldman began her advocacy efforts on behalf of children and other disadvantaged individuals during the 1960's civil rights movement;

Whereas Ms. Feldman rose through the ranks of the United Federation of Teachers to the position of executive director and to the Federation's presidency in 1986;

Whereas Ms. Feldman was elected in May 1997, as the President of the American Federation of Teachers, becoming the 15th president in the Federation's history and the first female president since 1930;

Whereas Ms. Feldman is widely recognized as an expert on urban education and a strong advocate for disadvantaged children;

Whereas Ms. Feldman was selected as one of the "100 Most Influential Women in America" by Ladies Home Journal; and

Whereas educational experts continue to seek the service of Ms. Feldman on numerous high-level commissions and task forces designed to tackle the most pressing problems in our education system: Now, therefore, be it

Resolved, That the House of Representatives recognizes Sandra Feldman on the occasion of her retirement from the presidency of the American Federation of Teachers for—

(1) her decades of work on behalf of disadvantaged children; and

(2) her outstanding contributions and leadership in improving the quality of teaching and learning.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 714.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 714, which honors Sandra Feldman on the occasion of her retirement from the presidency of the American Federation of Teachers and for her efforts to improve the quality of teaching and learning.

Ms. Feldman was born in New York City and educated in its public schools, including James Madison High School and Brooklyn College. She holds a masters degree in English literature from New York University.

A former teacher and United Federation of Teachers chapter leader of PS–34 Manhattan, she joined the UFT staff as a field representative in 1966. She was promoted through the ranks to executive director, a post in which she supervised all aspects of the union's work. In 1983, she was elected secretary of the UFT, the union's second highest office, before becoming president in 1986.

From 1986 through 1997, Ms. Feldman was president of the 130,000-member United Federation of Teachers in New York City, the largest union local in the United States and an affiliate of the AFT. During that time, she also served as a vice president of the AFT.

In May of 1997, Sandra Feldman was elected as president of the 1.3 million-member American Federation of Teachers. She served as the 15th president of the AFT and the union's first female President since 1930. According to AFT publications, membership increased by more than 350,000 in her 7 years as president.

Ms. Feldman is widely recognized as an authority on urban education and an advocate for children and has long been willing to examine innovative approaches in efforts to raise student achievement. Her long-standing commitment to social justice dates back to her involvement with the early civil rights movement, both locally and nationally, when she was arrested during the Freedom Rides and other protests in the 1960s. U.S. Presidents, Governors, and mayors have appointed her to numerous commissions and task forces, tackling educational, economics, child welfare, labor, and other social issues.

This resolution honors Sandra Feldman on the occasion of her retirement from the American Federation of Teachers and recognizes her contributions to teaching and learning in this country. I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 714. This resolution honors a great American committed to a great cause. Sandra Feldman's tenure at the AFT has solidified that organization's influential and positive role in education reform.

Sandra Feldman's career first focused on improving teaching and learning as part of the civil rights movement of the 1960s. Her work as a second and third grade teacher in New York City's public schools solidified her view that a high-quality teacher is one of the key elements of successful learning.

To the benefit of teachers everywhere, Ms. Feldman was elected to the presidency of the United Federation of Teachers New York affiliate of the AFT in 1986. She was subsequently elected to the AFT presidency in 1997.

While holding the presidency of the AFT, Ms. Feldman has helped to improve the conditions under which our teachers work, but she has also been a tireless advocate for improved teaching and learning. Successful teaching includes better pay and benefits. But Ms. Feldman also recognized that we have to ensure our teachers have the skills and the professional development to do their jobs well. Her focus on quality has allowed many school systems to redouble their efforts to improve academic achievement.

While Ms. Feldman has recently retired, her legacy will continue to improve education in this country for many, many years to come. I urge the Members to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

I just want to add that all of the words that were spoken on both sides I think are particularly applicable to Sandra Feldman and the work she did with the AFT, who, in my judgment, was open-minded about change and progression in education; and for that I think she deserves a tremendous amount of credit. We wish her well as she goes off into her retirement.

Mr. GEORGE MILLER of California. Mr. Speaker, I rise in support of H. Res. 714. This resolution honors a woman who has been one of the most influential and positive forces on public education for many years.

Last week, Sandra Feldman retired from the presidency of the American Federation of Teachers, which represents 1.3 million teachers—from pre-schools to universities—throughout this nation.

Through this resolution, the Congress joins her colleagues in the AFT, and throughout the education field, in recognizing and honoring her contributions to teaching and to the improved status and professionalism of educators.

Ms. Feldman's involvement in improving the quality of education began as an advocate for children during the civil rights movement in the 1960s.

She understood, as we should all, that the right to a sound public education is one of the most basic of our civil rights.

Without that education and training; opportunities are cut off from young people in higher education, employment and promotions.

Her work continued as a public elementary school teacher in 2nd and 3rd grade classrooms at PS 34 in Manhattan. She was elected to the presidency of the United Federation of Teachers in 1986, and then the AFT presidency in 1997.

Ms. Feldman's tenure as president of AFT has been marked by tireless efforts to improve teaching and learning in our country. Ms. Feldman's strong national leadership on standards based reform helped strengthen student performance and expand the skills of teachers.

Along with many Members of Congress, state and local legislators, and local board of education, I have long sought Ms. Feldman's advice and counsel in the development of education and child development policy.

She has never failed to respond to requests for her expert advice, serving on innumerable task forces and commissions, and as a regular witness before Congress.

Quite simply, her leadership at the AFT has enabled the nation to improve teacher quality and make academic achievement a reality.

The contributions of Ms. Feldman to our educational system has been immeasurable. This resolution only recognizes these contributions in a small way. The true measurement of Ms. Feldman's efforts are seen in our schools.

Her impact can be seen with an increased focus on teacher quality and better working conditions for teachers. But also her impact is evident in the strength and desire by our schools to improve teaching and learning.

Her leadership at the AFT has brought increased commitment to closing the achievement gap and ensuring all children can succeed.

This is the type of leadership that will continue to strengthen our educational system for years to come, and that will open the door of opportunity to millions of children who otherwise may well have languished in underfunded, unsupported schools throughout this country. That is a legacy that any teacher can be very proud of.

I urge all Members to support this resolution, to recognize a great educator and advocate for teachers and schools, and to wish Sandy the very best for her years of contribution to her country.

Mr. LANGEVIN. Mr. Speaker, I rise today to pay tribute to the impressive career of Ms. Sandra Feldman, as she retires from her presidency of the American Federation of Teachers (AFT). For many years, Ms. Feldman has tirelessly served our nation's teachers, paraprofessionals and school-related personnel, local, state and federal employees, higher education faculty and staff, nurses and healthcare professionals, and public schoolchildren. A New York City native, Ms. Feldman taught in New York City public elementary schools, served in the United Federation of Teachers as secretary from 1983 to 1986 and its president from 1986 to 1997. In 1997, Ms. Feldman was elected as the 15th president of the AFT and the union's first female president since 1930.

Ms. Feldman's unwavering support for teachers and her allegiance to America's children have contributed to many successes in our public schools. She engaged AFT in the fight to attract and retain a first-class workforce, to secure funds for critical services in the public schools and to provide access to professional development programs for teachers and faculty. In 2001, her leadership helped secure a number of positive measures in the No Child Life Behind Act. Since the passage of the law, she has continued to be a voice for children and teachers, striving to implement new guidelines in a way that will truly reach all children.

Ms. Feldman chose not to seek reelection as president of the AFT this year, as she focuses on her health. I sincerely thank Ms. Feldman for her decades of work on behalf of disadvantaged children, her outstanding contributions and leadership in improving the quality of teaching and learning. I wish her every success in her fight against cancer.

Ms. Feldman will be succeeded by a Rhode Island native—Mr. Edward J. McElroy, who I have had the pleasure of working with over the years. I am confident that Mr. McElroy will continue to champion the causes of the teachers, public schools, and most importantly our children.

Again, I thank Ms. Feldman for her dedication to our children and urge all my colleagues to support H. Res. 714.

Mr. HOLT. Mr. Speaker, today I rise to commend Sandra Feldman on the occasion of her retirement from the Presidency of the American Federation of Teachers. I am pleased to be an original cosponsor of H. Res. 714, honoring Sandra Feldman.

Ms. Feldman has served as President of the American Federation of Teachers since 1997. In that time, she has dedicated herself completely to advancement of education. H. Res. 714 shows all Americans that a life committed to our youth and to our future does not go unnoticed.

I am thankful to my colleagues on both sides of the aisle who have voiced support for this bill and for the scores of citizens and activists around the country who have supported similar efforts.

I urge all members of this body to join me in my praising of Sandra Feldman and her exemplary leadership.

Sandra Feldman has been involved with public schools from her youth. As a child she attended a public school in New York City. Upon graduation, she attended Brooklyn College and received a Master's degree in English Literature from New York University.

Eventually Ms. Feldman moved to the other side of the classroom and became a teacher herself, teaching to 2nd and 3rd graders in Manhattan.

Still, Ms. Feldman's dedication to teaching and learning extended well beyond the classroom. In the 1960's, she became both teacher and an advocate.

As an advocate, Ms. Feldman rose through the ranks of both the United Federation of Teachers and the American Federation of Teachers, serving as executive director of the UFT and eventually as President of both organizations.

Her journey was not only unique, but inspiring. She was the first female President of the United Federation of Teachers in more than sixty years. She has earned recognition as an urban education expert and a persistent advocate for disadvantaged children. And she has served on numerous commissions, worked with UNICEF, and tackled issues ranging from child-welfare and labor to school vouchers. She has been recognized by the Ladies Home Journal as one of the "100 Most Influential Women in America." And today, she deserves the recognition of the U.S. House of Representatives.

Mr. Speaker, these brief words cannot adequately describe a lifetime of service and commitment to the betterment of this great nation. Words can never truly convey the gratitude that my colleges and I feel toward Sandra Feldman for her consistent unwavering support for disadvantaged children and our nation's education system. But the reality is, our country and its children and its schools are better off because of her years of service.

I ask my colleagues to support the passage of H. Res. 714 to recognize Sandra Feldman's contributions and leadership in improving the quality of teaching and learning.

Mr. KILDEE. Mr. Speaker, I rise in support of H. Res. 714. This resolution honors one of the most influential individuals in American education today. As a former public school teacher, I am pleased to honor Ms. Feldman on her retirement.

Ms. Feldman's leadership at the American Federation of teachers has made teacher quality and improved working conditions for teachers one of the primary factors in ensuring academic success. Her advocacy on behalf of children and teachers alike have greatly improved education reform in this country. For this, we owe Ms. Feldman our thanks.

The value of a public education is immeasurable. Ms. Feldman's work at the AFT lifted the value of education in the minds of the public. Most importantly however, Ms. Feldmaan has defined the importance of teacher quality. This legacy will continue to help children for many years to come. I urge my colleagues to support this resolution and I yield back the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. I rise to honor the distinguished career and retirement of Sandra Feldman as outgoing President of the American Federation of Teachers. She is truly an extraordinary trailblazer of the American educational system.

Defying odds and raising standards is second nature to Sandra Feldman. The daughter of laborers and a product of New York City's educational system, Sandra Feldman has dedicated her life and her passion to her community and this nation in improving teaching and learning for all Americans.

Since taking the reins of the AFT in 1997 as the 15th president and its first woman president, the organization and its state affiliates have been an unprecedented rise in state and national standardized test scores. The AFT has also increased graduation and retention rates in schools determined to be "at risk."

This great advocate of education has been an invaluable tool in our nation's efforts to make our public schools accountable and equipped with quality teachers, textbooks and other materials needed to ensure that the truly free people are also an educated people.

Mr. Speaker, as we recognize Ms. Feldman, I would also like to extend this recognition and honor to the Texas Federation of Teachers, particularly those in my district of Dallas. Facing extreme budget cuts from the state and new standardized test scores, the teachers of the Dallas Independent School District have risen to the challenge to make sure that their students are able to compete on the equal footing.

Mr. Speaker, as I concluded, I urge my colleagues to join me in recognizing an unwavering pioneer in the realm of education—Ms. Sandra Feldman.

Mr. HOYER. Mr. Speaker, I rise today to honor Sandra Feldman, who has retired as president of the American Federation of teachers.

A union activist for nearly 40 years, Sandy started her career as a teacher, and was elected AFT president in 1997 after serving as president of the United Federation of Teachers in New York City for more than a decade.

Under her tenure, the AFT continued its strong advocacy for educational reforms, but also expanded its efforts into educational research. The AFT released major studies on the teaching of reading, and on how to improve teacher training.

She also personally advocated for more aggressive early childhood efforts, including "Kindergarten-Plus" which would allow disadvantages children to start kindergarten in the summer, and keep them in school during the summer before first grade.

In addition to her work on strengthening and reforming public education, Sandy has been a tremendous advocate for the right to collectively bargain, and has worked to strengthen health care and retirement benefits for her members.

Her dedication to her members and their families is legendary. She has left an enduring imprint on the lives of generation of union workers. Her tireless efforts to secure a better quality of life for working people is a testament to her tremendous energy and commitment to others. Her experience, determination and vision will be greatly missed.

Mr. ENGEL. Mr. Speaker, I rise to pay tribute to Sandra Feldman as she retires from the American Federation of Teachers (AFT) and thank her for her valuable contributions to education and dedication to the teaching profession. As a former New York City school teacher and member of the United Federation of Teachers myself, I can personally attest to her strength of conviction and determination. Having known her for many years, it is also a great privilege to count her a personal friend.

Throughout her career, Sandra Feldman became known as an authority on urban education and an advocate for children. No stranger to activism, she began her advocacy work during the 1960s civil rights movement. A former public school student herself, she then taught in one of New York City's public elementary schools. I had the privilege of working with Sandra Feldman when she was President of the United Federation of Teachers in New York City, the largest union local in the United States. She later took over as President of the American Federation of Teachers in 1997, leading its more than 1 million members.

Throughout her career, U.S. presidents, governors and mayors have appointed her to numerous commissions and task forces tackling educational, economic and child-welfare, labor and social issues. However, Sandra Feldman's interests went beyond the field of education; she serves as a board member or activist in many community and civic organizations.

A dedicated activist, educator and leader, I thank Sandra Feldman for her work throughout her career and sincerely congratulate her on her retirement as president of the AFT.

Mr. RODRIGUEZ. Mr. Speaker, I rise today to join my colleagues in honoring a wonderful leader and educator, Ms. Sandra Feldman, as she retires from her role as President of the American Federation of Teachers.

As the 15th president of the American Federation of Teachers and the union's 1st female president since 1930, Ms. Feldman has led the more than 1 million members of her union since 1997.

A native of New York, Sandra Feldman is a self-described "kid from Coney Island." She grew up in a city-owned slum in Brooklyn that was condemned for all the years she lived there and worked her way through the public education system. She attended Brooklyn College on a scholarship and later received a master's degree in English Literature from New York University.

Sandra Feldman is a lifelong civil rights and union activist. She rose from union ranks to serve as president of the United Federation of Teachers in New York City, a post she held from 1986 to 1997, when she was elected AFT president. She recognizes that children are America's most valuable resource and, as such, they must have guidance from able-bodied professionals to develop into productive members of society.

Recognized as an authority on urban education and an advocate for children, her longstanding commitment to social justice dates back to her involvement with the early Civil Rights movement. As such, she has been recognized by many United States Presidents, governors and mayors to tackle the social issues of education, the economy, child-welfare and labor.

Mr. Speaker, I thank her for her many efforts and sacrifices, as she continues to work to increase the rights of public school teachers and the quality of education for our young children and I ask that my colleagues join me in congratulating this wonderful American.

Ms. NORTON. Mr. Speaker, I rise with words of strong praise for Sandra Feldman, a woman who has spent her life in service to others, as she retires from the presidency of the American Federation of Teachers.

Sandy Feldman's educational journey took her first to children as a teacher in the New York City Public Schools, continued with her service to teachers, children and working people, and culminated in her seven outstanding years as President of the AFT.

Equal rights has been an overarching theme of Sandy Feldman's life. I met Sandy when we both were kids in the civil rights movement. The movement was nascent, but Sandy already was deeply engaged. It was no surprise to me that Sandy Feldman would become the leader of a great union or that she would fight so effectively and productively for the rights of its members. However, for Sandy and the American Federation of Teachers, the value added has been the union's leadership on education itself.

In many circles, Sandra Feldman is equally well-known as an educational innovator. She has regarded her work for the advancement of teachers as part and parcel of the advancement of education for children. She has understood that it is impossible for children to get what they need and deserve if teachers are underpaid and without a say in the working conditions under which they teach.

One example of her forward thinking is her handling of charter schools. Recognizing how they were embraced by many families seeking public school alternatives, Sandy Feldman has been able to reconcile charter school popularity with the maintenance of strong public schools and the rights of teachers in districts willing to work in the same spirit of respect for all concerned.

Sandy's energy, ability to move people and fertile mind for unique educational innovation will be missed, but she has set such a high mark that unions and school districts alike will long be following the path she has so ably laid out.

Mr. CASTLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and agree to the resolution.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM STAFF ASSISTANT OF HON. MARCY KAPTUR, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Dan Foote, Staff Assistant of the Honorable MARCY KAPTUR, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 16, 2004.

Hon. J. DENNIS HASTERT,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena for testimony issued by the Court of Common Pleas for Lucas County, Ohio.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House.

Sincerely,

DAN FOOTE,
Staff Assistant.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 40 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BURGESS) at 6 o'clock and 30 minutes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1587, by the yeas and nays;

Senate Concurrent Resolution 114, by the yeas and nays; and

Senate 2264, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote of this series will be a 5-minute vote.

VIET NAM HUMAN RIGHTS ACT OF 2004

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1587, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 1587, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 323, nays 45, not voting 65, as follows:

[Roll No. 391]

YEAS—323

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess

Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chandler
Clyburn
Cole
Cox
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Etheridge
Farr
Feeney
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (TX)
Green (WI)
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herseth
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hyde
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McGovern
McHugh
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pence
Peterson (MN)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ryan (OH)
Ryan (WI)
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tauscher
Tauzin
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—45

Baldwin
Biggert
Bishop (GA)
Cantor
Coble
Conyers
Cooper
Costello
Crane
Dicks
Dooley (CA)
Dreier
Emerson
Eshoo
Evans
Flake
Goss
Hastings (FL)
Herger
Jackson (IL)
Johnson (CT)
Jones (NC)
Kolbe
Kucinich
Larsen (WA)
McDermott
McInnis
Miller, George
Nadler
Oberstar
Obey
Olver
Ose
Paul
Pryce (OH)
Ruppersberger
Sabo
Shays
Shimkus
Simmons
Smith (MI)
Tanner
Taylor (NC)
Thomas
Weller

NOT VOTING—65

Abercrombie
Baker
Ballenger
Bell
Bonner
Carson (IN)
Carson (OK)
Chocola
Clay
Collins
Cramer
Culberson
Davis (IL)
Delahunt
DeMint
Deutsch
Everett
Fattah
Ferguson
Frelinghuysen
Frost
Gephardt
Granger
Greenwood
Gutierrez
Hayes
Hinojosa
Houghton
Hulshof
Hunter
Inslee
Isakson
John
Jones (OH)
Kennedy (RI)
Kilpatrick
Kingston
Kleczka
Lee
Lipinski
Majette
McCrery
McIntyre
McKeon
Menendez
Miller (MI)
Neugebauer
Payne
Pelosi
Peterson (PA)
Pitts
Quinn
Renzi
Ros-Lehtinen
Rush
Ryun (KS)
Sanders
Spratt
Sweeney
Toomey
Towns
Vitter
Watt
Wexler
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURGESS) (during the vote). Members are reminded that 2 minutes remain in this vote.

☐ 1858

Messrs. CANTOR, TANNER, OSE, COSTELLO, DICKS, HERGER, Ms. BALDWIN, Mr. LARSEN of Washington and Mr. GOSS changed their vote from "yea" to "nay."

Mr. FARR and Mr. DOOLITTLE changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to promote freedom and democracy in Vietnam.".

A motion to reconsider was laid on the table.

Stated for:

Mr. NEUGEBAUER. Mr. Speaker, on rollcall No. 391 I was unavoidably detained. Had I been present, I would have voted "yea."

CONCERNING THE IMPORTANCE OF THE DISTRIBUTION OF FOOD IN SCHOOLS TO HUNGRY OR MALNOURISHED CHILDREN AROUND THE WORLD

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate concurrent resolution, S. Con. Res. 114.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 114, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 367, nays 4, not voting 62, as follows:

[Roll No. 392]

YEAS—367

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chandler
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hyde
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy

Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pence
Peterson (MN)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—4

Flake
Johnson, Sam
Miller (FL)
Paul

NOT VOTING—62

Abercrombie
Ballenger
Bell
Bonner
Carson (IN)
Carson (OK)
Chocola
Clay
Collins
Cramer
Culberson
Davis (IL)
Delahunt
DeMint
Deutsch
Fattah
Ferguson
Frelinghuysen
Frost
Gephardt
Granger
Greenwood
Gutierrez
Hayes
Hinojosa
Houghton
Hulshof
Hunter
Inslee
Isakson
John
Jones (OH)
Kennedy (RI)
Kilpatrick
Kingston
Kleczka
Lee
Lipinski
Majette
McCrery
McIntyre
McKeon
Menendez
Miller (MI)
Payne
Pelosi
Peterson (PA)
Pitts
Quinn
Renzi
Ros-Lehtinen
Rush
Ryun (KS)
Sanders
Spratt
Sweeney
Toomey
Towns
Vitter
Watt
Wexler
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURGESS) (during the vote). Members are reminded there are 2 minutes remaining in this vote.

□ 1907

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NORTHERN UGANDA CRISIS RESPONSE ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2264.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the Senate bill, S. 2264, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 371, nays 1, not voting 61, as follows:

[Roll No. 393]

YEAS—371

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chandler
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hyde
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pence
Peterson (MN)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—1

Paul

NOT VOTING—61

Abercrombie
Ballenger
Bell
Bonner
Carson (IN)
Carson (OK)
Chocola
Clay
Collins
Cramer
Culberson
Davis (IL)
Delahunt
DeMint
Deutsch
Fattah
Ferguson
Frelinghuysen
Frost
Gephardt
Granger
Greenwood
Gutierrez
Hayes
Hinojosa
Houghton
Hulshof
Hunter
Inslee
Isakson
John
Jones (OH)
Kennedy (RI)
Kilpatrick
Kingston
Kleczka
Lee
Lipinski
Majette
McCrery
McIntyre
McKeon
Menendez
Miller (MI)
Payne
Pelosi
Peterson (PA)
Pitts
Quinn
Renzi
Ros-Lehtinen
Rush
Ryun (KS)
Spratt
Sweeney
Toomey
Towns
Vitter
Watt
Wexler
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURGESS) (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1923

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RENZI. Mr. Speaker, on Monday July 19, 2004 I was addressing the Navajo Nation Tribal Council and missed the day's votes. Had I been present I would have voted as follows:

(1) On the motion to suspend the rules and pass H.R. 1587—the Viet Nam Human Rights Act of 2003, I would have voted "yea."

(2) On the motion to suspend the rules and pass S. Con. Res. 114—the Food Distribution in Schools to Hungry or Malnourished Children Around the World Act, I would have voted "yea."

(3) On the motion to suspend the rules and pass S. 2264—the Northern Uganda Crisis Response Act, I would have voted "yea."

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, personal reasons prevent me from being present for legislative business scheduled for today, Monday, July 19, 2004. Had I been present, I would have voted "yea" on H.R. 1587, the Viet Nam Human Rights Act of 2003 (rollcall No. 391); "yea" on S. Con. Res. 114, a resolution concerning the importance of the distribution of food in schools to hungry or malnourished people around the world (rollcall No. 392); and "yea" on S. 2264, the Northern Uganda Crisis Response Act (rollcall No. 393).

PERSONAL EXPLANATION

Mr. KENNEDY of Rhode Island. Mr. Speaker, on July 19, 2004 I missed rollcall votes No. 391, the Viet Nam Human Rights Act of 2003, No. 392 concerning the importance of the distribution of food in schools to hungry or malnourished children around the world, and No. 393 Northern Uganda Crisis Response Act.

Had I been here I would have voted: Yes on rollcall No. 391; Yes on rollcall No. 392; Yes on rollcall No. 393.

At this time I would ask for unanimous consent that my positions be entered into the RECORD following those votes or in the appropriate portion of the RECORD.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. STENHOLM. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1308, Tax Relief, Simplification, and Equity Act of 2003.

The form of the motion is as follows:

Mr. Stenholm moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 1308 be instructed to agree, to the maximum extent possible within the scope of conference, to a conference report that—

(1) extends the tax relief provisions which expire at the end of 2004, and

(2) does not increase the Federal budget deficit.

BUSH TAX CUTS ARE WORKING

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I brought a little article down here with me tonight because I think it is kind of instructive. Sunday morning I was watching some of the talk shows and doing a little reading, and I heard a spokesman for the Democratic candidate say, "Well, you know, this administration has wrecked the economy."

At that point in time, I happened to be reading an article here. It says, "Sales Survey: Economy is Still Picking Up Speed."

What this is talking about is the amount of growth in Tennessee's economy. Over 370 sales professionals were surveyed for their second quarter sales; 69 percent of them saw sales up over first quarter numbers.

Mr. Speaker, I think this just reminds us and proves to us that tax relief works. Continued tax relief for the American people works. Jobs are being created, over 1 million jobs in the last few months. Over 91 million Americans saw a tax cut last year. The Bush tax cuts are working.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–615) on the resolution (H. Res. 724) providing for consideration of the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3574, STOCK OPTION ACCOUNTING REFORM ACT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–616) on the resolution (H. Res. 725) providing for consideration of the bill (H.R. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MISSION NOT ACCOMPLISHED ON ECONOMY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, on Friday, the Department of Labor reported that hourly earnings for workers fell 1.1 percent last month. That is the deepest drop since the depths of the recession in 1991, and it follows a 0.8 decrease in hourly wages in May.

With household income down nearly $1,500 the last 2 years, working families will have to work more hours just to lift their incomes to get back to where they were 3 years ago.

All the while, health care costs for a family of four have gone up from $6,500 to $9,000, college costs have gone up 26 percent in the last 3 years, household bankruptcies have risen by 33 percent in the last 2 years, $180 billion of net value has been erased from 401(k)s.

With a record like this, only this administration would hang the banner "mission accomplished" above the economy.

We can do better for the middle-class families who are facing a squeeze on college costs, health care, savings for their own personal retirement and hourly working income. It is time to turn this economy around to reflect the economic interests of middle-class families who have been faced with a squeeze on them, their family and their children as it relates to the costs.

It is time to put this administration's banner "mission accomplished" back where it came from.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HONORING NORBERT DREILING OF HAYS, KANSAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I rise tonight to recognize a man from my hometown who is a legend in Kansas and a pillar in our community, a man who is sought out for his political expertise and advice as well as for his legal skills, and a man who is well known for his charitable efforts and his vision for our State and our country. I am here tonight to honor a leader, and my friend, Mr. Norbert Dreiling.

Mr. Dreiling may best be known as the father of Democratic politics in the State of Kansas. Through years of dedicated service, he breathed life into a struggling Democratic party and established a lasting two-party system in our State.

Early on, Norbert found ways to use his talents to further his beliefs in good government and in opportunity for all. After graduating from law school in 1949, he returned to his home of Hays, Kansas, where he volunteered as a precinct committeeman, a position he held for the following 25 years. Norbert's enthusiasm and ability brought opportunities well beyond local politics. From 1966 to 1974, he served as State party chairman of the Democratic Party and as campaign chairman for Kansas Governor Robert Docking.

□ 1930

The party flourished under Chairman Dreiling's leadership; and for the first time in Kansas's history, an incumbent Republican Governor was defeated in a race for that office. Norbert went on to advise Governor Docking and helped elect him to a historic four terms as Kansas Governor, the most terms ever served by a Governor in our State. Norbert took an interest in national politics; and along with serving as a delegate to four national party conventions, he served as State co-chairman for the Johnson and Kennedy Presidential campaigns. Today, at the wise age of 79, Mr. Dreiling continues to advise and empower candidates and officeholders.

Norbert's influence extends well beyond politics. Even before President Kennedy's call for civic duty, Norbert was revered as a strong leader and a generous spirit in our community. His benevolent service in support of hospitals, rest homes, schools, and civic organizations is legendary. With an eye to bettering the future, Norbert also knows the importance of remembering the past. He has been instrumental in promoting the Volga-German heritage of Ellis County, Kansas; and he has authored a history of the Volga-German people and their immigration to Kansas, as well as a pageant play marking the centennial anniversary of these events.

When he is not volunteering his time and talents, Norbert is a successful attorney and a partner in the law firm of Dreiling, Bieker and Hoffman. Despite his many activities, his family comes first. Norbert is a devoted husband to his wife Jeannie, and a proud father of four children: January, Mark, Curtis, and Kathy.

Like his Volga-German ancestors who crossed the Kansas prairie many years ago, Norbert's hard work and strong values have made his community and our State a better place. I want tonight to thank Norbert for his many accomplishments, for his civic-minded spirit, and for his sound leadership. Despite a difference in our party affiliation, he is a friend and adviser; and I commend him for his longtime service to our great democracy.

Norbert has spent his life advocating for those in need and enabling others to overcome life's challenges. Today, Norbert himself is facing a great challenge, a personal battle with Parkinson's disease. And tonight, our prayers go out to Norbert and his family during these difficult times. May the strength and courage demonstrated in his years of service throughout his life help him fight the effects of this terrible disease.

TIME IS RUNNING OUT ON RENEWING ASSAULT WEAPONS BAN

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY of New York. Mr. Speaker, at the end of this week, we all take our 6-week break before we come back to the House. That means we only have 9 days left before September 13 when we are going to see the assault weapons ban in this country expire. We have already seen where the gun manufacturers are coming out and saying they cannot wait until this expires, mainly because on September 14 they will be able to supply assault weapons back into the stores so anyone that wants to can buy them.

Mr. Speaker, since I have been here in Washington trying to fight and reduce gun violence in this country, I have always been fair. I have never tried to take away the right of someone to own a gun. But assault weapons go way overboard. Do we want to see our citizens in this country be able to have assault weapons? Assault weapons are the guns that we are seeing every day, unfortunately, in Iraq. Assault weapons are guns that are made to take down as many people as possible in the shortest period of time.

A recent poll by the Educational Fund to Stop Gun Violence shows that an overwhelming amount of Americans support renewal of the ban, including gun owners around the country and NRA supporters. Voters in key Midwestern States, including Ohio, Wisconsin, Michigan, and Missouri, average 72 percent in support of the renewal. In Florida, 81 percent of likely voters support renewing the ban. In rural States, including West Virginia and South Dakota, 68 percent of voters support the renewal. The majority of gun owners in this country support the renewal, mainly because the majority of gun owners in this country are fair, and they know what kinds of guns they need and what kinds of guns we do not need.

In the face of these dramatic numbers in favor of the ban, the issue, unfortunately, remains in a political deadlock. In 2000, the President, President Bush, said that he would sign the bill if it got on his desk. Well, we know that the President has been able to get everything that he has wanted through this House by making some phone calls. It is time the President stands up. It is time the President says, we should have the assault weapons ban certainly renewed, at the least.

Listen, I support our police officers across this country. The police officers across this country want this ban kept in place. Why? Because they have found over the last 10 years fewer and fewer assault weapons are being used in crimes. Fewer and fewer assault weapons are being used to hurt our police officers across this country.

Mr. Speaker, I happen to believe very strongly that one person can make a difference. That is why I came to Congress. But I also know that it takes the American people to wake up, to be able to have their voices heard here; and this is one chance when the American people can come together.

Do not let this time run out. This is where the American people can get involved. Certainly e-mail the Speaker of the House and the President of the United States. Let us keep this promise that the President made back in 2000 a reality. Do we want assault weapons back on our streets? Do we want the possibility of terrorists that are supposedly in this country being able to buy these guns? Do we want the drug lords to be able to have these guns? Think of the shootings that we have had in this country over the last several years. Can we imagine if they had had an assault weapon and how many more people they could have taken down?

I spent my life as a nurse before I came to this great House. My job is to take care of people. My job is to prevent people from being ill, to give them the best quality of life possible. Having assault weapons is deadly for all of us. It is deadly for our children. It is deadly for our police officers. I here in Congress refuse to let this die. That is why I came to Congress, to save lives.

I am asking the American people to get behind this. When we come back in September, over 2,000 people will have died during that time. Two thousand people. Two thousand families, not even counting how many have been wounded. I know this is personal for me, but the rhetoric that we are hearing from the NRA is false.

Ten years ago we heard constantly the only reason we wanted to get this assault weapons ban done is so we could go down that slippery road. Well, let me tell my colleagues something. Second amendment rights, the Constitution, each one of us swears that we will uphold that. I am not out here to take away anyone's right to own a gun.

Please, the American people must become involved in this.

DEFINITION OF MARRIAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, there has been a great deal of debate lately about the definition of marriage. It seems that the position taken is determined largely by a person's world view. Some are primarily interested in what best serves adults. Issues such as health insurance benefits, Social Security benefits, survivor benefits, hospital visitation rights tend to dominate the debate. There is emphasis upon individual rights and personal freedoms.

There is resentment of those who would attempt to limit the definition of marriage. On the other hand, there are those who are primarily interested in children's welfare and long-term cultural implications as they seek to define marriage. For these people, marriage is viewed as the most basic, elemental social contract. It is the bedrock of the culture. Its primary purpose is the conception and rearing of children in a stable, long-term relationship between a man and a woman. The strength of the culture, possibly for its very survival, depends upon this process.

If one subscribes to the primacy of the importance of children, then certain facts appear to be incontrovertible. First, a man and a woman produce a child; no other arrangement seems to work very well. Second, research shows that children do better when they live with their biological father and mother in a long-term, stable relationship.

Twelve leading family scholars summarized thousands of studies on child rearing as follows: children raised by both biological parents within a marriage are less likely to become unmarried parents, live in poverty, drop out of school, have poor grades, experience health problems, die as infants, abuse drugs and alcohol, experience mental illness, commit suicide, experience sexual and verbal abuse, engage in criminal behavior. And they conclude their observations as follows: "Marriage is more than a private, emotional relationship. It is also a social good." In other words, all of these behaviors certainly impact all of us as tax payers and certainly break down the culture.

I worked closely with young people for 40 years and personally witnessed the emotional pain and dysfunctional behavior brought about by the destruction of marriages. Most of this dysfunction was caused by the absence of fathers. Fathers contribute to a child's well-being in a unique way. Mothers also obviously make a unique contribution. It takes both.

Opponents of traditional marriage will refer to studies refuting this data. However, these studies almost always compare families where no father at all is present, are not longitudinal, and are poorly designed. Several countries, notably in Scandinavia, have changed the traditional definition of marriage. The result has been a decline in traditional marriage and a surge in out-of-wedlock births in these countries. Children born in such circumstances on average suffer significant dysfunction and distress.

The strength of a culture can be measured by how it treats its most vulnerable citizens: its children. So the question before us today is this: Do we allow a small number of members of the judiciary to alter an institution which has been the backbone of this Nation? Do we allow these same jurists to do so with the great majority of our citizens in our cities and our States firmly opposed to a change? Forty-four of 50 States have laws defining marriage in a traditional manner.

Again, Mr. Speaker, this is a matter that speaks directly to the welfare of our children and our Nation. Same-sex marriage issues such as survivor benefits and health care benefits for adults can be addressed without doing violence to a time-honored institution which is vital to our national well-being and particularly to our children.

BUDGET ENFORCEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, an earlier speaker tonight said the economy is showing signs of some considerable improvement. Jobs are being created, GDP is increasing. Well, it should. We have borrowed $2.5 trillion in the last 3½ years and spent it. We should get the kind of results with that amount of borrowing.

Last week, the administration failed to meet the deadline to release the mid-session review of the budget. If the administration had released the mid-session review, it would have shown that our budget is in a deep hole. As my colleagues have heard me say many times, when you find yourself in a hole, the first rule is to quit digging. Soon we will have an announcement of another record deficit, somewhere between $425 billion and $500 billion.

Under the simple concept of pay-as-you-go, if we want to pass a tax cut or spending increase, we need to say how we would pay for it. We need to take two shovels away from Congress and the President to stop us from digging the hole deeper. The original PAYGO legislation was part of the bipartisan 1990 budget agreement between President George Herbert Walker Bush and the Democratic Congress. It was subsequently extended in 1993 and 1997, but was allowed to expire in 2002 by President Bush and the Republican Congress.

We should be spending our time trying to find a bipartisan solution to balance our budget, but that may be too much to expect from this do-nothing 108th Congress. Not only has this Congress failed to make any serious efforts to reduce the deficit, we have allowed the budget enforcement tools, which we have proven the track record of in controlling the deficit, to expire. Last month, the House spent 7 hours on this floor debating 19 amendments on budget process reform, but the House leadership would not even allow an up-and-down vote on the Blue Dog budget enforcement proposals because the leadership knew that it would have enough bipartisan support to pass.

☐ 1945

Now, I associate myself with the remarks of the gentleman from Nebraska who just spoke regarding marriage. I strongly support middle-class tax relief. I support extending the marriage penalty relief, the $1,000 per child tax credit and the 10 percent tax bracket. What I oppose is passing these tax cuts with borrowed money and leaving our children and grandchildren to pay our bills.

Those who want to extend expiring tax cuts or make the tax cuts permanent, which they will try to do again this week, adding another $120 to $180 billion to our deficit, should be willing to put forward the spending cuts or the offsetting necessary to pay for them.

Applying pay-as-you-go rules to tax cuts does not prevent Congress from passing more tax cuts. All it says is that if we are going to reduce our revenues, we need to reduce our spending by the same amount so the deficit does not get deeper.

If Republicans actually meant what they say about controlling spending, they would have no problem with applying pay-as-you-go to tax cuts, because it would force Congress to actually control spending when we pass tax cuts instead of just promising to do so in the future.

The problem is the actions of Republicans have not matched their rhetoric. They cut taxes without cutting spending and charge the difference to our children and grandchildren.

Last year we increased the debt limit by $984 billion. The current debt limit is $7.384 trillion. At the close of business last Friday, our total national debt stood at $7,273,792,456,490.62. It appears very likely the debt limit will be reached sometime in late September or October, with the most likely date being early October.

It is time for Congress to deal seriously with our Nation's fiscal affairs. We cannot keep having 70 percent of our debt being bought by foreigners and not paying the bill sooner or later.

LEWIS AND CLARK NATIONAL HISTORICAL PARK DESIGNATION ACT OF 2004

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under a previous order of the House, the gentleman from Virginia (Mr. GOODE) is recognized for 5 minutes.

Mr. GOODE. Mr. Speaker, I am pleased that H.R. 3819, the Lewis and Clark National Historic Park Designation Act of 2004, passed the House earlier today.

From Jamestown to the Cumberland Gap, Virginia has been a land of pioneers. Virginians have explored the New World and established America, and two of her most adventurous sons are Meriwether Lewis and William Clark.

While the western trail of the Lewis and Clark Expedition is well-recognized, less known is the route taken in the preparation phase and return phase of the expedition. I thank my colleagues for joining me in support of H.R. 3819 and in recognition of the Eastern Legacy of the Lewis and Clark Expedition during this bicentennial commemoration.

On January 18, 1803, President Thomas Jefferson sent a confidential letter to Congress requesting an appropriation of $2,500 to fund an expedition of exploration to the Pacific Ocean by route of the Missouri and Columbia Rivers with the hope of discovering a continuous water passage to the Pacific for the purpose of commerce. It was from Monticello that Jefferson conceived this idea, and he chose Captain Meriwether Lewis to lead the exploration. Thus began what would become the Lewis and Clark Expedition.

On March 15, 1803, Meriwether Lewis left the President's House in Washington, D.C. and began preparations for his adventures toward the Pacific. He stopped at the arsenal in Harper's Ferry with an authorizing letter from the Secretary of War and purchased items. He proceeded to Philadelphia, where he studied a wide range of scientific topics. Lewis returned to Washington when he wrote to Captain William Clark to enlist his aid and to share command of the expedition.

In Pittsburgh, Lewis had a keelboat constructed and recruited boatmen to man the vessel that would enable him and Clark to make the long journey. Preparations for the expedition, beginning at Monticello and ending in Wood River, Illinois and the return phase beginning in St. Louis and ending in Washington, D.C., included visiting sites in ten States in the East. These States include Virginia, Maryland, Delaware, Pennsylvania, West Virginia, Ohio, Kentucky, Tennessee, Indiana and Illinois, as well as the District of Columbia.

Currently, no sites visited in these States are recognized as Lewis and Clark National Historic Landmarks nor are they locations along the Lewis and Clark National Historic Trail. I am pleased that Title II of H.R. 3819 implements a study that begins the process towards obtaining recognition for these sites east of the Mississippi.

On January 18, Jefferson's Monticello hosted the commencement of the National Lewis and Clark Bicentennial Commemoration that will continue through 2006. This was the first signature event of the Lewis and Clark Bicentennial, and hopefully, once the study has been completed, the National Park Service will designate Monticello and other parts of the Eastern Legacy as official Lewis and Clark trail sites.

I believe that it is appropriate to include the route followed by Meriwether Lewis and William Clark, whether independently or together, in the preparation and return phases of the expedition. The Eastern Legacy should rightfully be included in the Lewis and Clark National Historic Trail. H.R. 3819 is a positive step towards properly recognizing and honoring the Eastern Legacy of the Lewis and Clark Expedition.

THE FAILINGS OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HILL) is recognized for 5 minutes.

Mr. HILL. Mr. Speaker, if Congress were to receive a fiscal responsibility report card, there would not be a single passing grade. Congress should receive an "F" for failing when it comes to taking care of our Nation's fiscal security. Congress should receive an "F" for failing to pass a budget resolution conference report.

Both the Senate and the House are controlled by the same party, and yet no agreement was reached on simply setting a budget that Congress should stick to. So much for taking fiscal responsibility seriously.

Congress should receive an "F" for so poorly managing the taxpayers' money that the debt ceiling will have to be raised by over $8 trillion in just a few short months.

For the third time in 3 years, the majority party needs to increase the debt limit. Last year we saw the largest debt limit increase in history, $984 billion, Mr. Speaker, and now we are looking at another $690 billion increase just to keep the Federal Government running.

Congress should receive an "F" for failing to pass spending caps and pay-as-you-go legislation, or PAYGO. Pay-as-you-go is a common-sense piece of legislation that Congress ought to pass if we are going to be serious about putting this fiscal House back in order. Simply put, PAYGO provides the blueprint for getting our Nation out of the red ink that we are swimming in.

The PAYGO rules Congress and the President enacted in 1990 were an important part in getting a handle on the deficits in the early 1990s and getting the budget back into balance. The pay-as-you-go rules enacted in 1990 have been tested, and they have passed. There is no question that significantly improved the responsibility and accountability of the budget process and were instrumental in getting from large deficits in the 1980s and early 1990s to budget surpluses in the late 1990s.

The one area that this Congress and administration has excelled in is its ability to run up massive amounts of debt. This year alone we are expected to run approximately a $425 billion deficit, just this year alone, the worst deficit in the United States history, every dime of which must be paid back.

Had Congress and the administration worked in a bipartisan manner with the Blue Dog Coalition, they could have passed a budget and PAYGO. Instead, they forged a partisan path, and the American people are left with neither. The American people deserve a better grade than failure on fiscal responsibility from their elected officials. The President is fond of saying it is the people's money, and he is correct. It is the people's money. And I believe that the people deserve to have our Nation managed in a fiscally responsible manner.

Let us stop playing politics with our financial security. Instead, pass real, meaningful PAYGO legislation and get our Nation's fiscal health back in order.

WERE WE RIGHT TO REMOVE SADDAM?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. COLE) is recognized for 5 minutes.

Mr. COLE. Mr. Speaker, recent reports have done much to identify the mistakes, shortcomings and gaps in U.S. intelligence about Iraq. There is no doubt that the information we had about the weapons programs of Saddam Hussein was incomplete and, to some degree, inaccurate. However, these reports also demonstrate that in a number of respects, U.S. intelligence got it right. Saddam Hussein did possess forbidden weapons, particularly missiles. Saddam and his cronies did indeed have contact and discussions at some level with al Qaeda and various terrorist groups. Terrorists did in fact use Iraq as a sanctuary for training and as a source of supply.

Finally, if British reports are to be believed, President Bush was correct when he warned that Saddam was seeking nuclear material in Africa.

The real question, Mr. Speaker, is not whether U.S. intelligence was perfect, but whether America was right to remove Saddam Hussein from power. Not so long ago, few Americans professed doubts about removing Saddam. In 1998, President Clinton made regime change in Iraq the goal of U.S. policy. In doing so, he received bipartisan congressional support. When President Bush made the case for war against

Saddam in 2002, he, too, received bipartisan support in Congress.

Lest we forget who and what Saddam Hussein was, we should remind ourselves of his actions over the course of his political career. Saddam is a man who launched two regional wars in the Middle East. One cost nearly a million lives. The other required an international military coalition led by the United States to free the victim. Saddam Hussein has actively pursued and employed weapons of mass destruction since the 1980s. He has trained, armed and patronized terrorists of various sorts. He attempted to assassinate a United States President, and his forces routinely tried to down U.S. and allied planes that were responsible for enforcing U.S. sanctioned no-fly zones.

Saddam's crimes and atrocities were not just directed against his neighbors in the international community. The 20-year-plus reign of terror he unleashed against his fellow Iraqis almost defies belief. The countless murders, torture sessions and rapes made him one of the 20th century's most feared and ferocious dictators. He gassed thousands of his own Kurdish citizens, poisoned the environment of those Arab marsh tribes that opposed his rule and looted the country of its wealth. When Saddam's own people rose up against him in 1991 at our urging, he butchered them by the tens of thousands.

When American and Coalition forces finally came to Iraq 12 years later, what did they find? Not, at least yet, stockpiles of WMD. They found something far worse. Dozens of mass graves containing an estimated 400,000 men, women and children murdered by the minions of Saddam Hussein.

I invite my colleagues who so quickly and correctly condemn every shortcoming in the Coalition occupation of Iraq to spend equal time cataloging and criticizing the atrocities of the Hussein regime. If they need any help finding the information, they should talk to the lucky survivors and visit with the thousands of grieving family members who can acquaint them with the full scope of Saddam's crimes.

Once they do, I suspect they will agree with one young American soldier I met while in Iraq. He said, "The real question is not why we came to Iraq but why the whole world was not here years ago."

Would it have been better to leave Saddam in power? In power to do what? To resume his unending efforts to acquire and develop WMDs, to expand, develop and formalize his evolving relationship with al Qaeda and other terrorist groups, to continue murdering his domestic opponents by the thousands?

When the history of Saddam Hussein and the liberation of Iraq is written, Mr. Speaker, there will be many lessons to learn. We will wonder why our intelligence was not better. We will question some of the decisions we made during the occupation. We will be ashamed of a few of our fellow Americans who lost their moral compass in the awful crucible of war and occupation. We will ask why so many Europeans were so slow to learn the lessons of their own sad history and so unwilling to extend to others the freedom they now enjoy. And we will be amazed at so many humane and decent people willing to allow Saddam to reign from a palace rather than rot in a prison.

But, Mr. Speaker, history will show we were right to remove Saddam Hussein. It will demonstrate that the demise of his regime made the world better, America safer and gave the Iraqi people a chance for a decent future. It will vindicate the leaders, especially our President, who saw the danger, rallied the forces of decency and stayed the course.

Finally, and most appropriately, history will honor those Americans in uniform who once again answered the call of their country and liberated an oppressed people.

Mr. Speaker, the recent Senate Intelligence Committee Report on the status of Weapons of Mass Destruction in pre-war Iraq and the early release of material from the 9/11 Commission's Report that will appear later this week have done much to identify the mistakes, shortcomings and gaps in U.S. intelligence about Iraq. There is no doubt that the information we had about the weapons programs of Saddam Hussein was incomplete and, to some degree, inaccurate. It's worth noting that almost every other intelligence estimate in the world was similarly flawed.

The Senate Report and the 9/11 Commission Report, however, also demonstrate that in a number of respects, U.S. intelligence did get it right. Saddam Hussein did possess weapons—particularly missiles—which were forbidden under U.N. resolutions. Saddam and his cronies did, indeed, have contact and discussions at some level with al Qaeda and various terrorist groups. Terrorists did, in fact, use Iraq as a sanctuary, for training, and as a source of supply. Finally, if British reports are to be believed, President Bush was correct when he warned that Saddam was seeking nuclear material in Africa.

The real question, Mr. Speaker, is not whether U.S. intelligence was right in every particular. By its very nature intelligence is incomplete, imprecise, and imperfect. What America must resolve for itself is whether or not we were right to remove Saddam from power in Iraq. Is the world better off, America safer, and the situation in Iraq more hopeful without Saddam?

Not so long ago, Mr. Speaker, before the amnesia induced by the current political season, few serious Americans professed doubts about these issues. It was, after all, President Clinton who made regime change in Iraq the goal of U.S. policy. He received bipartisan congressional support when he did so. And, again, when President Bush made the case for war against Saddam in 2002 he received bipartisan support in Congress. That support included the votes and the vocal support of those from the minority party who now seek to unseat the President and the Vice President in the current electoral campaign.

Lest we forget who and what Saddam Hussein was we should remind ourselves of his actions over the course of his political career. Saddam is a man who launched two regional wars in the Middle East. One cost nearly a million lives. The other required an international military coalition led by the United States to free the victim. Saddam Hussein has actively pursued and employed weapons of mass destruction since the 1980's. He has trained, armed, and patronized terrorists of various sorts. He kidnapped and killed foreign nationals from Kuwait. He attempted to assassinate a former U.S. President. And his forces routinely tried to down aircraft from the U.S. and other countries which were responsible for enforcing the U.N. sanctioned no-fly zones in Iraq.

Saddam's crimes and atrocities were not just directed against his neighbors and the international community. He was at least a brutal toward his own people. The 20 year plus reign of terror he directed against his fellow Iraqis almost defies belief. The countless murders, torture sessions, and rapes made him one of the 20th century's most feared and ferocious dictators. He gassed thousands of his own Kurdish subjects, poisoned the environment of those Arab marsh tribes who opposed his rule, and looted his country of its wealth. When Saddam's own people rose up against him in 1991 at our urging, he butchered them by the tens of thousands. The failure of the United States and its allies to support an uprising which we helped to encourage is, in my view, a sad chapter in our own history.

When American and Coalition forces finally came to Iraq twelve years later, what did they find? Not (at least yet) stockpiles of WMD's, to be sure. They found something far worse—dozens of mass graves containing an estimated 400,000 men, women and children murdered by the minions of Saddam Hussein. I invite my colleagues who so quickly and correctly condemn every shortcoming in the Coalition occupation of Iraq to spend equal time cataloging and criticizing the atrocities of the Hussein regime. If they need any help finding the information—for it is seldom chronicled in the elite media of our country—they should read the voluminous documents and numerous eyewitness accounts, talk to the lucky survivors, and visit with the thousands of grieving family members who can acquaint them with the scope and scale of Saddam's crimes against humanity.

Once they do, I suspect they will echo the sentiments of one young American soldier I met while in Iraq. He said, "the real question is not why did we come to Iraq, but why the whole world wasn't here years ago."

Given Saddam's record of international villainy, brutality and mass murder how can anyone argue that it would have been better to leave him in power? In power to do what? To resume his unending efforts to acquire and develop WMD's? To expand, develop, and formalize his evolving relationship with al Qaeda and other terrorist groups? To continue murdering his domestic opponents by the thousands while the world turned a blind eye?

It is revealing, Mr. Speaker, that the current critics of the war in Iraq never question whether or not that tortured country is better off without Saddam in power. In fact, the critics usually ignore the Iraqi people altogether when they discuss the conflict. It is as if the critics believe that the suffering of the Iraqi people under Saddam does not matter and that their future does not count. How convenient! How self-serving! And how morally bankrupt.

When the history of Saddam Hussein and the liberation of Iraq is written, Mr. Speaker, there will be many lessons to learn. We will wonder why our intelligence was not better. We will question some of the decisions we made with respect to the occupation. We will be ashamed of a few of our fellow Americans who lost their moral compass in the awful crucible of war and occupation. We will ask why so many Europeans were so slow to learn the lessons of their own sad history and so unwilling to extend to others the freedom they now enjoy. We will be amazed that so many humane and decent people were willing to allow Saddam to reign from a palace rather than rot in a prison. We will even question, as we now do with respect to World War II, why the United States took so long to confront evil and act to end the atrocities of a dangerous and evil dictator.

But, Mr. Speaker, History will show we were right to remove Saddam Hussein. It will demonstrate that the demise of his regime made the world better, America more secure, and gave the Iraqi people a chance for a decent future. It will vindicate the leaders—especially our President—who saw the danger, rallied the forces of decency, and stayed the course. Finally, and most appropriately, History will honor those men and women in uniform who once again answered the call of their country, liberated an oppressed people, and left America and the world safer and freer than they found it.

□ 2000

FINANCIAL FREEDOM NEEDED

Mr. TANNER. Mr. Speaker, I want to adopt as part of my remarks the comments that the gentleman from Indiana (Mr. HILL) and the gentleman from Texas (Mr. STENHOLM) made before me.

The Blue Dogs have tried repeatedly to do something about this abuse of our country and what is going on here with regard to the Nation's balance sheet. I do not think that people of this country realize fully how bad it is and how quickly it is deteriorating. And I am talking about our Nation's financial picture.

We cannot be a strong and free country if we are in hock to every other country on Earth. We cannot be strong and free if we are broke. We cannot fix the problems our society faces as long as we are engaged in this financial madness that has been going on around here for the last 3½ years.

Let me just tell you something that is going to scare you. It is not fun to talk about and nobody talks about it because it is not much of a comfort to us as Americans when we beat on our chests and say how great we are. Let me tell you what we are doing. The privately held debt, that is the debt not held by government agencies, the debt that we write checks on every year as interest, in January of 2001 was $2.96 trillion. Of that amount, foreign interest, foreign governments owned $1.01 trillion; 34 percent, in other words, of our debt in 2001 was held by foreigners.

Today, that privately held debt is $4.22 trillion. Foreign interests own $1.75 trillion. It is now 42 percent of our Nation's debt, outstanding debt held by foreign interests. That is a 73 percent increase since we had a one-party government here the last 3 years. Can you imagine what we are doing in the name of cutting taxes for American citizens and without the PAYGO rules to discipline ourselves on spending, which the majority party will not allow the Blue Dogs to bring up? They have increased what we are in debt to the rest of the world by 73 percent in the last 3 years. Last year alone the deficit was $374 billion.

Do you know how much foreigners lent us so that we could keep on spending? $260 billion. Seventy percent of the deficit last year that we spent right here on this floor was lent to us by foreigners who we are now writing interest checks to.

This is the most irresponsible financial game plan for this country in my lifetime, maybe in the country's lifetime.

What is happening here ought to enrage the American people. They will not let us bring up PAYGO so we can stop the spending. They keep on spending, keep on reducing revenue, and borrowing it from foreign interests.

You talk about patriotism. We are in hock. Let me read you a few, if you would like. Do you know how much Japan owns of our paper? $668 billion. China and Hong Kong together, $216 billion. Almost a trillion dollars by two countries. Caribbean banking centers, we owe them $72 billion. Korea, $58 billion. Germany, $49 billion. Switzerland, $49 billion. OPEC, $48 billion. Mexico, $41 billion. Canada, 33. It goes on. We owe Brazil almost $13 billion. The Netherlands, $13 billion. Belgium, $13 billion. Turkey, 15. India, 15. And just the other day we had a foreign aid bill.

What is happening for the last 3½ years here financially is an outrage. It is not only what we are doing to ourselves now. I contend that this Congress has raised taxes more than any other Congress in history. Why? Because they borrowed so much money that we have got to pay interest on, not just once, but every year, every year.

So far this year we have spent $130 billion just to write interest checks to people. I tell you what, unless the American people get on to this scheme that is going on around here about borrowing and spending so that we can hold down taxes or so we say in which we are doing the reverse, we are raising taxes because we will have interest payments on all of this borrowing every year, not to mention the sad fact that we are in hock to every nation that lends us money.

I will tell one thing to the American people that was said in the Wall Street Journal, "Whose bread I eat, whose song I sing."

We are in hock all over the world, and we had better stop right now.

WHERE IS THE VISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes.

Mr. BERRY. Mr. Speaker, I come here night after night, and I see these Howdy Doody neo-cons come to the well and present this ridiculous idea that everything is all right, everything is wonderful. All we need to do is just keep cutting taxes and borrowing money and acting like we have not got good sense, and everything is just going to be wonderful.

I heard a speech this evening about how great the economy is in Tennessee, and I just ask you one question, Mr. Speaker, if things are so doggone good, how come we are broke?

I met with the manufacturer of Army boots last week. He was not complaining. I just happened to run into him, and we had a conversation. He was not asking me to do anything. He said, We do not have money to warehouse Army boots for our troops. We have to ship them directly to the field because we do not have the money to buy any more Army boots for the troops until the year comes in, until October. He said, We are making boots and warehousing them at our own expense so that they will be ready when the time comes because we do not want our men and women in the battlefields to not have boots.

I was just astounded because I hear these folks come down here and talk about how wonderful it is. This is insane what is going on here. We cut taxes and brag about what happens that is good about it. We borrow money that our children, our grandchildren will not even be able to pay back, and act like we do not know what the consequences of all this is going to be. And it is the Republicans that are doing it.

All we get to do is come down here and have a 5-minute discussion about why it is the wrong idea. You have heard tonight, 70 percent of our debt is being bought by foreigners; we have borrowed $2.5 trillion, and we owe another $2 trillion in current account deficits. You cannot be broke and free. Everybody knows that.

Health care costs are in runaway conditions because the Republicans and the Republican administration are so determined to pass public law and public policy that gives the pharmaceutical companies the exclusive right to rob the American people.

You cannot fund veterans, you vote to send men and women on the battlefields and then you do not have enough money to pay for the veterans benefits that they are entitled to, and you keep coming back with budgets that cut that and then come back here and talk about how wonderful things are.

I do not know what in the world they are thinking about. Where I come from it is just as bad to be lying as it is to be stealing.

I just wonder, where is the vision?

There was an article in The Washington Post yesterday about where are the patriotic businessmen; where are the people in this country, the leaders in the business community that used to stand up and say, This is a bad idea, do not do this. It will hurt everybody. It will hurt our children and grandchildren. We want this country to continue to be good and strong and wonderful like we have had it. And yet these people come down here and try to blow smoke at everybody and tell them everything is going to be all right and it is going to be wonderful; and then they put everybody's children and grandchildren at risk.

I just wonder where is the vision. What were you people thinking about?

We met with Mr. CHENEY, the Blue Dogs, we met with Vice President CHENEY back in the Spring of 2001. He said, we think you are nice people, but we can cram this down your throat and that is what we are going to do. And they did. We voted against it.

Then they send that little fellow over there from OMB, I cannot remember his name. He is running for Governor of Indiana today. And he said, Do not worry. We are going to have so much money, we will not even have any bonds to sell. Now look at this mess we have got.

It is time for us to do something about it. And the good news is it is up to the American people, and we still get to vote in November, and we are going to make the decision.

SEARCHING FOR A BALANCED BUDGET

The SPEAKER pro tempore (Mr. HENSARLING). Under a previous order of the House, the gentleman from Florida (Mr. BOYD) is recognized for 5 minutes.

Mr. BOYD. Mr. Speaker, I am honored to be here today to join my Blue Dog colleagues who have preceded me, the gentleman from Texas (Mr. STENHOLM), the gentleman from Indiana (Mr. HILL), the gentleman from Tennessee (Mr. TANNER), the gentleman from Arkansas (Mr. BERRY), and also the gentlewoman from South Dakota (Ms. HERSETH) who will follow.

We have worked together on this fiscal responsibility and budget issues. Mr. Speaker, I listened to what the gentleman from Arkansas (Mr. BERRY) said, and I just have the thought that most American families when they sit down to look at their finances and they consider that they have got a food bill and rent or a house payment, utilities, car payments, they have got to send their kids to school, they know that at the end of the day, at the end of the month, at the end of the year, they have to have had enough revenue come in to meet those expenses. This is a very simple principle. You have to have enough revenue coming in to meet your expenses.

I like to look at the history of this whole deficit situation, and let us just go back about 12 years. Mr. Speaker, in 1992 this Congress, this government was spending $290 billion more than it took in. In other words, there was an annual deficit of $290 billion. That was the largest at that time in the history of the Nation. It was stagnating the economy. The interest rates were higher than they should have been. The American people understood this because it was affecting them on a daily basis, and they spoke through the ballot box in 1992.

Starting in 1993 and for the next 5 years, the deficit went down every year. In 1998, for the first time since 1969, the Federal Government had a surplus. In 1998, for the first time in almost 30 years, the Federal Government had a surplus. Two years later, our Federal Government, for the first time since the 1950s, did not have to borrow from the Social Security fund to cover its yearly operating expenses. That was only 4 short years ago in fiscal year 2000. Since then, Mr. Speaker, this government has borrowed $1.7 trillion to pay its bills. We have put that into the economy.

We hear rhetoric every day about how the economy is improving. Mr. Speaker, if you cannot improve this economy by borrowing, the government borrowing $1.7 trillion and pumping it into the economy, I feel for you; $670 billion was borrowed during that same 3-year period from the trust funds, like Social Security. And as we heard the gentleman from Tennessee (Mr. TANNER) say, we borrowed over a trillion dollars from the public, mostly, about 70 percent of it coming from foreign countries like China and Japan.

Mr. Speaker, our government with respect to our budget and fiscal responsibility is headed in the wrong direction under the current leadership.

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Let me say that again. The government and the budget, with regard to fiscal responsibility, is heading in the wrong direction under the current leadership.

This Congress and this administration have no discipline when it comes to fiscal responsibility. We are spending at record levels. It is absolutely running out of control, while there is no thought given to how we responsibly pay for that spending, and we are simply sending the bill to the children and the grandchildren. We will pay for it in our lifetime, and we will pay for it soon as we see those bills come due.

Mr. Speaker, the group that I work with, the Blue Dogs, have worked hard to return some sanity to the budgeting process. Just like any responsible American family that has to balance their own family budget or business budget, we believe that it is time for the Federal Government, the Congress, to dust off the deficit reduction tools that we used in the 1990s to get the budget under control.

We have heard them talk about this here tonight. We heard the gentleman from Texas (Mr. STENHOLM) talk about them. Strong PAYGO rules, that means pay-as-you-go. When you find yourselves in a hole, that is what you do.

Enforceable spending caps, that was an important component of the 1997 Balanced Budget Act. We put caps in place for spending and we lived by it.

Most important of all and a simple step that this Congress and administration ought to be able to do is to enact a budget resolution that the House and Senate can use as a blueprint to establish its priorities and identify the resources to pay for those priorities.

Mr. Speaker, I think that pretty soon the American people will realize that annual deficit spending to the tune of a half a trillion dollars a year will come back to haunt us.

FISCAL RESPONSIBILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from South Dakota (Ms. HERSETH) is recognized for 5 minutes.

Ms. HERSETH. Mr. Speaker, as the newest member of the Blue Dog Coalition, I rise today to speak on an issue of vital importance to the hardworking people of South Dakota, fiscal responsibility.

South Dakota families know how important it is to live within their means. They do this because they know that is what it means to live responsibly, even if it requires difficult decisions for them and their families.

In its most recent pronouncement, the Congressional Budget Office now estimates that the Federal budget deficit for fiscal year 2004 will be approximately $477 billion. This means that in a 12-month period ending this September 30, the Federal Government will spend almost half a trillion dollars more than it will take in. If a South Dakota family behaved in this way, they would ultimately be headed to bankruptcy court under the burden and pressure of crushing debt.

This projected deficit would be the highest in our Nation's history, and the picture does not get much better as we look down the road. CBO's updated 10-year deficit estimate is $2.4 trillion, almost $1 trillion more than its earlier predictions. To make matters worse, the 10-year deficit estimate would virtually explode to $4.1 trillion if all of the current administration's tax cuts are extended for 10 years.

What is often lost in the debate about the budget deficit is its impact on the overall Federal debt. We cannot allow this fact to be obscured. The national debt currently stands at well over $7 trillion. That is an estimated Federal debt of more than $24,000 for every man, woman and child in the United States. During this past year, the national debt has continued to increase an average of $1.69 billion per day.

In fiscal year 2003, the U.S. Government spent $318 billion of taxpayers' money on interest payments on the national debt. This is over $1,000 per person and over $4,000 for a family of four in this country, and that was for last year alone.

The problem can be brought into sharp focus by taking a snapshot of the programs under the jurisdiction of the committees on which I serve: Committee on Agriculture, Committee on Resources, and Committee on Veterans' Affairs.

Because Congress and the administration have failed to exercise the same fiscal responsibility that South Dakotans use to balance their household budgets every day, our government is now seeking to balance the budgets on the backs of family farmers, veterans and vulnerable members of our society, such as many Native Americans.

Under pressure from our massive deficit, the Agriculture appropriations bill that just passed the House shortchanges conservation programs that are needed to restore the land and build wildlife habitat.

The same fiscal policy has led to cuts in vital service for Native Americans, including in education and human services. These cuts come despite the fact that Native Americans in my State live in some of the poorest counties in the entire Nation in sometimes desperate conditions. They know better than anyone else that education is the only path toward a better life.

Finally, just as we are creating a whole new generation of veterans on the battlefields of Iraq and Afghanistan, pressure from the deficit has led to a budget that shortchanges America's veterans. It is a sad fact that this administration's budget is $1.2 billion short of the amount that the Secretary of Veterans Affairs said is necessary simply to maintain current services.

In the years ahead, we must meet the obligations that we are making to these tens of thousands of selfless Americans. They will need assistance to recover from injuries sustained on the battlefield. They deserve assistance with education, housing and building a better life. Especially in light of the sacrifices they have already made, they do not deserve having to bear the additional burden of financing this outrageous financial debt.

We must put our financial house back in order. The $318 billion we are paying in interest on the debt alone would fund all of these needs many times over. It would help sustain family farms and rural economies, build new schools for all who need them, and keep our Nation's promise to our veterans.

I hope that we can bring common sense back to our Nation's budgeting process. We must reinstate meaningful budget enforcement tools such as the pay-as-you-go rule proposed by the Blue Dogs and by which this House previously abided. We must focus on middle class tax relief, paying down our Nation's debt and balancing our Nation's budget in a way that protects our key priorities.

ORDER OF BUSINESS

Mr. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY AND HALLIBURTON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, for nearly 3 months, the Bush administration has flatly refused to cooperate with the United Nations-sanctioned auditors examining the contracts provided to companies like Halliburton for services in Iraq.

President Bush's government has withheld pertinent information from the U.N.'s International Advisory and Monitoring Board which was specifically tasked to ensure that Iraq's oil revenues would be managed responsibiy during the United States occupation and for as long as American and other companies work on reconstruction jobs in Iraq.

Halliburton, my colleagues may remember, is the Texas-based oil company that has received over $1 billion in lucrative contracts from the United States for the reconstruction of Iraq, and they have never had to place a single bid for these contracts.

Years ago, the Pentagon established the practice of allowing private companies to bid on various projects, rewarding the most qualified company willing to complete a given project for the lowest price with a highly sought after government contract.

Mr. Speaker, this practice was good for American companies, while, through competition, also kept prices down; ensuring that American taxpayers did not get fleeced in the process.

The Pentagon, under the shoddy supervision of the Bush White House, has all but disregarded this process in 4 short years. Not only has the Bush administration given rise to the shameful new policy of the no-bid contract, it has also rebuffed any and all attempts by international organizations to provide oversight to those companies that are the recipients of these no-bid contracts.

My colleagues may also recall that Vice President CHENEY is the former CEO of Halliburton. In the months since the beginning of the Iraq War, Vice President CHENEY's former company, from which he still receives nearly $200,000 a year in deferred income, has been nothing if not greedy.

CHENEY's company, Halliburton, overcharged the U.S. Government for the price of gasoline imported into Iraq from Kuwait. CHENEY's company, Halliburton, charged the United States Government for thousands of meals for soldiers that were never provided. Yet the Bush administration has done everything in its power to ensure that CHENEY's company, Halliburton, gets whatever it wants or whatever it does not want.

In this case, Halliburton does not want international auditors to get their hands on documents that stipulate how Iraq's oil revenues have been spent or even how much oil has been processed. Halliburton does not want international auditors to learn that meters have never been installed on Iraq's Persian Gulf loading platforms, allowing for the exportation of an unlimited and unaccounted amount of crude oil.

As a result, in addition to the billions of dollars in no-bid contracts, Halliburton may be making millions of dollars more off of the oil that rightfully belongs to the Iraqi people, but then this is the same company that provided fake meals to American troops and overcharged our government for Kuwaiti oil.

There has to be a better way, because the Bush doctrine of rewarding cronies at the expense of the American taxpayer has proven to be an utter failure. We need to be smart about how we choose companies to rebuild countries like war-torn Iraq.

I have introduced H. Con. Res. 392, which is legislation to create a SMART security platform for the 21st century. SMART stands for Sensible, Multilateral, American Response to Terrorism.

The wonderful organizations Physicians for Social Responsibility, Friends Committee on National Legislation and Women's Action for New Directions helped me in crafting this legislation.

In this day and age, terrorism is an international problem, and so it makes sense that the fight against terrorism should involve the international community. That is why SMART security calls for working closely with the U.N. and NATO to achieve its goals. Only by actively involving other nations in this fight can we hope to prevent future acts of terrorism.

The Bush administration likes to talk the talk when it comes to national security, but if they want to walk the walk, they will stop rewarding their buddies with no-bid contracts, while protecting these same buddies from international auditors. If they want to be truly smart about defending our country, they will be smart enough to realize that national security depends on international cooperation.

IN MEMORIAM OF JUANITA RABOUIN PHILLIPS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I rise to honor and memorialize a great American, Juanita R. Phillips, a retired educator in the St. Louis public schools. She died of natural causes on Thursday, July 1, 2004, 3 months shy of celebrating her 100th birthday.

She was born in Chicago, Illinois, on September 26, 1904, 3 months, as I said, before her centennial. She attended the Clinton Iowa public schools and graduated in 1927 from the University of California at Los Angeles and earned a master's degree in English from Ohio State University.

After graduation, she taught English at various historically black institutions such as Florida A&M College in Tallahassee, Florida, and Hampton Institute in Hampton, Virginia, before moving to St. Louis.

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In 1943 she moved with her husband, Dr. A.C. Phillips, an educator who served as principal of Washington Technical, Vashon, and Central High Schools, and after retirement as a former president of New Age Federal Savings and Loan in North St. Louis.

Mrs. Phillips continued her love for teaching English at Soldan High School, from which she retired in 1972, and subsequently served as a tutorial volunteer.

During her lifetime, Mrs. Phillips remained engaged in various local and national organizations until she became well advanced in age. As a founding member and first president of Alpha Kappa Alpha Sorority's Alpha Gamma Chapter, my chapter, at UCLA in the 1920s, she also dated Ralph Bunche, a classmate while in college. She continued an active social life in St. Louis where she maintained membership in the Booklovers Club, the Garden Club, a local women's bridge club, as well as shared activities with her husband as an archousa in the Beta Eta Boule, The Anniversary Club, The Couples Club, and numerous civic and philanthropic projects. She was a voracious reader, avid gardener, a consummate traveler, and a generous hostess who enjoyed sharing her time and energy to make life more pleasant for her friends and family, and especially her grandchildren.

Mr. Speaker, I want to say I just returned from the Alpha Kappa Alpha Convention, over 10,000 women, and announced to them her passing. But the remarkable thing is that she almost saw a full century of life and we, her family, she was my aunt, need to emulate her spirit because she believed in peace. She loved poetry, and she wrote to us poetically. The last conversation I had with her she said to me, I think I have just lived too long. And I responded, you will live forever in our hearts and our minds.

EXPENSING STOCK OPTIONS

The SPEAKER pro tempore (Mr. HENSARLING). Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, this evening I want to reference briefly, legislation that we are going to be dealing with tomorrow that I think is very important. I have been spending time, as I know a number of my colleagues have, questioning the recent proposal from the Financial Accounting Standards Board, FASB, about whether or not we are going to be expensing stock options.

This is particularly important for somebody from the State of Oregon where technology has become a critical part of our local economy. It is the largest export of our State by far, a State originally founded on agriculture and timber. Now, technology exports are twice what we have in those traditional areas. The wages that are paid are twice the State average. They are high-paying, important jobs for a growing part of our economy that is increasingly a critical part of a global economy.

When these proposals came forward, I looked at them closely because, sadly, Congress in the past has not always been the most constructive partner. When it comes to financial regulations, often our participation has hindered rather than helped. I think any objective analysis would suggest that congressional interference with what happened with the savings and loan scandal probably added billions of dollars to the long-term cost to the taxpayer.

More recently, congressional interference dealing with accounting standards probably increased the problems there when we had some of the most difficult fallout. We had an opportunity to play a more constructive role; I am not certain that we did.

That is why I look at this carefully. I started by talking to business people I know back home who were involved with this process to find what impact expensing options would have on their businesses. It was clear that were we to be dealing with the expensing of broad-based stock option plans, the impact would be negative.

Now, it is clear that we are not talking about the vast majority of stock options that are granted to only a small number of high-level employees. Here we have seen expensing take place with little or no impact on shareholder value. That is because they are very limited. In the area that we are talking about with broad-based stock options where the majority of the employees have these options vested, not just the top few, it would have a dramatic impact on the balance sheet.

What it would mean in the long term is that a number of these firms, because of the lower values, they would simply stop offering broad-based stock option programs. That would be a tragedy on several levels. One has to do with the fact that broad-based stock option programs probably are a counterweight, a check and a balance against abuse. If you have a large number of employees who have a stock option program, there is less incentive and it is harder to manipulate. Indeed, to the best of my knowledge, there has not been a single case of a broad-based stock option program that has been one of the problems we have been reading about in the papers. The Worldcoms or the Enrons have been those stock options that were more limited in nature. So we would lose that check and that balance.

Additionally, we lose an important part of start-up capital. What we are finding in the volatile world of technology finance is that there are a number of people who are willing to grab the brass ring, they are willing to take a chance to forgo salary for stock options, putting, in effect, sweat equity into the business on the prospect that it will prosper and that they will reap handsome rewards in the future. This does not happen all of the time, but it happens frequently enough that people are willing to make that type of investment. It has been a critical part of the success in getting the talent and getting these start-ups off the ground.

It is particularly important in a small State like Oregon which does not have access to capital that we see in other parts of the country like Silicon Valley; and as a result, Oregon would be particularly hard hit if we were to lose the opportunity for broad-based stock options.

Mr. Speaker, I hope that my colleagues carefully examine this legislation coming before us tomorrow and look at the impact that broad-based stock options have in terms of the entrepreneurial spirit, in terms of what it means for the benefit of large numbers of employees, and the integrity of stock options themselves. Members should look carefully at the problems of valuation for something that is in effect equity in the future that is unknown and avoid a problem of adopting a new policy that could have a very negative effect on our technology industry and small business.

BUDGET DEFICIT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TANCREDO. Mr. Speaker, it has been an interesting time sitting here and listening to my colleagues on the other side of the aisle talk about the issue revolving around the budget, the budget deficit and spending problems we are experiencing. It is undeniably true that we are spending far too much money. It is fascinating to hear the discussion of this particular phenomenon, spending too much money, and having Members on the other side of the aisle decry that particular activity.

It is fascinating because I sit on the Budget Committee, and on that committee we have for a number of years now looked at budgets that are offered by not just the administration, by the Republican Party, but by Members of the other party. To the best of my recollection, we have yet to see any budget proposed by the other side of the aisle that would address the issue of spending. Not one. In fact, every single budget proposed by Members from the other side of the aisle spends more.

At no time to the best of my recollection have we said on this floor, while we debated any particular appropriations bill, any one of the 13 appropriations bills the House has the responsibility to address and pass to keep the government moving, I do not recall, and I certainly could be wrong, but I just do not recall any time during the discussion of any one of those appropriations bills where the issue was we are spending too much from the other side. That is to say that they were complaining that the bill was too rich.

They were oftentimes complaining about where the money was spent, but not that we were not spending enough. Nobody was complaining about the fact that it was overspending; complaints were almost always that we were not spending enough on particular programs.

On every single appropriations bill, or at least a majority of the appropriations bills that come to the floor, the gentleman from Colorado (Mr. HEFLEY), who has been around for approximately 20 years and has certainly seen a lot of budgets come and go in this process, but every year he stands up and to almost every single appropriation bill he attempts to add an amendment. He offers an amendment that is a limiting amendment.

It does something really very scary. The ramifications would be incredible if we were to ever pass it. We fail to pass it every single time; but what this amazing, incredible thing that he offers to the Members of this body who are supposedly concerned about spending, he suggests that we should cut spending on each one of the appropriations bills by an enormous amount, or enormous around here, and that amount is 1 percent. Every single year he gets up and offers this amendment to every appropriations bill, let us just cut 1 percent off of this appropriation, and he fails. Almost all of the Members on the other side of the aisle vote against it, as do many Members on our side.

Mr. Speaker, I do not rise here to defend the spending activities of this Congress, but I do suggest that when one does propose that we should not spend so much, when one stands up at this microphone and condemns the body for spending a lot of money, they should be willing then to vote to stop that, not just criticize it, but stop it.

What, is the devil making us do this? That is what it sounds like: please, somebody stop me; I cannot control myself. Please, somebody out there deal with it. Institute some rule, institute some program because I have to continually vote to spend all of the money that I can possibly vote to spend, and then some. And then it is somebody else's fault. And the one continuing theme that ran through almost every one of the discussions that preceded mine here tonight discussing the appropriations process and the budget process, the continuing theme was this: the real problem, the real dastardly thing that we, the Republicans, have done over the course of the last 4 years is to reduce taxes. That is the most heinous crime with which we have been charged during the last hour.

There was a lot of discussion about the economic condition that most Americans find themselves in and many families are wondering about how to pay the bills and especially their health care costs. All these things are undeniably true.

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Here is the solution, then, as I heard them explain it. The best thing we can do to those people who are trying to figure out how to pay the bills in America is to increase their taxes. This will help us all. This will make everybody happy. It will solve all of our problems because you and I both know, Mr. Speaker, that there are just too many Americans out there, middle-class Americans who are not paying enough to keep this thing afloat.

Again I want to stress, I absolutely do not wish to defend the spending practices of this body, both Republicans and certainly the Democrats. We spend too much money. That is undeniably true. It is also undeniably true that something happened called 9/11 and as a result of that we did have extraordinary things occur. One, a dramatic drop in the economic activity of the country and, two, an inordinate increase in the amount of money we spent on homeland security and on national defense. Those things, I think, are understandable. Our expenses went up, our revenues went down as a result of an event. But I do not excuse the fact that we still spent money beyond what we took in to an ever greater extent every year. I believe that we should have made many more decisions about how to cut in other areas. Whenever the Labor, Health and Human Services bill comes up, which is a huge, huge, huge spending bill, all for social services, we shall see how many amendments will be offered by the other side to that bill to cut spending. We shall see whether or not anybody would vote for that 1 percent cut in that $400 billion or $500 billion bill in order to reduce the size of the deficit that we all decry. I will vote for it. I guarantee you I will vote as I did every single time for every single 1 percent and I would have voted for a much higher percentage cut had it been offered, but I voted for every single one of those 1 percent cuts. What a scary thing that we proposed, 1 percent. We failed to get it.

As I say, the issue evidently is spending. Nobody really tries to stop it around here. But the real scary thing to our friends on the other side of the aisle is that we may in fact be allowing people to keep too much of their own wages, too many of their own dollars. This absolutely astounds the other side. It is frightening to them. Everybody would be happier, as I say. We could go to every one of those families that are sitting around the table, that they talked about earlier tonight, wondering how to pay their bills and say, "We'll help you figure out how to pay the bills. We'll take more money away from you in taxes. That will be better. Believe us. Trust us. That's going to help you out."

Does this sound weird to anybody else out there? It is a very strange philosophy but it is decorated with a lot of rhetoric so that all of a sudden it sounds logical. "Of course, we just need to do that. We have to raise taxes, naturally. We have to spend all this money, take money away from everybody, it is only right. Everybody would be happier if we did, right?"

I do not think so. I do not think so. I think most Americans do not think so, either. They are not delusionary. Most Americans want us to spend less. That is undeniably true. I am with them. I am with them in that regard. I do wish that we could spend less and I do wish that we could prioritize better than we have been able to prioritize and I believe that it is incumbent upon us to continue the effort. But the last thing I think we should do is to turn over that process to the folks whose only history in dealing with budgets, by the way, around here for 40 something years prior to the time that Republicans took control was to develop dramatic spending increases ad infinitum. I just really do not feel safe in thinking that the other way to handle this is to provide the other party with the keys to the treasury.

Of course that is not the issue that I wanted to bring forward tonight. I just had to comment on that as I listened to the discussion. I wanted to talk tonight about an issue that does compel me to come to this floor often and that is an issue dealing with the policy of this government with regard to immigration and to hopefully address the broader concept that immigration, immigration policy, has a tendency to affect. There are many aspects, many facets to the immigration debate. That is why I find it so fascinating, quite frankly. I cannot think of another domestic policy issue that should command as much of our attention as should the immigration debate, what little debate I should say, that goes on. There is not an awful lot. People suggest that we should really pay close attention to this in the presidential race. I hope we do. But the reality is there is not all that much difference, I am afraid and ashamed to say, between the two positions taken by the presidential candidates. One is strictly pandering for votes and one is pandering light, I guess I would call it, but they are both in the process of trying to figure out a way to gain votes among those folks who are here as immigrants and/or people who have come to this country even illegally and who sometimes, in fact oftentimes, do vote.

Let me talk a little about this whole concept of voting. This is really what has propelled me to come to the floor this evening. About, I guess it was a year or so ago, maybe 2 years now, a year and a half, I read something that was a statement by the then candidate for mayor of Washington, D.C. I found it disconcerting, to say the least, and I have quoted it often because a lot of people when I talk about the issue of immigration and citizenship which, of course, go hand in hand, people are surprised by the fact that there are places around this country, cities in particular, that have called themselves and/or we have called sanctuary cities. Sanctuary cities are cities that develop policies with regard to immigration. Of course, this is bizarre to say the least because the Federal Government is supposed to have the primary and unique role of determining our immigration policies. But what we are seeing happen all over the country, well, I should not say all over the country, primarily on the left coast and on the east coast, we see these peculiar things going on in local communities where they will say things like, in our community, in our city, we will not allow our police departments to communicate with the Department of Homeland Security. If they arrest someone and find out that that person is here illegally, we will not allow our police department to tell the government about that, tell the Department of Homeland Security. Some have gone farther than that, farther than saying that if you are in their community illegally, you will not be hassled essentially, that that little city will not participate in the process of trying to identify your status and/or have anything to do with the punishment of the crime. If, in fact, you have come into this country illegally, they will not help enforce the law of the land. I find this to be quite peculiar.

I have spoken about this. We have attempted to amend other bills, appropriations bills, to stop this from happening but something occurred here just the other night that goes along with what the then candidate, or, no, I am sorry, he was mayor at the time, Mayor Anthony Williams. I see this article was back on October 1, 2002, when he was running again but he was the mayor. Mayor Anthony Williams said on October 1, 2002, that noncitizens in the District of Columbia should be allowed to vote in local elections. He had said this in response to a complaint from a Latino coalition where they issued a report in which they identified a lack of services and access to local government. Mayor Williams said, "I am committed to expanding the franchise. The city needs to develop a new standard for voting."

This is the mayor of Washington, D.C., the Nation's capital. Again, only here on the east coast or maybe in some scattered pockets of the left coast would a statement like this not be incredible and would go without a great deal of attention being paid to it, but he says, "The city needs to develop a new standard for voting, but it isn't citizenship." When the council's executive director, I think there they are talking about the city council of D.C., the executive director, Eugenio Arene, suggested that all local taxpayers be allowed to cast ballots, the mayor added, "Sounds like a good standard to me." Asked about extending the vote to noncitizens, Williams pledged to work with local government officials and experts on the idea and he said he hoped it would be possible in elections for mayor on down.

By the way, in this proposal, there was nothing at the time that would even indicate that they were entertaining the idea that people who are noncitizens should vote but excluding it from people who are here illegally. There is nothing in here to suggest that that was the case. In fact, it is just the opposite. Anyone who they say is a resident should vote. Anyone who is a resident should vote. This, of course, is an attack on the whole concept of citizenship. It is becoming less and less meaningful to many people, it is true. We are trying our best to eliminate anything that distinguishes a person here as a citizen from someone who is not and to accommodate, therefore, the massive numbers of people who are here illegally. If this is not pandering for votes, you tell me what is, Mr. Speaker. How can we possibly define such a thing, that a statement of this nature could be made and that people could possibly think that it was for any other purpose but to go after a voting group that perhaps is not solidly behind you or you want to sort of encourage, you want to make sure that you pay them back for whatever kind of political support they may give you, that you would even go to the extent of saying that citizenship in this country is not important, it is essentially meaningless. Because, you see, if it is not meaningful to the mayor for voting purposes, what in the world could it be meaningful for? What purpose does it have? What does citizenship mean? Is it of any value whatsoever?

There is an oath that is taken when someone wants to become a citizen of the United States. It has been around for a couple of hundred years. In it we talk about the need to disavow any allegiance to any other government or potentate, I think the words are, in the vow itself. We are talking about somebody who is separating themselves from whatever they were in terms of their political affiliation to something new. We do that for a purpose, because it is important to have that distinguishment. It is important to have people who come here as immigrants. It is important to have people who are born here understand the importance of citizenship. It does distinguish someone here and it distinguishes us from other nations and other people groups. I think that that distinguishment is a good thing.

I am constantly amazed at how much time and attention is spent on trying to minimize the importance of the whole concept of citizenship, that we are all just residents, that is the theory, that we are just here on the planet in this particular location. Nothing really holds us together as a nation except for the economic benefits that can be obtained by living in this particular geographic area. That is all. As bizarre as that sounded back on October 1, 2002, and to a certain extent I did not really worry about it because you can write that off to a political campaign and the rhetoric of someone looking to pander to voters. Certainly that is the only way I could read what he said there.

Come to find out last week, this particular little seed, bad seed, has begun to sprout.

□ 2100

The other day several Councilmembers here in the District of Columbia introduced the "Equitable Voting Rights Amendment Act of 2004," a bill that will extend full local voting rights to documented permanent residents of the District of Columbia. The bill was co-introduced by Councilmember Jim Graham, and it goes on to describe them. The Voting Rights for All D.C. Coalition is actively seeking other cosponsors. So in the City Council of Washington, D.C., they are proposing now to implement the Mayor's idea of having people who are noncitizens be eligible to vote.

We know we will have the Washington, D.C. appropriations bill up here soon, and we will certainly look at that for an opportunity to address this particular issue, as the Federal Government does have a responsibility for oversight, and I will have an amendment prepared. But whether or not we offer it, whether or not it passes, I mean the idea that this is happening in cities across the country and here in the Nation's capital has got to be a sobering thought even for those people who press for more and more of the elimination, if the Members will, of anything that distinguishes individuals here as citizens of the United States.

Massive immigration into the country, both legally and illegally, has consequences. And it is absolutely true that we have been successful as a Nation in assimilating hundreds of millions of people into this country and into this culture over the past 200 years. And it is true that sometimes that is assimilation happened easily and sometimes not so easily. It is true that many people faced hardships and discrimination and that it was not an easy thing to do, and that groups came into the country, and every time there was a wave of immigration from any particular area, there would be people here saying we have got to stop that. There is something bad about that particular group coming into the country.

The country not only survived it but grew and prospered, and I think, for the most part, we can look back at the experience and say it was positive for the Nation.

But there is a different phenomenon today. It is a different immigration, not just in terms of numbers. There are far more people coming into this country today legally and illegally than ever before in the Nation's history. But there is also this growing problem, this sort of cult of multiculturalism, as I call it, that has taken over much of certainly the media. Certainly our colleges and high schools and textbooks are influenced by this peculiar philosophy. I say peculiar because it is this: It is not just a recognition of our differences, which I think all of us can appreciate. It is not just extolling the virtues of diversity, of which there are many. It is not that at all. The cult of multiculturalism to which I refer is the kind of thing that pushes this idea that we should no longer identify ourselves as Americans because that is, of course, some unique distinction that is in some way troublesome; and that we should in no way extol the virtues of American society or the American creed. We should not tell our children in schools that there is anything of value in what we have established here, that there is nothing in Western Civilization in our history of which we can be proud, that everything is negative, that the only way that we can portray a sympathy and express a sympathy and an appreciation for another culture is to degrade and debase our own. That is the cult of multiculturalism, and it is rampant throughout the country.

There was an interesting little spot on National Public Radio not too long ago about a school in Los Angeles, a public high school, 5,000 students, most of them, as they said, had "recently arrived," almost all from Mexico, almost all speaking Spanish. And in this NPR spot, they were interviewing the teacher, and they were talking about the fact that they did not have enough textbooks in the school, especially civics or history textbooks. And the teacher said, I do not care that we do not have any textbooks in the school because the textbooks that we have prepared for us and are given to us by the school district do not teach our kids about who they are. She said, They only teach about this other culture.

Now, what was she talking about? Who were their kids and who they are, and who was the other culture that she was deriding and in saying that we should not be teaching children today? That other culture was, of course, ours, America's. Who were these children? She said "our children." Not American children? No. No. So, therefore, she said, I have devised a different curriculum for these kids, and I do not want them using textbooks provided by the Anglo community. She said, Instead of using textbooks, we are going to go out and study murals.

Mural, that is a euphemism, most of the time, for graffiti.

So they went out, and the reporter went out with them, and they walked along the streets of Los Angeles. The school kids, instead of being in class studying American history, this was her alternative, a "mural walk." That is what she called it. And when the students got there and they talked to the "artist" who had created this thing, this mural, this historical monument, this psychological jewel, they asked him to teach the class. This was on radio. They were interviewing these guys, and this was all recorded. And the guy said, I want the students to know you do not belong here. That flag is not your flag, pointing to American flag. He said, You are just all a colony. This is a colony of the United States. You really do not belong here. You have no allegiance here.

This is the cult of multiculturalism to which I refer. And it is there, and it permeates our society, and it is problematic when it meshes with massive immigration, when there is no longer a press for assimilation or pressure for assimilation, but all the pressure is just the opposite. It is all to divide us into subgroups, into hyphenated Americans in every way.

I had a meeting, I remember, with a bishop in Denver, Bishop Gomez. And we were arguing this issue, and he said to me, I do not know why you are so concerned about people who are coming here from Mexico. He said, They do not want to be Americans.

I said, Bishop, there are two things about that statement that really get me. First of all, that you assume my problem with immigration is that I do not want the people who immigrate here to become American; and, secondly, the fact is you are right. That is the problem, and it is exactly why I am worried. It is not that I should not be worried about that. It is that every American should be worried about it. There are many people doing exactly what my grandparents did and your grandparents and everybody else's grandparents or great grandparents or great great grandparents did. They all come here because they all make a very difficult choice to come to a brand new land. And it is true that that is the one thing we have in common, people coming today and people coming when my grandparents came: They want to come to America. But let me ask you if there is now a difference. Let me ask you if you can just get a feeling that, in fact, something else is different. They want to come to America. The question is do they want to be American?

The answer, according to Bishop Gomez, is no. This is different.

I see the gentleman from Virginia has joined me, and I will ask him to express his observations here in just a second.

But I just want to point out that this cult of multiculturalism is truly having an impact on our society because historically public schools, we could at least rely on them. When I went to school, when my grandparents went to school here, we could rely on a public school as a place to help assimilate children into the American culture. There was a pressure to do so, first of all, of course, to learn English. That was an absolute must. Secondly, to learn about the history of this country and attach ourselves to it, which I did. That is gone. That is gone from most schools in this Nation.

According to a study of San Diego high school students in the early 1990s, after 3 years of high school, the proportion of students identifying themselves as "American" dropped by 50 percent from the time they came into the school. The proportion identifying themselves as hyphenated Americans had gone down by 30 percent, and the proportion of identifying themselves with a foreign nationality, overwhelmingly in this case Mexican, had gone up 52 percent.

What did we teach them? To what did we say that they should attach themselves? As immigrants or as citizens who have been here for years, whatever that citizenship concept is in anybody's mind anymore? What we taught them is there is nothing unique, nothing that they should, in fact, attach themselves to; that they should stay separate, keep their own language, keep their on special identity, separate identity.

I tell my colleagues this is the problem that the immigration policy has got to address. And I am pilloried many times certainly by the press, my opponents, because I talk about this issue. And there are always attempts to characterize my debate or my desire to debate this issue in the most nasty of terms. And the epithets that are thrown around here and at me oftentimes, we just have to accept that people wish to change the debate away from these kinds of issues that I am trying to address tonight on to the stuff of racism and xenophobia and that sort of thing.

I have watched over the years, and there are people who have been here longer than I and have done far better work than I, far more productive work in many cases, I am sure, in this particular area than I have ever been able to do, and one is the gentleman from Virginia (Mr. GOODE), who is here tonight and I am proud to say is a friend.

I yield to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Speaker, I thank the gentleman from Colorado (Mr. TANCREDO) for yielding to me.

I want to thank the gentleman for his tireless efforts on bringing immigration reform to this Congress and before the American people. He has traveled across this Nation. He has gone to the border between Mexico and the United States. He has also been to the Canadian border. He brought back the tax returns and have weighed them of those who I believe were here illegally, trying to get money from the American Treasury and who, no doubt in my mind, many of which have been successful.

□ 2115

The gentleman saw how they were going to utilize the Earned Income Tax Credit on papers that the gentleman gathered in alleged trash near the Mexican border. The gentleman has done the research on items like the papers by the mayor of the District of Columbia. The gentleman has talked to the Border Patrol agents. The gentleman has done countless other things on behalf of bringing true immigration reform to this country, and I want to thank the gentleman.

We heard speakers before the gentleman from Colorado (Mr. TANCREDO) talk about the deficit, and I want to see the deficit reduced. I would like to see it eliminated. It is great to identify a problem, but you also need to address the problem.

Reduce illegal immigration and reduce the deficit. Illegals come into this country and soak up not thousands, not millions, but billions of healthcare dollars that taxpayers of this country are paying for. If we stopped illegal immigration, we would have those billions of dollars to apply to the deficit.

We can look at social services and social programs. Again, we are not talking about hundreds, thousands or millions; we are talking about billions of dollars.

If we want to reduce the deficit, reduce illegal immigration. Stop it, and stop that money going to them from these social programs.

Another area of concern are illegals getting Social Security. I have heard some say, "Oh, we passed a law to stop that."

Yes, we passed a law saying if you are illegally in this country, you cannot draw Social Security benefits. But if you go back to Mexico, or you go back to whatever other country you came from to this country illegally, you can start dipping into the Social Security System and getting money out of it.

If we were to get that totalization agreement with Mexico, which I surely hope we do not, the totalization agreement would override the statute that says illegals cannot get Social Security benefits. If that were followed by an amnesty of any type, form, shape or regularization or whatever euphemistic phrase you want to call amnesty, you are going to hear a sucking sound out of the Social Security fund that would turn all seniors whose heads are not gray gray, I would predict, because the drain on the Social Security fund would be significant and heavy. Again, it is not hundreds, it is not thousands, it is not millions; it is billions of dollars.

So, if you want to reduce the deficit, let us stop illegal immigration and put a big dent in the deficit.

Pretty soon we are going to get the September 11 Commission report. It is going to talk an intelligence czar, and I am anxious to see what they have to say about that. But I bet it will not mention too much about the fact that 19 of those terrorists who flew the airplanes into the buildings of this country and killed thousands of citizens in New York, Pennsylvania and across the river in Arlington, were in this country illegally. They had overstayed their visas, for the most part, illegal aliens.

They committed suicide by flying those planes into the World Trade Center and into the Pentagon. They were in this country illegally, and if they were not here illegally, they could not have done the acts. If we stopped illegal immigration, then there would have been 19 fewer persons in this country to do those acts that they did. I hope, but I do not expect, the 9/11 Commission to address this facet of making America more secure.

I remember the gentleman from Colorado (Mr. TANCREDO) bringing to a meeting of the Immigration Reform Caucus, and I recollect it was held in the courtyard outside of the Longworth Building, the father of one of the September 11 victims. As I recall, the statements made by that individual, he said, "If I had to pick out a key factor in what caused September 11, it was a huge sea of illegal immigration, whereby 19 illegals could float around in that sea undetected."

What he wanted was to see a reduction in illegal immigration. I hope the 9/11 Commission will address this fact. I want to see America be made more secure, and one way to make America more secure is to reduce illegal immigration, just as one way to reduce the deficit is to reduce illegal immigration.

So I would like to close by doing as I started and to thank the gentleman from Colorado (Mr. TANCREDO) for taking the time to come to the floor of this House on a repeated basis and point out the many problems and the many pitfalls of illegal immigration. I hope that the voting standard in this country will always be that you have to be a United States citizen to participate in our electoral process.

Mr. TANCREDO. Mr. Speaker, reclaiming my time, I thank the gentleman.

Mr. Speaker, there is another issue when we talk about spending and deficits that I think is intriguing. We just passed last week the foreign operations bill. This is most often referred to as the foreign aid bill. There is an interesting aspect of this particular spending plan that really deserves our attention here, and I think we seldom ever address it.

It is this; That beyond the money that we appropriate in that bill for governments all over the world, most of them, unfortunately, corrupt, and much of the money, of course, as we know, does not get to the intended individuals that most desperately need it, but we, nonetheless, distribute moneys to countries all over the world in the form of foreign aid.

But most people I think do not understand or know that a great deal of wealth is also transferred in another way from the United States to other countries, and this is by the process of what is called remittances.

Now, "remittances," that is just a term that refers to the dollars that flow from people who are working here in the United States to people who are in other countries, mostly to family members who are in other countries.

I was in Mexico not too long ago speaking to a gentleman who was the head of a newly created ministry down there called the Ministry for Mexicans living in the United States. I think it has changed its name, but that is what it was originally. But Mr. Hernandez, the minister, was telling me that part of the responsibilities he had as a minister of this particular agency was to make sure that the movement, the flow of Mexican nationals into the United States, was maintained, and, in fact, increased.

That was such an odd thing, in a way. When I asked why in the world would a government agency be set up to increase the flow of their nationals to another country, he said, "Well, it is actually kind of simple." He said, "There are actually several reasons, but they are all beneficial to Mexico, and you can see why we would be doing this."

He said that the number of people between the ages of 18 and 25, Mexican citizens, that particular demographic profile, the number of people in that profile had doubled in 10 years, and he said the unemployment rate for that same group is about 40 percent.

So on the remittance issue, he said the people coming into the country were in desperate need of a job, and what would happen when they get here, they get employed, and then they send money back home, in this case to Mexico. That was 2 years ago, and that amounted to $13 billion. $13 billion.

Now, you say, well, so what? That is a significant portion of the GDP of Mexico, as a matter of fact. Mr. Hernandez referenced it. He said this was an important thing, to have the money be sent back. It actually now approximates the greatest amount of foreign investment in the country of Mexico.

Remittances. Far in excess of any sort of investment by any other corporation in the world; far in excess of the money that goes into Mexico from tourism. It is the highest source of foreign investment they have, except for PEMEX, the government-owned oil company.

"Therefore," he said, "it is important for us to have this continual flow." He went on to explain there were other important things. He said, "You know, the more Mexican nationals we have living in the United States, the more your government will be influenced in a positive way to treat Mexico."

Finally, he said, when I told him I thought these things were incredible in a way, that any government would be set up for the purpose of trying to actually influence our policy vis-a-vis their government by exporting people into our country, he said, "Congressman," he said this in a relatively condescending way, he said, "Congressman, it is not two countries. It is just a region. It is not two countries."

Interestingly, Vincente Fox was here just a couple of weeks ago in the United States campaigning. The President of Mexico was in the United States of America, in Illinois, in Michigan and in Wisconsin, campaigning, talking to Mexican nationals living here, trying to get them to vote, and also promising them, by the way, that he would defend their rights in the United States, asking them to vote in the election in Mexico, saying that they will pass legislation to allow them to do so, because they wanted them to remain connected to Mexico.

That gets us back to this issue we talked about earlier, about whether or not people come to the United States because they want to be in the United States, or because they want to be Americans. Two different things. In this case he is saying, "I want you to come to America; I just do not want you to become Americans. I want you to stay connected to Mexico."

He is not the only person, and that is not the only country. The countries in the world, there are now seven or eight countries that have actually over 10 percent of their gross domestic product as a result of the remittances coming from the United States.

Now, I suggest that we ought to reduce our foreign aid to every single one of those countries by the amount of remittances that are going there. Actually, the remittances are a better way of getting foreign aid to them, because it actually is going to people and not the corrupt governments.

I have written the committee. I have written the gentleman from Arizona (Chairman KOLBE) and asked him to consider this in the creation of the bill. He chose not to. But I suggest to you there is no reason we should not at least count this into the amount of money that we do in fact provide for foreign aid.

The reason I think we should do this is because we have to, I think, begin to eliminate the allure of the remittances to other countries, because as they begin to depend more and more on the United States and their nationals working here to send money back home, then they press us more and more for open borders and for reduction in any sort of obstacles that might be placed in the path of immigration into the country, legally or illegally.

Then we see the Mexican consulates and the Guatemalan consulates, 15 countries that are now handing out these matricula consular cards, these cards to their nationals living in the United States, for the purposes of, again, making it easier and simpler for them to live here, and make money and, of course, send it home.

Mr. Speaker, I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman very much.

First and foremost I would like to honor my colleague from Colorado. All of us in Congress who take this issue seriously know that without the leadership of the gentleman from Colorado (Mr. TANCREDO), this issue would not be getting the attention it is, and it is not getting the attention it deserves as it is.

□ 2130

So the fact is that he has taken many hard knocks; he has been attacked personally and politically for the leadership that he has provided on this issue. I salute him. And, let me just say that I am proud that on most of these fights that I have been able to rush down here and be at his side and fight the good fight, because this issue is determining the well-being of the people of the United States of America.

That is what we are supposed to be doing here, is it not? We are here elected to watch out for the well-being of the people of the United States; more than anything else that we do, that is supposedly our responsibility. Yet, we have seen almost no action on the part of the political establishment of the United States to deal with the issue of illegal immigration, and our people are paying for it. They are paying for it in a big way. There is no doubt what effect this massive flow of illegal immigration that continues into our country is having. And if I would just have any difference with my colleague, it would only be to stress that it is not just illegal immigration from Mexico. And, by the way, we would not care if it was illegal immigration from Ireland or from Germany or Italy or anywhere else. We have an out-of-control flow of illegal immigration into this country. Today, I believe the biggest source of illegal immigration into our country actually is not Mexico, but is China and countries in Asia.

Again, people who come, for them we have, I would say, the most generous legal immigration policy of any country in the world. We admit more legal immigrants into our country than all other countries in the world combined. But to permit millions more on top of that to pour into our country is having a dramatic impact on us, and it is heroes like the gentleman from Colorado (Mr. TANCREDO) who are stepping up to the plate and trying to do something about it.

The average person out there knows that his children and the working people themselves are suffering from the fact that their wages are being kept down. Yes, we had a huge growth in our GNP, but the wages of our middle class and our working class people have been kept down by a massive flow of illegals into our country. There is nothing wrong to think that people who work in hotels changing beds and cleaning should earn a good living, but their pay has been kept way down. People who pick fruit and vegetables, yes, okay, so it is going to cost us 10 cents more for a hamburger. The bottom line is, the people of this country who make hamburgers and are involved with that industry should be paid more money, but they will not be paid more money and the people who clean the buildings and take jobs like this, they are being paid less. The working people are being hurt by this. Of course, we are not going to provide them health care, because we have plenty of illegals who work and are not getting health care. The taxpayers pick up their health care.

In California we know wages are being kept down for normal people. The health care system in our State is collapsing, and around the country there is strain, especially in the southwest. The education system in California, because of the illegal flow of illegals into our system, our children are not getting the education they deserve. It can be traced right back to a massive, uncontrolled flow of illegals into our country, bringing their children, so that they can get benefits that they could never afford in their own country. We should not blame the illegals. Blame us. Blame the government. Because this government is supposed to watch out for the welfare of our people. We are not doing it. The criminal justice system in California is breaking down. Over 40 percent of the people in our prisons and our jails are illegal immigrants.

This is a huge burden on the taxpayers but, also, on our own people. Do my colleagues know what happens when those people get out of jail? They do not send them back to the countries they came from; they let them out among our population and they commit more crimes. Not only the terrorists who came into our country legally and just overstayed their visas, not only have they murdered our people, but every day someone is killed in this country by someone who is not supposed to be in this country because they are not here legally. We are talking about our citizens being murdered, their wages being kept down, their children's education system and health care system going to hell. This is a major issue and it is not being addressed.

Mr. Speaker, I would say to the gentleman from Colorado (Mr. TANCREDO), by continuing to bring it up over and over again, he is doing a tremendous service to our people, and I am proud to stand with him tonight again to try to motivate the people in this city, in Washington, D.C. They say that Washington, D.C. is 64 square miles surrounded by reality. We have to bring some reality here to Washington, D.C. Our people are suffering because of this issue. Let us deal with it. Let us deal with it, yes, in a fair way. And again, this has nothing to do with where illegals are coming from, but it has everything to do with getting control of an out of control situation that is hurting our people.

So I thank the gentleman for his leadership, and I am proud to work with him on the issue.

Mr. TANCREDO. Mr. Speaker, I thank the gentleman, and I am certainly proud that he is a friend and has become, and has been for a long time, not become, but has been a major and important voice for reason on this particular issue.

Mr. ROHRABACHER. Mr. Speaker, just a note that I will be giving a Special Order in about an hour on 9–11, so if people are looking in to see about this, this is not the Special Order that I will be giving.

Mr. TANCREDO. Stay tuned. Stay tuned.

Mr. Speaker, I will end this Special Order with just this last reference. It is to one thing that was written in a book called "Who Are We?" By Samuel Huntington. This has become I think one of the most important books written, and it just came out actually in May, but it is a fascinating analysis of this whole issue we are talking about in terms of trying to understand the merging of multiculturalism, this sort of cult of multiculturalism and the issue of massive immigration and the erosion of the concept of citizenship.

Samuel Huntington puts it this way: "The erosion of the difference between citizens and aliens, the overall declining rates of naturalization, and the naturalization spike of the mid 1990s, all suggest the central importance of material government benefits for immigrant decisions. Immigrants become citizens not because they are attracted to America's culture and creed, but because they are attracted by government social welfare and affirmative action programs. If these are available to noncitizens, the incentive for citizenship fades. Citizenship is becoming, in Peter Spiro's phrase, one more generally available 'Federal social benefit.'. If, however, citizenship is not necessary to get the benefits, it is superfluous. As Peter Schuck and Rogers Smith argue, it 'is welfare state' membership, not citizenship, that increasingly counts. Membership in the welfare state, in contrast to membership in the political community, is of crucial and growing significance; for some, who are wholly dependent upon public benefits, it may be literally a matter of life and death."

It is citizenship, it is the concept of a nation State that we are today debating. Whether or not its existence can be assured, certainly we do not know, but I can guarantee my colleagues this, that the threats to its existence are great and are exacerbated by the cult of multiculturalism and unrestrained immigration.

REGARDING NATIONAL SECURITY PRIORITIES AND THE REAL WAR ON TERROR

The SPEAKER pro tempore (Mr. HENSARLING). Under the Speaker's announced policy of January 7, 2003, the gentleman from Missouri (Mr. SKELTON) is recognized for 60 minutes as the designee of the minority leader.

Mr. SKELTON. Mr. Speaker, I am joined this evening by a number of colleagues interested in the safety of America and Americans, and concerned about the future of our military forces. We are speaking this evening because we have great reservations about the way America's national security policy is being conducted.

Sixty years ago next month, the American Army was welcomed into Paris with cheers and flowers and cries of "Vive les Americains!" We had fought a dogged and grueling war against the forces of a cruel dictator. And from every window and rooftop, a liberated populace honored the foreigners who restored their freedom.

Move forward 60 years to another war, another dictator, another country freed. To be sure, many Iraqis welcomed the American invasion and, for all the talk of coalition, this was an overwhelmingly American force. But those who welcomed our forces found they had to keep their voices low lest they become targets of those who rewarded their liberators with bombs and bullets.

We should not accept the appearance of an ungrateful Nation at face value. But neither should we idealize the occupation of Iraq.

It is increasingly clear that at a time when America should have focused its might on punishing those who, callously and in defiance of any known theology, attacked our country, and eliminating the threat they continued to pose, we allowed ourselves, Mr. Speaker, to be diverted.

What we see on TV every night is not the war on terror. The war in Iraq; really, now, the peacekeeping mission in Iraq, is costly and bloody and largely irrelevant. Was Saddam Hussein unpleasant? Yes. Did he bode U.S. ill? Without a doubt. But going to war against Saddam Hussein, taking people and resources away from the search for Osama bin Laden and the destruction of al Qaeda, is like the football defense that goes after the runner while the quarterback sneaks the ball across the goal line. We fell for the fake.

The real war on terror is the war to find and punish those who attacked this country and who would do so again. After nearly 3 years, their networks have been shattered, their organization has been bruised. But destroying such a strong and such a decentralized threat is very difficult. Any one man with a weapon of mass destruction is a superpower. The best we can do, militarily anyway, is to contain and keep the leadership incommunicado or on the run. That is the real war.

Is America safer with Saddam Hussein out of power? Probably. But is America safer because of the Iraq war? No, it is not. Because of the way we entered that war and the way in which we have handled the aftermath, I believe that we have increased the chances of another attack and, sadly, another war. We have incited the anger of millions who previously did not much like the United States, but probably would have been willing to live and let live. We have become the villain of millions of glittering eyes, and we did it to ourselves.

At the same time, we drove away stalwart friends whose company provided us with such strength. By forcing a political showdown on Iraq rather than focusing on the real war, the proven threat to all western civilization, we made our allies choose between the will of their people on the one hand and the relationship with the United States on the other, and it was unnecessary.

After September 11, the leaders of countless nations expressed their support to our President. Not one, not one called to gloat or said that we deserved what we got. NATO invoked Article 5 for the first time ever to come to the collective defense of the United States. They were all on our side, in the real war.

We chose to defy the will of the international community and take it upon ourselves to unilaterally enforce sanctions that were not solely America's to begin with. The Canadian Mounties cannot come to Lexington, Missouri to enforce Missouri law; that is the duty of the State of Missouri. Similarly, I do not believe it was right for the United States to act to enforce edicts that were not of our creation. That is why the United Nations was created. By taking it upon ourselves to literally become the world's policeman, we changed the view that many of our allies had of us. We became, in their view, not just a victim of a vicious attack, but a potential attacker ourselves.

Let me be candid, Mr. Speaker. I and some of those who will speak later voted to give the President the authority to move Saddam Hussein out. We did that based on the information at the time, much of which has since fallen into question. The former Vice Chief of Staff of the Army, General Jack Keane, told the Committee on Armed Services last week, "We were seduced by the Iraqi exiles."

□ 2145

But regardless of underlying data, nowhere in our votes did we say to go it alone. Never did we say that Iraq should take focus away from the real war. At the same time, I twice wrote to the President and pointed out that ejecting Saddam is one thing, but we have to plan to manage the aftermath. That clearly did not happen.

The peace has been managed far worse than the war, and it has been argued that the United States invasion was justified as an act of self-defense. Indeed, this administration changed the national security policy of our country to assert the right of the United States to preemptively attack anywhere we believe there might be a threat to our Nation.

We have debated, and I am sure we will continue to debate, whether the policy of preemption is wise or in keeping with American values. But this much is clear. In order to preempt, in order to become an aggressor, in order to throw the first punch, we had better have clear, convincing and accurate intelligence that a real threat exists.

As we are seeing in the case of Iraq, our intelligence system is not yet ready to meet that standard. Until it is, a doctrine of preemption puts America in the black hat before the world. Whatever happened to the Weinberger doctrine? Whatever happened to the Powell doctrine?

Mr. Speaker, if a global black eye were the only consequence of our Iraqi adventure, it might be manageable. We could live with it. But to do that and to take energy and focus from finding the true villains of September the 11 and to enter into a war that was not clearly necessary and to strain local economies by calling up reserves, National Guard and even retired military to serve in that war and to drive a wedge in the alliance that kept peace for 60 years and to engage in a bloody and costly occupation and to stretch the American military forces to the breaking point and ultimately to inflame new generations to hate America, with all of that, I cannot see how America is in the end safer or better off because of this war.

The Soviet Union tried to put America in this strategic situation for half a century. We did it to ourselves in just a year. On top of that, we have created a huge new burden for America's military. I recently wrote that we could have forces in Iraq for 50 years. When I asked the Deputy Secretary of Defense Paul Wolfowitz whether we would be in Iraq for a good many years, he said this is entirely possible, and he added, "I cannot tell you how long that's going to take."

I and many who stand with me have tried to be supportive of our President and our policies. We stand foresquare with the troops under fire and grieve for the families of those who have been lost, who, Mr. Speaker, come disproportionately from rural America. We stand with them. We cannot stand with the failure to prosecute the real war against those who attacked and continue to threaten our country. We do not oppose having a strong military, and we do not oppose using it, but we do oppose squandering it.

That is a question of priorities. Over $10 billion just this year on missile defense. Is the threat of foreign missiles the most serious one facing our country? Remember, this is not a defense against weapons of mass destruction. Those can be delivered in many ways. Missile defense addresses the delivery system with the highest cost and the lowest probability of being used against us. So why is it there that we spend the most?

The administration is devoting hundreds of millions a year to develop fighter planes that push the envelope of technology and knowledge, bold innovation, the edge, but the true threats to our country from people who have no fighter airplanes, have no aircraft carriers and have no satellites.

The war against terror is door to door and manpower-intensive, so spending all this money on other items should make us ask, where are our priorities?

Soldiers make the war on terrorism work, more than any doctrine or any system. Yet, the most personnel-intensive services, the army and the Marine Corps, are last in line for funding from the Defense Department. Where are our priorities? Why, Mr. Speaker, are we not throwing America's might into the real war?

Mr. Speaker, I yield to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding, and let me say, Mr. Speaker, that I associate myself with his comments. As a member of Congress, a veteran who has been to Iraq five times and have sat many, many times across from our men and women in uniform, as they look into our eyes and they show not just their commitment and their professionalism but their trust in us to do the right thing, and sometimes I wonder if we are not betraying our obligations of doing the right thing for them.

So tonight, Mr. Speaker, I want to talk about an issue that is vitally important to our country and to the men and women that are fighting and defending our freedoms in Iraq, Afghanistan and other parts of the world.

Mr. Speaker, time and again attempts by this House to acquire documents related to the Abu Ghraib prison abuse scandal have been defeated, largely on party line votes. During consideration of the intelligence authorization bill, I offered an amendment, both in committee markup and on the floor of this House, to require the Department of Defense to turn over documents related to the handling and the treatment of detainees in Iraq, Afghanistan, Guantanamo Bay and elsewhere, including those documents that would come from the Permanent Select Committee on Intelligence and documents that had been already asked for, not just by our Permanent Select Committee on Intelligence but by other committees in this House.

Both of these attempts, attempts to find answers to the questions that all Americans are asking and that all Americans are expecting us to answer, have failed, again, largely on party line votes.

Last Thursday the House Committee on Armed Services met to mark up H. Res. 689 and H. Con. Res. 472, two resolutions that are a direct result of the prisoner abuse scandal. H. Res. 689 would require the Secretary of Defense, the Secretary of the State and the Attorney General to transmit to the House information produced in connection with the investigations into allegations of abuse against prisoners and detainees in Iraq, Afghanistan and at the U.S. base in Guantanamo Bay, Cuba.

Unfortunately and disappointingly, the committee ordered that this resolution be reported to the House with an adverse recommendation. This is the second time in less than two months that the House Committee on Armed Services has failed to order the production of documents that could assist this committee in understanding and working towards a resolution of the prisoner abuse scandal.

In June the committee adversely reported H. Res. 640, a bill that sought documents associated with the investigation by Army Major General Antonio Taguba into the prisoner abuses at Abu Ghraib prison in Iraq. I am deeply disappointed in this committee and at the partisan politics that are keeping America from learning the truth about what happened at Abu Ghraib.

Instead of supporting this fact-seeking resolution last week, Republicans on the House Committee on Armed Services preferred H. Con. Res. 472, a resolution expressing the sense of Congress that the apprehension, detention and interrogation of terrorists are fundamental elements in the successful prosecution of the global war on terrorism, and that the protection of the lives of the United States citizens at home and abroad.

Fundamentally, this resolution is mired in a lot of partisanship and may ultimately hurt our men and women in uniform. I am deeply concerned about the unintended consequences that could result from the adoption of such a resolution.

By effectively absolving ourselves from adhering to the Geneva Conventions and instead following our own standards of "humane treatment for those in our custody," we open the doors for the rest of the world to do the same to our own troops.

In the words of former prisoner of war, the Nation's first ambassador to Vietnam and past Congressman Pete Peterson, "I know what life in a foreign prison is like. To a large degree, I credit the Geneva Conventions for my survival. While the Vietnamese rarely abided by the rules, the international pressure on them to do so forced them to walk a fine line that ensured that they not perpetrate the sort of shocking abuses at Abu Ghraib."

It is imperative, Mr. Speaker, that we live to the same standard that we expect other nations to abide by in the horrific event that they capture our soldiers. I am disappointed that the Republicans on the House Committee on Armed Services would prefer to have this resolution passed through our committee in the House rather than a resolution seeking the truth about what occurred at Abu Ghraib.

While we eventually voted to postpone marking up this resolution, the committee, however, is scheduled to take it up again this week. I hope that before then our colleagues will see the grave dangers that lie in insisting on dismissing such behavior and not blaming it just on a handful of soldiers but instead recognizing it for what it is, a failure of our system and our failure on this committee and in this House to do our oversight responsibilities.

Mr. Speaker, I stand here tonight as a concerned American, a concerned Member of Congress, and I join my colleague from Missouri in asking our colleagues to do everything that we can to exercise our oversight responsibilities. It is the right thing to do. It is what our men and women in uniform expect us to do as they sit across the table from us in places such as Tikrit, Mosul and other parts of faraway lands. They trust us. We cannot fail them.

Mr. SKELTON. Mr. Speaker, I yield to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I thank my friend, the gentleman from Missouri, for yielding.

Mr. Speaker, I think that the entire House of Representatives knows that our ranking member (Mr. SKELTON), who there is not a more patriotic individual, there is nobody in this body who is for a stronger defense, and I think our ranking member has two of his sons serving in the United States military right now. It is just an example of the great military tradition in his family. And the ranking member as a student of history has very insightful questions that he asks at hearings, and his questioning of General Jack Keane the other day was just an example of that.

And I was struck by General Keane's testimony, when he said that if we had to put it in graphic terms, the prewar planning in Iraq was about like this, more or less a bucket full, a large bucket full, but the postwar planning in Iraq was more like this, more like a thimble full. And our ranking member has quoted General Keane when he said that he felt almost that he had been seduced by the Iraqi expatriates into believing that the postwar situation would be easy, friendly, we would be greeted as liberators, not as occupiers.

The two issues that I would like to bring up tonight have to do with the troop commitment that Tennessee is making, yet again. We are the Volunteer State and the most recent group of reservists and guardsmen to be called up. The 278th Armored Cavalry Regiment, these men and women in uniform are leaving family and friends back home for their tour of duty. They are proud to serve, but almost 4,000 Tennesseans will be involved in this mobilization, and that just reminds me that in this next rotation, 43 percent of our troops in Iraq, 43 percent of the 130,000 men and women in uniform, will not be active duty personnel. They will be guardsmen and reservists who are called up to serve their country in a faraway land.

I worry that our Nation is not aware of this terrific OP TEMPO, the fact that we have the heaviest OP TEMPO since World War II. A lot of folks do not know how to put that into perspective, because they think Vietnam was a big war or Korea was a big war; but, yet, due to the rotational demands on our troops, they are facing some of the greatest strains and stresses on family life and professional life than any other men and women who have served in uniform have faced since World War II. And the 278th Armored Cavalry Regiment from Tennessee is just the latest example of that in our State.

Another issue I wanted to focus on, Mr. Speaker, was the cost of the war and honesty in accounting. People have said for a long time that truth is the first casualty in war, and I am worried that when it comes to honestly and fully disclosing the cost of this war, the administration has not been forthcoming. As the gentleman from Missouri knows, the administration included no money in this year's budget for the war in Iraq or Afghanistan. That is almost too incredible to be believed by folks back home. To have a war of this magnitude go on and to have the administration put zero dollars in their budget for Iraq or Afghanistan is incredible.

Finally; after Congressional pressure, they have inserted, as the gentleman knows, $25 billion in the budget, and I think this week the defense appropriations bill will go through and it will become effective immediately. It won't wait until the beginning of the next fiscal year in October. Because why? Our troops need the money now. They are running out of money, and it is the least we can do as members of the Committee on Armed Services to fully fund our troops, our men and women in uniform, while they are serving our Nation abroad.

That $25 billion will not last for very long. As the gentleman knows, the estimates we have got on the committee indicate it might last through October, November, December, and then come January of next year, the next Congress. The gentleman from Pennsylvania (Mr. MURTHA) estimates we could be facing $50 billion then, and none of this is being disclosed to the American people as it should be. I think we should be honest with them and forthright, let them know the nature of our commitment overseas and let them know the burden that they bear as taxpayers to pay for this, because this is a very serious financial issue. These are large dollars involved.

□ 2200

If you add it all up, the total expenditure of the war so far is in the neighborhood of 150 and $200 billion, 150 to $200 billion. This is to wage war on a country whose annual defense budget was about $1 billion. So it is an incredible situation that we are in. And I think by being honest and straightforward with our constituents back home, being straightforward with the American taxpayer, we will come a lot closer to getting through this conflict successfully, to winning and bringing our troops back home safely.

I commend the leadership of our ranking member. He has done a great job and has done so for many years on the committee, a true patriot, a true leader, a true lover of the American military, and a true supporter of our troops. It is an honor to serve with the gentleman, and I am proud to be part of this special order.

Mr. SKELTON. Mr. Speaker, I thank the gentleman from Tennessee (Mr. COOPER).

Mr. Speaker, I yield to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentleman from Missouri (Mr. SKELTON) for his leadership of the House Committee on Armed Services, as ranking member, where he commands respect on both sides of the aisle and across our military.

Mr. Speaker, I have 3 unique privileges in this institution. One is to represent the people of Long Island's Second Congressional District. The second is to serve under the gentleman from Missouri (Mr. SKELTON). And the third is to serve under the gentleman from Missouri (Mr. SKELTON) on the House Committee on Armed Services, a committee which has no more profound and fundamental mission than to protect our troops and keep them strong so that they can keep our Nation strong.

How do we do that, Mr. Speaker? How do we keep them strong in order to keep our Nation strong? We do it by having right priorities and by giving them the best resources. Having the right priorities means that we be focussed. We have to have focussed priorities and disciplined priorities. And having focus and said disciplined priorities enables us to provide the best resources to our troops so that they can combat the global war on terror.

Sadly, Washington has fallen woefully short on those priorities. Let me share some examples that come from some of the people that I represent. These are real people with real stories.

I have a policy, Mr. Speaker, that if you have been deployed into any dangerous place in the world, if you are a member of our military or related to a member of the military, my door is open at all times. You can come to my office on Long Island. You can come to my office in Washington and I will sit with you and listen to what you have to say.

I sat with the mother of a young soldier who said to me at a table in HopHog, New York. She said, I had to send my son money in Iraq so he could afford the best armored vest because he did not have the best armored vest. And then I had to send him money so he could afford night vision goggled because I believe that my boy deserves the best night vision goggles. And my boy had to spend 2 or $300 our of his own pocket every month to give the men in his command socks and underwear because they could not afford to do that. She said, Do you not think that should be your obligation and not my obligation?

I want to share with you the story of Raheen Tyson Heighter, a 19-year-old from Bay Shore, enlisted in the Army. He was asked what kind of life insurance he wants. That 19-year-old did not believe he needed life insurance. Most 19-year-olds do not believe they need life insurance. He said, Give me the cheapest that you have. Because all he could afford from his net monthly paycheck of about $1,200 was a $10,000 life insurance policy. And his pay check was docked about 80 cents a month for that policy. Well, he did not make it back. He was killed in Baghdad.

His casualty officer called his mother and said, We regret to inform you that your son was killed in action and his life insurance policy was $10,000, which does not go very far.

I believe if we are going to send young men into battle, we can handle their life insurance premiums, Mr. Speaker. It should not have been to come out of Raheen Tyson Heighter's pay check.

I want to close by sharing a story that I heard from a young woman whose husband is in the Reserves and has just been deployed. He has been accumulating hundreds of dollars of cell phone calls on his personal cell phone which he loans to the men in his command so that they can call home because they cannot afford it without any reimbursement.

These families do not complain. They do not come to my office to complain. They do come to my office because they are patriots, and they believe that we owe them something back. They are seeking fairness. They say, if you are going to honor us, honor us not simply with your words but in your budgets. Do not simply put lapel pins on your lapels, but put us in your budgets and do not balance those budgets on the backs of people who are fighting on our fronts.

Those are our sacred obligations to the men and women that are fighting for our freedoms in dangerous parts of the world. There should be no Democratic or Republican way to protect our troops. We ought to do it because it is the right thing to do. And we ought to quit talking about our troops as priorities and spending as if they were our priorities.

It is my privilege to serve under the gentleman from Missouri (Mr. SKELTON) so we can reach that vital goal. It is my privilege to continue to advocate for those in my words who advocate for us with their sacrifices.

Mr. SKELTON. Mr. Speaker, I thank the gentleman from New York (Mr. ISRAEL). Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for the opportunity. There has been a broad discussion here tonight on a variety of issues that we have been dealing with the on the Committee on Armed Services. I would like to thank the ranking member for the opportunity to share some of these views because we do not always get the opportunity in committee. We only usually have 5 minutes or so to question some witnesses that we may have before us or to talk about a particular issue.

Among some of the issues that were raised here tonight, I would like to shift the debate just a little bit over to Afghanistan. There were some of us when the war in Iraq began, where we were wondering, why are we going over there when we have obligations already in Afghanistan? And we had major obligations in Afghanistan. We had an international coalition that we had put together to go into Afghanistan on October 7, almost 3 years ago, to make this happen.

Reason we went into Afghanistan is that the Taliban, the ruling government in Afghanistan, was harboring terrorists from al Qaeda. Al Qaeda hit us on 9–11. We had every right to go into Afghanistan and try to rectify the situation and try to get the terrorists and try to destroy the al Qaeda network.

One of the problems in Afghanistan has been drug production, opium, heroine, poppy, is the main culprit there. And those of us who thought it was a bad idea to go into Iraq were saying, well, all the arguments that we do not believe they had weapons of mass destruction and we do not believe Saddam Hussein had any tie to 9-11 and all these other arguments that some of us were making aside, if we are going to be in Afghanistan let us be in Afghanistan.

If we want to try to set a democracy up in the Middle East, let us set one up in Afghanistan. We were already there. We invaded the state. We had taken control to a certain extent what was going on there.

We now, today, have 130,000 troops in Iraq. We have 17,000 troops in Afghanistan.

I want to share with the people at home here a picture of Afghanistan opium poppy cultivation in 2001. The areas that are producing or growing poppy in 2001 are in red. You can see a majority of the country is in white. Now I would like to share Afghanistan opium poppy cultivation in 2003. Nearly the entire country is producing poppies which is now, today, half of the gross domestic product in Afghanistan is poppy, $2.3 billion.

We have a narco-state on our hands in Afghanistan. And what happens is that in these outer regions outside of Kabul, which is the capital, the drug lords are running the show and they are making $2.3 billion worth of money that will eventually make its way back into the hands of al Qaeda, which their sole purpose in life is to destroy the United States of America, destroy the infidels.

So the question is, why do we have 130,000 troops in Iraq and only 17,000 in Afghanistan? We have $2.3 billion worth of poppies being grown and sold outside of Afghanistan. When General Myers was before our committee several months ago, maybe a month and a half ago, I asked General Myers, What are we doing about the poppy? What are we doing about the money that is making its way back to al Qaeda?

General Myers said, Well, we have a little problem this year. The harvest came in early. The harvest came in early.

So we have another year's supply of heroine on the market being sold that will eventually make its way back to al Qaeda to fund terrorists acts against the United States and the reason is the harvest came in early. We only have 17,000 troops there, and the question that I would like to ask the people at home across the United States of America, what would Afghanistan look like today if we had 130,000 troops there, if we spent $200 billion there, and we had the international community supporting the effort?

We would be much closer to having a democracy in the Middle East. I believe that we would not have $2.3 billion of drug money going back to al Qaeda to help fund acts against the United States. We would probably have elections very soon. And we would have the entire national community supporting the effort. And we would not be bogged down in the situation we are in now in Iraq.

So, when we look at the production and we look and see this next chart, how it has grown from 2001 when the Taliban ruled, they were obviously anti-narcotic, and the growth in 2000 and 2003 of opium production in Afghanistan. And when we look and see all the reasons that we have had for going to Iraq, and now the latest is create a democracy in the Middle East, we have spent $200 billion there. I think we had an opportunity, we had the commitment, we had the international community, we had the resolve to go into Afghanistan and set up this Arab democracy that would hopefully lead to the domino effect of leading the democracy throughout the Middle East.

So I want the people at home to know that this is a lack of leadership in my mind as to why we are in the position we are in. While we are over in Iraq struggling right now, we cannot forget that we also broke Afghanistan as we broke Iraq. And if we break Iraq, we have got to buy it, and it has cost us $200 billion. We cannot forget we broke Afghanistan. And I believe the major threat to this country is the money that is being taken out of this country through the drug sales and back to al Qaeda to lead the terrorist acts in this country.

So my point is that I think we have dropped the ball in Afghanistan. And I appreciate the letter the gentleman from Missouri (Mr. SKELTON) sent to the gentleman from California (Mr. HUNTER) last week saying that we need to have a full hearing on what is going on in Afghanistan and that the American people will not stand for the excuse that the harvest came in early as to why we have another $2.3 billion in the hands of al Qaeda.

I thank the gentleman for the opportunity and all his support with all the hearings that we have trying to get done in the Committee on Armed Services. I thank the other members of the committee, the gentleman from Tennessee (Mr. COOPER) who was phenomenal in a classified hearing last week. I would like to thank him as well.

Mr. SKELTON. Mr. Speaker, I thank the gentleman. Mr. Speaker, I yield 7 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

□ 2215

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman from Missouri (Mr. SKELTON) for bringing us together this evening. I thank him for training his insight on a situation that, as I say, this as somebody who did not vote for the resolution in the first place because of my apprehension, but I could not have foreseen it being mishandled in a way that has produced the situation we face today.

I salute the gentleman for his leadership, his voice of reason throughout my tenure in Congress during some very difficult times. Whether it is in the Balkans or it is the Middle East, he has focused our attention. He has asked the right questions, and he has done so in a way that permits people to get past some of their biases and concerns and I think really approach it in an open, honest and forthright fashion. I salute the gentleman for that. I appreciate the leadership he is providing this evening.

I listened to the gentleman's appraisal and I could not agree more, that, sadly, this administration was not prepared to win the peace, and this, as my colleague has pointed out time and again, is not the fault of our men and women in uniform, who have performed heroically. They have done the task that is assigned to them and more.

I think it is clear that what we have seen here has been a failure of the people at the top, who refused to listen to the men and women in uniform in the command structure. They have indeed, as the gentleman mentioned, been diverted from the real war in Afghanistan, something that the vast majority of people in this chamber were united behind. They understood that was the origin of the attack on the United States. That is where al Qaeda and Osama bin Laden were headquartered. That is where we needed to act. Sadly, we did not finish the job. We were diverted.

We have seen stress unprecedented on our National Guard and ready Reserve, and I appreciate the gentleman focusing on that. It is something that I encounter every week as I go home, hearing from the families, from the employers, the news accounts, the meetings we have had at home where sometimes there are people that just want to have a confidential moment.

A couple of weeks ago, I had a young man call the office. I was very tightly scheduled. He said, "I'll tell you what. I know you're going back to Washington, DC. Can I come and ride to the airport with you? I just want to tell you what's in my heart before I go back."

It was for me extraordinarily frustrating to hear this young man unburden himself. He was back stateside because he had won a special commendation. He was back, but he wanted me to know the deep concern that the men and women he served with had about what was going on.

As the gentleman from Missouri (Mr. SKELTON) said, we did it to ourselves. Three years ago, the world was united behind us. We had specific objectives. There was a sense of unity here that could have been mobilized and was not, but I think the question that the gentleman is raising for us is not just focusing on what went tragically wrong, understanding what is there, but he is focusing our attention on where we go from here, how do we do right by these young men and women in the field, how do we do right by the people in both Iraq and Afghanistan.

Well, I think, first and foremost, I would like to see us do a better job at oversight, and I know the gentleman has done his best as the ranking member of the Committee on Armed Services, but there is no excuse for our not being able to do a better job of pulling this information out, sharing it with our colleagues and the American public, and holding people accountable, doing a better job of focusing on what is happening to the 5,600, what are we calling them, post-active duty people who are being brought back to service yet again. The strains that have been put on the ready Reserve, more people called up than in every previous mobilization from the Cuban missile crisis through every decade, every year right up till today, we have had this amazing stress.

What can we do? We can have an honest accounting of the costs and consequences, not the budgeting that puts it off till the future. We can chase down what happened with that prison abuse scandal and not scapegoat a few young men and women who were in a situation, candidly I think, over their heads. I would have liked to have thought that they would have known better, but by no stretch of the imagination can the evidence coming forth lead us to believe that we can resolve this by simply coming down on a half dozen, a dozen of these young men and women. It goes much further up the chain of command, all the way to the top. When we look at what orders have been issued, side-stepping the Geneva Convention, detention, it is a failure of responsibility at the top. We ought to hold them accountable.

There is also the focus on the people who are, to a greater extent than ever before in wartime in the United States, dealing with unaccountable, unelected, no-bid contracts and contractors who are doing things that should be the purview of the United States military, and had they been done, they would have been done far, far better.

We can shift much of this activity overseas to the locals, but it is insanity when we are paying $10-, $12,000 a month for contractors to drive a truck when we have Iraqis, for instance, unemployed, who would take that job for a couple hundred dollars a month and put that right back into their families.

Last, but by no means least, it is important that we not forget about Afghanistan, and I appreciate my colleague focusing our attention on that this evening. Here is a country from which the attack on the United States on 9/11 was launched. Here is a country that has been abused and damaged for over a quarter century. It is larger than Iraq. It is poorer than Iraq. It has a larger population than Iraq. Our friend, the gentleman from Ohio (Mr. RYAN) just pointed out how narco-terrorism is building and some of those resources are being used against us in the war on terror, and yet we are investing less than one-tenth of the amount of money in Afghanistan as we are in Iraq, and we have a much tinier military footprint, about one-ninth.

I appreciate the gentleman from Missouri's (Mr. SKELTON) leadership, his attention and the calm and quiet, thoughtful way he has analyzed this issue in a way that I think ought to touch the mind and heart of every Member of this chamber. I look forward to working with him in the weeks and months ahead to try and recover our momentum, our balance, and place our priorities where they belong and do right by the American people, the Iraqis, Afghanistan, and win this struggle against terror.

Mr. SKELTON. Mr. Speaker, let me thank my friend, the gentleman from the State of Oregon.

I now yield to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I want to begin by thanking the gentleman from Missouri (Mr. SKELTON) for bringing this issue before the House tonight. This is an issue that I spoke about this morning, and it seemed strange to me, as I was coming in here about to ask him for some time, to realize that his thinking and the thinking of the people who have been speaking are very much where my mind was.

I think it is probably where the American people actually are because, in my view, it is past time for America to have a national terrorism policy. The line between countries we call friend and foe is blurred. The distinction between peril and safety is just as vague here at home. America has too much at stake not to consider a national terrorism policy as a work in progress.

Civil liberties hang in the balance at home. Credibility is questioned in countries around the world. Military personnel are fighting and dying in one country today, but what about tomorrow? America is spending in excess of $150 billion in a country that has more to do with errors in judgment than threats of terrorism against the United States.

The patchwork of actions and reactions about terrorism are long on rhetoric but stop well short of defining potential threats and responses or a philosophy to guide America. Questions need to be asked and answered, and that is why what the gentleman from Missouri (Mr. SKELTON) is doing tonight is so important.

The acting director of the CIA admits that a good case can be made for a new Cabinet-level Secretary to oversee all of the Nation's intelligence agencies, but the director thinks some changes in the CIA could accomplish just as much.

Now, in Washington, D.C., turf issues are big issues. Are the remarks by the acting director turf or analysis? When it comes to terrorism, the old ways of Washington, turf among them, must change.

The President took America to war in Iraq over alleged ties to terrorism, now proven incorrect. We learned just today that eight of the 9/11 hijackers passed back and forth through Iran before the attacks. We learned the Iranian government instructed border guards to let all al Qaeda pass. The CIA says there is no evidence of an official connection, but there is tacit approval, at a minimum. The same could have been said before Iraq, but that did not stop the President from going to war.

What does this new information mean about Iran? The President says he launched a preemptive war in Iraq. Well, will the President launch a postemptive war against Iran? Iraq had no weapons of mass destruction. Iran is openly developing a nuclear capacity, claimed peaceful at this point, but outside the scope of objective knowledge and data. Is Iran next for U.S. military action? Why? Why not?

Given Iraq, would Congress write this President another blank check for anywhere else in the world? What about North Korea? There is a regime that is as oppressive as Saddam's. There is a country that bought weapons technology from our old friend or our new friend and our old nemesis Libya. There is a country where weapons are almost certainly not theoretical. Are we going into North Korea anytime soon? We are pulling our troops back in South Korea from the border. We are thinking about moving some of them to Iraq. What does that mean?

Today, Libya must be in line for, and I am not kidding about it, a football game. Mr. Qaddafi may have isolated himself economically for years, but he could still watch television. So, today, Qaddafi is trying to buy a British sports club, hoping that the English version of football will thaw the icy relations.

Then there is Pakistan. They were not at the top of our list until we needed a friendly Nation in the Middle East after the September 11 attacks. Now, Pakistan is a key ally. We have made them a non-European NATO ally. Is that good for Pakistan and the United States? If so, why? Is it a good thing for relationships between India and Pakistan and the United States? If it is, does this mean that the world is so interconnected that the notion of friend or enemy no longer applies?

After all, we remember the television networks have shown pictures of Defense Secretary Rumsfeld bringing greetings to Saddam Hussein, not that many years ago, in the administration of Bush I. He was a bad guy then, but Mr. Bush liked him, and I guess that was good enough for those days.

☐ 2230

Mr. Speaker, 2 years ago he became a bad guy. We did not like him any more, and we all know what happened then. What is the distinction between Saddam Hussein in Bush I and in Bush II? He just gassed people in his own country in Bush I. America needs a better definition of policy than just expediency. American policy today is grounded in reaction, not philosophy.

There has been enough time since the tragedy of 9/11 for the President to articulate a terrorism policy for the Nation to debate, adopt and defend. All of us gave him some slack right after 9/11. Who would not want our President to have the power to deal with what he needed to deal with at the moment, but that is a long time ago.

We see nothing. We do not have a policy, and the headlines can prove it. We have a military stretched so thin that the President launched an undeclared draft to compel soldiers to return to active military duty. If officers did not resign their commission, the service can reach back 20 years to bring them in.

The New England Journal of Medicine just carried a study that 1 out of 5 people coming home is subject to psychological problems, post-traumatic stress disorder, depression, and other problems. We are suffering casualties. If we think out of 160,000 people, 1 out of 5 coming home, that is 30,000 people, never mind all of the people who have lost an arm or leg. Now we have psychological problems coming home as well.

Does America need a draft? The administration says no, or not until at least after the election. They say this "no" just after they have issued stop-loss orders to prevent soldiers from leaving active duty in Iraq. We have an indefinite military commitment in Iraq. But why, if we supposedly handed the country over to the Iraqis?

America lives in perpetual terrorism-alert status. Is there nothing to be gained other than a CYA for this policy? Who decided that we should be told to be very worried just after America was told not to worry any more that we were already worried? They are moving the fear back and forth and keeping the American people on edge, and that summarizes the administration's recent public statements on terror. It also symbolizes the lack of a coherent terrorism policy.

Today the administration basically says just trust us. Just trust us. America's response should be mine from the Reagan administration, "Just Say No." We did trust, and that is how we got into Iraq. The safety and security of America is everyone's business. It should be debated in this House before the People's Body. Every district, every person in this country is represented on this floor. It should not be decided by one man. I think the average American knows that and knows what the administration has given us so far is not a policy but wishful thinking.

Mr. Speaker, the President has 105 days to articulate the terror policy, what he is really trying to do. If he does not do that, we are going to have a new President.

Mr. Speaker, I thank the gentleman from Missouri (Mr. SKELTON) for yielding me this time.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for his comments. Let me close by saying at the end of the day we all need to pay tribute to those wonderful, wonderful young men and young women in uniform, whether they come from Missouri, Washington, Ohio, New York, Florida, or all across our country. They are professionals. They know what their duty is, and we certainly wish to salute them this evening as well as the families that support them and wish well for them and of course pray for them.

9/11 WAS NOT PREDESTINED

The SPEAKER pro tempore (Mr. HENSARLING). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. ROHRABACHER) is recognized for half the time before midnight, approximately 43 minutes.

Mr. ROHRABACHER. Mr. Speaker, let me thank the gentleman from Missouri (Mr. SKELTON) who has always had the respect of his colleagues. I know that the gentleman is very serious and sincere about the national security of the United States. I appreciate him trying to put forth some creative and positive alternatives to the current policies he may or may not agree with in terms of the war on terrorism.

There are positive opponents to the President and there are negative opponents to the President. There are people who offer alternatives, and there are people who do nothing but undermine the President's policy; but there are also those who have legitimate complaints and alternatives to offer, and I thank the gentleman from Missouri (Mr. SKELTON) for always trying to provide the alternative.

Let me note, after hearing our last colleague who spoke, Saddam Hussein had a blood grudge against the people of the United States of America. He wanted to hurt us and would have hurt us had he been given a chance. It is a good thing that Saddam Hussein was removed from power. Those who nitpick our President and backbite him as we try to make this situation, turn the situation around in Iraq, would not return Saddam Hussein to power. That is not the question.

So with that, Mr. Speaker, let me note that we need to look at the terrorism angle which is what the gentleman from Missouri (Mr. SKELTON) was suggesting for tonight. I have a speech to talk about what happened on 9/11, the terrorist attack, and I give this speech leading up to some time this week when the terrorism task force will report to the American people on what happened on 9/11.

The most important thing that the American people need to know when looking at 9/11, the 9/11 terrorist attack, was that it was not predestined. It was not unavoidable. Unfortunately, the commission investigating 9/11, and we will find this out when they issue their report, they seem to be uncomfortable with fixing responsibility, branding such attempts of fixing responsibility to individuals or to policy as the blame game or pointing fingers. So instead of looking for policies that were dead wrong or people who were incompetent, we have heard about glitches in the system or a lack of communication or a lack of a shared database. Expect the recommendations of the task force to be consistent with this thinking. We will hear about changes in flow charts, organizational restructuring and the creation of a new central authority, an intelligence czar. If there has ever been a cliche, let us create a czar and give him all of the power, and that will solve the problems.

No, I am sorry, 9/11 represents a dramatic failure of policy and people. A number of insane policies led to the creation of a hostile, radical Islamic movement, the one that we face today, and we had policies in place that enabled this weird, feudalistic religion, religious zealots of radical Islam to become a major threat to the western world, and especially to the people of the United States.

Yes, the origins of this frightening reality go back aways. In the 1980s, high-level officials in the Reagan administration, and this is probably where it started, agreed to the demand of Pakistani President Zia Al-Haq that his government oversee, read that control, America's support for those Afghans who were fighting against the Soviet troops occupying their country. Much of the lethal inventory that we sent to the Afghan freedom fighters ended up in the hands of Pakistan's favorite Muslim fanantics, like Rasul Sayyaf or Gulbuddin Hekmatyar. Hekmatyar was a fiend, for example, who in his college days threw acid in the face of young women who refused to cover themselves with a burqa. That is who ended up with the lion's share of our aid to the Afghan freedom fighters.

During the war with the Soviet occupation, I hiked into Afghanistan with a small mujajadin infantry unit. On our way to the seige of Jalalabad, which was the last major battle in that war with Soviet troops, we came across an encampment of Saudi volunteers. In stark contrast to the spartan living conditions of the Afghan fighters who I was with, this camp site was complete with large safari-style tents, cots, and even SUVs. I was told not to speak English because the Saudi crazy man who led this bunch would rather kill Americans than Soviet troops. His name was Osama bin Laden.

So by the end of the 1980s, the presence of dangerous wackoes in Afghanistan was well known. I can assure Members that complaints were made at the highest levels about American support ending up in the hands of these fanatics. I personally made such protests while working in the Reagan White House, yet the policy continued, probably because those representing us on the scene, meaning in Pakistan and Afghanistan, did not complain. In fact, everything indicates that the American so-called professionals on the scene supported the let-Pakistan-decide policy.

Milton Bearden, senior CIA officer overseeing America's support for the Afghanistan insurgency, has suggested that his job was beating the Soviet Army and he should not have been expected to keep our weapons out of the hands of those who might pose a long-term threat to us, to the United States. Nonsense.

Had he raised the issue, coupled with the complaints like the ones I was making to the National Security Council, as well as other people who I know who were making these complaints, this policy would have been reviewed and it would have been reversed. But Milt did not want to rock the boat. He did not want to upset the Pakistanis, so our weapons continued to be delivered into the hands of people who hated us. So put this man, Milton Bearden, CIA station chief, on the list of people who helped bring about 9/11.

Also put unnamed high-level Reagan officials, perhaps even CIA Director Bill Casey, who I have a great deal of respect for, this might have been one of the mistakes he made. We all make mistakes. But in the end, we made a deal to give Pakistan the dominant role in this operation. To be fair, there was no indication at that time that these medieval mullahs would ever pose a threat to the United States, but we should have supported people who were more pro-western and more enlightened. They were available, but we would have had to make Pakistan mad at us for us to we have delivered weapons to them directly. Nevertheless, we could have helped these others and it would have been a better world and better path for us to be on in the long and short run had we done that, and had the CIA and Milton Bearden insisted this was the best way to go and the moral way to go.

Contrary to leftist cliche, and this is what is important, contrary to leftist cliche, the roots of the current terrorist crisis lie not in our support for the Afghan people in their gallant fight against the Soviet occupation, but instead on America's willingness to let Pakistan distribute war supplies and our unconscionable decision after the retreat of the Soviet Army to walk away ourselves and leave the poor and wounded Afghans to live in the rubble and suffer their misery.

To fix responsibility on that decision, look at the list of senior foreign service officers at our embassy in Islamabad, Pakistan, in the 1980s and 1990s. Up to this day, there are high-level State Department officials and career foreign service officers who still toe the Pakistani line, who still seem unable to call Pakistan to task for its transgressions, its sins of omission and commission. These State Department pros, always trying to prevent a crisis on their watch, always trying to avoid a decision that will mandate a confrontation, these people gave us 9/11. Put them on the list.

Furthermore, it was a policy decision to walk away and abandon our devoted Afghan allies even after psychopathic killers like Gulbadeen rose up as the Soviets departed. President George Bush, father of our current President, has to accept the lion's share of the blame for this cowardly, arrogant and selfish policy. There would be no Marshall Plan for Afghanistan or anything else like that because like during the war itself, we left postwar construction and assistance basically up to the Saudis and up to the Pakistanis which was another indefensible policy decision.

□ 2245

As we went into an era in the 1990s of prosperity, the Afghans were stuck in misery and they could not even take care of their wounded, the people who had lost limbs during the war. They could not even clear away the land mines.

So what happened when we left it up to the Saudis and Pakistanis to take care of the situation? Predictably, they had their own agenda, which included the creation of a radical Islamic state in Afghanistan. They were not upset about violent extremists like Hekmatyar and Sayyaf being so well armed. The Saudis and the Pakistanis supported these violent extremists. They were the ones who armed the violent extremists and did so in many cases with our own weapons. Predictably, what followed when the Soviets left and we walked away was a period of havoc and bloodshed. Hekmatyar Gulbadeen peppered Kabul with American rockets that were stockpiled during the Soviet occupation. Thank you, Mr. Bearden.

There was a way out of this bloody mess. Afghanistan's benevolent old king, King Zahir Shah, was exiled in Rome and he was ready and willing to return to Afghanistan to offer a moderate leadership to that country. He is now and was at that time the most beloved man in Afghanistan. He is a pro-western force for stability and decency in that country. But instead of supporting King Zahir Shah, our State Department opted for the creation of a third force. This new force was to be made up of religious fanatics educated in the Madrassas, the so-called schools in Pakistan that were financed and built by the Saudis. I pleaded with my own government and I pleaded with the Saudi intelligence chief, Prince Turki, to at least give the old king, Zahir Shah, a chance to lead an interim government and bring some stability there. "No way" was the answer. Again our State Department sided with the Saudis and Pakistanis, going with the radical Muslim fanatics rather than going with a pro-western alternative. We ended up, yes, with the Taliban. That is what we are talking about being created.

Make no mistake about it, the Taliban's ascent to power as well as their ability to stay in power was a Clinton administration policy decision promoted by the know-it-alls at the State Department. Again, put on the list of those whom to blame for 9/11 those people in the State Department that supported and advocated this policy. The policy of the State Department again and the Clinton administration in collusion with the Saudis and the Pakistanis was to create and support the Taliban control of Afghanistan. They obviously did not learn a thing from the horror that they created by backing Islamic fanatics like Hekmatyar.

Two specific diplomats to put on the 9/11 blame or shame list are Ambassador Robert Oakley who was on the scene as U.S. Ambassador to Pakistan when following Pakistani lead became U.S. policy. Another diplomat, John Holtzman, was the deputy chief of mission at our embassy in Pakistan during the 1990s. He discouraged and undercut efforts to those who were offering an alternative to the Taliban in Afghanistan.

Of course our government's support for the Taliban was never publicly acknowledged. It is too diplomatic for that. We do not mention that but that was the policy and it was never publicly acknowledged but for those of us who were engaged in that region. Let me say there were darn few of us who were engaged in that region after the Soviets had left. We knew it was clear that the United States was supporting the Taliban, but what is even more poignant, most Afghans believed that the Taliban were created by the United States of America and that they had our support. Why should they not believe that that was our policy? America's aid, for the most part, was channeled, and I say this, channeled, disproportionately through the Taliban-controlled areas. I remember trying to clear the way for the shipping of private humanitarian relief to a non-Taliban area in the northern part of Afghanistan only to be blocked by Assistant Secretary of State for Southern Asian Affairs Rick Inderfurth. If there was any doubt about my suspicions about U.S. policy, it was confirmed in 1997 when high-level executives from the Clinton administration saved the Taliban from total defeat and extinction. Here is what happened. In April of 1997, the Taliban launched a major offensive aimed at taking control over the northern third of Afghanistan which up until that point had remained a free zone under the control of regional leaders. Those regional leaders are commonly referred to as warlords. One of those regional leaders, General Malik, tricked the Taliban and managed to capture almost all of their front line troops along with most of their heavy weaponry. It was an utter disaster for the Taliban. The road to the capital, Kabul, was wide open. The Taliban were totally vulnerable and could easily have been wiped out. I sent a message to Commander Masoud and others that Kabul should be liberated and the king of Afghanistan, Zhir Shah, this moderate force I have been talking about, should be brought back to oversee a transition government which hopefully would evolve into a democratically elected government perhaps like we saw in Spain where the monarchy was brought back and they evolved into a democracy. But before the anti-Taliban forces could strike, before the anti-Taliban forces could take advantage of this incredible opportunity to get rid of the Taliban, Assistant Secretary of State Rick Inderfurth and American and United States Ambassador Bill Richardson flew to northern Afghanistan and convinced these anti-Taliban leaders that this was not the time for an offensive. Instead, they insisted, this was the time for a cease-fire and an arms embargo. This was clearly a statement of U.S. policy that two top foreign policy leaders in the Clinton administration for that region flew to northern Afghanistan to convince the anti-Taliban forces not to take advantage of their one opportunity to soundly defeat and thus eliminate this enemy.

Let us remember, by this time it was clear that the Taliban were Islamic Nazis. I had fought the Taliban for years trying to present the king as an alternative. When they took over Kabul, I remember even my comment was, "Well, let's wait and see. Let's give them the benefit of the doubt." I was very skeptical, even for just a matter of 2 weeks, but within 2 weeks there was no doubt what these people were about: Making women stay inside their homes. They could not get adequate medical treatment, much less have jobs. Repression of any type. Listening to music much less expressing some type of opposition to their government. No, these were fascist Islamicists. Instead of letting them be defeated, the Clinton administration, Mr. Inderfurth and Mr. Richardson, went there and saved the Taliban and they convinced them not to take advantage of this one opportunity they had.

So let me underscore this again. We knew by that time that the Taliban were evil. Yet we helped save them because. we had made a deal with Pakistan and with Saudi Arabia to create the Taliban and to keep them in power. Just to note, right after the cease-fire and the release of prisoners that were brokered by these high-level Clinton administration officials, the Pakistanis began a Berlin-like airlift to resupply and re-equip the Taliban which was obviously financed with Saudi money. If I knew of this massive resupply effort, certainly the Clinton administration officials who set up this disastrous scenario also knew. Why were the anti-Taliban leaders not notified of this situation? Why did we continue to enforce an arms embargo which only affected the anti-Taliban forces even as the Taliban were being rearmed and resupplied by Pakistan and Saudi Arabia? The answer is, it was U.S. policy to keep the Taliban in power during the Clinton administration. So add the Clinton appointees, Assistant Secretary of State Rick Inderfurth and U.S. Ambassador Bill Richardson on the 9/11 blame list, but, to be fair, they were obviously carrying out policies that were made elsewhere and higher up. How much higher up? All the way up to the very top of the Clinton administration.

Last year, the current Foreign Minister of Pakistan visited California. Furious by my repeated accusations that Pakistan was responsible for the Taliban, he blurted out at a well-attended event that from day one, America was part of the deal that created the Taliban. I had been trying to prove that the Clinton administration was covertly supporting the Taliban and now at last I had a confirmation. As a member of the Committee on International Relations, it had been my responsibility to oversee this policy. During the last 2 years of the Clinton administration, I made numerous requests, with the support of the committee chairman, Ben Gilman, for Taliban-related documents so I could prove what our policy was and what we were doing behind the scenes in terms of the Taliban in Afghanistan. I asked for these documents. I asked for cables, talking points, meeting notes. Secretary of State Madeleine Albright made a commitment to me and to the chairman of the committee in an open congressional hearing to provide my office and Chairman Gilman all related documents. We were stonewalled. That is it. The elected officials got stonewalled by the permanent government, by the pros who made the policy in the first place, the people who they sent over to take over the policy in Islamabad and oversaw this, protecting themselves but also protecting the secret agreement with Pakistan and Saudi Arabia. So instead of sending the dossiers, the documents about the Taliban, they sent to us, the people who were elected to oversee that policy, meaningless documents that included innocuous news clippings. This is about as arrogant as it gets, unelected State Department careerists dismissing the requests of elected officials for security-related information.

One wonders if the current independent commission examining 9/11 has asked to see these documents. We will have to see if the commission investigating 9/11 goes into why the Taliban was in power in the first place. This is a vital piece of information. If the Taliban would not have been in power, these radical Islamicists would not have provided bin Laden and the terrorists with the base of operations which led to 9/11. In some ways, it is hard to characterize the Clinton administration's support of the Taliban as covert. The stench was hard to miss. Covert or overt, it was disgraceful and led to 9/11 by creating a safe base of operations for bin Laden and a training base and staging area for al Qaeda.

Bin Laden is from an enormously wealthy Saudi family. While our petro dollars flowed into Saudi Arabia by the hundreds or tens of millions, the Saudi establishment not only turned a blind eye but also attempted to buy off this violent anti-western Islamic fringe in their own country. Billions of our dollars, our petro dollars, came back to bite us in a big way. It obviously continues to this very day. The first gulf war in 1990 and 1991 did nothing but expand bin Laden's hatred for the United States. In terms of our presence in Saudi Arabia, he has piously proclaimed that it is an insult to his faith. Get that. An insult to his faith. This is a mass slaughterer of unarmed people and, of course, slaughtering these unarmed people and these noncombatants as we saw on 9/11 and others who he has slaughtered is perfectly consistent with his faith, but he is insulted by America being in the Middle East. Perhaps we should quit taking seriously all of this self-righteousness from radical Islamicists because in reality what we are talking about are psychopathic killers. And whatever religion they would be part of, whether it is Christianity or Hindus or Israelis or Americans, whoever we are talking about, there are psychopathic killers in every society, only what we have got here is in the name of the Muslim faith, these people have managed to wrestle leverage which gives them enormous power to attack us and to kill our people.

In the mid 1990s, bin Laden and his cohorts began to set up his terrorist underground army for the war that he intended to wage on America. In the mid 1990s, he operated not out of Afghanistan but out of Sudan. America's official position was that bin Laden was a terrorist on our most wanted list. In fact, CIA director George Tenet declared him the CIA's number one target. Inexplicably while designated as such this self-aggrandizing monster organized, financed and implemented attacks that caused tens of millions of dollars of damage and the deaths of thousands of innocent people, not just in the United States on 9/11 but in a worldwide campaign over a 2-year period.

□ 2300

Yet the same CIA that declared bin Laden as their number one target, with all the power, the money, the technology, and other assets available to our CIA, they could not thwart 9/11 nor did they even warn us about 9/11. Remember, 9/11 was a major operation planned and carried out by the CIA's number one target and hundreds of others, many of whom were also on that most-wanted list.

If this is not incompetence on the part of our intelligence establishment, then what is? Furthermore, there were mind-boggling missed opportunities to get bin Laden before 9/11. Either intentionally or as a matter of policy or through incompetence, bin Laden was never stopped, even though there were numerous opportunities to stop him permanently.

The government of Sudan paid close attention to bin Laden when he operated in that country. I am told they catalogued all the people to whom he spoke on the phone and in person. The former Ambassador for Sudan in the United States, Mr. Mahdi Ibrahim Mohamed, told me personally that he offered our government this terrorist catalogue, which was a silver bullet for the total destruction of bin Laden's terrorist network.

Vanity Fair reports that the Sudanese government's offer was abruptly turned down by none other than Secretary of State Madeleine Albright herself. Reportedly she instructed that no one look at the material or copy the material offered by Sudan. So in bold print add to the list of those responsible to 9/11 Secretary of State Madeleine Albright.

I should note that former President Clinton is denying that he turned down such an offer from the Sudan, and it is not unreasonable to assume that the wording of his denial has been crafted in such a way that we really do not know what is, is.

And while we are at it, we can add Richard Clarke to the list. Let us take a look at Richard Clarke, who got much attention a few months back by criticizing President George W. Bush before the investigating 9/11 panel. Clarke was a senior government policy official. And while all of that that I am describing took place, Richard Clarke was there in high-level positions of authority. He either approved of what was going on in all these things, especially that were happening during the Clinton administration; he either approved of the policy of the Taliban, he approved of not following up on these leads to get bin Laden, or he did nothing. Either way, he is certainly high on the 9/11 blame list, and he has no credibility in criticizing our President, who, as we now know, when he was sworn in as President of the United States, the 9/11 plot to attack the United States was well on the way, that it had been planned long before George Bush was even elected. It was planned and started and put into place during the time when Richard Clarke was a senior guy at the White House and could have done something about it and instead did nothing.

From the first attack to the World Trade Center in 1993, to the bombing of the U.S. military barracks in Saudi Arabia, to the attack on the USS Cole, and the destruction of our embassies in Africa, the response from the last administration was so tepid and so weak that the perpetrators thought Americans were cowards. That was why they went ahead with 9/11, which was aimed at killing not just 3,000 Americans but tens of thousands of Americans that they thought they were going to kill in those towers. This we have learned from those we have captured since 9/11. It was the weakness of the 1990s that led to the war that we are in today. It was the weakness during the Clinton administration years and the weak response and limp-wrist response that we gave to the terrorists that encouraged them to move forward with a monstrous attack on 9/11.

By the way, after one attack it is reported that Richard Clarke was the White House official who insisted that retaliation be taken against guess what target they chose after an attack where our people died? The target was a pharmaceutical factory in the Sudan, which had nothing to do with terrorism. This was while our government was still helping the Taliban stay in power. So we attacked a pharmaceutical company in Sudan. Something stinks about this situation, and some day we are going to get to the bottom of it and we will learn what forces were at play and what the positions of our government and those people really were.

Then an even more personal incident happened about bin Laden. In April and May of 1999, America, our country, had an incredible opportunity to be capture bin Laden. And, yes, I was personally involved in this one. It is, unfortunately, another example of incompetence by those we trust to protect us from attacks like the one that occurred on 9/11. In April of 1999, a friend of mine, a long-time friend, who was deeply involved in the Afghan fight against Soviet occupation, contacted me. My friend, an American, had an impeccable record, had credentials, and he was widely known and admired among the Afghan people. My friend called to tip me off that bin Laden was out of Afghanistan and could be easily captured. I told him I would pass on his phone number and his name to the CIA, and I did so the very next day. There I passed on my friend's name and phone number and explained that they had to get to him right away because he could give them bin Laden on a platter and that he had great credentials, so he was believable.

A week passed, and my friend was not called by the CIA. So I went back to the CIA, and this time they were adamant that they would contact my friend because they insisted they wanted to get bin Laden.

As time passed, guess what. They did not call my friend again. So I went to the gentleman from Florida (Mr. GOSS), who is the chairman of the House Permanent Select Committee on Intelligence, and let me note that I have deep respect for the gentleman from Florida (Mr. GOSS) and hope that he becomes the next Director of the CIA because he is a man who knows that agency and a man who is committed to the security of our country and whom I trust explicitly.

When the gentleman from Florida (Mr. GOSS) heard my story, he immediately went into action and arranged a meeting for the next day. At that time I met with not just the CIA but with representatives from NSA, National Security Agency, and the FBI. They were the "bin Laden Task Force." I told them what had happened. They apologized for those dunderheads at the CIA, they will never get it right, and they promised they would get on it. Another week passed, and my friend still was not contacted.

So here we had bin Laden vulnerable for weeks, and our intelligence establishment did nothing. I mentioned it to the gentleman from Florida (Mr. GOSS). He was appalled. The very next day, and I am sure it had something to do with the gentleman from Florida (Mr. GOSS), a representative from an intelligence agency called my friend, but the caller's tone of voice suggested that the call was obligatory and he really was not interested but he made the call, but it would not make any difference anyway because by then the trail was too cold to follow.

This was very strange and very disheartening. We had passed up a chance again to get the America's most-wanted terrorist, and there was no explanation. Either incompetence or by design, I do not know. Clearly, however, there was something dreadfully wrong at the CIA or with American policy.

Over at the FBI, it was just as bad, if not worse. It is widely known now that 2 months before the September 11 attacks, Phoenix FBI agent Kenneth Williams sent a memo to FBI headquarters in Washington and New York warning that bin Laden's disciples might be training at U.S. flight schools, and he asked for a review of documents and a review of the situation to determine if bin Laden's people were being trained in other parts of the country. The Williams memo was ignored by David Frasca, the Supervisory Special Agent in Washington, D.C.

One month before 9/11, Minnesota FBI agent Colleen Rowley asked FBI headquarters to issue a warrant allowing agents to search would-be terrorist Zacarias Moussaoui's computer. They determined that he might have links to the terrorists, and when this FBI agent asked that his computer be searched, the FBI headquarters ignored her warnings and ignored her. So agent Rowley basically notified the CIA about the Moussaoui case, and the FBI, when they learned that she had told the CIA to watch out for this guy, reprimanded her.

□ 2310

There is something terribly wrong in a culture at the FBI if when they get admonished for telling the CIA, and they will not investigate themselves, and then admonish the person for contacting the CIA.

Clinton appointee Louis Freeh headed the Bureau for almost 8 years. The new director, Robert Mueller, took over just 7 days before 9/11. The Bureau obviously needed a major overhaul, and this became painfully evident shortly after the World Trade Center crashed to the ground and shocked the Nation.

The troubles at the FBI were not just organizational, but there was a mindset there, and that was a problem, but there were also mandates and restrictions that were put on the Bureau during this time period.

Let me note that we had all sorts of political restrictions put on the FBI, especially during the 1990s. The one case in point, Jamie Gorelick, who now passes judgment on the Bush administration as part of the 9/11 investigation, she is part of that committee. In the 1990s, she was in the Clinton administration. She ran our domestic terrorist law enforcement and intelligence operations, and she wrote a memo while a Clinton lawyer forbidding any cooperation between intelligence organizations and law enforcement agencies.

So right here on the 9/11 investigating panel is an example of why we suffered 9/11. The presence of Jamie Gorelick on the investigating panel represents a massive conflict of interest, and this was well-known and has been well-known. She should have been removed a long time ago. The panel thus is demonstrating the same inflexibility and aversion to correct action as it is investigating.

The Gorelick directives reflected a mindset in the last administration, a mindset that was reflected even by high-level career intelligence officials.

The Defense Intelligence Agency, for example, is supposed to provide the Pentagon with detailed information necessary for it to deal with any potential threat. With all that is spent by the DIA, the Pentagon, like the rest of the government, let us just note, the Pentagon was caught off guard and unprepared for 9/11, just like the rest, even though we spent enormous amounts on the DIA.

The Pentagon's lack of information and analysis almost had disastrous results beyond 9/11. A counterattack strategy almost implemented would have sent American military forces into Afghanistan from the south, where the goal was occupying a few major cities like Jalalabad and Kabul, leaving the Taliban in charge of the countryside. We would then negotiate with the Taliban and offer to withdraw our forces if they turned over bin Laden.

The Taliban would have been left in power. That is insane, but that was what the policy was. The plan was to come in through the south and to have our troops supplied out of bases in northwestern frontier areas in Pakistan, an area that we now know as being a anti-American stronghold.

An alternative plan, based cooperation with the battle-tested troops of the Northern Alliance took time to develop, because the Pentagon didn't know who the players were, much less what the anti-Taliban forces in the north could do. My staff, my personal staff, ended up providing the Pentagon with the names and satellite cell phone numbers of those significant Afghan leaders who opposed the Taliban who could help drive them out of Afghanistan.

That the Pentagon was unprepared was no surprise to me. In early 1999, a DIA analyst came to me for help. She was in the process of being fired, and her story tells us volumes about why 9/11 caught America off guard and ill-prepared.

Julie Sirrs was one of a small number of Afghan analysts at the DIA. She took her job seriously, as she should have. She, in fact, went to Afghanistan, but was only permitted in those areas controlled by the Taliban.

Upon returning, she realized that her one-dimensional view of Afghanistan left gaping holes in the Department of Defense's understanding of the situation. She requested to go to Northern Afghanistan, especially to that area controlled by anti-Taliban Commander Masoud. She was denied permission to go.

Realizing the danger posed by her lack of information, Julie Sirrs took the initiative. She paid her own way, organized her own trip to the Panjshir Valley in Northern Afghanistan, which is the bastion of Commander Masoud, and he was the last Afghan holdout against the Taliban.

Well, I met with Masoud in one of his mountain strongholds 2 years before and had dinner with him and discussed strategy. That was risky. What Julie Sirrs did was even riskier for her. What she did was heroic.

When she got to the Panjshir Valley, she found out her assumptions were right. Something vital to America's security was happening, something she was not allowed to discover when she visited the Taliban-controlled areas.

Commander Masoud told her he was facing a new enemy in Afghanistan. Masoud's militia was finding itself in fire fights with some kind of fundamentalist foreign legion. Apparently, bin Laden was making Afghanistan his base of operations and importing Islamic radicals from around the world, training them as terrorist killers and then setting them against Masoud's troops for combat experience.

Masoud offered to let Julie and other Americans interrogate these foreign prisoners, many of whom he had captured.

This was an intelligence bonanza. Julie Sirrs was uncovering the creation, the organization and the training of bin Laden terrorist army, al Qaeda. She only had a short time. She collected enough information for a preliminary report and then she headed home.

The minute she got back, she was ordered not to distribute her report and limit her briefings within her own agency. The commanding officer of DIA labeled her as insubordinate, fired her, and when she fought her dismissal, he set out to destroy her.

Amidst the fight to save her job, the DIA Director complained that he was upset with Julie because she had made contact with Masoud, who, according to the DIA, was a bad guy. This general was sending his people to be briefed by the Taliban, but refused them any contact with Masoud or he would dismiss them.

Something is terribly wrong with this picture. The vitriol in the attack against Sirrs were shockingly false. Patently false charges were brought against her to overwhelm her defenses and to intimidate her and force her to go quietly.

She was charged, for example, with lying, even though the agency lie detector test proved she was telling the truth. She was charged with misusing equipment, having borrowed an office camera to take pictures of Afghanistan. She returned the camera when she got back, and she had taken valuable pictures of Northern Afghanistan.

The attacks on this sincere and responsible intelligence analyst were arrogant, nasty, malevolent and loathsome. The brutal treatment of Sirrs sent a negative message to anyone at that time in the DIA who had idea of taking the initiative or thinking creatively.

Let me just note that Julie Sirrs was fired. She was fired by a general who was in charge of the DIA, who I had come to my office. That general, General Hughes, is now, unfortunately, a high level official in our Department of Homeland Security in charge of analysis.

There are many things that we need to do, where we need to hold people accountable. General Hughes was wrong and put our country in jeopardy. These other individuals that I have mentioned tonight, their decisions were wrong, the policies were wrong. We must hold them accountable.

We are looking forward to the report by the 9/11 Commission that will be up this week to see if they name names, hold people accountable, hold policy accountable, and we will be having a further talk on this issue later on.

Julie came to me because she had no one else to whom she could turn. I was the one elected official with experience in Afghanistan. I requested a meeting with the General and right off the bat he insisted Sirrs was insubordinate. I told him that from my view she was a hero, risking her job, and her life, spending her own money, all this to get information she believed necessary for our country to be prepared if something happened in Afghanistan.

After hearing each other out, I recommended to the General that we compromise. If he just gave her back her job she'd end up neither hero nor scofflaw. I'd back off and he could use political pressure from me as an excuse for reinstating her.

After the General left my office he not only reaffirmed the firing of Julie Sirrs, but later stripped her of her security clearance as well, thus eliminating her ability to earn a living as an intelligence analyst. He demonstrated how he could destroy anyone who would deviate from his program or defy his directives. "Insubordination" was the ultimate challenge to his authority, and reaffirming his authority, was more important than the security of the United States of America.

A few months later the General retired and all this would have been a regrettable but forgotten incident, except for the resultant 9/11 tragedy. Except for how terribly unprepared the Pentagon was for a war in Afghanistan.

It is my sad duty to report to my colleagues that the General to whom I'm referring is Lt. General Patrick Hughes, who today is one of the top officials, as Assistant Secretary for Information Analysis at the Department of Homeland Security. I am certain that over his long and distinguished career he made many contributions, but his indefensible conduct in the Sirrs case cast serious doubt over his judgment. I have notified Secretary Ridge of this side of General Hughes' character and recommended that he should not hold the high level position in the Department of Homeland Security that he does.

When George W. Bush took office in January of 2001, the 9/11 terrorist operation, unbeknownst to anyone in our government, was already well underway. But the threat posed by the radical anti-western Islamic regime in Afghanistan was known, and policy towards it needed to go. Having worked in the Reagan White House I understood it took time for a new President to appoint staff, set policy and begin to take control of government. Nevertheless, during that brief interlude between Bush's inaugural and 9/11, I met the new National Security Council staff on three occasions, including one meeting with Condoleezza Rice, to discuss Afghanistan. There were, in fact, signs noted in an overview story in the Washington Post that some steps were being made to break away from the previous administration's Afghan policy.

One thing was certain to me at that time, George W. Bush, unlike his predecessor, would have an unmistakable response to bin Laden's terrorist attacks. As I stated earlier we know now that those who planned and financed the 9/11 attack did not believe the United States would act as forcefully and as unrelentingly as we have. This calculation was a result of the tepid American response to earlier al Qaeda attacks from Africa to New York City.

Here again, was an example of the rotten policy that led to 9/11. And yes, had we retaliated more aggressively when our Embassies were blown up in Kenya and Tanzania in 1998 the terrorists we have captured now tell us that it may have been given them second thoughts.

I took pride in those days as being one of the few Members of Congress who had maintained an interest in Afghanistan, which I saw as a potential major national security threat to our country.

Then, 2 days before 9/11, the news came that Commander Masoud had been murdered in Afghanistan. I felt as if I had lost a friend. As I mourned his loss I struggled to fully understand the significance of his death. Then it dawned on me why Masoud had been assassinated. America was going to be attacked and it would be so monstrous that bin Laden's gang in Afghanistan wanted to cut us off from the means of counterattacking. We would have turned to Masoud if we were attacked; now he was dead. Perhaps his death was a signal to set the planned attack in motion.

So on the 10th of September I tried to alert anyone and everyone who would listen to my warning of an imminent terrorist attack. A few people listened as a courtesy but for most their eyes simply glazed over as I tried to warn them. One of my colleagues, JIM GREENWOOD, stood behind me in an elevator and overheard me lamenting that something horrible was about to happen and that I couldn't get anyone to take my warnings seriously. It's like the Twilight Zone, I said. As I got off the elevator he lightheartedly patted me on the back and with a smile told me not to be so melodramatic and certainly not so apocryphal.

Undeterred, I called the White House and asked for an emergency appointment to see Condoleezza Rice in order to warn her of a major impending attack. Her office apologized that she was incredibly busy that day, but she respected my opinion and would see me at 3 p.m. the next day. The next day was 9/11. The plans began flying into the buildings at 8:48 a.m.

In the afternoon of that chaotic and fateful day, my colleague, Congressman GREENWOOD, approached me. I've been telling everyone how you tried to warn people of this. You knew it was about to happen? How did you know? We must ask, how is it that one Member of Congress, with the help of one staff member, was able to analyze the situation and determine that the terrorists based in Afghanistan were about to launch a major attack on us, when the CIA and others failed to do so. The question is not how did I know. It is why didn't the rest of the establishment know. Those whose job it is to protect us should be held accountable for 9/11, for not thwarting the attack or even warning us.

On 9/11 there was an incident that underscored that something was dreadfully wrong at the CIA. Shortly after the attack I called King Zahir Shah in Rome. He was now America's greatest asset in any action against the terrorist forces in Afghanistan. Masoud was dead, but the Afghan people would rally behind the King. If I could figure that out so could the Taliban, so I was shocked to find that the King had no protection. He was totally vulnerable. I told the King to stay put and went to work. I called the CIA and managed to speak directly to one of Tenet's top lieutenants. I explained the situation and he acknowledged the importance of the King, assuring me he would take care of it.

About 5 hours later, I happened to run into this gentleman. I will never forget his response when I asked if the King was now being protected. "You don't expect us to act that fast do you?"

Just like at the FBI, there was something wrong with the mindset at the CIA. Yes, George Tenet must be placed on that 9/11 blame list; perhaps his name should be underlined.

It is time for those who made possible the rest of the Taliban; the rise of bin Laden and yes, the tragedy of 9/11 to be held personally accountable.

The list stretches over both Republican and Democratic administrations. Through the failures of the CIA under Reagan to the blunders of the State Department under Bush to the incompetence and disingenuous posturing of the diplomats under Clinton, accountability requires that their names be given.

Retired General Patrick Hughes, who as head of the DIA fired Julie Sirrs and who today holds a high position in the Department of Homeland Security.

Former Ambassador and now Governor Bill Richardson, who save the Taliban from military defeat.

Former senior CIA Officer Milt Bearden, who armed the most fanatic of the Afghan factions in this struggle against Soviet Occupation.

Former Assistant Secretary of State Rick Inderfurth, who weakened the anti-Taliban forces.

Former CIA Director George Tenet, whose culpability should have led him to resign long ago.

Former Secretary of State Madeleine Albright, who was the point person for the policy of covert support for the Taliban, and who derailed the opportunity to receive a detailed account of the entire al Qaeda terrorist network.

And finally, Richard Clarke, former senior Clinton official, who along with a few others was in a position to argue against if not to change the grotesquely mistaken policies of the 80s and 90s, but failed to do so.

If another 9/11 is to be avoided, we need accountability, not rearranging of bureaucratic organization charts. There was nothing wrong with our system that brought on 9/11, which will not be corrected by having different policies in place and different people in positions of authority.

Let us now, if nothing else, be honest with each other and insist on an honest accounting. Then let's beat our murderous enemy so completely that no one will ever miscalculate about our power and courage ever again.

IRAQ WATCH

The SPEAKER pro tempore (Mr. HENSARLING). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized until midnight.

Mr. INSLEE. Mr. Speaker, we come to the floor this evening in the continued responsibility of keeping a very close eye on this administration's policy in Iraq in the continued series of what we style the Iraq watch.

I will be joined by the gentleman from Massachusetts (Mr. DELAHUNT) this evening, and hopefully the gentleman from Ohio (Mr. STRICKLAND.)

We have been now coming once a week to the floor of the House because we believe that the House has a duty not to sweep under the rug the accumulation of errors, misjudgments and deceptions that have been foisted on the American people by the Bush administration leading to the war in Iraq.

The reason we are here every week is that there is too much tendency to forget the sacrifices that are being made by our men and women in uniform in Iraq; to treat them as sort of background noise; to sort of say, well, the casualties are down to several a week, so we can just sort of forget about Iraq. That is wrong.

We have been here for months blowing the whistle on this administration's repeated failures in Iraq, and we will continue to do so, because this Nation owes it to our men and women in uniform to continue to be vigilant about what this administration is doing and not doing in Iraq.

□ 2320

Perhaps, even more importantly, we owe it to the cause of democracy itself not to allow it to go unnoted when a President of the United States starts a war based on deception of the American people. We are here to say there is perhaps no greater abuse of democracy, no more dangerous event in the great American democratic experiment, than for an American President to foist falsehoods on the American people to start a war, which we believe occurred in this case.

Now, I would like to start our discussion tonight by quickly setting the stage for the history of the Iraq war to date. Unfortunately, this administration has made not 1, not 2, but 10 serious mistakes, deceptions, errors of judgment, negligence, and carelessness that have led to the troubles that our people are facing in Iraq. I would like to run through those very quickly before I yield to the gentleman from Massachusetts (Mr. DELAHUNT).

There are 10 major errors the Bush administration has made in Iraq. Error number 1: This administration told America in no uncertain terms, with no doubt, with no vagueness, with no ambiguity whatsoever, that it was required to start a war in Iraq because Iraq had weapons of mass destruction. The President said, in a culmination of his multiple statements, and this must not be forgotten; on August 26, 2002, the President said, "Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction." And there was not only no weapons of mass destruction, there was plenty of doubt. This President's statement was false, and this was falsehood number 1.

Error number 2: The President told us on repeated occasions, and his administration, that they had clear, convincing and cogent evidence that there was a working relationship between Saddam Hussein and al Qaeda which led to the attack on September 11. They told us this over and over and over again, and now that the evidence has been made clear from the multiple reports that have come in on a bipartisan basis, this President's statement that Saddam Hussein was associated with the attack on this country, this venal, evil attack on this country was false, and it led to a war. And there is no greater error, breach of democracy than an American President saying that when this was false. And it continues to this day. With all of this mountain of evidence showing the falsehood of this President's statement, the Vice President of the United States has the chutzpa, if one can stretch that word that far, to try to continue to foist this on the American people, and it is falsehood number 2.

Number 3: The American people were told repeatedly that we would be welcome as liberators in Iraq. We would be welcome with rose petals at our feet. We would be welcome with nothing but clear sailing because the people would see us as liberators. There is no question in the belief that Saddam Hussein was an evil tyrant, and there is no question he abused thousands of Iraqis. But this President made a massive misjudgment by listening to Mr. Chalabi, one of the great sycophants in failures of predictions in international history, and the President was suckered and the American people were suckered by this misstatement, and we have paid dearly with our treasure and our lives and the health of our service personnel in Iraq.

Falsehood number 4: This President ignored the clear, professional judgment of people who said we needed to have more boots on the ground to prevent anarchy in Iraq, but this President ignored that advice because he has wanted to fight this fight on the cheap from day 1, and we have suffered as a result. General Shinseki told him that we needed several hundred thousand people in Iraq to quell disturbance after the Iraq war, and he ignored it, and our people paid dearly for error and falsehood number 4.

Number 5: The President said we did not need the United Nations, we could go in there alone, as long as we had the Philippines and a couple of other small island nations. Well, the Philippines have now withdrawn. This President decided to go it alone in Iraq, and our people have suffered dearly. Falsehood number 5.

Falsehood number 6: The President said that by implication, everything would be aboveboard. There would not be any war profiteering in Iraq, people would not make millions of dollars worth of profits in Iraq. Now we see Halliburton, this company so intimately tied with this administration, reaping millions of dollars of taxpayers' money, wrongfully. The GAO has reported on it. This is a scandal, and Harry Truman rooted out world profiteering in World War II. We need to get to the bottom of this war profiteering by Halliburton and the like. Falsehood number 6.

Falsehood number 7, and error number 7: This President and this administration led us down one of the most embarrassing breaches of American integrity, and that is the horrendous occasions of abuse at the Abu Ghraib prison, and it happened because people at the top of this administration gave a green light to stretching our well-accepted rules of following the Geneva Convention. The memos are now in and public information that multiple memos were sent saying that we did not have to give the protections of the Geneva Convention to people. This is something we do to protect our own troops so that they will be not abused if they are captive. This is a long held principle of America. But out of hubris, out of outright arrogance, this administration ignored those rules and we have suffered in the eyes of the world grievously. Make no mistake, 99.9 percent of our troops are doing a magnificent job, but this was error number 7.

Error number 8: This President sent American troops into battle without adequate armor. Even today, our troops are driving around thin-skinned

Humvees that should have armor, and I believe our people have been injured with shrapnel grievously.

Error number 9, and this is one that is going to haunt us for a long time: The President started and continued a war with absolutely no plan whatsoever in how to pay for it. He has tried to hide the ball over and over again on the costs of this war to the American taxpayer, and he is still doing it. This year, this budget my colleagues in the majority party put out with $25 billion, we know it is going to be $60 billion next year. There is no question about this. Why did they hide this information from the American people? Do they think the American people will be so sleepy they will ignore the fact that another $60 billion will go to Iraq instead of schools and health care in America? Do they think that will be forgotten? I do not think so. This deficit is now in the billions of dollars and it is growing rapidly because the President wants our children to pay for the Iraq war rather than us. And this is that continued attitude of trying to fight this war on the cheap. This President needs to be honest and forthright with the American people about the real costs of this war, which are grievous. Error number 9.

And error number 10: And this one rankles me greatly as a person who has read the casualty reports of what hot steel and shrapnel has done to our troops, sending our troops into combat without flak jackets, and it took us a year-and-a-half to get this administration to get flak jackets. Is that too much to ask of an administration for our troops? Error number 10.

Those are a quick summary of the errors that have been made in Iraq. Today we heard about some new ones. We found out that, in fact, it was Iran that was allowing 10 of the terrorists who injured us so terribly on September 11, they were passing through Iran, not Iraq. The President never leveled with us and told us that. It turns out it was Iran that was trying to buy the Iranian yellow cake, not Iraq. It is not a good enough excuse that they are one letter apart. That is not a good enough excuse for this President.

I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Maybe it is the wrong enemy, maybe it is the wrong war.

But before I explore that, I thought I would just take a few minutes to amplify a bit on two of the points that the gentleman made. The cost of this war in terms of dollars and cents. I have this memory of the Under Secretary of Defense, Mr. Wolfowitz, testifying before a congressional committee saying that there would be no cost to the American taxpayers because Iraqi oil would obviously be more than sufficient to pay for the costs, not just of our military presence, our security presence, but the cost of reconstruction.

□ 2330

Well, that clearly was a mistake. In fact, I thought it was interesting that the criticism from the other side of the aisle, from Republicans, about the costs and the misestimates was probably even louder than that that came from this side, from Democrats.

I have a memory of reading a particular column that was penned by Senator DICK LUGAR, the prestigious Chair of the Senate Foreign Relations Committee, where he described the postwar phase. Of course, I would suggest we are still at war. When one reads the casualty list, on a weekly basis it is clear that American troops are still being killed, and a large number of course are wounded. Many of us have visited them at Walter Reed and Bethesda Hospital here in Washington, DC, but going back to what Senator LUGAR said, he said the postwar planning was totally inadequate. And, again, where is that oil money?

And a further observation. If we remember the first Gulf War, the cost to the American taxpayers was approximately $4 billion. We have already expended somewhere between $150 and $200 billion, and as you suggest, many hundreds of billions of dollars more will be added to the bill, the bill that will be passed on to the American taxpayers for generations.

In the first Gulf War, there was a real coalition, a genuine coalition of the willing. There was participation in terms of the military presence. There were more non-American troops in the first Gulf War than there were American troops. Other than those forces from Great Britain, as you indicated, there are only small detachments of security forces from other countries.

And as was noted in a story last Thursday in the Washington Post, four countries have already left, four more are due to leave by September, and others are now making known their intention to lying down a depart before the political transition is complete next year.

Norway pulled out its 455 military engineers this month. New Zealand intends to pull out its 60 engineers by September, while Thailand plans to withdraw its more than 450 troops that same month. The Netherlands is likely to pull out next spring after the first of three Iraqi elections, while Polish military officials told the Pentagon that Poland's large contingent will leave probably in less than a year. And as you indicated, the Filipinos withdrew already. The Spanish have withdrawn. We are going to end up there alone, Mr. Speaker, and the bill will be paid for by the American taxpayers.

Now, much was stated back five or six months ago about a donors' conference in Madrid, Mr. Speaker, where the coalition was brought together in an effort to have nations other than the United States contribute, contribute financially even if they had no military presence there.

Well, quoting the Los Angeles Times of July 12, "Little of the $13 billion promised for rebuilding has been donated, and countries are hesitant to waive that, frustrating the new Iraqi government." Countries have provided only a small fraction of the reconstruction aid they promised at a conference nine months ago, Mr. Speaker. Of the $13 billion in nonAmerican aid pledged, less than $1 billion has been turned over to the United Nations and the World Bank, funds set up to take in most of the donations.

Mr. INSLEE. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I will yield to the gentleman.

Mr. INSLEE. I think it is important to realize what this President's unilateralism has done to the American taxpayer by putting it in context, vis-a-vis the first Iraq war, because the first President Bush did in fact work with the rest of the world community, and as a result, the rest of the world paid well over the majority. I think it was close to 80, 90 percent of the total cost of the first Iraq war. It was not borne by the American taxpayer.

But the cost of this second President Bush's go-it-alone strategy to the American taxpayer is enormous, because as of May the American taxpayers had spent $174 billion. Now, to put that in perspective, we are going to pass the total inflation-adjusted cost of World War I sometime early next year in the cost of Iraq, which was $199 billion. And, again, the insidious part about this is that the President, because he is unwilling to do what Winston Churchill did, which was to call for blood, toil, sweat and tears, this President just wants to put this war on the credit card, and every single dollar of the Iraq war is going to deficit spending.

We have a $7 trillion debt. This President Bush's budget is out of balance $368 billion a year, and he is adding every single dollar of this going straight on our national debt. And it is our children that are going to suffer as a result of this. Why? Because the President is unwilling to really face the truth in Iraq. He was unwilling to face the truth about weapons of mass destruction. He was unwilling to face the truth about a purported connection with al Qaeda. He was unwilling to face the truth about how many troops we were going to need. He was unwilling to face the truth about the armor that we needed. He was unwilling to face the truth, you name it, about anything you can think of in Iraq. And this is a continuing sore on our fiscal house as well as the suffering that we have had.

Mr. Speaker, I will yield to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. As was indicated, it is only going to get worse, because I would suggest that what we are going to find is as time moves on, there will be fewer and fewer even pledges that will be made, let alone honored. We now know they are not being honored, at least if you accept the report from the Los Angeles Times.

It is easy to go out and say, yeah, America, you come up with $19 billion to build roads in Iraq, to provide universal health care coverage, to rehab schools and to build affordable housing. If you do that, American taxpayer, we will promise that we will pledge or we will pledge at least half of what you do, and now we find out that less than $1 billion has actually been transferred to the appropriate agencies. In fact, half of that $1 billion comes from a single nation, Japan.

But I would like to get on to something else for just a minute. The President is prone to be saying, particularly at campaign rallies, that America is safer than ever. It is safer than it was three years ago. In fact, he extends it to the entire world. He is saying that the world is safer than it was three years ago. And yet, ironically, yesterday, Mr. Speaker, I think it was on Fox News, one of the magazine editions, there was an interview with the current, the so-called interim director of the Central Intelligence Agency, John McLaughlin.

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And he said that while several al Qaeda plots against the United States, against our homeland have been foiled, the truth remains that the threat is as high as it ever was.

Now, there is an inconsistency here. All we have to do is count 14 to 15 days and there will be a new terror alert. How often do we turn on one of the cable news networks or turn on our TV and we see the Attorney General or we see Secretary Ridge talking about an elevated threat? In fact, Secretary Ridge was in my hometown of Boston, Massachusetts just recently talking about the threat. And here we have the new Director of the CIA contradicting the President of the United States who, and maybe he was simply indulging in campaign rhetoric, saying that we are much safer now and the world is safer. And yet here, "U.S. Spy Chief: Al Qaeda Threat Strong As Ever."

Is this what we call winning the war on terror, Mr. Speaker. Is this making the world safer? I do not know that answer. I do not think the President really does either.

Mr. INSLEE. The fact of the matter is, and the sad fact is that this administration has taken its eye off the ball of the people who killed almost 3,000 Americans on September 11, al Qaeda, Osama bin Laden.

When is the last time you actually heard the President of the United States say the name Osama bin Laden? It is like he is the great forgotten person in this terrible tragedy that we suffered. I remember him and I think that our focus ought to remain on him.

Let me give an anecdote why it is not. We found out the other day in the Committee on Financial Services, the secret of stopping terrorists, you cut off their money. You cut off their money, you kill the beast, in part.

We found out that this administration has more people, more agents of the Treasury Department, this is the agency that is supposed to be in charge of lopping off the conduit of funds to al Qaeda, this administration has more agents chasing American tourists going to Cuba than it does chasing off money that goes to al Qaeda.

That is just one sort of sad indication that this administration has not focused on where the real threat has been which is al Qaeda which is still out there and which is still a meaningful threat.

Mr. DELAHUNT. Let me give another example in terms of seriousness. The administration's position, vis-a-vis tracking down the terrorists. There was a Committee on Ways and Means hearing where a representative of the IRS was posed a question and in response to the question indicated that the IRS's request for an additional 80 investigators who would be assigned to tracking terrorist financing throughout the world was rejected by the White House through the Office of Management and Budget. Is this how you fight the war against terror?

Mr. INSLEE. I bet they have got 80 bean counters that the American taxpayer are funding who work for Halliburton. This administration has no problem dishing out the dough for Halliburton and we cannot get 80 inspectors to track down Osama bin Laden. How is that for a sad commentary on taking your eye off the ball.

Now, I want to suggest how this has happened a little bit, how this emphasis has been misplaced. And it has because of this President's administration's focus on Iraq and their efforts to hoodwink the American people into believing that the real culprit or at least one of the culprits behind September 11 was Saddam Hussein. I want to spend just a moment talking about that because I think one of the single most serious affronts and dangers in a democratic system is for elected officials, particularly in the powerful position of the President, to tell things to the American people which are false that end up starting a war.

We found out that last September a poll of American people said that 65 percent of American people believed that Saddam Hussein was behind the attacks on us on September 11, and Saddam Hussein has a list longer than my arm of his depredations against the Iraqi people. But 65 percent of the Americans had been convinced by someone that Iraq was behind the attack on September 11.

Now, who was that someone? Where did the American people get that idea which has turned out to be false and it is pretty clear where they got it. They got it from the President of the United States who was standing right there and tried to convince, and he did by and large, convince the American people of something that is false. The President did not let this slip on one iota. We all make mistakes and misspeak on occasion. This was a concerted, organized and consistent effort to fool the American people into believing that the culprit was Saddam Hussein behind September 11.

Look at some of his quotes. May 1, 2003, the President says, "The liberation of Iraq is a crucial advance in the campaign against terror. We have removed an ally of al Qaeda and cut off a source of terrorist funding." Vice President CHENEY, September 14, 2003, says, "If we are successful in Iraq, then we will have struck a major blow right at the heart of the base, if you will, the geographic base of the terrorists who had us under assault for the many years but most especially on September 11."

What do we find the truth is? Our intelligence people knew at that time but was shielded from the American people? The bipartisan committee under the chairmanship of a Republican Governor Keen concluded there was "no credible evidence of a link between al Qaeda and the attacks against the United States." No credible evidence. Not some credible evidence but not much. Not just a scintilla of credible evidence. Not a couple of ounces.

They said no credible evidence, but this President stood right there and started a war based on a falsehood, and he knew he was doing this to the American people and he is responsible for this. He is personally accountable for this and the American people need to hold him accountable for this depredation and affront to democracy as soon as they can.

Mr. DELAHUNT. Is not it ironic that on Sunday there appears a story in the New York Times about that report that will be forthcoming later this week, and the gentleman alluded to it earlier, when he mentioned Iran. And by the way, the acting director of the CIA confirmed the fact yesterday on the Fox News Program, yesterday morning that, yes, there was information that a number of the 9-11 hijackers had safe passage through Iran, Iran, not Iraq but Iran. I guess we made a mistake as far as what country to invade.

But seriously, let me just read several excerpts from the Sunday editions of the New York Times. "The final report of the commission investigating the September 11 attacks will offer new evidence of cooperative ties between Iran and al Qaeda including information drawn from intelligence reports suggesting that Iran provided several of the hijackers with safe passage in the year before the attacks, government official said. The evidence raised enough questions about why the Bush administration focused on the possibility of Iraqi ties to be Osama bin Laden's terror network after 9–11 when there may have been far more extensive evidence of the Iranian connection. The panel had recently obtained intelligence showing that Iran had ordered guards at its border stations not to stop the passports of al Qaeda members from Saudi Arabia who were moving through Iran after training at terrorists camps in Afghanistan."

□ 2350

My memory is this Iran, according to the President, was a member of the axis of evil club, but as you pointed out, there is no collaborative relationship according to the commission between Iraq and Iran. But why did we end up attacking Iraq rather than Iran?

Mr. INSLEE. Mr. Speaker, I will answer that question. The reason we attacked Iraq is that the day after September 11, maybe it was 2 days after, it has been reported that the Secretary of Defense goes in to the President and says now is our chance, now is our chance to go after Iraq. This was like 48 hours after September 11. There was no evidence whatsoever that Iraq was associated with September 11, but this President and his political advisers knew one thing. They knew if they could fool the American people into believing that Saddam Hussein was behind September 11, the neo-cons could con the American people into supporting a war in Iraq, and to some degree, their maliciousness was successful to the detriment of our proud men and women in service who are there tonight in the heat of Iraq, 130 degrees, suffering, dying in the sands of Iraq because an American President's administration was not forthright with the American people and consciously, willfully gave false information to our fellow countrymen.

This is not just a little happenstance. We have a memo from a political operative of the President about how to talk about this. This was a cold-blooded, calculated act, and you talk about having your missed priority and what country you would be involved in.

I have been asked by one of my constituents if I have seen the movie "Fahrenheit 9/11." He said, JAY, is it true, did the President allow the family members of Osama bin Laden, who are Saudi Arabian, to fly out of the country when all the other planes were grounded in the country? Did this administration let his friends from Saudi Arabia fly out of the country without a full and thorough investigation of their relationship? Did that really happen?

The sad fact is, yes, it did, and we have discovered that, in fact, did occur in our Committee on Financial Services hearing, and I pressed for an answer of who made that decision. I never got that answer, who made that decision, and 3 days later, the President is on the south portico of the White House smoking cigars with Prince Bandahar, the ambassador of Saudi Arabia, where two-thirds of the terrorists came from that attacked this country, and we let their families fly out without even a decent interrogation of them. Talk about having a mixed-up relationship about who our enemies are and who our friends are.

Mr. DELAHUNT. Does it come as a surprise to you that at least according to Bob Woodward in his most recent book, a book that was praised by the White House, in fact, there are excerpts of it I understand on the President's campaign Web site, but in that particular book, it was noted by the author that Prince Bandahar was informed of the attack on Iraq prior to the Secretary of State Colin Powell.

Let me go back just for a moment, because I know we are wrapping up, to another observation by Mr. Woodward, and this I would suggest is where ideology colors reality and affects the truth, the objective truth.

The passion of some in this administration, and I put beside you there a Newsweek cover with a picture of the Vice President DICK CHENEY, emblazoned that says how DICK CHENEY sold the war. It was clear that this individual was obsessed with Iraq, for whatever reason. I am not questioning his motives.

But in the book by Mr. Woodward, it is noted on page 175, for those who might have it, that the Secretary of State "detected a kind of fever in CHENEY. He was not the steady, unemotional rock that he had witnessed a dozen years earlier during the run-up to the Gulf War. The Vice President was hell-bent for action against Saddam Hussein." It is very dangerous when ideology colors the objective truth and reality. In the end, it gets us in a mess, and this is where we are now.

Mr. INSLEE. Well, I am going to close with a couple of comments.

We are here to discuss a basic principle of American democracy, and that is, accountability, that people in public service need to be held accountable, both for their successes and their failures.

There is a group that we should recognize for valor and effectiveness and honor in our government and our government personnel, and that is our Army, navy, air corps, Coast Guard, marines, who are serving in Iraq. Those folks deserve to be held accountable by being praised for their tremendous service to this country in difficult circumstances tonight, and they are still continuing to suffer the pangs of war tonight, and we have come here to make sure that their sacrifice is not forgotten and that we treat them with as great an honor as we can and that we restore our Veterans Administration health care system so that when they come home they are not exposed to the cuts in the veterans health care system that this administration has proposed.

This group of public servants, we cannot forget their contribution. It should never be forgotten, but there is another group of public servants whose massive failures and deceit should not be forgotten either, and that is the Bush administration who has made at least 10 major failure, falsehoods, negligence and carelessness, to the great cost of the American public, and those public servants should not be forgotten in their failure either and should be held accountable, and we will continue to have this discussion until they are.

Would the gentleman from Massachusetts (Mr. DELAHUNT) like to close? Do you have any closing comments?

Mr. DELAHUNT. No, I concur with those sentiments.

OMISSION FROM THE CONGRESSIONAL RECORD OF THURSDAY, JULY 15, 2004, AT PAGE H5851

The SPEAKER pro tempore (Mr. BURR) assumed the chair.

The SPEAKER pro tempore. The Chair lays before the House the following enrolled bill:

S. 15. An act to amend the Public Health Services Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

The SPEAKER pro tempore. The Committee will resume its sitting.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ABERCROMBIE (at the request of Ms. PELOSI) for today on account of business in the district.

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today on account of physician's advice.

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. FROST (at the request of Ms. PELOSI) for today on account of personal reasons.

Mrs. JONES of Ohio (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. KILPATRICK (at the request of Ms. PELOSI) for today on account of personal business.

Mr. QUINN (at the request of Mr. DELAY) for today and the balance of the week on account of the death of his father.

Mr. RENZI (at the request of Mr. DELAY) for today on account of his speaking to the Navajo Nation Tribal Council.

Mr. BARTON of Texas (at the request of Mr. DELAY) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. HILL, for 5 minutes, today.

Mr. TANNER, for 5 minutes, today.

Mr. BERRY, for 5 minutes, today.

Mr. BOYD, for 5 minutes, today.

Ms. HERSETH, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

(The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. COLE, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and July 20, 21, 22, and 23.

Mr. COX, for 5 minutes, today.

Mr. HENSARLING, for 5 minutes, July 21.

Mr. GOODE, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, July 22.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, July 21.

Mr. JONES of North Carolina, for 5 minutes, July 20 and 21.

Mr. PENCE, for 5 minutes, July 20 and 21.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. WATSON, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2479. An act to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes; to the Committee on Government Reform.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on July 14, 2004 he presented to the President of the United States, for his approval, the following bills:

H.R. 3846. To authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

Jeff Trandahl, Clerk of the House reports that on July 16, 2004 he presented to the President of the United States, for his approval, the following bills:

H.R. 218. To amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

ADJOURNMENT

Mr. DELAHUNT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, July 20, 2004, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9137. A communication from the President of the United States, transmitting notification of the intent to transfer funds provided in Pub. L. 107-38, the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Acts on the United States, to the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction; (H. Doc. No. 108-202); to the Committee on Appropriations and ordered to be printed.

9138. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's Report to Congress on the Plutonium Storage at the Departmentof Energy's Savannah River Site, pursuant to Public Law 107-314, section 3183; to the Committee on Armed Services.

9139. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Michael L. Cowan, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

9140. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Charles W. Moore, Jr., United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

9141. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9142. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting the report of the results of the study of the adequacy of the beryllium industrial base, pursuant to Public Law 108-136, section 824; to the Committee on Armed Services.

9143. A letter from the Director of Defense Research and Engineering, Department of Defense, transmitting the Annual Report of the Strategic Environmental Research and Development Program for Fiscal Year 2003, pursuant to 10 U.S.C. 2902(d)(3) and (g)(2) Public Law 101-510; to the Committee on Armed Services.

9144. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting a report on the circulation of the Golden Dollar coin at resale activities on domestic military installations as requested by Senate Report 108-87 on the Department of Defense Appropriations Bill for FY 2004; to the Committee on Armed Services.

9145. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report entitled, "Merger Decisions 2003," in accordance with Section 18(c)(9) of the Federal Deposit Insurance Act; to the Committee on Financial Services.

9146. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting Annual uranium marketing report for 2003, pursuant to 42 U.S.C. 2296b-5; to the Committee on Energy and Commerce.

9147. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the final report on the Department's Alternative Fuel Vehicle (AFV) program for FY 2003, pursuant to Public Law 105-388 42 U.S.C. 13211-13219; to the Committee on Energy and Commerce.

9148. A letter from the Chairman, National Committee on Vital and Health Statistics, transmitting the Sixth Annual Report to Congress on the Implementation of the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act, pursuant to Public Law 104-191, section 263; to the Committee on Energy and Commerce.

9149. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 04-11), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9150. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 04-10), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9151. A letter from the Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting a report on economic conditions in Egypt 2003, pursuant to 22 U.S.C. 2346 note; to the Committee on International Relations.

9152. A letter from the Deputy Secretary, Department of Defense, transmitting notification that no offensive biological weapons research prohibited by international law is being conducted at the listed facilities and that appropriate security measures have begun to be, or will be, put in place at the listed facilities to prevent theft of dangerous pathogens from the facilities, pursuant to Public Law 108–136, section 1304; to the Committee on International Relations.

9153. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2004-31, Waiving Prohibition on United States Military Assistance with Respect to Burkina Faso and Dominica, pursuant to Public Law 107–206, section 2007(a); to the Committee on International Relations.

9154. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the fourth annual Trafficking in Persons Report, pursuant to Public Law 106–386, section 110; to the Committee on International Relations.

9155. A letter from the Brown v. Board of Education 50th Anniversary Commission, Department of Education, transmitting A report describing the activities of the Commission during the calendar year 2003, an accounting of any funds received or expended by the Commission and recommendations for any legislation or administrative action which the Commission considers appropriate, pursuant to Public Law 107–41, section 6a (115 Stat. 228); to the Committee on Government Reform.

9156. A letter from the Secretary, Department of the Treasury, transmitting two Semiannual Reports which were prepared separately by Treasury's Office of Inspector General (OIG) and the Treasury Inspector General for Tax Administration (TIGTA) for the period ended March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

9157. A letter from the Secretary and Director, Department of Homeland Security & Office of Personnel Management, transmitting a joint prescription for a new human resources system for some or all of the organizational units of the Department of Homeland Security, pursuant to Public Law 107–296; to the Committee on Government Reform.

9158. A letter from the Administrator, General Services Administration, transmitting the Administration's thirtieth report on audit final action, as well as the semiannual report on Office of Inspector General auditing activity, pursuant to Public Law 100–504, section 5; to the Committee on Government Reform.

9159. A letter from the Administrator, General Services Administration, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108–199, and the Office of Management and Budget Memorandum 04–07, the Administration's report on competitive sourcing efforts; to the Committee on Government Reform.

9160. A letter from the Secretary of Labor and Chairman of the Board & Executive Director, Pension Benefit Guaranty Corporation, transmitting Pursuant to Title II, Section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, the Corporation's Annual Report for FY 2003; to the Committee on Government Reform.

9161. A letter from the Chairman, Federal Election Commission, transmitting the 2003 Annual Report describing the activities performed by the Commission, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Administration.

9162. A letter from the Director, Bureau of Land Management--Eastern States, Department of the Interior, transmitting the FY 2003 Annual Report entitled "Guardians of the Past—Stewards for the Future"; to the Committee on Resources.

9163. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report to Congress detailing the number of times since 1993 that the Department has inspected the records of any producer of materials regulated under the relevant U.S. Code, pursuant to Public Law 108–21, section 511 18 U.S.C. 2257; to the Committee on the Judiciary.

9164. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report as required by Section 202(a)(1)(c) of Pub. L. 107–273, the "21st Century Department of Justice Appropriations Authorization Act," related to certain settlements and injunctive relief; to the Committee on the Judiciary.

9165. A letter from the Solicitor General, Department of Justice, transmitting notice that the Department will not appeal the district court's order in the case United States v. Robert Mendoza, No. CR 03–730 DT (C.D. Cal. Jan. 12, 2004), pursuant to Public Law 108–21, section 401(l) (117 Stat. 650); to the Committee on the Judiciary.

9166. A letter from the General Counsel, National Tropical Botanical Garden, transmitting the annual audit report of the National Tropical Botanical Garden, Calendar Year 2003, pursuant to 36 U.S.C. 4610; to the Committee on the Judiciary.

9167. A letter from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Shipping — Technical Amendments [Docket No. MARAD 2004-18059] (RIN: 2133-AB59) received June 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9168. A letter from the Senior Attorney, RSPA, Department of Transportation, transmitting the Department's final rule — Harmonization with the United Nations Recommedations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions [Docket No. RSPA-2003-13658(HM-215E)] (RIN: 2137-AD94) received June 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9169. A letter from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Maritime Security Program [Docket No. MARAD-2004-18489] (RIN: 2133-AB62) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9170. A letter from the FMCSA Regulatory Officer, Department of Transportation, transmitting the Department's final rule — Federal Motor Carrier Safety Regulations: Hazardous Materials Safety Permits [Docket No. FMCSA-97-2180] (RIN: 2126-AA07] (RIN: 2126-AA07) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9171. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-400 and -400F Series Airplanes Equipped With Rolls Royce Engines [Docket No. 2003-NM-202-AD; Amendment 39-13648; AD 2004-11-03] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9172. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Model BAe.125 Series 800A (Including C-29A and U-125 Variant) and 800B Airplanes; and Model Hawker 800 (Including U-125A Variant), and 800XP Airplanes [Docket No. 2003-NM-216-AD; Amendment 39-13646; AD 2004-11-01] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9173. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 2003-NM-18-AD; Amendment 39-13647; AD 2004-11-02] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9174. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, -200B, and -200F Series Airplanes [Docket No. 2002-NM-149-AD; Amendment 39-13682; AD 2004-13-02] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9175. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2004-18231; Directorate Identifier 2004-NM-94-AD; Amendment 39-13683; AD 2004-05-12 R1] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9176. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiess Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 2003-NM-17-AD; Amendment 39-13662; AD 2004-12-03] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9177. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319 and A320 Series Airplanes [Docket No. 2003-NM-187-AD; Amendment 39-13688; AD 2004-13-06] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9178. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) [Docket No. 2003-NM-65-AD; Amendment 39-13695; AD 2004-13-13] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9179. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aircraft Equipped with Garmin AT, Apollo GX Series Global Positioning System (GPS) Navigation Units with Software Versions 3.0 through 3.4 Inclusive [Docket No. 2002-NM-254-AD; Amendment 39-13702; AD 2004-13-20] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9180. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3-60 Series Airplanes [Docket No. 2003-NM-236-AD; Amendment 39-13690; AD 2004-13-08] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9181. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3-60 SHERPA Series Airplanes [Docket No. 2003-NM-200-AD; Amendment 39-13703; AD 2004-13-21] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9182. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Scottsbluff, NE. [Docket No. FAA-2004-17429; Airspace Docket No. 04-ACE-28] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9183. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Kimball, NE. [Docket No. FAA-2004-17433; Airspace Docket No. 04-ACE-31] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9184. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Zanesville, OH; Correction [Docket No. FAA-2003-15876; Airspace Docket No. 03-AGL-14] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9185. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Restricted Area 6604 (R-6004); Chincoteague Inlet, VA [Docket No. FAA-2004-17772; Airspace Docket No. 04-AEA-05] (RIN: 2120-AA66) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9186. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Cooperstown, NY [Docket No. FAA-2004-17513; Airspace Docket No. 04-AEA-04] received July 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9187. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class D and E Airspace; Goldsboro, NC [Docket No. FAA-2004-17345; Airspace Docket No. 04-ASO-5] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9188. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; St. Cloud, MN; Modification of Class E Airspace; St. Cloud, MN. [Docket No. FAA-2003-16693; Airspace Docket No. 03-AGL-21] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9189. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Broken Bow, NE [Docket No. FAA-2004-18010; Airspace Docket No. 04-ACE-39] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9190. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Trinidad, CO [Docket No. FAA-2003-15996; Airspace Docket No. 03-ANM-04] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9191. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendment [Docket No. 30417; Amdt. No. 449] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9192. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Deutschland Model MBB-BK 117 A-1, A-3, A-4, B-1, B-2, and C-1 Helicopters [Docket No. 2003-SW-38-AD; Amendment 39-13686; AD 2004-13-05] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9193. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A Model A109C, A109E, A109K2 Helicopters [Docket No. 2001-SW-15-AD; Amendment 39-13687; AD 2001-24-07 R1] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9194. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3-SHERPA Series Airplanes [Docket No. 2003-NM-235-AD; Amendment 39-13685; AD 2004-13-04] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9195. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Trent 875-17, Trent 877-17, Trent 884-17, Trent 884B-17, Trent 892-17, Trent 892B-17, and Trent 895-17 Series Turbofan Engines [Docket No. 2002-NE-19-AD; Amendment 39-13693; AD 2004-13-11] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9196. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Lycoming Engines (Formerly Textron Lycoming), Direct-Drive Reciprocating Engines; Correction [Docket No. 89-ANE-10-AD; Amendment 39-13644; AD 2004-10-14] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9197. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 Series Airplanes; Model A300 B4 Series Airplanes; and Model A300 B4-600, B4-600R, C4 605R Variant F, and F4-600R (Collectively Called A300-600) Series Airplanes [Docket No. 2003-NM-52-AD; Amendment 39-13696; AD 2004-13-14] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9198. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes [Docket No. 2002-NM-208-AD; Amendment 39-13689; AD 2004-13-07] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9199. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-400 and -400D Series Airplanes [Docket No. 2003-NM-126-AD; Amendment 39-13697; AD 2004-13-15] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9200. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-301, -311, -315 Airplanes [Docket No. 2002-NM-297-AD; Amendment 39-13691; AD 2004-13-09] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9201. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2001-NM-331-AD; Amendment 39-13692; AD 2004-13-10] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9202. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aernautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2003-NM-104-AD; Amendment 39-13698; AD 2004-13-16] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9203. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30416; Amdt. No. 3099] received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9204. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Defense and Space Group Model 234 Helicopters [Docket No. 2004-SW-09-AD; Aemdnemtn 39-13651; AD 2004-06-51] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9205. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Model BAe.125 Series 800A, 800A (C-29A), and 800B Airplanes; and Model Hawker 800 Airplanes [Docket No. 2003-NM-244-AD; Amendment 39-13661; AD 2004-12-02] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9206. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and A300 B4 Series Airplanes [Docket No. 2002-NM-337-AD; Amendment 39-13663; AD 2004-12-04] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9207. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes [Docket No. 2003-NM-94-AD; Amendment 39-13664; AD 2004-12-05] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9208. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes [Docket No. FAA-2004-17996; Directorate Identifier 2004-NM-100-AD; Amendment 39-13659; AD 2004-11-13] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9209. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Alexander Schleicher Model ASW 27 Sailplanes [Docket No. 2003-CE-53-AD; Amendment 39-13658; AD 2004-11-12] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9210. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa "PZL-Bielsko" Model SZD-50-3 "Puchacz" Sailplanes [Docket No. 2003-CE-66-AD; Amendment 39-13656; AD 2004-11-10] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9211. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. 2003-NM-111-AD; Amendment 39-13654; AD 2004-11-08] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9212. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, 737-700, 737-700C, 737-800, and 737-900 Series Airplanes [Docket No. 2002-NM-323-AD; Amendment 39-13657; AD 2004-11-11] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9213. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 Airplanes [Docket No. 200-NM-110-AD; Amendment 39-13653; AD 2004-11-07] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9214. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F.28 Mark 0070 Series Airplanes [Docket No. 2002-NM-251-AD; Amendment 39-13655; AD 2004-11-09] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9215. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters [Docket No. 2003-SW-32-AD; Amendment 39-13652; AD 2004-11-06] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9216. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 130 B4 and AS 350B3 Helicopters [Docket No. 2003-SW-29-AD; Amendment 39-13650; AD 2004-11-05] (RIN: 2120-AA64) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9217. A letter from the Acting Director, National Science Foundation, transmitting the report, "Women, Minorities, and Persons with Disabilities in Science and Engineering: 2004," the twelfth in a biennial series mandated by the Science and Technology Equal Opportunities Act (Pub. L. 96-516); to the Committee on Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRELINGHUYSEN: Committee on Appropriations. H.R. 4850. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–610). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4492. A bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes; with an amendment (Rept. 108–611). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4625. A bill to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes (Rept. 108–612). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4170. A bill to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior; with an amendment (Rept. 108–613). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3313. A bill to amend title 28, United States Code, to limit Federal court jurisdiction over questions under the Defense of Marriage Act; with an amendment (Rept. 108–614). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 724. Resolution providing for consideration of the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–615). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 725. Resolution providing for consideration of the bill (H.R. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes (Rept. 108–616). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

[The following actions occurred on July 16, 2004]

Pursuant to clause 2 of rule XII the Committee on Energy and Commerce discharged from further consideration. H.R. 3574 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration. H.R. 4011 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RYAN of Wisconsin (for himself, Mr. Doolittle, and Mr. Franks of Arizona):

H.R. 4851. A bill to reform Social Security by establishing a Personal Social Security Savings Program; to the Committee on Ways and Means, and in addition to the Committees on the Budget, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX (for himself, Ms. Dunn, Mr. Camp, Mr. Shadegg, Mr. Thornberry, and Mr. Gibbons):

H.R. 4852. A bill to authorize appropriations for the Department of Homeland Security for fiscal year 2005, and for other purposes; to the Committee on Homeland Security (Select), and in addition to the Committees on Science, Transportation and Infrastructure, Energy and Commerce, the Judiciary, Government Reform, Agriculture, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY (for herself, Mr. Frost, Mrs. Johnson of Connecticut, Ms. Millender-McDonald, Ms. Granger, Mr. Shays, Mr. Kleczka, Ms. Slaughter, Mr. Allen, Mr. Michaud, Mr. Bonner, Mr. Moore, Mr. Udall of New Mexico, Mrs.

Biggert, Mr. Manzullo, Mr. McGovern, Ms. DeGette, Ms. Norton, Mr. Rehberg, and Mr. Cardin):

H.R. 4853. A bill to amend the Small Business Act to modify the women's business center program; to the Committee on Small Business.

By Mr. BECERRA (for himself, Ms. Ros-Lehtinen, Mr. Rodriguéz, Mr. Ortiz, Mr. Acevedo-Vilá, Mr. Baca, Mr. Doggett, Mr. Frost, Mr. Gonzalez, Mr. Grijalva, Mr. Gutierrez, Mr. Hinojosa, Ms. Lee, Mr. Meeks of New York, Mr. Menendez, Mrs. Napolitano, Ms. Roybal-Allard, Mr. Serrano, Ms. Solis, and Mr. Udall of New Mexico):

H.R. 4854. A bill to establish the Commission to Establish the National Museum of the American Latino to develop a plan of action for the establishment and maintenance of the National Museum of the American Latino in Washington, D.C., and for other purposes; to the Committee on House Administration.

By Mr. CRAMER (for himself and Mr. Boswell):

H.R. 4855. A bill to establish an Independent National Security Classification Board in the executive branch, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. HERGER (for himself, Mrs. Johnson of Connecticut, Mr. DeLay, Mr. Lewis of Kentucky, Mr. Camp, and Mr. Cantor):

H.R. 4856. A bill to provide States with improved incentives, more flexibility, and increased funds to develop child welfare services that meet the unique needs of children and families and enhance children's prospects for safe and permanent living arrangements; to the Committee on Ways and Means.

By Ms. HOOLEY of Oregon:

H.R. 4857. A bill to require the Attorney General and the Secretary of Homeland Security to enter into a memorandum of understanding to guide the integration of the automated fingerprint identification systems of the Federal Bureau of Investigation and the Department of Homeland Security, and for other purposes; to the Committee on the Judiciary.

By Ms. KAPTUR (for herself, Mr. Blumenauer, Mr. DeFazio, Ms. Kilpatrick, Mrs. Jones of Ohio, Mr. McDermott, Mr. Moran of Virginia, Mr. Serrano, and Ms. Slaughter):

H.R. 4858. A bill to authorize the Secretary of Agriculture to provide financial assistance for the construction, improvement, and rehabilitation of farmers markets; to the Committee on Agriculture.

By Mr. KENNEDY of Minnesota (for himself, Mr. Davis of Alabama, Mr. Beauprez, Mr. Sessions, and Mr. Cardoza):

H.R. 4859. A bill to amend part D of title IV of the Social Security Act to improve the collection of child support, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Virginia:

H.R. 4860. A bill to amend title 49, United States Code, to allow States to regulate tow truck operations; to the Committee on Transportation and Infrastructure.

By Mr. SWEENEY (for himself and Mrs. Lowey):

H.R. 4861. A bill to amend title 18, United States Code, to provide penalties for failure to pay certain obligations to spouses and ex-spouses that are similar to the penalties imposed for failure to pay child support obligations, and for other purposes; to the Committee on the Judiciary.

By Mr. HALL (for himself, Mr. Boehlert, Mr. Calvert, Mr. Weldon of Florida, Mr. Feeney, Mr. Smith of Texas, Mr. Cramer, Mr. Culberson, Mr. Aderholt, Mr. McDermott, Mr. Green of Texas, Mr. Kennedy of Rhode Island, Mr. Lampson, Mr. Rohrabacher, Mr. DeLay, Mr. Schiff, Ms. Jackson-Lee of Texas, Mr. Oxley, Mr. Udall of Colorado, Mr. Moore, Mr. Bilirakis, Mr. Gordon, Mr. Sam Johnson of Texas, Ms. Bordallo, and Ms. Eddie Bernice Johnson of Texas):

H. Res. 723. A resolution recognizing the 35th anniversary of the Apollo 11 lunar landing, and for other purposes; to the Committee on Science.

By Mr. BEREUTER (for himself, Mr. Emanuel, Mr. Wexler, and Mr. Burton of Indiana):

H. Res. 726. A resolution congratulating the people of Serbia and government of Serbia for conducting a democratic, free and fair presidential election and for reaffirming Serbia's commitment to peace, democracy, and the rule of law; to the Committee on International Relations.

By Mr. DELAHUNT (for himself, Mr. Greenwood, Mr. Blumenauer, Mr. Case, Mrs. Christensen, Mrs. Davis of California, Mr. Doggett, Mr. English, Mr. Farr, Mr. Frank of Massachusetts, Mr. Grijalva, Mr. Hinchey, Mr. Holden, Mr. Kucinich, Ms. Lee, Mrs. Maloney, Mr. Markey, Mrs. McCarthy of New York, Mr. McGovern, Mr. George Miller of California, Mr. Nadler, Mr. Neal of Massachusetts, Ms. Norton, Mr. Olver, Mr. Rahall, Mr. Renzi, Mr. Stark, Mrs. Tauscher, Mr. Van Hollen, Mr. Wexler, Mr. Berman, and Mr. Evans):

H. Res. 727. A resolution expressing the sense of the House of Representatives regarding the policy of the United States at the 56th Annual Meeting of the International Whaling Commission; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

392. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 75 memorializing the Congress of the United States to authorize and fund the establishment of the Coastal Forest Reserve Program, and to memorialize the United States Department of Agriculture Forest Service, the Louisiana Department of Agriculture and Forestry, and the Louisiana State University School of Renewable Natural Resources, with the assistance from the University of Louisiana at Lafayette and other Louisiana universites, to provide an inventory and assessment of coastal forests; to the Committee on Agriculture.

393. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 212 memorializing the Federal Government to conduct a thorough evaluation of the condition of the 187-acre property situated in Waikane Valley that was used by the United States Marine Corps for ordnance training until 1976, plan for and conduct as thorough a clean-up and removal of ordnance as is technologically possible, conduct an environmental assessment of the potential risk to human health and safety, and return the land to the State of Hawaii; to the Committee on Armed Services.

394. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 31 supporting the retention and expansion of all military bases and centers in Ohio and to urge that local governments and community, industry, and labor leaders work with the Governor's All-Ohio Task Force to Save Defense Jobs for that purpose; to the Committee on Armed Services.

395. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 44 memorializing the Congress of the United States to authorize state and national banks to participate in lotteries and related activites for charitable purposes; to the Committee on Financial Services.

396. Also, a memorial of the Legislature of the State of Utah, relative to House Concurrent Resolution No. 2 memorializing the Congress of the United States make special eduction funding mandatory and fulfill its commitment to provide funding at the 40% level; to the Committee on Education and the Workforce.

397. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 56 memorializing the President and Congress of the United States to repeal the ban against the government negotiating price reductions of prescription drugs; to the Committee on Energy and Commerce.

398. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 24 memorializing the Congress of the United States to support Taiwan's participation in the World Health Organization and to deplore the persecution of Falun Gong practictioners, Christians, and members of other religious groups in the People's Republic of China and to urge that specified actions be taken to end that persecution; to the Committee on International Relations.

399. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 47 memorializing the Congress of the United States to continue to support and expand the operations of the National Finance Center in New Orleans, including the renewal of its contract with the Federal Retirement Thrift Investment Board; to the Committee on Government Reform.

400. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 167 recognizing Native Hawaiians as traditional, indigenous knowledge holders and recognizing their collective intellectual property rights; to the Committee on Resources.

401. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 17 memorializing the Utah Attorney General to immediately commence an investigation into apparent breaches of trust and constitutional violations and that he report to the Legislature on the progress of the investigation; to the Committee on the Judiciary.

402. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint

Resolution No. 5 memorializing the Congress of the United States to review and modify United States Immigration law so as to minimize the circumstances under which United States Citizen children are separated from their undocumented parents; to the Committee on the Judiciary.

403. Also, a memorial of the General Assembly of the State of Colorado, relative to Senate Joint Memorial 04-004 memorializing the Congress of the United States to vote to repeal the individual and corporate alternative minimum tax; to the Committee on Ways and Means.

404. Also, a memorial of the General Assembly of the State of Tennessee, relative to Senate Joint Resolution No. 1206 memorialzing the Congress of the United States to allow for the deduction of state and local sales taxes in the computation of Federal income tax liability; to the Committee on Ways and Means.

405. Also, a memorial of the General Assembly of the State of Tennessee, relative to Senate Joint Resolution No. 1206 memorializing the Congress of the United States to allow for the deduction of state and local sales taxes in the computation of Federal income tax liability; to the Committee on Ways and Means.

406. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 171 memorialzing the Congress of the United States and the federal government to work with Michigan officials to align the ownership of mineral rights and surface rights on state and federal lands in Michigan; jointly to the Committees on Resources and Agriculture.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. SIMMONS introduced a bill (H.R. 4862) for the relief of Majan Jean; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 58: Mr. HINCHEY.

H.R. 206: Mr. FROST.

H.R. 266: Mrs. JONES of Ohio.

H.R. 480: Mr. ISRAEL, Mr. KING of New York, and Mr. TOWNS.

H.R. 861: Mrs. BIGGERT.

H.R. 1052: Mr. LARSEN of Washington.

H.R. 1057: Mr. GILLMOR and Mr. MCCOTTER.

H.R. 1080: Mrs. JONES of Ohio.

H.R. 1083: Mr. BOUCHER.

H.R. 1157: Mr. PALLONE and Mr. GREEN of Texas.

H.R. 1212: Mr. SNYDER.

H.R. 1258: Mr. BACA.

H.R. 1422: Mr. BOOZMAN and Mr. ALEXANDER.

H.R. 1501: Ms. MILLENDER-MCDONALD.

H.R. 1563: Mr. EVANS.

H.R. 1701: Mr. BRADY of Pennsylvania.

H.R. 1717: Mrs. MALONEY.

H.R. 1755: Mr. BACHUS.

H.R. 1800: Mr. EVANS.

H.R. 1818: Mr. FRANK of Massachusetts.

H.R. 1824: Ms. LINDA T. SÁNCHEZ of California.

H.R. 1868: Mrs. DAVIS of California.

H.R. 1993: Mr. UDALL of New Mexico.

H.R. 1994: Mr. UDALL of New Mexico.

H.R. 2096: Ms. HERSETH and Mr. MATHESON.

H.R. 2260: Mr. PICKERING.

H.R. 2387: Mr. OLVER, Mr. GREENWOOD, Mr. MEEHAN, and Mr. UDALL of New Mexico.

H.R. 2727: Mrs. MALONEY.

H.R. 2797: Mr. GILLMOR.

H.R. 2897: Mr. RODRIGUEZ, Mr. HONDA, Mr. BACA, Mr. LEWIS of Georgia, Mr. GONZALEZ, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, and Mr. COSTELLO.

H.R. 2933: Mr. PETERSON of Pennsylvania.

H.R. 2971: Mr. FARR and Mr. RODRIGUEZ.

H.R. 3180: Mr. SHERMAN.

H.R. 3382: Mrs. EMERSON.

H.R. 3388: Mr. MICHAUD.

H.R. 3482: Ms. HERSETH.

H.R. 3484: Mr. EVANS.

H.R. 3619: Mr. BOYD.

H.R. 3676: Mr. DAVIS of Florida and Ms. BORDALLO.

H.R. 3765: Mr. LEWIS of California.

H.R. 3799: Mr. NORWOOD.

H.R. 3831: Mr. PASTOR and Mr. MOORE.

H.R. 3965: Mr. DAVIS of Illinois.

H.R. 4043: Mr. PAYNE.

H.R. 4057: Mr. BEREUTER.

H.R. 4067: Mr. STARK, Mr. ANDREWS, and Mr. RANGEL.

H.R. 4077: Mrs. BONO and Mr. MEEHAN.

H.R. 4101: Ms. LINDA T. SÁNCHEZ of California and Ms. DELAURO.

H.R. 4116: Ms. SLAUGHTER.

H.R. 4316: Ms. LORETTA SANCHEZ of California, Mr. OBERSTAR, and Mrs. CHRISTENSEN.

H.R. 4342: Mr. RADANOVICH.

H.R. 4375: Mr. MCNULTY and Mr. FROST.

H.R. 4415: Mr. LIPINSKI, Mr. SIMMONS, Mr. EMANUEL, and Mr. GREEN of Texas.

H.R. 4431: Mr. SANDLIN and Mr. FROST.

H.R. 4449: Ms. SCHAKOWSKY.

H.R. 4468: Mr. CHANDLER and Mr. STENHOLM.

H.R. 4578: Mr. PORTMAN, Mr. BISHOP of Utah, and Mr. BURGESS.

H.R. 4586: Mr. PITTS.

H.R. 4605: Ms. SCHAKOWSKY.

H.R. 4610: Mr. RUPPERSBERGER and Mr. BOUCHER.

H.R. 4633: Ms. SLAUGHTER and Mr. BERMAN.

H.R. 4657: Ms. NORTON.

H.R. 4658: Mr. MICHAUD, Mrs. DAVIS of California, and Mr. BRADY of Pennsylvania.

H.R. 4662: Mr. CHOCOLA.

H.R. 4669: Mr. MCGOVERN and Mr. WELDON of Florida.

H.R. 4674: Ms. MCCOLLUM, Ms. LEE, Mr. GEORGE MILLER of California, Ms. MILLENDER-MCDONALD, Ms. SCHAKOWSKY, and Mr. HONDA.

H.R. 4676: Mr. GUTIERREZ, Mr. NORWOOD, Mr. RANGEL, Mr. SNYDER, and Mr. GRIJALVA.

H.R. 4679: Ms. SCHAKOWSKY and Mr. MATHESON.

H.R. 4680: Mr. PAUL.

H.R. 4682: Mr. ANDREWS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DAVIS of Illinois, Ms. KILPATRICK, Ms. HOOLEY of Oregon, Mr. BAIRD, Mrs. LOWEY, Mr. HASTINGS of Florida, Mr. CLYBURN, Mr. BERMAN, Mr. MEEK of Florida, Mr. TOM DAVIS of Virginia, Mr. OLVER, Mr. UDALL of Colorado, Mr. DICKS, Mr. RUPPERSBERGER, and Ms. HARMAN.

H.R. 4769: Mr. SCHIFF.

H.R. 4773: Mr. HOSTETTLER and Mr. BEAUPREZ.

H.R. 4792: Mr. STARK, Mr. GONZALEZ, Mr. JEFFERSON, and Ms. WOOLSEY.

H.R. 4793: Mr. GRIJALVA and Mr. EVANS.

H.R. 4809: Mr. BURTON of Indiana, Mr. CHOCOLA, and Mrs. BIGGERT.

H.R. 4812: Mr. HASTINGS of Florida and Ms. JACKSON-LEE of Texas.

H.R. 4840: Ms. PRYCE of Ohio, Mr. BACHUS, Mr. MCCOTTER, Mr. MILLER of Florida, Mr. SANDLIN, Mr. PORTMAN, and Mr. BARRETT of South Carolina.

H. Con. Res. 298: Mr. STENHOLM and Mr. MOORE.

H. Con. Res. 304: Ms. DELAURO and Mr. TOM DAVIS of Virginia.

H. Con. Res. 415: Mr. UDALL of New Mexico.

H. Con. Res. 467: Mrs. MUSGRAVE, Mr. MEEK of Florida, Mr. KENNEDY of Rhode Island, Mr. SANDLIN, Mr. MARKEY, Mr. PENCE, Mr. SHERMAN, Mr. PALLONE, Mr. ALLEN, Mr. RAHALL, Mr. HOEFFEL, and Mr. HONDA.

H. Con. Res. 469: Mr. DEUTSCH, Mr. SHAYS, Mr. PORTER, Mr. ROTHMAN, Mr. ABERCROMBIE, and Mr. TERRY.

H. Res. 556: Mr. PETERSON of Pennsylvania.

H. Res. 632: Mr. WEINER.

H. Res. 689: Ms. MCCARTHY of Missouri.

H. Res. 699: Ms. MCCARTHY of Missouri.

H. Res. 700: Ms. MCCARTHY of Missouri.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

93. The SPEAKER presented a petition of the City Council of Madera, California, relative to Resolution 04-113 supporting Taiwan's entry into the World Health Organization; to the Committee on International Relations.

94. Also, a petition of the City Council of Parma, Ohio, relative to Resolution No. 141-04 supporting the passage of the bill known as "The No Oil Producing and Exporting Cartels Act of 2004 (NOPEC)"; to the Committee on the Judiciary.

95. Also, a petition of Ms. Shiela A. Miller, a Citizen of Kyle, Texas, relative to a notice of fraud, and petitioning the United States Congress for redress of grievances; to the Committee on Ways and Means.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4837

OFFERED BY: MR. FARR

AMENDMENT NO. 1: Add at the end, before the short title, the following new section:

SPECIAL TRANSFER AUTHORITY, FORT HUNTER LIGGETT, CALIFORNIA

SEC. ___. (a) Notwithstanding any other provision of law, when all or any portion of Fort Hunter Liggett, California, comprising approximately 165,000 acres, is determined by the Secretary of the Army to be excess to Federal military needs, the Secretary of Agriculture shall have the right of first refusal to negotiate with the Secretary of the Army and to accept, without reimbursement, the administrative jurisdiction of the lands determined to be excess for incorporation into the National Forest System.

(b) Lands transferred to the Secretary of Agriculture under subsection (a) shall be included the Los Padres National Forest and managed under the Act of March 1, 1911 (commonly known as the Weeks Act), and other laws relating to the National Forest System. Such lands shall be subject to the concurrent jurisdiction of the State of California.

(c) In anticipation of the transfer of land under subsection (a), the boundaries of the Los Padres National Forest are hereby revised as depicted on the map entitled "Los Padres National Forest Boundary Modification" and dated May, 2004, which shall be on file and available for public inspection in the

Office of the Chief of the Forest Service. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the the Los Padres National Forest, as modified by this subsection, shall be considered to be boundaries of the Los Padres National Forest as of January 1, 1965.

(d) Prior to transfer of all or any portion of Fort Hunter Liggett, the Secretary of the Army shall provide the Secretary of Agriculture all documentation and information on the environmental condition of Fort Hunter Liggett, including an environmental baseline survey or its equivalent, and the Secretary of the Army shall perform all environmental response and restoration actions necessary to protect human health and the environment, consistent with the use of the transferred lands for National Forest System purposes.

(e) The transfer of land under this section shall not affect the responsibilities and liabilities of the Secretary of the Army under any applicable environmental law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and, after transfer, the Secretary of the Army shall perform all necessary response and restoration actions consistent with the use of the transferred land for National Forest System purposes with respect to environmental contamination or injury to natural resources attributable to military activities, and neither the Secretary of Agriculture nor any employee of the Department of Agriculture shall be liable or responsible under such laws for matters related to any military activities.

(f) Subject to reasonable terms and conditions, as agreed upon by the Secretary of the Army and the Secretary of Agriculture, on the lands transferred to the Secretary of Agriculture under this section, the Secretary of the Army shall provide for protection of public health and safety for land on which the Army has environmental remediation responsibilities.

H.R. 4850

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following new section:

SEC. XXX. None of the funds contained in this Act may be used to permit voting in District of Columbia elections by individuals who are not citizens of the United States.

H.R. 4850

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 2: At the end of the bill (before the short title), insert the following:

SEC. 139. Total Federal appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $5,600,000.

EXTENSIONS OF REMARKS

FEDERAL WETLANDS JURISDICTION ACT OF 2004

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

Mr. BAKER. Mr. Speaker, today I am introducing the Federal Wetlands Jurisdiction Act of 2004. Joining me in cosponsoring this important legislation are the Chairman of the House Transportation and Infrastructure Committee Don Young, Chairman of the House Transportation and Infrastructure Subcommittee on Water Resources and the Environment John Duncan, former Energy and Commerce Committee Chairman Billy Tauzin, Western States Caucus Chairman Chris Cannon, and fellow conservationist Congressmen Marion Berry, Rob Bishop, Butch Otter, John Doolittle, Randy Forbes, and Doug Ose.

The legislation my colleagues and I are introducing today does two things. First, the legislation clearly defines the areas over which the Federal government has jurisdiction as "wetlands" or "waters of the United States" under Section 404 of the Clean Water Act of 1977. Second, the legislation concentrates the implementation of the Section 404 "wetlands" permitting program in one Federal agency: the U.S. Army Corps of Engineers. The legislation does not affect any part of the Clean Water Act other than Section 404.

On January 9, 2001, the Supreme Court in Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers held that the Clean Water Act does not provide the Federal government jurisdiction over areas known as "isolated wetlands." The Supreme Court case dealt with an area that was found to be jurisdictional to the Section 404 program under an Environmental Protection Agency and U.S. Army Corps of Engineers interpretation of the Act known as the "migratory bird rule." The "migratory bird rule" made jurisdictional to the Section 404 program any wetland that migratory birds could inhabit. The Supreme Court found that this interpretation was beyond the bounds of the Act. However, the Supreme Court was not specific concerning the exact areas that are "isolated wetlands."

The uncertainty about the jurisdiction of the Section 404 program that resulted from the SWANCC decision has not been resolved by interpretive rulings by the Environmental Protection Agency and the U.S. Army Corps of Engineers. Applications of SWANCC by the Corps and the EPA in determinations of Section 404 jurisdiction have resulted in a range of judicial decisions that are not consistent across the Nation. The resulting uncertainty is causing difficulty for my constituents and I am sure for the constituents of many Members of this House.

In fact, it is not impractical to say that there are literally hundreds of agency interpretations of SWANCC's impact because the Corps and EPA have essentially allowed individual personnel to make their own judgments on a case-by-case basis. Could you imagine the speed limit being set by individual police officers on a case-by-case basis?

I believe that Congress must end this uncertainty by stating as clearly as possible the areas that we intend to be jurisdictional to the Section 404 program of the Clean Water Act. While the SWANCC decision involved a Section 404 matter, the judicial decision can be interpreted to apply to the entire Clean Water Act. The legislation my colleagues and I are introducing today, however, only applies to Section 404 of the Clean Water Act. Indeed, there may be sound policy reasons to have different jurisdictional limits for other sections of the Act.

The legislation that I am introducing today provides Federal Section 404 jurisdiction over the territorial seas, traditionally navigable waters, tributaries that flow into traditionally navigable waters and the wetlands adjacent to these waters. Excluded from jurisdiction are man made connectors, such as ditches and underground culverts, and the wetlands connected thereto. The legislation also makes clear that the Section 404 program does not apply to so-called "ephemeral streams" or underground water. Finally, the legislation provides a mechanism by which landowners expeditiously can obtain a determination of whether wetlands areas on their property are within the jurisdiction of the Section 404 program.

Mr. Speaker, this legislation will exclude from areas of Federal jurisdiction areas that Congress clearly never intended to be jurisdictional to the federal government. For example, on March 30, 2004, one of my constituents testified about this problem at an oversight hearing of the Water Resources and Environment Subcommittee of the Transportation and Infrastructure Committee. On his land were some puddles of water, which is very typical of our part of the country. A tractor had driven through one of the puddles on a rainy day and down to and through a small drainage ditch on the property. Because the tractor left a rut that filled up with water from the puddle down to the stream, Corps field officials asserted jurisdiction over the puddles. The only connection between these puddles, which I believe are true "isolated wetlands," and the small drainage ditch was this man-made rut accidentally left behind by the tractor. Surely, Mr. Speaker, my colleagues will agree with me that Congress never intended to assert Federal jurisdiction over such areas of land. This legislation will exclude these areas from Federal jurisdiction.

I believe that the definition of jurisdiction contained in this legislation is consistent with the SWANCC decision, the intent of Congress in enacting Section 404 of the Clean Water Act and the traditional division of jurisdiction between the Federal government and the States and local governments.

This legislation also addresses a problem that has confounded my constituents since the original enactment of the Section 404 program in the Federal Water Pollution Control Act of 1972. When the Section 404 program was enacted, there was a disagreement between the House and Senate regarding whether the newly created Environmental Protection Agency or the U.S. Army Corps of Engineers should have jurisdiction over the program. The conferees settled this disagreement by giving both agencies jurisdiction over the program. The result for my constituents often has been chaos. The U.S. Army Corps of Engineers implements the Section 404 program, but must also apply rules adopted by the Environmental Protection Agency; the Corps of Engineers makes jurisdictional determinations in the field, but the EPA, under a 1979 Attorney General's Opinion, has final say in this area; and, finally, the EPA can veto a decision by the Corps of Engineers to issue a Section 404 permit. No other Federal regulatory program that I know of is implemented by two Federal agencies. My legislation resolves this inherent conflict by placing responsibility for the implementation of the Section 404 program solely in the hands of the U.S. Army Corps of Engineers, which I believe has incomparable expertise in wetlands management.

Mr. Speaker, the Federal Section 404 wetlands permitting program is a very controversial program. In general, Americans want to see wetlands preserved. However, this general objective hits close to home when the wetlands in question are on privately owned property—as are 75 percent of the Federal jurisdictional wetlands. The Section 404 program can prevent or severely restrict the private use of privately owned property. Unfortunately, many of my constituents face these consequences under the Section 404 program.

Mr. Speaker, the very least we can do for the citizens of this Nation is to define clearly those areas that are subject to the jurisdiction of this regulatory program and to designate one Federal agency to implement the program. The legislation that I am introducing today does just that and no more than that. I believe, also, that our bill is pro-environment because it will diminish the number of individual landowners who unknowingly disturb or destroy wetlands. If a constituent knows ahead of time that a parcel of land is a wetland, they will refrain from buying it or developing it. Isn't precaution an effective medicine? I believe it is, and I believe this bill is the right prescription. I encourage my colleagues to support this legislation and ensure its timely enactment.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ABA CONFERS HIGHEST HONOR ON THE REVEREND ROBERT F. DRINAN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, I am very proud to serve in this House as the successor to one of its most distinguished former Members, the Reverend Robert F. Drinan, who represented the Fourth District of Massachusetts from 1970 to 1980. Father Drinan came to Congress after a very distinguished career as a legal scholar and administrator, having served with enormous distinction as Dean of the Law School at Boston College. For 10 years he played a leadership role in this body on a wide range of issues, significantly enriching the deliberations of the House with his vigorous intellect and strong commitment to the public interest.

Upon leaving Congress in 1981, he resumed his academic career and has for more than 20 years continued to make extraordinary moral and intellectual contributions to the law. To take just one example, no one in the world has done more to advance the cause of international human rights—defending basic human rights without regard to the ideology of those would deny them—than Father Drinan, both as a Member of Congress and subsequently.

In recognition of his extraordinary career—which still goes forward—the American Bar Association will present its highest honor to him on August 9 at the ABA Annual Meeting in Atlanta. As ABA President Dennis Archer said in announcing the decision to award the ABA medal to Father Drinan, "By his standards of leadership, he contributes to the luster and dignity of our award."

Mr. Speaker, the American Bar Association in explaining its decision to confer this award on a man who "has demonstrated to lawyers what it means to be committed to public service and to countless law students what is embodied in the highest dedication to ethical, moral legal practice" gives a summary description of his extraordinarily productive career. I ask that this announcement by the American Bar Association be printed here.

ABA CONFERS HIGHEST HONOR ON FORMER CONGRESSMAN, THE REV. ROBERT F. DRINAN, GEORGETOWN LAW PROFESSOR

CHICAGO, June 28, 2004.—The American Bar Association today announced it will present the 2004 ABA Medal, the association's highest honor, to the Rev. Robert F. Drinan, S.J., a former congressman, law school dean, ethicist and human rights activist.

ABA President Dennis W. Archer will present the medal at 11:30 a.m. Aug. 9 during the opening session of the association's House of Delegates during the 2004 ABA Annual Meeting in Atlanta.

"In an amazing career that has spanned more than half a century, Father Drinan has never faltered in his extraordinary humanitarian efforts and support for justice under the law. He has demonstrated to lawyers what it means to be committed to public service and to countless law students what is embodied in the highest dedication to ethical, moral legal practice. By his standards of leadership, he contributes to the luster and dignity of our award," said Archer in announcing the selection.

The ABA medal recognizes exceptionally distinguished service to the cause of American jurisprudence.

In nominating Drinan, admirers described him as "an eloquent and effective advocate for the most downtrodden in society," someone "active in so many areas of the law and human rights that there is not enough space to catalog them," and such a "towering figure in the academic, professional, clerical and public service fields" that he "is the stuff of which legends are made." They noted the ABA Section of Individual Rights and Responsibilities created the Robert F. Drinan Distinguished Service Award in 2001, recognizing his leadership in protecting and advancing human rights, civil liberties and social justice.

Drinan represented the Fourth District of Massachusetts in the U.S. House of Representatives from 1971 to 1981, and was a member of House committees on the Judiciary, Internal Security, and Government Operations and of the House Select Committee on Aging. He chaired the Subcommittee on Criminal Justice of the House Judiciary Committee, and was a member of the Executive Committee of the Democratic Study Group of the Environmental Study Conference and the Steering Committee of Members of Congress for Peace Through Law. As a congressman, he traveled in congressional delegations and on human rights missions around the world, and he has subsequently served as an election observer in Armenia and Panama.

Drinan has been a professor at Georgetown University Law Center since 1981. He began teaching at Boston College Law School, where he became a professor in 1966 and also served as dean. He has been a visiting professor or guest lecturer at universities and law schools internationally and across the U.S.

He is a prolific author, and his eleventh book, "Can God and Caesar Coexist Balancing Religious Freedom and International Law," is due to be published in August by Yale University Press. His previous books all have dealt with major public policy issues. He is the recipient of 21 honorary doctoral degrees.

In the ABA, Drinan is among a very few people ever to serve as chair of two distinct substantive legal sections: the Section of Family Law in 1966–67 and the Section of Individual Rights and Responsibilities in 1990–91. He also is a past chair of the association's Standing Committee on Professionalism and Standing Committee on World Order Under Law, and a former member of the association's policy-making House of Delegates.

In other law-related organizations, he has been vice president of the Massachusetts Bar Association and chair of its Committee on the Administration of Justice, chair of the Boston Bar Association Committee on Family Law, chair of the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights, and a member of the National Executive Committee of the American Judicature Society and of the Executive Committee of the Association of American Law Schools.

Drinan's public service has taken him to leadership roles in many other organizations. He is a member of the National Governing Board for Common Cause and the National Council for the Lawyers Committee for Human Rights, and the Board of Directors of People for the American Way, and a past president of Americans for Democratic Action.

He was a founder and member of the Board of Directors of the Lawyers Alliance for Nuclear Arms Control, and a member of the boards of directors for Bread for the World, the Council for a Livable World Educational Fund and the NAACP Legal Defense and Educational Fund, Inc., and an advisor to the U.S. Holocaust Memorial Commission.

He served on the Advisory Committee to the U.S. National Archives and the Advisory Board of the Union of Councils for Soviet Jews. He was vice chairman of the National Advisory Council for the American Civil Liberties Union and is a member of the Helsinki Watch Committee.

Drinan chaired the International Committee for the Release of Anatoly Scharansky and Peace PAC, is a fellow of the American Academy of Arts and Sciences and the American Bar Foundation, and was a founder of the National Interreligious Task Force on Soviet Jewry. He is a past board member of the National Board of Trustees of the National Conference of Christians and Jews and a member of the American Law Institute.

With more than 400,000 members, the American Bar Association is the largest voluntary professional membership organization in the world. As the national voice of the legal profession, the ABA works to improve the administration of justice, promotes programs that assist lawyers and judges in their work, accredits law schools, provides continuing legal education, and works to build public understanding around the world of the importance of the rule of law in a democratic society.

PERSONAL EXPLANATION

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. MURTHA. Mr. Speaker, on July 15, 2004, on rollcall No. 378 regarding H. Res. 713, I inadvertently voted "yea" but meant to vote "nay."

Similarly, on rollcall No. 379 regarding H. Con. Res. 462, I inadvertently voted "yea" but meant to vote "nay."

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of this resolution, and I would like to elaborate upon the important issues that are involved in securing Israel and peace in the Middle East.

As a strong supporter of Israel, I believe that Israel has every right to defend itself and that a security fence is an understandable response to three years of terrible suicide bombings and other attacks that Israeli citizens have suffered through.

I also believe it was unfortunate that the issue of the fence was brought to the International Court of Justice at all. But the issue was brought to the ICJ, and the ICJ has now made its non-binding ruling. I am disappointed and puzzled that the opinion of the court does not seem to recognize very real Israeli security concerns. Nor does it tell us how Israel or any other state is supposed to defend itself from non-state threats.

But I'm not certain that passing this resolution today will help to advance the cause of peace. And advancing the cause of peace would go a long way toward restoring our credibility in that part of the world where we need it most. To advance the cause of peace, the resolution might have mentioned the thousands of Palestinians who have also died in the violence of the last three years. To advance the cause of peace, the resolution might have mentioned that both parties have obligations under the Road Map.

Mr. Speaker, I am suggesting merely that balance is valuable, and that it makes sense to seek points of commonality instead of to focus on those that drive us apart. I hope that the Administration can look beyond the ICJ ruling to pursue more vigorously the peace process that has stalled for too long.

HONORING JOHN BAKER

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. FARR. Mr. Speaker, history reminds us of people who made a difference, who used their talent to change things. John Baker is one of those rare persons whose life has made a difference.

I first met John Baker as his classmate entering Williamette University in Salem, Oregon. We both joined the Sigma Chi Fraternity together. We studied science, religion, and history together. We played intramural sports and campus politics together.

John was always special. I think he was the first person I met who constructively was questioning authority—asking, "why not?" whenever someone was treated unfairly he spoke up for them. When the Civil Rights movement began in the South, John made sure the injustice being done was brought to the attention of the Northwest. He was always the first to rise to the cause—in many cases began the cause—to fight evil.

John's career brought him to the ministry to use it as a means of educating parishioners to the wrongs in society.

To the farmers, he brought the issues of farm workers. To the warriors, he brought the sorrow of death and destruction of the families and their enemies. To the small, friendly and secure rural towns of California, he brought the hatred and prejudice of the towns in the South. John was always a teacher, a prophet, a motivator for justice. Truly a religious leader.

That was not enough. He moved to education and a larger audience. He became a counselor of students and rose to statewide recognition in his field.

John was always pushing—pushing people to think about options, to change their lives to do better. He didn't just influence the students, he had an impact on his peers as well. He pushed his community to participate in the electoral process. He didn't just preach, he also practiced his compassion.

He was one of the first during the Vietnam War to adopt Vietnamese orphans. He didn't just tell people to vote for change, he ran for public office and got elected to the City Council.

John practices what he preaches—and he preaches what he practices. His special style makes him an ideal counselor fitting ones passions with ones work.

Public institutions will miss him because he makes those institutions do better. Teachers and students will miss him because he is the best of both. His friends will miss him because he makes friendship mean a lifetime of support. I'll miss him because he pushed me to push others. My public service as an elected county supervisor, state legislator, and now congressman, was made possible by John Baker's support and belief that ordinary people can rise to opportunity to do greater good. John personifies President Theodore Roosevelt's wise command, "Do what you can, where you are, with what you've got." John's life and deeds are a model for how the torch should be passed to the next generation.

As John departs his position as Vice President of Student Services from Gavilan College, I wish him all the best in his retirement. He will be deeply missed.

A TRIBUTE TO THE NEWPORT BEACH JUNIOR CHAMBER

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. COX. Mr. Speaker, I rise today to recognize the many contributions of the Newport Beach Junior Chamber on the occasion of the 2004 Metropolitan Network Conference. The Newport Beach Junior Chamber, also known as the Newport Beach Jaycees, is a local chapter of the Junior Chamber International. With the stated mission of contributing "to the advancement of the global community by providing young people the opportunity to develop the leadership skills, social responsibility, entrepreneurship, and fellowship necessary to create positive change," the Junior Chamber International is a global federation of more than 200,000 leaders and entrepreneurs who serve in over 100 nations worldwide.

Here in our country, the U.S. Junior Chamber has been an active force for positive change in communities across America. They have built parks, hospitals, playgrounds, and housing for the elderly, and they have raised millions of dollars for causes such as the March of Dimes and research into Muscular Dystrophy. With their strong passion for volunteerism, the U.S. Junior Chamber is improving the quality of life and expanding opportunities for Americans from the smallest of towns to the largest of cities nationwide.

The Newport Beach Junior Chamber was founded in 1941. In the 63 years since it was first chartered, the Newport Beach Jaycees have grown to include more than 200 men and women between the ages of 18 and 40 who live and work in cities throughout Orange County, and is the largest Junior Chamber chapter in the state of California. The Newport Beach Jaycees serve the community by hosting business skills seminars, providing project management training and networking opportunities for members and non-members alike, and by participating in community service projects, such as Habitat for Humanity and Adopt-A-Family.

This year, the Newport Beach Jaycees hosted the 2004 Metropolitan Network Conference, the U.S. Junior Chamber's annual leadership and networking symposium for chapters with over 100 members or those located in communities with 75,000 or more residents. Thursday, July 15 marked the commencement of the Conference, also known as MetNet 2004, for which more than 120 members and community leaders traveled from across the nation and from around the world to participate in various business seminars, training sessions, and networking events that took place from Thursday through Sunday.

I wish the Newport Beach Jaycees and all participants in MetNet 2004 the best for a successful event this year, and I thank them for their continued service to our nation.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT

SPEECH OF

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 2004

The House in Committee of the Whole House on the state of the Union had under consideration the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes:

Ms. DELAURO. Mr. Chairman, I am proud to serve on the Agriculture Appropriations Subcommittee, which provides funding that supports many of the most important segments of our economy—from farm to table; and the programs that create our food safety net. Given our current budget limitations, the Committee has done a good job with what little funds they had, but it is simply not enough.

This bill leaves us with a serious shortfall in our effort to protect against bio-terrorism directed toward our food supply. The Committee provided just 40 percent of the total increase requested by both Food and Drug Administration (FDA) and the Food Safety and Inspection Service (FSIS) to improve food security. Especially in light of the new homeland security warnings we have just heard from the Administration, this is a threat we cannot afford to ignore, but our growing budget deficit has left us without the funds to address issue.

I am troubled that this bill reduces funding for the Women Infants and Children (WIC) program by about $150 million. This nutrition program serves our poorest women and children—it touches the lives of every 5 people in the United States—and each dollar invested in the program saves more than three dollars in other government spending on programs such as Medicaid.

Shortfalls in programs like WIC and in biosecurity are the result of the fiscal irresponsibility of the Republican Leadership. Choosing to provide trillions of dollars of tax cuts for the wealthiest Americans has left us faced with an increasingly broken food safety net, rising rural poverty, and potential bio-security threats for all.

And so, Mr. Chairman, while I support this bill, I believe we can and should do better—for the sake of the health and security of every citizen in this country—young and old, rich or poor—this Congress has a moral obligation to do better.

RECOGNIZING THE NESHANNOCK HIGH SCHOOL BASEBALL TEAM AS THE 2004 CLASS 'A' PENNSYLVANIA STATE CHAMPS

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Ms. HART. Mr. Speaker, I would like to take this opportunity to recognize the Neshannock High School baseball team, this years' Class A Pennsylvania State Champions. Head coach, Michael Kirkwood lead the Neshannock Lancers to the State Championship game, where they defeated the Muncy Indians by a score of 8–4. The Lancers ended the season with an impressive 23–1 record.

I am happy to see such spirit, dedication, and teamwork flourishing in the congressional district that I represent. I wish the members of 2004 Neshannock baseball team continued success.

I am proud to have such talented young athletes in the 4th Congressional District of Pennsylvania, and I ask that all of my colleagues in the House of Representatives join with me in recognizing their great achievement.

RECOGNIZING AND COMMENDING MR. SAMUEL JAMES "SANDY" KAHN

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. HUNTER. Mr. Speaker, I and my colleague, Congressman RANDY CUNNINGHAM, rise today to recognize and commend to the House a man who embodies the spirit of America and has worked tirelessly for his community. Mr. Samuel James ("Sandy") Kahn, a third generation Californian, has had both a distinguished business career and an unselfish record of community and philanthropic service.

Sandy received his undergraduate, graduate and law school education at the University of San Diego. He is Chairman and Chief Executive Officer of one of our country's largest privately owned real estate development companies that developed in excess of 25% of the developable land in the City of San Diego. Although a successful business owner and executive, Mr. Kahn has always been committed to public service. He became a member of the San Diego Sheriff's Department Reserve program. Sandy graduated first in his academy class and progressed through the ranks from Deputy to Sheriff's Captain retiring honorably in 1995 after 25 years. For his service he received the department's highest award for meritorious service.

He has given unselfishly of his time to his community, State and nation. He was selected by the Adjutant General of the State of California to serve on the Advisory Board for Homeland Security. The San Diego County Board of Supervisors appointed Sandy to its Board of Economic Advisors for two terms. He serves as the Chairman of the Board of Trustees of the Thomas Jefferson School of Law and in October of 2001 he was appointed by the CEO of the San Francisco Federal Reserve bank to the "Beige Book" survey committee of leading economic indicators. He is a trustee of the Criminal Justice Legal Foundation which is committed to defending the interests of crime victims and law enforcement through both State and Federal appellate jurisdictions.

Mr. Speaker, Congressman DUKE CUNNINGHAM and I ask that the House commend Mr. Kahn for his accomplishments and his service to our Nation.

HONORING FERMI 2 POWER PLANT FOR EXCELLENCE IN HEALTH AND SAFETY PROGRAMS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. DINGELL. Mr. Speaker, I rise today to recognize the Fermi 2 Nuclear Power Plant located in Monroe County, Michigan. The Michigan Occupational Safety and Health Administration is awarding the Michigan Star to this DTE Energy Company plant for its accomplishments in health and safety.

The Michigan Star is the highest recognition awarded by the Michigan Occupational Safety and Health Administration and its Michigan Voluntary Protection Programs. The honor acknowledges exemplary programs in both the areas of health and safety for all employed in the power plant. This recognition is the most rigorous of the MVPP's awards, which is a true testament to the work done in this nuclear facility.

The Michigan Voluntary Protection Programs provides both employers and employees with very specific and distinct tools used to measure and evaluate the plant's programs. This award demonstrates that all of those working at the Fermi 2 Plant have worked together in achieving excellence beyond basic compliance with health and safety programs.

This power plant employs some 900 workers and provides electricity to an estimated one million residents of Southeastern Michigan. In a work environment that is so sensitive, the employers and employees of the Fermi 2 Plant have committed themselves to health and safety practices that will ensure a more productive plant for them and the community they serve.

Such accomplishments in our nuclear power plants are vital and commendable, setting an example for similar facilities. I ask my colleagues to rise and join me in recognizing DTE Energy, the Fermi 2 Nuclear Power Plant, and all of its employees on the occasion of receiving the Michigan Star.

TOW TRUCK OPERATORS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. MORAN of Virginia. Mr. Speaker, I rise today to introduce federal legislation that will help states and localities rein in rogue towing operations that continue to harass and take advantage of local residents.

In 1994, Congress enacted the Federal Aviation Administration Act which opened a loophole permitting tow truck operators to qualify as interstate carriers exempt from state and local regulation.

A year later in 1995, Congress passed another attempt to streamline the federal government in the form of a law eliminating the Interstate Commerce Commission (ICC). This legislation struck down the regulatory body that provided federal oversight of the tow truck industry, leaving the tow truck industry without proper federal, state or local regulation.

In the years since, a number of conflicting U.S. District court rulings between towing operators and localities have been issued, including a 2000 Supreme Court decision in the City of Columbus v. Ours Garage and Wrecker Service. While the Supreme Court found that both state and local governments have the ability to exercise, free from federal preemption, the "safety regulatory authority" provided in law, the Court unfortunately failed to address what specific types of regulation would qualify under this distinction. Subsequent federal court decisions have yielded little additional clarity and have probably confused the issue further.

Without a clear judicial precedent, states and localities have been confronted with a barrage of problems related to "non-consensual" or "trespass tows." It has been brought to my attention that in Arlington County, VA alone, over 280 complaints and inquiries with regard to trespass towing have been received in the past 2 years.

Due to a lack of clear guidance from the courts and the large number of cases which have been brought to my attention involving a group of small but very active predatory towers in this region, I am here this morning to announce the introduction of legislation that will close the federal loophole, once and for all, that has prevented states and localities from having the full authority to regulate all aspects of "non consensual" towing.

Entitled the "State and Local Predatory Towing Enforcement Act of 2004," this legislation simply amends title 49 of the United States Code to give state and local governments the ability to enact common-sense, proconsumer "trespass towing" protections for their residents.

Something is wrong when, in the absence of any federal regulatory oversight, local and state governments do not have the proper authority to protect their citizens against companies not conducting safe business practices.

Whether it be overcharging someone an arm and a leg for parking illegally in an area with no signs properly designating the space, to a lack of ATM machines at tow lots requiring cash only transactions to get your car out of impoundment, tow companies should be held accountable by state and local governments for non-consensual towing practices that do not take the consumer into account.

A solution to bring an end to this out of control problem is needed. The "State and Local Predatory Towing Enforcement Act" is that solution. It will correct a lack of regulatory oversight for an industry whose image is being tarnished by a few bad apples, and in doing so, will return power back to the people.

HONORING THE 15TH ANNIVERSARY OF CAL STATE SAN MARCOS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. CUNNINGHAM. Mr. Speaker, I rise today to congratulate California State University San Marcos for its 15th Anniversary which will be celebrated on September 1, 2004. It is an honor to recognize the accomplishments and contributions that this university has made over the years for the City of San Marcos, and the San Diego region, and for the priceless opportunities it has provided for over 13,000 graduates.

Over the past 15 years Cal State San Marcos has grown from a small campus with classes held in rented space next to a furniture store to an accredited four-year institution that is the leader for higher education in the northern San Diego region. The creation of Cal State San Marcos resulted from more than 20 years of work by business and civic leaders who understood how important a university campus could be to the region. A leader among them was Assemblyman and later State Senator William A. Craven, who obtained initial state funding for the campus.

In 1990, President Bill Stacey, twelve founding faculty and key administrative support staff were hired and the campus consisted of 448 upper division students. As of today I am proud to say there are 7,777 student enrolled at Cal State San Marcos. I have closely observed the rapid growth of this institution and couldn't be more proud of its accomplishments. I have witnessed numerous campus facilities rise from the hillside where it was established, including their newest addition, the Kellogg Library.

I have worked closely with past presidents, including Dr. Alexander Gonzalez, who served the institution from July 1998 to July 2003, and is currently the president of California State University Sacramento, the sixth largest campus of the twenty-three California State Universities. His successor, Dr. Karen Haynes, has come to lead Cal State San Marcos from the Victoria, Texas, campus of the University of Houston, where she was president since 1995. With the exceptional vision and value of leaders like these two, a city that embraces collegiate excellence, and a community that prides itself on positive growth, it is only befitting that a successful institution of higher education emerge.

Mr. Speaker, it is my honor to recognize California State University San Marcos for 15 years of collegiate excellence and the continuing role this institution plays in enriching the lives of students. This campus is fused with boundless optimism as it prepares to meet the higher education needs of a growing region. Happy Birthday Cal State San Marcos.

HONORING WILLIAMSTOWN MIDDLE SCHOOL

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. ANDREWS. Mr. Speaker, I rise today to honor and congratulate the students of Williamstown Middle School who have received the Principal's Award over the past two academic years. The Principal's Award is given to students who have earned straight A's for at least one academic quarter, clearly an accomplishment worthy of notice.

As these young constituents have already realized, the importance of education should never be underestimated. These students have clearly shown their commitment to education and academic achievement, and are well on their way to becoming our nation's future leaders. I wish to congratulate these individuals for their firm dedication to learning, and urge them to continue along this path.

During the 2002–2003 school year the Principal's Award was received by the following sixth graders: Sequia Adams Ferebee, Jennifer Annarelli, Brittany Arnold, David Barbalace, Kevin Bargeron, Victoria Becker, Jordan Bonder, Gillian Bradley, Krista Butler, Ashley D'Ambrosio, Nicholas Davis, Francesca Dougherty, Tiffany Fanelli, Sarah Fauvell, Kayla Gennarelli, Daniella Genovese, Nicole Goldsmith, Chelsea Grahamslaw, Courtney Grim, John Lafferty, Daniel Lang, Matthew Leonardis, Dena Mahoney, James Maldonado, John McCormick, Kevin McDonough, Kimberly Nothstein, Staven Ray, Victoria Rocco, Jody Salvatore, Timothy Schipske, Jaclyn Stewart, Nicholas Stola, Katie Trotter, Chris Whipple, Ashley Wilkinson, Gabrielle Wurdarski. In the seventh grade the following students received the award: Erika Abel, Kristen Antonelli, Rachel Brown, Krisitin Capasso, Grace Ann Charles, Arielle Dibling, Christina Fuscellano, Amber Hassan, Meeghan James, Jocelyn Jengehino, Amber Kane, Brian Kelly, Amanda Kimer, Brittany Kubat, Brian Lallier, Mandy Lei, Denay Morrison, Christine Oagaro, David Ofosu-Appiah, Daniel Palieri, Brielle Sneed, Michelle Talnagi, Frances Ulmer, Megan Wadsworth, Mark Washko, Tara Weeast, Collin Whipple. Eighth grade recipients included: Justin Abraham, Adam Brinkman, Heather Butler, Hollie Butler, Jamie Dougherty, Shady El Damaty, Eric Flinn, Angela Forjohn, Douglas Fuscia, Amanda Gregory, Lisa Guarrera, Josh Haynes, Anne Inacay, Robert Knecht, Sandra Lamplugh, Christopher Lewandowski, Anthony Lopez, Nicholas Marella, Anthony McCullough, Michael Mueller, Joseph Obraczewski, Frederick Powell, Niccolo Reggente, Kacey Richards, Sarah Sottile, Anthony Stola, Gerard Tigue, Michael Torres, Heather Vischoric, Amanda Williams, Arielle Williams, Laura Williams.

During the 2003–2004 school year the following students of the sixth grade received the award: Emilie Albert, Douglas Blankenship, Amanda Branda, Stephanie Bradley, Jessica Bullman, Jamie Cattell, Mia DiFilippo, Amber Endres, Mariel Enriques, Caitlin Graham, Jospeh Gratton, Brandon Harner, Amy Harrington, Juliet Jengehino, Ashley Jones, Sarah Kee, Sean Kryston, Shannon Listman, Rachel Maiorano, Jessica Martinez, Robert Mele, Carly Moffa, Briana Molino, Nicholas Randazzo, Gabrielle Richardson, Jade Richardson, Christopher Rotella, Corrie Sellers, Veronica Shevlin, Jacob Sprengle, Caitlin Stewart, James Stewart, Jennifer Stief, Andrew Sudler, Amanda Tran, Alexander Vickers, Keyanah West, Alyssa Worstall. Seventh grade recipients included: Brittany Arnold, David Barbalace, Jordan Bonder, Gillian Bradley, Michelle DeCraene, Francesca Dougherty, Tiffany Fanelli, Sarah Favell, Danielle Genovese, Robert Giarnone, Jr., Courtney Grim, Jason Irlieh, Charlotte Kirkby, Kelli Kleinsmith, John Lefferty, Daniel Lang, Dena Mahonery, Kevin McDonough, Kimberly Nothstein, Sheeaa Rastogi, Steven Ray, Tanya Roberson, Victoria Rocoo, Jody Salvatore, Nicholas Stola, Katire Trotter, Crystal Uzdevenes. Recipents in the eighth grade were: Keleofa Bernard, Kristin Capasso, Grace Ann Charles, Jamie Curran, Christina Fuscellaro, Antonio Inacay, Brian Kelly, Michael Kessler, Amanda Kimex, Melissa Kortman, Julian Magner, Daniel Palmieri, Julianne Smith, Sharon Sudarsanan, Magan Wadsworth, Mark Washko, Tara Weeast, Collin Whipple.

Mr. Speaker, I ask that my colleagues in the House of Representatives join me in recognizing the Principal's Award recipients of Williamstown Middle School. Their accomplishments are truly deserving of national commendation.

CELEBRATING THE 70TH ANNIVERSARY OF THE ARMENIAN WEEKLY NEWSPAPER

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. MARKEY. Mr. Speaker, I rise to pay tribute to a treasured institution in the Armenian-American community and in my Congressional District, the "Armenian Weekly Newspaper" which is celebrating its 70th Anniversary of publication this year.

Since 1934, the English-language Armenian Weekly has been published by the Hairenik

Association of Watertown, Massachusetts, located in my district. The Association also publishes the Armenian Weekly's parent publication, "The Hairenik," which is the longest running Armenian-language newspaper in the world.

Mr. Speaker, this past April we gathered to commemorate the Armenian Genocide, one of the darkest chapters of World War I, and what is sometimes called the "Forgotten Genocide." The Armenian Weekly plays an invaluable role in helping all of us to remember that tragic period, but more importantly, to celebrate the lives of the survivors and their wonderful and enduring culture.

In September of 1919, President Woodrow Wilson spoke of his vision of a future Armenia. He said, "Armenia is to be redeemed . . . So that at last this great people, struggling through night after night of terror, knowing not when they may come out into a time when they can enjoy their rights as free people that they never dreamed they would be able to exercise." Since the rebirth of the Armenian national following the collapse of the former Soviet Union, the Armenian Weekly has run numerous stories on issues and events affecting the politics and economy of the Republic of Armenia, and the efforts of the Armenian-American community to support its struggle to survive and prosper.

Mr. Speaker, two of our most cherished freedoms in the United States are freedom of speech and freedom of the press. For seventy years now, Armenian-Americans have been celebrating those freedoms through the Armenian Weekly Newspaper. In addition to its extensive coverage of news events of interest to the Armenian-American community, over the years, the paper has printed numerous short stories, essays and poems. For example, the stories that initially brought noted Armenian-American writer and playwright William Saroyan to national attention were first published in the Armenian Weekly.

I congratulate Editor Jason Sohigian and everyone associated with this remarkable publication and I wish the Armenian Weekly Newspaper many more years of service and success.

RECOGNIZING MAJOR GENERAL MICHAEL P. WIEDEMER, U.S. AIR FORCE, DIRECTOR OF THE DEFENSE COMMISSARY AGENCY AT FORT LEE, VIRGINIA, FOR HIS SERVICE AND DEDICATION

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. FORBES. Mr. Speaker, I rise today in recognition of Major General Michael P. Wiedemer, Director of the Defense Commissary Agency, for his loyal service to the United States and Virginia's Fourth District.

Major General Wiedemer's dedication and loyalty to the advancement of our district and the nation as a whole is to be commended. He has played an instrumental role in overseeing the growth and preservation of the military's worldwide commissary system since he assumed command in August 2002.

Since first being commissioned in the U.S. Air Force over 30 years ago, Major General Wiedemer's devotion to duty has reflected the highest standards of the military profession. After four years of service, he served as Chief of Data Automation as part of the 347th Tactical Fighter Wing on the Moody Air Force Base in Georgia. He has served on numerous airbases throughout the United States. His military education is extensive and includes Squadron Officer School, the Air Command and Staff College, Defense Systems Management College, and the Industrial College of the Armed Forces. Major General Wiedemer also holds a Bachelor of Science degree and a Masters degree in Industrial Management.

Major General Wiedemer's decorations include the Distinguished Service Medal, the Defense Superior Medal, Legion of Merit with Oak Leaf Cluster, Meritorious Service Medal with Three Oak Leaf Clusters, an Air Force Commendation Medal, and the Defense Superior Service Medal.

Major General Wiedemer has shown tremendous commitment and devotion to his country. Today we recognize him for his unwavering patriotism and dedication to both his profession and the American people.

Mr. Speaker, please join me in honoring Major General Michael P. Wiedemer.

CONGRATULATING MR. JEROME W. WATSON ON HIS RETIREMENT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure and honor that I congratulate Mr. Jerome W. Watson on his retirement from United Steelworkers of America Local Union 1066. Jerome has spent nearly 35 years dedicating his life to the interests of Local Union 1066 as well as his community in Northwest Indiana. His career at Local 1066 has allowed him the opportunity to touch the lives of numerous people.

Jerome Watson has accomplished many visionary goals throughout his career. Before joining Local 1066, Jerome admirably served in the United States Army during the Vietnam War until his honorable discharge in 1969. He began his career at Local 1066 as a Grievance Committeeman in 1976. After being hired by United States Steel as a Motor Inspector Expanded, Jerome faithfully served Local 1066 on the Classification Committee, By-Law Committee, Institute for Career Development Local Joint Committee, Legislative Committee, and as Editor/Chair of the Banner Newspaper Committee. He was Grievance Chairman of Local 1066 from 1985–1991 and again in 1996–2003, and he served as the President from 2003–2004.

Not only has Jerome Watson had many positive accomplishments throughout his career at Local 1066, he has also actively contributed to his community through participation in various programs aimed at improving opportunities for the people of Northwest Indiana. Jerome participated in the successful negotiations that resulted in the Ivy Tech/United States Steel craft articulation agreement, which allowed graduated apprentices and trainees to obtain Associates Degrees through credit allowed for previous relevant training and additional Ivy Tech core classes. Along with his many other accomplishments, Jerome has received numerous awards and certificates, including the Q1 award for Union Involvement from Ford Motor Company, the Labor award from the A. Phillip Randolph Institute. He was honored with the awards of merit for Local Union 1066 Banner Newspaper for best local union coverage, best regular column, and best U.S.X. 1986 "lockout coverage." Jerome received certificates of approval from the U.S. Department of Labor, Bureau of Apprenticeship and Training, and the Ivy Tech State College program of Electrical and Mechanical Degree Program.

Jerome has demonstrated his loyalty by his outstanding service to Local 1066 and his community through his hard work and self-sacrifice. Although Jerome has served on numerous Committees and has dedicated his time to Local 1066, he has never neglected to provide support and love to his family. Jerome and his wife Linda have one son, Jerome Jr., and a daughter, Tina.

Mr. Speaker, Jerome Watson has given his time and efforts selflessly to the people of Northwest Indiana throughout his years of service. He has taught every member of Local 1066 the true meaning of service to all members of the Northwest Indiana community. I respectfully ask that you and my other distinguished colleagues join me in congratulating Mr. Jerome Watson for his outstanding contributions to Indiana's First Congressional District. I am proud to commend him for his lifetime of service and dedication.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. JOHN SULLIVAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. SULLIVAN. Mr. Chairman, I would like to comment for the record regarding yesterday's passage of the Maloney Amendment to H.R. 4766, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005.

The Maloney amendment, which was adopted yesterday by the House by voice vote, stated that no funds may be used to keep a contraception drug as prescription-only if it has been determined to be safe and effective without a doctor's supervision. Let the record state that there is not an oral contraceptive that has been determined to be safe and effective without a doctor's supervision. Current law already requires FDA to make products available over the-counter only when they are found to be safe and effective.

On May 7, 2004, the FDA rejected an over-the-counter application from Barr Pharmaceuticals for the morning after pill because and I quote: ". . . we have concluded that you have not provided adequate data to support a conclusion that Plan B can be used safely by young adolescent women for emergency contraception without the professional supervision of a practitioner licensed by law to administer the drug." The petitioners for over-the-counter status could not prove that the drug was safe and effective without a doctor's supervision. It is important to note that the Maloney amendment has no effect on current law and merely restates current FDA law and policy regarding prescription drugs and over-the-counter drugs.

I am concerned that my colleagues on the Democratic side of the aisle are attempting to use this amendment to chastise the FDA for its refusal to allow morning-after birth control pills to be sold without a doctor's prescription. I understand that the FDA is being lobbied heavily by the business community and social liberal groups for acceptance of Plan B and other over-the-counter pills that would seek to terminate a pregnancy. I'm encouraged that the FDA is willing to place the concerns of public health above other considerations and I am hopeful that the FDA will continue to resist pressure from these outside interests.

CONGRATULATING VALMONT ON THE 50TH ANNIVERSARY OF CENTER PIVOT IRRIGATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. BEREUTER. Mr. Speaker, this Member congratulates Valmont Industries as it celebrates the 50th anniversary of center pivot irrigation.

The introduction of center pivot irrigation in 1954 proved to be a crucial development in agricultural production across the U.S. and around the world. Although these irrigation systems are now a common sight on farms throughout the globe, it is important to remember the vision and determination that led to this innovation half a century ago.

The wide use of center pivot irrigation systems has resulted in increased agricultural yields and greater water conservation. The growing emphasis on water quality and quantity issues have resulted in even greater demand for center pivot irrigation systems, which can now be found throughout the U.S. as well as Africa, Europe, the Middle East, Latin America, China, Australia and elsewhere. Valmont can certainly take great pride in the role it has played in facilitating crop production in a more environmentally friendly manner.

Although now a worldwide operation, Valmont's Nebraska roots remain firmly in place. Valmont Industries, which is headquartered in Omaha, Nebraska, and has its primary manufacturing facility in Valley, Nebraska, now operates 34 facilities located in 14 countries. The company's name is a combination of the two Nebraska communities on either side of the first Valmont plant—Valley and Fremont. Valmont has more 5,200 employees worldwide, with about 1,500 located in Nebraska. This Member is pleased to note that Valmont operates two plants in his congressional district—one in West Point and another in Waverly.

The success of Valmont has truly been a company-wide team effort. However, this Member would like to specifically commend and congratulate Mogens Bay, Valmont's Chairman and CEO; Terry McClain, Senior Vice President and CFO; Bob Meaney, Senior Vice President; and Tom Spears, President of the Irrigation Division. Certainly, this Member would also like to extend his thanks and congratulations to Bob Daugherty, Valmont's founder.

COMMUNITY CHURCH 50TH ANNIVERSARY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. BURGESS. Mr. Speaker, I rise today to congratulate The 121 Community Church on its outreach mission and dedication to the community. Five years ago, friends Ross Sawyers and Michael Moss founded a church in a living room. Today, 121 Community Church has volunteers all over the world including Australia, Guatemala, Mexico and Russia. Church membership has grown from 50 members to 400. On Sunday mornings, anywhere from 600 to 750 people attend the three Sunday services.

In celebration of their fifth anniversary, the members of 121 Community Church wanted to do something truly unique. They decided to model a service project after the popular cable TV show, Trading Spaces. The project, called "Aiding Spaces," provides free renovations to five families who cannot afford proper renovations. The families will be selected from five different areas of the Dallas-Fort Worth area. The renovations will be filmed by video crews and be created into a mini reality television series that will be aired at the churches 50th Anniversary celebration in September.

Church membership includes a number of general contractors, electricians and plumbers will lend their services. Their donated work is estimated at nearly $150,000.

I congratulate the efforts of 121 Community Church and their generous celebration. I am certain they continue their wonderful community outreach projects in the future. Through their church, members are able to make a substantial difference in each other's lives. The church should take pride in its hard work and commitment to service.

PERSONAL EXPLANATION

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. DAVIS of Tennessee. Mr. Speaker, I rise to offer a personal explanation. On Thursday, July 15, I was unavoidably absent for Rollcall No. 384, to table the appeal of the Ruling of the Chair.

Had I been present, I would have voted "no".

TRIBUTE TO MISCHELLE TOWNSEND

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside County, CA, are exceptional. We have been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give of their time and talent and make their communities a better place to live and work. Mischelle Townsend is one of these individuals.

Mischelle Townsend has lived and worked in the Inland Empire most of her life. Today she retires from public service, where she will be greatly missed.

Mischelle Townsend came to Riverside County after five years working with the aerospace industry, North American Rockwell Corporation, including direct support of the Apollo Project. She then entered the public sector, where her time and talent has been vital to the growth of the Inland Empire. She has a Bachelor of Arts from the University of Redlands and a Masters in Public Administration from California State University, San Bernardino.

Twenty-two years Riverside County has been privileged to have Mischelle Townsend, as the Executive Officer of the Local Agency Formation Commission (LAFCO). LAFCO is a state regulatory commission responsible for jurisdictional changes such as the incorporation of new cities, annexations and formation of new special districts. Under Mischelle's tenure at this agency, three cities where established in seven years: Moreno Valley, La Quinta and Cathedral City.

Mischelle Townsend later served six years as Assistant Chief Administrator Officer, where her responsibilities included: preparation of Riverside County's annual budget, development of policy recommendations from 33 county departments and agencies, administration of an $18 million Special District Augmentation Fund, preparation of the annual Capital Improvements Program, and chairmanship of various task forces and policy advisory committees.

She then moved onto Director of Riverside County's General Services Agency and eventually moved into her current position as Registrar of Voters on July 31, 1997. As Registrar of Voters, Mischelle has been widely recognized as an innovator in modern election services.

Outside of the office, Mischelle has been equally giving of her talents. Her community involvement includes, but is not limited to: President of the Executive Council for the American Society for Public Administration (ASPA/Inland Empire); Vice President/Volunteer Personnel for the Inland Empire Chapter of the Boy Scouts of America; past member of the Board of Directors for Alternatives to Domestic Violence; Soroptomist International of Riverside; and, active member of Crossroads Christian Church.

Mr. Speaker, Mischelle Townsend's tireless passion for her profession and community has contributed immensely to the betterment of the Inland Empire, California. She has been the heart and soul of many innovative projects and events and I am proud to call her a fellow community member, American, and friend. I know that the community is equally grateful for her service and salute her as she retires from professional service.

CONGRATULATING SISTER MARY SIMON ON RECEIVING JUDITH STANLEY COLEMAN AWARD FROM THE VISITING NURSES ASSOCIATION OF CENTRAL JERSEY

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. HOLT. Mr. Speaker, I rise today to congratulate Sister Mary Simon for receiving the Judith Stanley Coleman Award from the Visiting Nurses Association of Central Jersey. The award is given annually to a community leader who exemplifies a positive attitude, significant service in health care, vigilance and passionate advocacy for community health issues, and strong networking in the community. Sister Simon is a tremendous person whose heart is full of compassion for her fellow humans and she fully deserves of this prestigious award.

Sister Mary Simon has taught in various grammar schools throughout the diocese of Trenton over the past 19 years. In 1975, upon completion of her Master's in Education, she was appointed director of senior services in Keansburg. It was in this post that she determined that transportation, education, and health were the most pressing needs of local seniors. Sister Simon obtained a van for senior transportation and created a GED program for seniors to complete their high school diplomas. However, it was in health that Sister Simon found her true calling. She was able to get local nurses to conduct free blood pressure screening and health education classes for the local seniors. Sister says, soon she arranged with the Visiting Nurses Association of Central Jersey to identify local residents who needed care and assisted the nurses to meet the patient's needs.

Six years later Sister Simon was appointed as the Executive Director of the Monmouth County Office of Aging. There she helped establish many innovative programs which still exist today, including a collaboration with the Visiting Nurses Association of Central Jersey that bring nursing and physical therapy to low income and minority seniors.

In 1998, Sister Simon was appointed Coordinator of New Jersey Adult Protective Services. Working on behalf of seniors statewide, Sister Simon was responsible for overseeing the safety of the most at-risk seniors in the state—living in abusive or potentially abusive situations.

After a long career spent improving the health of New Jersey seniors Sister Simon was ready to retire but soon she had a new assignment assisting seniors in central Jersey. Since 2001, she has been working on behalf of Bishop John Smith and the Trenton diocese again as Coordinator of their Ministry to the Aging. Sister Simon is now working on behalf of the 363,967 seniors in Monmouth, Ocean, Mercer and Burlington counties, many of whom I represent in Congress.

Mr. Speaker, I again want to take this time to congratulate Sister Simon on behalf of the thousands of lives she has touched in her long tenure in New Jersey. Sister Mary Simon certainly deserves the Judith Stanley Coleman Award from the Visiting Nurses Association of Central Jersey. I thank her for all her hard work and wish her all the best in the future.

DETENTION OF AMERICAN CITIZENS AND FOREIGNERS

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Ms. SCHAKOWSKY. Mr. Speaker, I commend to the attention of my colleagues the text of an article written by former Congressman Abner Mikva, who also has an extremely distinguished legal career history, which appeared in the July 16 edition of the Washington Post. I strongly agree with the concerns Mr. Mikva expresses in this article. I, too, believe the Bush Administration has gone dangerously too far in its detention of American citizens and foreigners. I share the hope that this President will return to the traditions that have made our democracy strong.

[From the Washington Post, July 16, 2004]

DANGEROUS EXECUTIVE POWER

(By Abner Mikva)

In 1971, along with the late Rep. Spark Matsunaga and others in the House of Representatives, I sponsored the Non-Detention Act, which states: "No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress."

This simple provision of law has served as a bulwark against the United States' ever again establishing internment camps for citizens—as it did during World War II—without the acquiescence of Congress. It also stilled the concern occasioned by a McCarthy-era statute that authorized some camps (which were never opened) to hold those engaging in riot or insurrection. The purpose of the Non-Detention Act was clear: to prevent the executive from detaining U.S. citizens without explicit statutory authority.

Recently the Supreme Court considered the Non-Detention Act in the case of Yaser Esam Hamdi, a U.S. citizen taken prisoner in Afghanistan while allegedly fighting for the Taliban. Justice Sandra Day O'Connor wrote that "a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens."

But did an act passed by Congress shortly after Sept. 11, 2001, provide the President with the statutory authorization to detain U.S. citizens that was required under the Non-Detention Act?

Justice David Souter stated that the post-Sept. 11 law—the Authorization for Use of Military Force—is "fairly read to authorize the use of armies and weapons, whether against other armies or individual terrorists." But this act never uses the word "detention," and, Souter wrote, there is "no reason to think Congress might have perceived any need to augment Executive power to deal with dangerous citizens within the United States, given the well-stocked statutory arsenal of defined criminal offenses covering the gamut of actions that a citizen sympathetic to terrorists might commit."

Although Congress gave the president the power to use military measures to fight terrorism, it did not strip U.S. citizens accused of terrorist activities of the protections of citizenship. U.S. citizens accused of involvement in terrorist activities should be charged with a specific crime or released—not held indefinitely.

The lesson of history is that if Congress is going to authorize the detention of American citizens for indefinite periods, it needs to do so directly and intentionally, so that it can be held accountable. Why? Because executive detention is a dangerous power that otherwise can too easily be abused, as the Japanese American detention camps showed in World War II.

Our more recent history shows that many are being detained based on suspicion of involvement in a terrorist conspiracy. Some were released after a period of detention, without any charges being filed. Others, such as Hamdi or a Chicago suspect named Jose Padilla, accused of plotting to detonate a "dirty bomb," are still being held. Today, after the Hamdi decision, such persons have limited right to access to counsel and some ability to challenge in court the factual determination of whether they can be deemed "enemy combatants." But they lack the basic right to know the charges against them or to receive a host of assurances of due process available even to a U.S. citizen charged with treason.

The principle at the heart of the Non-Detention Act was affirmed by Justice Antonin Scalia, who wrote (with Justice John Paul Stevens's support): "The very core of liberty secured by our Anglo-Saxon system of separated powers has been freedom from indefinite imprisonment at the will of the Executive." As O'Connor observed, "It is during our most challenging and uncertain moments that our Nation's commitment to due process is most severely tested; and it is in those times that we must preserve our commitment at home to the principles for which we fight abroad."

Thirty-three years ago Congress expressed the same vision with the plain words of the Non-Detention Act. The Supreme Court has left it to the lower courts to decide on a case-by-case basis whether the Authorization for Use of Military Force or future congressional enactments satisfy the requirements of the Non-Detention Act and give the executive branch the right to detain American citizens. I hope the courts will set the bar high and prohibit the detention of U.S. citizens by the executive unless Congress specifically authorizes such detention. And I hope Congress will take care in the future to avoid the kind of ambiguity the Supreme Court found to exist in the military force act. Finally, I hope this president will return to the traditions that have made our democracy strong and realize that if he believes he needs additional powers to fight terrorism, he should make that case to Congress and the people.

PRINCIPAL MILTON WALLACE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. BURGESS. Mr. Speaker, I rise today to recognize Principal Milton Wallace. Since 1990, Mr. Wallace has served as the principal of Denton High School. After serving for over a decade, this August, Mr. Wallace will leave Denton High School to become principal of Longview High School where he can be closer to his aging parents.

For the three years leading up to being named principal, Milton Wallace served as the assistant principal at Denton High School. During this time he was named Assistant Principal of the Year for Region XI by the Texas Association of Secondary Schools Principals. As principal, he has been a finalist for Texas Principal of the Year twice.

During his tenure, Principal Wallace significantly expanded the Advanced Placement Program. Denton High School students' SAT scores improved, and in 2002, the Texas Education Agency raised Denton High School's rating to "recognized" status.

Milton Wallace is well loved by his students and very active in his school's community. He attends nearly every athletic, fine arts and academic event. In the fall, he travels with the football team and in the spring he travels to UIL events so he can support his school at every venue.

Principal Wallace certainly put the "pal" in principal. I would like to commend Principal Wallace on the accomplishments he has made as principal of Denton High School. As principal during my son Mike's high school years, I know firsthand that he provided his students with an enjoyable, yet rigorous academic environment and will be missed greatly. We are proud of his achievements and wish him luck in the future.

PERSONAL EXPLANATION

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Ms. ROYBAL-ALLARD. Mr. Speaker, due to circumstances affecting the health of a family member, I was not present for rollcall votes 385 through 389 on Thursday, July 15. Had I been present, I would have voted "no" on rollcall vote 385, "yea" on rollcall vote 386, "no" on rollcall vote 387, "yea" on rollcall vote 388, and "yea" on rollcall vote 389.

WELCOME TO BECKLEY, MR. PRESIDENT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. RAHALL. Mr. Speaker, again I wish to discuss the Transportation bill. This time, I want to discuss this much-needed bill in light of President Bush's recent visit to my hometown of Beckley, West Virginia last Friday, July 16, 2004.

This week, Congress will again have to extend the authorization for the previous Transportation bill because we still do not yet have a reauthorization. The previous authorization originally expired almost a year ago. Now, we will be extending that previous authorization for the fifth time—that's right, the fifth time—because Congress still hasn't done its work and completed a new bill.

The reason Congress still hasn't done the Transportation bill is that the White House clearly does not want us to finalize this bill in an election year, and the Republican Leadership in the House and the Senate just follow the Administration's orders. As I have said repeatedly, we should complete the bill, and if the White House wants to veto it, it can go ahead; there are clearly enough Republican and Democrat votes to override a veto and get the Transportation bill finished. But by doing nothing, the House and Senate Republican Leadership are siding with the White House, and preventing Congress from carrying out its Constitutional role as a coequal branch of government.

As I said last week, here on the House floor, States like my home state of West Virginia have been waiting for far too long now to see just what, if anything, they could expect to receive from the Federal Government. This money will help finance important highway and transit projects such as the Beckley Intermodal Gateway, provide good-paying jobs that are sorely needed in this uncertain job market, and sustain our economic growth at this critical point in time.

Mr. Speaker, I have an editorial from a distinguished newspaper in my hometown, the Register Herald, which I would like to submit for the RECORD to accompany my remarks. This editorial from Friday, July 16, 2004, graciously welcomes the president to Beckley. Importantly, it also goes on to note how badly Southern West Virginia needs the highway funding that President Bush is blocking. The editorial reads as follows:

MR. PRESIDENT—WELCOME TO BECKLEY

Today, for the first time in history, a sitting United States president will be in Beckley.

President George W. Bush is scheduled to make a campaign appearance around 4 p.m. today at the Raleigh County Armory Civic Center.

The city, Raleigh County and all of southern West Virginia are proud to have been chosen for a visit. We're happy to see him in person and are most interested to listen to his thoughts on the issues that face us as a Nation.

However, we want to ask Mr. Bush one thing in return. Soon to come before him will be a highway appropriations bill which he's threatened to veto if it carries a price deemed too expensive. Included in this bill is more than $2 billion to help finance a number of projects that are crucial to the economic development of Berkley, Raleigh County and southern West Virginia. If the economy is to continue the turnaround that Mr. Bush says is gathering steam, we need this money to keep it running.

We trust Mr. Bush enjoys his visit here. We wish he could stay longer and enjoy the beautiful mountains we call home.

No matter which party you're supporting in the upcoming presidential election, partisan politics should be put aside when the president comes to town.

TRIBUTE TO MR. GEORGE PUTNAM

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. GARY G. MILLER of California. Mr. Speaker, I rise to pay tribute and honor the distinguished career and legacy of Mr. George Putnam.

When asked what the most important elements in a newsman's character should be, Mr. Putnam replied, "an insatiable curiosity, objectivity, perseverance but, most of all, integrity." These are some of the sterling qualities that have guided his illustrious 70 year career as a broadcaster, reporter and commentator. In 1995, Mr. Putnam was awarded the prestigious Los Angeles Area Governors Award from the Academy of Television Arts & Sciences. He has been the recipient of four Emmys, six California Associated Press Television & Radio Association awards, and eight annual Radio & Television News Club awards. Legendary radio commentator Walter Winchell called Gorge Putnam's voice "the greatest in radio and television."

From his first broadcast in 1934 at WDGY in Minnesota to his current show, Talkback, on KSPA–AM, George Putnam has earned the respect of his listeners and his peers. It is with great pleasure that I wish him a Happy 90th Birthday, and acknowledge his lifelong contributions to the journalism industry.

TRIBUTE TO DR. DIETHER HAENICKE

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. UPTON. Mr. Speaker, I rise to pay tribute to Dr. Diether Haenicke who today received the 2004 Red Rose Citation for outstanding community service from the Rotary Club of Kalamazoo, Michigan. A dedicated and selfless individual, Diether has tirelessly served and greatly impacted the quality of life of countless individuals throughout the state of Michigan.

During his distinguished service as president of Western Michigan University from 1985 to 1998, Deither inspired and impassioned students and colleagues alike. For many years I have looked upon Diether not only as a voice of knowledge and insight, but also as a friend. Despite his retirement, he continues to be an active voice in the community.

Diether spent a career devoted to extensive charity and loyalty to local individuals and the community as a whole. Whether one looks at his service and leadership at the Kalamazoo Institute of Arts, as commissioner of the Education Commission of the States, or on the Board of Trustees for Bronson Methodist Hospital, Diether has a long history of benefiting the communities of Southwest Michigan.

Since 1945, the Rotary Club of Kalamazoo has annually presented the Red Rose Citation to outstanding members of the community, and I can think of no one more fitting to receive this great honor than Diether. I extend my very best wishes to Diether and his family.

INTRODUCTION OF THE CHILD SAFE ACT OF 2004

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. HERGER. Mr. Speaker, today I am introducing the Child Safety, Adoption, and Family Enhancement Act (Child SAFE) of 2004. This legislation would reform the Nation's child protection programs to ensure that children are safe and families are strengthened.

Like the Aid to Families with Dependent Children (AFDC) program before the historic 1996 welfare reforms, the Nation's child protection programs are broken. More than 500,000 children are in foster care today. Foster care should be a temporary, short-term placement for children until they can be reunited with their parents or placed with a safe, adoptive family. However, on average, children remain in foster care for almost three years. Unfortunately, too many of these children also will experience further abuse and physical and emotional scars that will haunt them for decades.

Every State's child protection program failed recent Federal reviews. Since November 2003, the Ways and Means Human Resources Subcommittee I chair has heard from more than 40 witnesses who have testified that the current child protection programs are ill-equipped to prevent abuse and keep children safe. In May 2004, after a year of study, the nonpartisan Pew Commission on Children in Foster Care proposed major changes to current financing rules for child protection programs. Many of the Pew Commission's recommendations are included in the Child SAFE Act. It is time to respond to the growing body of evidence demanding change and better accountability from our Nation's child protection programs.

The Child SAFE Act would focus on outcomes, rather than process, to better protect children by (1) providing more resources, (2) promoting better outcomes, (3) increasing accountability for results, and (4) increasing State flexibility. The legislation would increase overall child protection program funding over the next 10 years by $2 billion. Federal funding for every child protection activity—foster care, adoption, family services, and caseworker oversight—would rise over the next 10 years.

Current child protection programs provide limited funding for services to assist families and keep them safely together. At the same time, the system provides open ended funding if kids are removed from their families, leading many to conclude that the system encourages an over-reliance on foster care. The result is that countless children are abused and too many families broken up.

The Child SAFE Act would provide Federal foster care aid for every child regardless of income, addressing a longstanding concern among families, advocates and program officials. It also would guarantee rising foster care funding to States regardless of the number of children in care. That means that States that promote more up-front services to either keep kids out of foster care or move them more quickly through foster care will have even more dollars to invest in additional services. This will remove any financial incentive for a State to needlessly remove a child from their family or let that child languish in foster care for years.

The Child SAFE Act also would promote adoption of children from the public child welfare system. Federal adoption assistance will be available for these children regardless of income. Since 1995, the number of children adopted from the public child welfare system has more than doubled. However, more than 129,000 children in foster care await adoptive families. We must encourage States to do more to find safe, loving homes for these children.

The legislation would increase Federal aid for family services and caseworkers. Federal aid would be (1) merged, (2) guaranteed, and (3) increased by a total of $2 billion over 10 years. States would have more funds, more flexibility, and greater incentives to serve families and prevent children's removal to foster care.

The Child SAFE Act also provides increased funding to Indian tribes for child protection programs. It expands funding and services for children placed with relatives. The legislation requires an assessment of children entering foster care—many of whom have deep physical and emotional scars—to determine what services they might need. States that excel in protecting children would receive a share of $400 million in new performance funds. And the legislation is fully offset by provisions previously passed in the House welfare reform bill (H.R. 4).

I thank my colleagues, Mrs. JOHNSON, Mr. DELAY, Mr. LEWIS, Mr. CAMP, and Mr. CANTOR for joining me in introducing this important legislation. This legislation will improve our Nation's child protection programs so that children are safe and in loving families. I invite all Members to support it.

IN HONOR OF JOHN A. COLEMAN

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mrs. TAUSCHER. Mr. Speaker, it is with great pride and pleasure that I rise today to recognize the achievements and activities of John A. Coleman. Mr. Coleman currently is serving as the President of the California Association of Sanitation Agencies otherwise known as CASA. CASA is a statewide association of wastewater treatment agencies that is responsible for ensuring the protection and improvement of California's water quality for more than 22 million Californians and their related businesses and our state's natural resources. He was elected CASA President after serving as a member of this association since 1990. It is also noteworthy that he assumed this leadership role after he was elected to the Board of Directors of the East Bay Municipal Utility District that provides water quality and water supply services to many of my constituents of the 10th Congressional District.

Mr. Coleman was the first CASA President to serve a two-year term of office, having been unanimously elected by the General Council of the California Association of Sanitation Agencies on August 9, 2002 and re-elected August 15, 2003. He will conclude his term as the 46th President on August 7, 2004.

Mr. Coleman's performance on behalf of CASA has been one of strong leadership. He has provided important guidance on complex legislative and regulatory issues affecting the management of local public wastewater agencies as these agencies strive to comply with the myriad of federal requirements. On many an occasion I have had the opportunity to review a number of these matters with Mr. Coleman in his capacity as President of CASA and as a member of the East Bay Municipal Utility District Board of Directors.

In each of these roles, Mr. Coleman displayed the highest level of integrity establishing a threshold of performance that served CASA well. He used his position at CASA both as President and a Member of the Executive Board to encourage all CASA members to maintain the highest level of professional performance in the course of conducting the public's business.

Of special note, during Mr. Coleman's tenure as CASA President, he launched a state wide program to promote the beneficial use of biosolids to improve the quality of our lands and minimize the inappropriate disposal of a useful byproduct of water quality programs. This program has generated a better understanding on the part of the public on how we can be better stewards of our local communities and their natural resources.

Most recently, Mr. Coleman oversaw the first CASA Federal Legislative Outreach Seminar, bringing to Washington 40 public officials to meet with their congressional delegations and U.S Environmental Protection Agency officials. This effort typified Mr. Coleman's commitment to working to enhance the CASA members' understanding of the policymaking process and to promote increased public participation in the legislative and regulatory processes. Through this activity, he has elevated and solidified CASA's leading role as one of the most effective, respected, and influential California public association dedicated to wastewater and water quality improvements.

As Mr. Coleman prepares to complete his term as CASA President, I want to take note of these accomplishments and to commend him for his tireless commitment to improve the water quality of California's lakes, rivers, streams and coastal waters. His commitment and leadership at CASA means that valuable recreational, economic and social activities that today's Californians enjoy will be available for California's future generations. I congratulate him on his many achievements.

HONORING THE ARMY RESERVE 367TH MOBILE PUBLIC AFFAIRS DETACHMENT UNIT FOR ITS SERVICE TO OUR COUNTRY DURING OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. TIBERI. Mr. Speaker, I rise today to honor the Army Reserve 367th Mobile Public Affairs Detachment Unit for their participation in Operation Enduring Freedom and Operation Iraqi Freedom. I commemorate the service of the 367th members from the 12th Congressional District, which I am proud to represent, and all who served in the unit. For fourteen months members of the unit worked to provide news and information to media sources from around the world. Additionally, due to the work of the 367th, soldiers from my district were able to send messages to loved ones by way of "video post cards home" broadcast on local television. This service provided my constituents and many other Americans the opportunity to watch our troops in action. Today, we thank its members for the sacrifices they made to serve our country.

Mr. Speaker, I would like to share one example of the 367th's exemplary service to our Nation. The unit was in Tikrit, Iraq when it was informed of the capture of Saddam Hussein. Its members immediately realized the support that would be needed to accommodate the over 600 journalists who traveled to Iraq to cover the event. The 367th took action and coordinated an effort to provide transportation, lodging, food and even internet access. Because of the 367th's hard work, journalists from around the world were able to provide coverage of the historic event.

On March 3, 2004 the 367th returned home after a job well done. Once again, I thank the members of the Army Reserve 367th Mobile Public Affairs Detachment Unit for their service to our country.

NATIONAL BLACK DATA PROCESSING ASSOCIATES

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. BURGESS. Mr. Speaker, I rise today to recognize the National Black Data Processing Associates (NBDPA). In honor of their upcoming 26th National Conference, I would like to commend NBDPA for their commitment to delivering Information Technology (IT) excellence to their members, partners and communities.

BDPA was founded in 1975 in Philadelphia, Pennsylvania. Today, it has grown to include over 45 chapters across the United States. The mission of BDPA is to build and strengthen its stakeholder proficiency and effective application of IT, to affect a just level of member participation at all levels of the IT industry's employment and business opportunities, and to become a powerful voice in the IT industry that represents the interests of their members and communities.

The 3,000 members of BDPA include IT professionals, entrepreneurs, consultants, executives, educators and students. This wide base of members represents associates from across our nation as well as growing membership in Canada, England, France and Ghana.

BDPA is involved in a variety of programs to attain their vision, mission and objectives. These programs include student internship and mentoring programs, an education and technology foundation, a career center, as well as interest groups that promote the perspectives of the IT industry.

As BDPA celebrates its 26th National Annual Conference this year, I would like to commend this organization for their role in supporting the Information Technology industry and its employees. As technology continues to advance, their role will only grow. We are proud of your achievements, and we wish you the best in the future.

GOVERNOR ROBERT SMYLIE

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. OTTER. Mr. Speaker, I rise today to recognize the extraordinary life and peerless achievements of Robert Smylie, the only governor in Idaho history to serve three consecutive full terms. He died Saturday at the age of 89.

Please join me in extending the sympathies of the House of Representatives to Governor Smylie's wife Lucille and their entire family.

Bob Smylie was an Iowa native educated at my alma mater, the College of Idaho in Caldwell, and then at the George Washington University law school here in the nation's capital, where he attended classes while working as a member of the Capitol Police Force.

For 8 years as Idaho's attorney general and 12 years as governor, Bob Smylie proved time and again that he was a man of talent, vision and courage. He saw the modern challenges facing state government and understood intuitively that they required bold actions. As is the case with many people of intellect and audacity, his genius was not fully appreciated in his lifetime.

Governor Smylie was a pillar of fiscal responsibility. Yet he was far ahead of his time in recognizing that demands for government services would increase geometrically within his lifetime, that education and transportation are investments no state can afford to shortchange, and that the public's business is worthy of our best efforts and brightest minds.

Most of all, Governor Smylie was a tough and committed public servant who accepted nothing less from his colleagues and contemporaries. His example is one of uncompromising devotion to the good of Idaho, America, and our people.

Mr. Speaker, we have lost an American original, a man whose influence and example will live on for years to come. He set the stage for the growth and progress that mark Idaho today. My state mourns his passing, but we all are better for having had Robert Smylie in our lives.

TRIBUTE TO WILLIAM J. PASTUSZEK, DISTINGUISHED BUSINESS LEADER WITH A LEGACY OF CIVIC AND HUMANITARIAN EFFORTS

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. WELDON of Pennsylvania. Mr. Speaker, on July 14th my good friend Bill Pastuszek passed away and Pennsylvania lost one of its most distinguished business and community leaders.

Born in Chester, Pennsylvania, he graduated from Juniata College with a B.A. and attended classes at Elizabethtown College, Pennsylvania Military College, and University of Pennsylvania Law School. After graduation from Pennsylvania Military Prep School and service in the Army during World War II, he held a teaching certificate in secondary education and briefly taught at Chester High School and Smedley Junior High School.

Mr. Pastuszek's leadership qualities were in evidence early in his professional life. At the age of 26, Mr. Pastuszek became one of the youngest members of the Board of Directors of Chester School District, where he served as director, vice president and president from 1954 to 1963. A prominent leader in communities throughout Delaware County, Pennsylvania and in the Ukrainian American community in the United States, he established his real estate office in Chester in 1947 and later relocated to Swarthmore in 1963.

During his 57 years in the Delaware County, Pennsylvania real estate industry, Mr. Pastuszek became an institution in the county. He developed more than 1,000 commercial, industrial, self-storage garages, apartments and residential units in Maryland, New Jersey, and Pennsylvania. In 1985, the Delaware County Council presented Mr. Pastuszek with the Distinguished Business Achievement Award for his contributions to the overall economic vitality of Delaware County. In 1991, he was awarded the Distinguished Community Achievement Award by the Lower Chichester Township Board of Commissioners. Mr. Pastuszek's subsequent contributions to improve housing were recognized by the municipalities of Marcus Hook, Chester, Trainer, Swarthmore, Morton and Lower Chichester.

Mr. Pastuszek's work over the years and tireless dedication to the character and charm of the properties under his care improved the quality of life in our community. Life is a series of crossroads and how appropriate it was that the Lower Chichester Township Board of Commissioners resolved in 2000 to change the name of Ormond Street to Pastuszek Boulevard, while the Township of Chester renamed West 10th Street as Pastuszek Court. Bill Pastuszek was a developer not just of property but of people and of communities. I can't think of anyone more deserving of such recognition.

Mr. Speaker, Bill Pastuszek was someone who made a difference and dreamed the American Dream, and he truly represented what this country is all about. I wish Bill's wife of 56 years, Theodozia Kiziuk Pastuszek and family, my heartfelt condolences and may they find comfort in knowing that the many people he impacted deeply value his dedication and generosity and the example of his life and work.

HONORING HARRY WIGGINS

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Ms. McCARTHY of Missouri. Mr. Speaker, I rise to honor my dear friend and former colleague, State Senator Harry Wiggins. Harry is the quintessential gentleman and a distinguished statesman. He dedicated his life to the betterment of our community and state.

Kansas City is home for Harry. A devoted son to his mother and father, young Harry attended St. Elizabeth's Grade School and Lillis High School. He continues to support these local institutions that fostered his academic growth. He received his law degree from Saint Louis University and served his country in the Army from 1957 to 1959.

Harry was inspired to a life of public service, as I was, by Robert Kennedy. He fulfilled Bobby Kennedy's prophesy that "few will have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation." In 1961 Harry was appointed by Attorney General Robert Kennedy to serve as Assistant U.S. Attorney for the Western District of Missouri.

In 1970, Harry was elected Western Judge of Jackson County, joining Presiding Judge George W. Lehr and Eastern Judge Joe Bolger in bringing growth and prosperity to Jackson County, and following in the footsteps of Harry S Truman who had earlier served as Eastern Judge. The dynamic combination of Lehr, Bolger, and Wiggins catapulted Kansas City into a major sports city with the creation of the Truman Sports Complex. Judge Wiggins traveled to New York's financial bond market to ensure funding for the innovative complex.

Known for his tenacity and persistence as a crusader, Harry was elected to the Missouri State Senate for the Tenth District in 1974 and served with distinction for 28 years. From 1980 to 1984 he served as Majority Floor Leader. I fondly remember the eighteen years in which I worked with Senator Wiggins on numerous bills for our community and state when I joined my friend in Jefferson City as a State Representative in 1976. For 12 years we partnered on landmark fiscal policy as we each chaired the Ways and Means Committees of our respective chambers.

Harry's civic and charitable awards include: the 2001 Charles Evans Whittaker Award for outstanding lawyer of Kansas City; 2001 Outstanding Advocacy for Children Award from the Associated PTA's of Missouri; and the 2002 Tiger Roar Award from University of Missouri Alumni Association. In 2000, the Mr. Baseball in Kansas City Award was presented to Senator Harry Wiggins by the Kansas City Royals for furthering the cause of professional baseball in Kansas City. From his initial role in securing funding to build the stadium as a Jackson County Judge, to obtaining a 25 year lease that insured the Royals remain in Kansas City as a Senator, the Royals knew they could count on Harry. The Senator proudly wore his Royals hat, enjoyed spring training with the team, and was truly Mr. K.C. Baseball.

When you look into Harry's blue eyes you see compassion, respect and commitment. He served until term limits forced his retirement from the Senate, and in 2002 joined the prestigious law firm of Blackwell, Sanders, Peper and Martin.

Mr. Speaker, Harry Wiggins is a man who has selflessly served, and who has left his mark on the lives of Kansas Citians and all Missourians. Thank you, Harry, for making our community and state a better place. Mr. Speaker, please join me in saluting this unique public servant.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 20, 2004 may be found in the Daily Digest of today's Record.

MEETINGS SCHEDULED

JULY 21

9:30 a.m.

Armed Services

To hold hearings to examine the nominations of Vice Admiral Timothy J. Keating, USN, for appointment to the grade of admiral and to be Commander, United States Northern Command/Commander, North American Aerospace Defense Command; Lieutenant General Bantz J. Craddock, USA, for appointment to the grade of general and to be Commander, United States Southern Command; Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense for International Security Policy, and Valerie Lynn Baldwin, of Kansas, to be an Assistant Secretary of the Army.

SR–222

Foreign Relations

To hold hearings to examine combating multilateral development bank corruption, focusing on the U.S. Treasury's role and internal efforts.

SD–419

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine regulation NMS and developments in market structure.

SD–538

Finance

To hold hearings to examine bridging the tax gap.

SD–215

Governmental Affairs

Business meeting to consider pending calendar business.

SD–342

Indian Affairs

Business meeting to consider pending calendar business; to be followed by a hearing to examine S. 519, to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans.

SR–485

Judiciary

To hold an oversight hearing to examine the Radiation Exposure Compensation Program.

SD–226

11 a.m.

Commission on Security and Cooperation in Europe

To receive a briefing on the current state of religious freedom in the Caucasus due to recent events in Azerbaijan, Armenia and Georgia.

340 CHOB

2 p.m.

Indian Affairs

To hold an oversight hearing to examine the proposed reauthorization of the Indian Health Care Improvement Act.

SR–485

Armed Services

Personnel Subcommittee

Health, Education, Labor, and Pensions

Children and Families Subcommittee

With the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, to hold joint hearings to examine how states have responded to military families' unique challenges during military deployments and what the Federal Government can do to support states in this important work.

SD–430

2:30 p.m.

Banking, Housing, and Urban Affairs

International Trade and Finance Subcommittee

To hold hearings to examine Islamic banking.

SD–538

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 738, to designate certain public lands in Humboldt, Del Norte, Mendocino, Lake, Napa, and Yolo Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, S. 1614, to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System, S. 2221, to authorize the Secretary of Agriculture to sell or exchange certain National Forest System land in the State of Oregon, S. 2253, to permit young adults to perform projects to prevent fire and

suppress fires, and provide disaster relief, on public land through a Healthy Forest Youth Conservation Corps, S. 2334, to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, S. 2408, to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana, and S. 2622, to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico.
SD–366

JULY 22

9 a.m.
Governmental Affairs
Investigations Subcommittee
To resume hearings to examine the extent to which consumers can purchase pharmaceuticals over the Internet without a medical prescription, the importation of pharmaceuticals into the United States, and whether the pharmaceuticals from foreign sources are counterfeit, expired, unsafe, or illegitimate, focusing on the extent to which U.S. consumers can purchase dangerous and often addictive controlled substances from Internet pharmacy websites and the procedures utilized by the Bureau of Customs and Border Protection, the Drug Enforcement Administration, the United States Postal Service, and the Food and Drug Administration, as well as the private sector to address these issues.
SD–342

9:30 a.m.
Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
SR–253

Foreign Relations
To hold hearings to examine the current situation in Iraq post-transition.
SD–419

Judiciary
Business meeting to consider pending calendar business.
SD–226

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine activities and funding issues of the Appalachian Council and Working for America Institute.
SD–192

10 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine regulation NMS and developments in market structure.
SD–538

Finance
To hold hearings to examine the role of higher education financing in strengthening U.S. competitiveness in a global economy.
SD–215

Health, Education, Labor, and Pensions
To hold hearings to examine preparations for possible future terrorist attacks.
SD–430

Joint Economic Committee
To hold hearings to examine the demographics of health care, focusing on evidence regarding declining rates of chronic disability and assess the best opportunities for further health promotion.
SD–628

2 p.m.
Judiciary
To hold hearings to examine S. 2560, to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement.
SD–226

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold an oversight hearing to examine the implementation of the National Parks Air Tour Management Act of 2000 (Public Law 106–181).
SD–366

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine space exploration of Saturn.
SR–253

Intelligence
To hold hearings to examine intelligence reform.
SH–216

3:30 p.m.
Governmental Affairs
To hold hearings to examine the nomination of Allen Weinstein, of Maryland, to be Archivist of the United States.
SD–342

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

CANCELLATIONS

JULY 21

9:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

POSTPONEMENTS

9:30 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider proposed legislation authorizing funds for programs of the Vocational Education Act, S. 2158, to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation, S. 2283, to extend Federal funding for operation of State high risk health insurance pools, S. 2493, to amend the Federal Food, Drug, and Cosmetic Act to protect the public health from the unsafe importation of prescription drugs and from counterfeit prescription drugs, H.R. 3908, to provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio, S. Res. 389, expressing the sense of the Senate with respect to prostate cancer information, S. Con. Res. 119, recognizing that prevention of suicide is a compelling national priority, and certain pending nominations.
SD–430

10 a.m.
Judiciary
To hold hearings to examine the nomination of Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia Circuit.
SD–226

JULY 22

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine media ownership.
SR–253

SENATE—*Tuesday, July 20, 2004*

The Senate met at 10 a.m. and was called to order by the Honorable MICHAEL ENZI, a Senator from the State of Wyoming.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Awesome God of the universe, Creator of the changes of day and night, giver of rest to the weary, Your works are great and Your ways are just and true. Thank You for Your mercies and for Your blessings on our work. Thank You for the riches of Your grace that make salvation possible. Forgive our doubts, anger, and pride. As we look to You, may we learn to esteem others as more important than ourselves. Give Your wisdom to our Senators that they may be instruments of Your providence. Keep them from sin, evil, and fear, for You are our light and salvation and strength. Give us that peace which the world can neither give nor take away. Fix our minds on the doing of Your will. To You be the glory for endless ages. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL ENZI led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 20, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL B. ENZI, a Senator from the State of Wyoming, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ENZI thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for statements only for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

SCHEDULE

Mr. CRAIG. Mr. President, today, following 1 hour of morning business, the Senate will resume consideration of the nomination of William Myers III to be U.S. circuit court judge for the Ninth Circuit. A cloture vote is scheduled on the Myers nomination at 2:15 today, and that will be the first vote of the day. As a reminder, the Senate will recess from 12:30 to 2:15 to allow the weekly party luncheons to meet. Additional votes are possible today following the scheduled cloture vote. The Morocco Free Trade Agreement may be available, and we may begin consideration of the bill under the statutory limit.

As always, Members will be notified as additional votes are scheduled.

VOTE ON WILLIAM MYERS

Mr. CRAIG. Mr. President, I see the minority leader in the Chamber. I will make a few brief comments prior to him taking the floor.

This morning, we will be in morning business, and I want to make a couple of comments about my frustration at this moment. William Myers is a Ninth Circuit court nominee from the President to fill the Idaho position. He is a phenomenal and highly qualified young man who has served as Solicitor at the Department of Interior. He was nominated well over a year ago and brought before the committee. He handled himself extremely well and professionally. He has been a man who has had experience in both the public and the private sector. He served on the Judiciary Committee under the former Senator from the State of Wyoming. He is a top-flight man.

Yesterday, as we debated the nomination of Bill Myers, no one from the other side came. The reason they did not is that we were served notice some months ago that Bill Myers would not receive a vote this year. We could try to cloture him, but they were going to block a vote against him. Was he qualified? Yes. Should he serve? Yes. Is he the selection of the President? Yes. Should he have an up-or-down vote? Absolutely. But that is not going to happen.

He is now the eighth judge the other side has just flat told us does not serve their political purpose, and therefore they will not allow us a vote. That is constitutional obstructionism in the first order of the advise and consent of our Constitution.

So here is a young man who came to Washington out of college to serve his U.S. Senator, served with honor with the Judiciary Committee, worked for a private organization advising this Senator and the Senator from South Dakota, as well as the National Cattlemen's Association, on grazing; became a private practice attorney; then went as attorney to the Secretary of Interior; has served most honorably and very credibly. He will not get a vote this session of the 108th Congress. Why? Because the other side has just flat said he serves their environmental agenda purposes and therefore we will not be allowed to vote on him.

That is a phenomenally frustrating reality to me as a Senator who believes that we do not have the right to arbitrarily pick and choose, we have the right to advise and consent and to vote them up or vote down, 51 votes or 50 votes, but not to arbitrarily pick and choose to serve the political agenda of a given political party for these purposes. There is no other explanation than the one I have just offered.

If one looks at the broad qualifications of the eight judges who have now arbitrarily been chosen for their political past involvement and therefore the accusation that they might be an activist on the court, that is a frustration of the first order.

So no one came to the floor yesterday to debate him except those of us on the Judiciary Committee advocating his nomination. The votes are so locked in, so fixed, so regimented, that this just is not going to happen. So we will have a 2:15 vote today. It is perfunctory. It is just the way it is going to be, unless we break out of this and say collectively to the Senate as a whole, no, this procedure of misusing the process is wrong. There is a time to debate, a time of reality, a time of broad understanding, but most importantly, under our Constitution, we have never filibustered nor intentionally blocked by demanding a 60-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

vote majority. They have always broken in the past when tried, and ultimately up until this Congress, Presidential nominations received the opportunity of the advise and consent of the Senate by a vote on the Senate floor, not of a cloture but of a majority.

The reason I highlight that is because that is the vote this afternoon. It is a false vote. It is an unnecessary vote for a highly qualified young man who would serve the Ninth Circuit well, a Ninth Circuit court that is now viewed as the most dysfunctional court in the land, where over 90 percent of its decisions are overturned by the Supreme Court. Bill Myers brings common sense to the court, not the radicalism of San Francisco lawyers but common sense spread across the western public land States of our country.

Is that why he is not getting the vote? Very possibly so. And that is a tragedy of the highest order. This is not the kind of day the Senate, this great Chamber, ought to have, but we are going to have it today at 2:15 this afternoon. So it is important that I speak briefly to that.

9/11 COMMISSION REPORT

Mr. CRAIG. Mr. President, I know the minority leader is kindly waiting, but let me say one other thing. We are going to be presented—the press has already been presented—the 9/11 Commission report. I do not have one in my office. I have to go read about it in the New York Times. Thank you, Commission, for being so public that you will not even inform those of us who created you, but we understand they are going to recommend the creation of a czar-like or individual director of intelligence that coordinates all of the agencies.

I have one comment on that only because I have not seen the report, and I do not know that the minority leader has either—we have not had a full opportunity to read it—let us proceed with caution. We have done a great deal of work since 9/11 now to bring these institutions together to coordinate intelligence. We are better off than we were pre-9/11.

I am not sure that I want a Cabinet level, politicized director of intelligence for our country. I do not know that it is a good idea to politicize that. If we put them in a Cabinet level position, by the character of that position we have politicized intelligence. Intelligence should not be politicized. It ought to be factual. And we now know we have had a problem with the facts, but it wasn't just our intelligence community; it was intelligence communities around the world. Bad information makes bad information makes bad reports and can produce bad decisions.

Intelligence is critical and it needs to be of the highest order. I am not suggesting we don't have a top level coordinator/director, but let us think long about the idea of politicizing that person. We have seen the Directors of the FBI stay on through Republican and Democrat administrations throughout history—not always but many times. It brought quality and uniformity to that law enforcement community. It did not politicize it. It is every bit if not more important today, with the war on terrorism, that we build a quality structure, that the information be of the first order, and that it never ever could be suggested or run the test of, well, that person is a political person, that person was appointed because he was a political friend. That is my only caution today, in a preliminary thought, until we get the report and see the facts and the evidence. And I do wish the Commission would let us have the report before they give it to the New York Times. It probably would be a bit more appropriate and give us an opportunity to speak factually and knowledgeably about it.

I thank you, Mr. President. The minority leader has been kind and patient, and I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

ORDER OR PROCEDURE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Democratic half hour be allocated in the following manner: Senator SCHUMER, 15 minutes; Senator HARKIN, 10 minutes; and Senator REID, 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I will use my leader time so as not to take any of the Democratic time.

JUDICIAL NOMINATIONS

Mr. DASCHLE. Mr. President, let me respond briefly, if I may, to the Senator from Idaho. I have respect for him and for much of the work we have done together over the years on many issues, including forest health. But I must say I strongly disagree with his characterization of this particular judicial nominating debate.

Over the history of our 220 years, the Senate has seen fit on countless occasions to require either a threshold cloture vote or, before we had cloture, some resolution to controversial matters involving extended debate. Before we had cloture, there was no way to resolve it. A Senator could see fit to talk about an issue or a nominee for days, weeks, months, and there was no way to resolve it. There were many occasions during the 20th century when this was exactly the case. That evolved, of course, with the implementation of cloture and the use of cloture over the course of the last 100 years. So now we have a rule of the Senate that says on those issues that are controversial, a supermajority is required.

I think for the Senator from Idaho to make the point that there is no vote is just wrong. The vote occurs at 2:15. If the supermajority will move to proceed on this very controversial nominee, you go to the second phase of consideration. But that is what the Senate rules require. I must say that is a far better approach than what we faced during the Clinton administration, when more than 60 nominees never got a committee vote. We go back to the old days of the 20th century during the Clinton years when you didn't even have an opportunity for cloture because the Judiciary Committee refused to act on over 60 nominees. So this is an improvement, to say the least, over that.

As to the qualifications of Bill Myers, I will simply say the ABA does not share the view of the Senator from Idaho with regard to his qualifications. It is very rare for the ABA not to categorize a nominee as qualified—extremely rare. They have not done so in the case of Bill Myers. "Partially qualified," but do we really want a "partially qualified" nominee to serve on the circuit court of our land?

It is rare—in fact, it is unprecedented—for the Native-American community in the United States to take a position on a judge. They have never done so. The Native-American community in South Dakota and North Dakota, in all Western States around the country, has come together with one voice to say this man ought not be a circuit court judge—unheard of. We have never seen that before.

We have never seen the National Wildlife Foundation take a position on a judge, but they, too, have said please do not confirm this nominee. Why? Because of what limited record he had with regard to judicial issues. He virtually has none as Solicitor. There is no real court experience, with a couple of exceptions. So you have somebody with at least, arguably, some ethical questions that have not been addressed; you have major communities such as the Native-American community in our country in an unprecedented statement in opposition; you have the ABA that has said they are reluctant to support this nominee because he is only "partially qualified."

So, Mr. President, clearly it is those and many other factors that led every single Democrat, in a rare demonstration of opposition in the committee, to oppose this nomination. We have now approved, I believe it is 196 nominations—198 nominations. That is a record that surpasses Bill Clinton, the first President Bush, and Ronald Reagan. This President's three predecessors have not had a record of confirmation equal to his.

I must say it is interesting, and I would note, that my colleague from Idaho, who just abhorred this current circumstance regarding cloture on a nominee, voted against cloture, voted to sustain the extended debate, ironically, in the circumstances involving another Ninth Circuit nominee, Richard Paez. They voted to continue the debate, not to vote for cloture, not to terminate the debate, not to move to that second phase. So I would certainly ask the distinguished Senator at some point for his explanation as to why it was appropriate to extend debate in that case but not in this case.

THE WORKING POOR

Mr. DASCHLE. Mr. President, 60 years ago Franklin Roosevelt gave one of the most memorable State of the Union speeches in our history.

As he spoke, Germany occupied all of Europe. Americans were dying in battle abroad and sacrificing for the war effort at home.

Total victory was uncertain. But that did not diminish President Roosevelt's optimism and vision.

In his address, he said the Nation had accepted a Second Bill of Rights that, he said, would create "a new basis of security" for all.

In this Second Bill of Rights, President Roosevelt cited the right to a decent home, a good education, and dependable health care; the right to fair prices for farmers and free competition for business; and the right to be free of the fears of hardship caused by old age. But first, and most fundamental, he called for the right to work for a fair wage.

Our country should be proud of the extraordinary progress we have made in many of these areas. Together we have made our country better, stronger, and more secure. There is, though, more work to be done, and today I want to focus on President Roosevelt's call for a fair wage.

No value is more fundamental to the American character than the value of work. No ideal is shared so widely or cherished so deeply.

No principle binds us more closely to the generations of Americans who built up our country, and the millions of new Americans who came to our shores to join in the effort. And no conviction so unites the conservative and liberal traditions of our Nation.

Ronald Reagan once said that:

> People in America value family, work, and neighborhood. These are the things we have in common socially and politically. When it comes to the bottom line, all of us are striving for the same thing—a strong and healthy America and a fair shake for working people.

There is a fundamental American truth in those words—working people deserve a fair shake. It has always been the promise of our country, and as we debate legislation here in the Senate, we should do all we can to give life to that promise.

We should make certain that no American who works full-time lives in poverty. Unfortunately, the gap between promise and reality is widening. Among full-time, year-round workers, poverty has doubled since the late 1970's to 2.6 million workers. All told, the working poor are raising 9 million American children.

Moreover, as recent work by the Family Economic Self-Sufficiency project shows, the level of income it now takes just to pay the basic bills is far above what we consider to be the poverty line. No working American wants a handout. These families are playing by the rules. But as hard as they work, they cannot escape the grip of poverty.

A few weeks ago a Sioux Falls family sent me a letter. The father works 56 hours a week as a skilled welder. His wife is a substitute teacher who only works part-time so she can care for her son, who suffers from autism and diabetes. They live in a 20-year-old mobile home that has sinking floors and a leaking ceiling. They wrote:

> We are facing possible foreclosure. Lights, heat, phone, etc. are all 60 plus days past due and on the verge of disconnection. . . . Medical bills have been turned over to a collection agency.

Their final question was: "Now what?"

They feel trapped. Since they can't afford insurance, their son's medical bills have erased their savings and destroyed their credit. Without good credit, interest payments eat up much of their income. And without affordable child care, the family's mom can't shift to full-time work, which could help lift them out of poverty.

They are working as hard as they can and want to work even harder. But that doesn't seem to be enough. They are farther away from President Roosevelt's vision today than when they first wrote to me. It's in our national interest not to look away from this difficult problem, but to face it squarely and honestly.

If the people who work hard don't get a fair shake, then our Nation risks losing an essential value that has contributed to America's excellence and ongoing success. We cannot let that happen. We should not kid ourselves and pretend this is an easy problem. It is not. It is enormously complicated. But there are things we can and must do.

First, it is important that American business leaders live up to their responsibility as good corporate citizens and share the benefits of increased productivity with their workers, not just their shareholders. The Chief Economist at Merrill Lynch recently noted that there's been a notable "redistribution of income to the corporate sector." While salaries have remained flat over the past 4 years, corporate profits now occupy a greater share of our GDP than at any point since tracking began nearly 60 years ago. We are moving in the wrong direction, and leaders in the private sector have a responsibility to help us move back in the right direction.

Here in Congress, we also have a responsibility to address the problems confronting the working poor, and we should start by requiring a long overdue increase in the minimum wage. Today, the minimum wage of $5.15 per hour is worth $3 less than it was in 1968. Americans who work at the minimum wage for 40 hours a week, 52 weeks a year, still fall $5,000 short of the poverty line. That means, as the Sioux Falls family knows, that adequate housing, enough food to eat, health insurance, and college funds are the stuff of fantasy, not reality. In the time we have left this year, we should increase the minimum wage to $7. That won't solve all our problems, but it is a beginning.

We should also revisit the Earned Income Tax Credit. It was created 20 years ago as an incentive to help working families lift themselves out of poverty through hard work. President Reagan called it the "best anti-poverty, the best pro-family, the best job creation measure to come out of Congress." I agree. Now we need to expand it, so that every American child grows up seeing that work is rewarded and respected.

We should also make sure all families receive their fair share of the child tax credit. Extending the credit to all working families would restore a basic level of fairness and offer millions of working families the same child tax credit given to those higher up the income ladder.

We must also acknowledge that despite the many benefits of globalization, it has placed downward pressure on low income wages. We won't make progress if our wages fall faster than the prices for the products we need.

"What do the American people want more than anything else?" President Roosevelt asked in 1944.

This was his answer:

> To my mind, they want two things: work, with all the moral and spiritual values that go with it; and with work, a reasonable measure of security. . . . Work and security. These are more than words. They are more than facts. They are the spiritual values, the true goal toward which our efforts should lead.

That was the challenge 60 years ago, and it remains a central challenge today. It is, as President Roosevelt said, "our duty."

I hope we can all join together to make that vision a reality for millions of hard-working and honest Americans.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much of our morning business time has elapsed?

The ACTING PRESIDENT pro tempore. There are 22 minutes remaining; 8 minutes has elapsed.

THREE YEARS OF PROGRESS

Mrs. HUTCHISON. Mr. President, I want to talk today about the 9/11 Commission report, the war on terror, and the progress we have made since we were attacked 3 years ago in this country.

For years, terrorists have attacked the United States with little or no reaction from us. We have highlighted time and time again the trail of terror that led to September 11, 2001.

In 1993, terrorists bombed the World Trade Center, killing 6 people and wounding more than 1,000. It is still not fully solved.

In 1996, terrorists bombed the U.S. military living quarters at Khobar Towers, Saudi Arabia, killing 19 brave Americans and wounding scores more—never solved.

In 1998, followers of Osama bin Laden attacked U.S. Embassies in Kenya and Tanzania, killing and wounding hundreds—never solved.

In 2000, Osama bin Laden's followers attacked the U.S.S. *Cole* in a harbor in Yemen, killing 17 sailors and wounding 39 more—not solved.

Sadly, it took four hijacked airplanes being turned into weapons of mass destruction and the loss of nearly 3,000 innocent Americans and visitors to our country for us to resolve that we had been attacked, our way of life had been attacked, and the United States of America is going to fight back. We are in a war on terrorism.

The 9/11 Commission is going to report on Thursday, and we know there will be blame for everybody about the failure of our intelligence capabilities. The administration of President Bush provided unprecedented access and cooperation to the Commission because the President said we want to know what went wrong so we can make it right. The President himself said:

> The 9/11 commission will issue a report this week and will lay out recommendations for reform of the intelligence services of the United States. I look forward to seeing those recommendations. They share the same desire that I share which is to make sure that Presidents and Congress get the best possible intelligence. I have spoken about the reforms, and some of the reforms are necessary—more human intelligence, better ability to listen and see things and better coordination among the various intelligence gathering services.

This is what President Bush said about the 9/11 Commission. He went further to say:

> Based on published accounts, we expect the commission report will show that government institutions failed to adapt to the threat of terrorism over more than a decade, enabling terrorists to exploit dangerous weaknesses in our defenses. We expect the commission to confirm that the blame for the 9/11 attacks lies squarely and exclusively with al-Qaida. It is clear as the threat of international terrorism evolved over more than a decade that our national security and counterterrorism institutions did not resolve to meet the threat under both Republican and Democratic administrations, Republican and Democratic Congresses. The kind of systematic changes and reform that might have made it more difficult for the terrorists to strike on 9/11 did not take place.

We have established that we can put the blame everywhere—in Congress, with Republicans, with Democrats, with administrations of the past and administrations of the present. We have taken some steps already as the Commission hearings have resolved.

We have taken the steps of implementing a new policy on terrorism by holding to account terrorist groups and the states that sponsor them and not allowing dangerous threats to gather overseas unchecked. We have cut off their money supply in many instances where we could with cooperation from allies.

We have transformed the FBI into an agency focused on preventing terrorist attacks through intelligence collection and other efforts while also trying to help it perform its traditional role as a world-class law enforcement agency for investigating terrorism and other crimes.

We conducted the largest reorganization of the Federal Government since 1947 by creating the Department of Homeland Security, bringing unparalleled focus and resources to homeland security efforts.

We have dramatically increased security on airplanes and other transportation systems on our borders and in our ports, providing significantly increased support for America's first responders.

We have broken down the unnecessary "wall" between law enforcement and intelligence gathering with the USA PATRIOT Act and with internal procedures and guidelines that are reformed so that our intelligence agencies and our law enforcement agencies can do their job without artificial restrictions that would keep them from doing something as simple as tracing through cell phones potential terrorists who are planning some kind of action against innocent law-abiding Americans.

We are going to challenge these security issues. We are not going to ignore them. We are not going to wait for a future tragedy.

Recently, President Bush articulated three commitments in our strategy for peace.

First, we are defending the peace by taking the fight to the enemy. We are not sitting here waiting for the enemy to come back to America; we are taking the fight where the enemy is. We are taking the fight to the Taliban resurgents in Afghanistan. We are taking the fight to Iraq where, Heaven knows, we have seen the brutality of Saddam Hussein in his support for terrorists by giving $25,000 rewards to suicide bombers in Israel.

Second, we are protecting the peace by working with friends and allies and international institutions to isolate and confront terrorists and outlaw regimes. We are laser-beam focused in the war on terrorism.

We are working with the United Nations, the International Atomic Energy Agency, and other international organizations to take action for our common security. We are not facing a security threat just in the United States; we are facing a security threat to every freedom-loving country. Every country that lives in freedom is a target. We have seen it in bombings throughout the world, and recently in Spain.

Third, we are extending the peace by supporting the rise of democracy.

It is absolutely proven that in democratic and successful societies, men and women will not allow the malcontent and zealots and murderers to stay among them. They turn their labor to rebuilding and to better lives.

Is there one person in the world who has children who doesn't want the best for them? Is there a person in the world who doesn't want an education for their children so their children will have a better life than they did? Is there one person in the world who doesn't want that? It is clear that the way to get education for every child and a quality of life that would be good for every child to grow up in is democracy and freedom. That is how you get it. That is what we are trying to provide. We are doing it in places such as Afghanistan and Iraq where they haven't known freedom for years. We have some successes.

Look at Afghanistan. Three years ago, Afghanistan was the home base of al-Qaida, ruled by the Taliban, the most cruel of regimes imaginable. The things they did to women and children are unimaginable in our country. Today, Afghanistan is looking at a presidential election this fall. The terror camps are closed. The Afghan Government is helping us to hunt down the remnants of the Taliban. The American people are safer because Afghanistan is now stabilized with a great President, Hamid Karzai, who wants for his people the same thing that everybody wants—freedom, democracy, education, good health care, jobs, and an economy. He is trying to provide it, and we are helping him, and we are safer because of it.

Let us look at Pakistan. Three years ago, Pakistan was a country that openly recognized the Taliban. Al-Qaida was active. They were recruiting in Pakistan. The United States was not on really good terms with Pakistan at that time, but today, we see a great ally in Pakistan. President Musharraf is a friend to our country. He is making reforms in Pakistan and trying to root out the same Taliban/al-Qaida network in the remote regions that have terrorized Afghanistan and, in fact, have hurt the people of Pakistan as well. It was Pakistan that helped us capture Khalid Shaikh Mohammed, the planner of the 9/11 attack on America.

Who could say we are not safer today because we have an alliance with Pakistan and an alliance and a stake in the stability of Afghanistan?

Iraq, 3 years ago; where were the people of Iraq? The ruler of Iraq was an enemy of our country. He was a mass murderer. He had used weapons of mass destruction on his own people.

Today, we see pictures of him in a system of justice which he never allowed his own people. But he is going to have justice. It is going to be given justice by the people he treated so horribly. The people of Iraq are seeking justice.

The people of America are safer because Saddam Hussein is gone. He is not giving $25,000 to the family of a suicide bomber to blow up a bus in Israel and kill children. We are safer because there will be elections in Iraq. By next January, we will see the people of Iraq speaking about their own government. In fact, U.N. Secretary Kofi Annan has named a career diplomat to the post that has been vacant since suicide bombers blew up the U.N. headquarters in Baghdad last August, killing the last U.N. representative there. America is safer because Saddam Hussein is behind bars and because his sons are no longer torturing and maiming hundreds of people in Iraq.

Saudi Arabia, 3 years ago; Saudi Arabia had terrorists within its midst and they were looking the other way. Today, Saudi Arabia says they are trying to find the attackers. They are finally realizing the growth of these terrorist regimes hurt their people, too. We are going to try to help Saudi Arabia in every way they ask us to help, to root out the terrorists who have fomented in their country.

If there is no place for the terrorists to hide in the Middle East, and if people are starting to see an economy, and if there are democracies emerging in places such as Iraq, it will change the course of the whole Middle East.

Libya, 3 years ago; Libya, a longtime supporter of terror, was spending millions of dollars to acquire chemical and nuclear weapons. Today, thousands of Libya's chemical munitions have been destroyed. The Libyan Government finally saw that the civilized world was not going to sit back any longer and let it continue to proliferate weapons of mass destruction. Muammar Qadhafi, in Libya, said: We are going to abandon any chance for nuclear weapons to be produced in our country.

We are seeing the breakdown of the terrorist regimes, one by one, in the Middle East. Why are we seeing the regimes go away and the beginnings of democracy come forward? Because our President has been focused. He has not relented in the war on terrorism. He has not relented in his responsibility to protect the people of America. Everything he has done has been with one goal in mind and that is to protect the people of America. That is the President's focus and that is why we are as far along as we are.

Let me read from an AP story about the success of the newly emerging Iraq stock exchange. From the AP on Sunday, July 18:

> The miniature Liberty Bell clanged. Elbows flew. Sweat poured down foreheads. Sales tickets were passed and, with the flick of the wrist, 10,000 shares of the Middle East Bank has more than doubled in value.
>
> The frantic pace Sunday of those first 10 minutes of trading typified the enthusiasm behind the Iraq Stock Exchange—a new institution seen as a critical step in building a new Iraqi economy.
>
> In just five sessions, trading volume has nearly quadrupled and the value of some stocks has surged more than 600 percent. . . .
>
> The exchange's chief executive, as he eyed the activity on the trading floor, which is housed in a converted restaurant because looters had gutted the old exchange, looked out and said: How can I not be excited about this?

The unofficial figures of the day's trade tell the story. Over 10 million equivalent dollars in stocks changed hands, reflecting the movement of 1.43 million shares—although only 27 companies are listed on the exchange.

That is just one more step in the stabilization of Iraq. America is going to stay to help Iraq as they recover from the brutal regime of Saddam Hussein. As long as we are asked to stay to stabilize, we will be there. When we are no longer needed with the allies that are staying with us, we will happily leave that country in the hands of trained military personnel for security and in the hands of elected democratic leaders selected by the vote of the people.

Today, we see the emerging of the temporary government of Sunnis and Shiites and Kurds, working together to create a unified Iraq that will be able to hold elections for that country.

We have more to do. We all know we have more work to do. Our President has done so much in 3 years, rebuilding the areas of New York that were hit by terrorists, building up our security network, spending billions for homeland security, focusing on airline, airplane, and airport security, port security.

We live in a big country. We live in a free country. It is hard to get control in a free country of every potential site that a terrorist might attack. But because we are free, the people of our country are stepping up to the plate, too; they are helping. They are being vigilant. They are looking for things that are strange and reporting them. We believe attacks have been averted because of the vigilance of the President and Congress and the people of the United States.

We must remain a united country. When I hear some of the debates in the political arena, it is as if people are saying, we are two different countries; we are a divided country.

We are not a divided country. We need leaders who recognize we are not a divided country. We are a unified country. We need leaders who will unify America and talk to the people about what we can do together that will make us stronger, standing up and celebrating our diversity, showing how it can work in a free and democratic society. That is what we are proving by leading as unifiers.

We have a President of the United States who is leading for security and unification of our country. We must work with the President as a united Congress to combat terrorism for the security of our people.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 15 minutes.

THE 9/11 COMMISSION REPORT

Mr. SCHUMER. Mr. President, I rise today to discuss the imminent release of the final report of the 9/11 Commission. The Commission's report will be the final product of a long and comprehensive process that has at times deeply touched the families of those who were lost on 9/11 and has questioned the ability of our Government to defend against a new terrorist threat.

As the Commission issues its report, the state of the Union on homeland security is not good enough. Are we better off than we were on 9/11, as my colleague from Texas has mentioned? Yes, we are. Are we doing everything we can to protect ourselves? Absolutely not. Are we putting the same energy in the homeland to defend ourselves that we are putting into the war overseas? No, unfortunately not.

Time and time again, on homeland security, we are not doing enough. And the view of the White House is that it takes a back seat to fighting the war on terror overseas. Dollars that are needed for so many projects are not forthcoming in this administration's budget or from the Congress, for that matter. That is a bad thing and a sad thing for America.

That is why this report that the Commission is issuing is so important. It is my hope, it is my prayer, that it importunes us to do more so that another 9/11 will never happen.

First, I would like to address the Commission itself. They have done a remarkable job. This Commission, as we know, was created with a mandate of exploring how the United States became vulnerable to a terrorist attack as large and as complex as that attack which so hurt us on 9/11. The Commission was resisted by the White House and by some in this body. But it was the families that forced it to happen: the four brave widows from New Jersey who said they would not rest until there was a commission. Those families and many other families of the victims in New York, my State, were relentless in not only forcing a commission to occur, but in forcing it to be a bipartisan commission, a nonpolitical commission that had full power to get to the bottom of what happened.

I can tell you, having spoken to many of the family members, they only had one mission. They are Republicans and Democrats; they are conservatives, moderates, and liberals. Their mission was a simple one. Walking with holes in their hearts because their loved ones had been taken from us in such a cruel event, their mission was a generous one, I might say a noble one: that this never happen again. Their view, which I think America has accepted, is that the only way we can prevent a future 9/11 is to learn of the mistakes that were made before 9/11.

The Commission was led by two remarkably nonpartisan figures: Governor Thomas Kean, Republican of New Jersey; Congressman Lee Hamilton, Democrat of Indiana. They steered the Commission away from finger-pointing, away from blame, away from partisanship but, rather, toward "just the facts, ma'am," as Jack Webb said on "Dragnet." Just the facts is what they wanted to find out so we could then learn of the mistakes that were made—not to excoriate, not to blame, but, rather, to correct and make sure it does not happen again.

The Commission dutifully pursued this task, despite resistance from many quarters in Washington. It did not shirk from even the most troubling aspects of its investigation.

The final report is about to be released this week. It is important that every one of us, that every American, learn of its findings, and we make sure our Government, without delay, examines those recommendations and then acts to make us safer still.

There are a couple of things that have come out already about what the Commission wants. They have recommended there be a Cabinet level appointee of the President to be in charge of all intelligence. It makes eminent sense, in my judgment. We cannot even count the number of intelligence agencies there are. And so many of them are too interested in turf. One agency finds out something and does not tell another so they might gain a leg up. There is a lack of coordination, even the fact that their computers do not talk to one another. It all hurts every one of us in terms of our desire to be secure and make sure another terrorist attack does not occur.

By having one Cabinet officer in charge of all intelligence, with budgetary authority, that Cabinet officer can enforce a regime which will require all of the agencies to cooperate with one another.

There will also be some structural changes within the agencies. In the FBI, an agency I have been very interested in, I am hopeful the Commission will recommend something I know they considered, and I think may well recommend, which is there be a separate part of the FBI dealing with counterterrorism.

The FBI's mission in the past has always been to find out who did crimes and prosecute them. The FBI does a very good job of that. But counterterrorism is different. We have to prevent crimes. It requires a different mentality. It is my hope we will rearrange the FBI. Some have recommended a separate agency for counterintelligence. I think that may go too far. But to have a reorganization within the FBI makes a great deal of sense.

Now, these are a few of the recommendations that will come out. There are going to be many more. Let me just say, the tendency of some here in Washington, some in the White House, when they hear news they disagree with or that points to an error that was made, instead of responding on the merits and saying, Here is why you are wrong, or here is why we want to do it differently, they disparage the messenger. They call them not patriotic. They call them political. They call them partisan.

This Commission, if ever, is not partisan and is not political. We should listen to their recommendations, and I hope there is not delay. Some are going to say: Let's wait until next year on their clear-cut recommendations. If the rumors are correct, the Commission will be unanimous. All the Democrats and all the Republicans will have one set of recommendations. So, again, it is not partisan, and there is an equal number of each party on the Commission. We should not wait. To wait until next year—a new Congress, maybe a new President—will delay us. These recommendations should not be put in a political context and should not be looked at in light of the political calendar that is upon us. We should immediately move, in September, when we return, to enact these recommendations. We may choose to modify them. Perhaps the body will reject them.

There is a lot of talk that the Defense Department and the CIA will oppose having an overseer above them. We will have to debate that. I hope we listen to the Commission. But to delay would be delaying our safety.

So I hope and pray we will move quickly and move forward and not either kneecap the Commission—because already I saw some column by a very conservative gentleman who said: The Commission, forget about it. All this writer was interested in was saying the President did everything right.

Whether you are a Democrat or Republican, whether you are a liberal or a conservative, we know that neither this President nor prior Presidents of both parties did everything right or we would not have had a 9/11.

So, again, let us not put our defensive shields up and hunker down for a fight. Let us make this one of those rare moments of bipartisanship, as the Commission itself has, and adopt their recommendations.

Now, let me say, as somebody who cares a great deal about homeland security, there are a number of areas where we are not doing enough. I don't know if the Commission will address these, but I hope so. We have done a pretty good job on air security. Flying is a lot safer and less prone to terrorism today than before 9/11. But we have not done everything there. One big problem is shoulder-held missiles. We know terrorists have them. God forbid, they smuggle some of those into the United States and shoot down 5 or 10 planes at once in Boston, or New York, or Houston, or Seattle, or Denver, or Chicago. We are not doing enough there.

We are doing far too little on port security. The percentage of the big containers that come into our Pacific ports, Atlantic ports, and gulf coast ports that are inspected is too few. The technology has not been implemented as quickly as it might be.

On truck security and rail security, Madrid was a wake-up call. We are far behind what we should be doing.

The unfortunate problem is that the terrorists have access to the Internet just as we all do. They are on it diligently looking for where we are weak. If we strengthen air security, they will look to the ports. If we strengthen the ports, they will look to the rails. So we have to have a multifront war. We are not doing enough.

On so many of these issues, as somebody who comes from New York and still lives with the grief that so many of my constituents feel, I can tell you we are not doing close to enough. Oftentimes, it is not that we don't have the technology and not that we don't have the ability; it is that we don't put in the money that is needed. I think if you ask most Americans what their priorities are, homeland security would be at the top of the list. Unfortunately, we get a lot of talk and not much action.

Another place where we are way behind is how we give out our homeland security funds. To its credit, the first year, the administration really allocated the money on the basis of need. My State of New York got about a third of the funds, which is probably right. But then they abandoned ship.

Once Mitch Daniels left, who was head of OMB, a true conservative who didn't want to spend money, these homeland security funds became pork battle and they are spread thin.

I say to the Chair, I know everybody has some needs, but to have his State get, on a per capita basis, far more dollars than mine in terms of homeland security, I don't think seems right, much as I want to protect both. Over and over again, on homeland security funds, we have not allocated it to the places of greatest crisis. That, too, is a problem.

So the bottom line is this: I hope this report will be what it should be, a wake-up call—a wake-up call that, on intelligence, our agencies are too disparate, they don't talk to one another or coordinate with one another. They are not doing the job they should and we have to correct that. I hope it is a wake-up call that here at home on homeland security we are not doing enough. It is common knowledge that, as so many say, to win a basketball or a football game you need both a good offense and a good defense. We have an offense out there all right. I have been largely supportive of that offense. But we are not doing enough on the defense. You cannot win a game without a good defense. I hope it is a wake-up call on defense as well. I hope it is a wake-up call.

I hope the report will be comprehensive, and that it will talk about so many things—immigration, rail, port, truck security, and air security. It will talk about all of the things that we did wrong before 9/11. Again, instead of finger-pointing, instead of seeking blame, instead of ducking, let's hope this report importunes the Congress, importunes the White House to one of its finest hours in that we spend some time in September, after having had plenty of time to analyze the report, to implementing its recommendations—at least the ones the Congress sees fit. It would be unacceptable for us to just look at the report for a day and then do nothing. That would be a dereliction of our duty to our citizens to do what we are required to do, that which the Constitution requires us to do—protect the security of Americans.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, how much time do I have under the order?

The ACTING PRESIDENT pro tempore. Ten minutes.

LEAK INVESTIGATION

Mr. HARKIN. Mr. President, I am here on the Senate floor again today to remind my colleagues, and those who may be watching on C-SPAN, that it has now been 1 year and 6 days since two high-ranking White House officials leaked the name of agent Valerie Plame, a CIA agent, to a columnist by the name of Robert Novak, who then published it in his column. Two high-ranking White House officials leaked this name to more than one reporter. It is interesting that no other reporters reported it except Robert Novak.

Here we are 372 days—1 year and 6 days after this crime was committed. We still have no answers about who in the White House was responsible for this leak. We still have no assurance from the President or the Vice President that those who are responsible do not still remain in high-ranking decision making roles in the White House. They are probably still there.

This administration has failed to find and punish the officials responsible for this criminal action. Ms. Plame's identity was leaked by senior White House officials only 8 days after her husband questioned in print one of the key administration justifications for the war in Iraq; that is, that Iraq had sought to buy uranium ore from the country of Niger.

This blatant defiance of public accountability weakens our country. It damages our international credibility and undercuts our human intelligence efforts at a time when they are needed more than ever. It is just one example of the way this administration has weakened America's standing in the world.

I will speak further to this issue during the remainder of the week. Again, I will continue to point out how this has weakened America. Last month, for example, a group of 26 former senior diplomats and military officials who worked for Presidents of both parties, Republican and Democrat, issued a compelling statement about the damage the administration has done to our security. Their statement said:

> Our security has been weakened.

It said further:

> [The] Bush administration has shown that it does not grasp the circumstances of the new era and is not able to rise to the responsibility of world leadership in either style or substance.

When a former Ambassador, Joseph Wilson, raised issues that questioned part of President Bush's rationale for the war in Iraq, this administration attacked him politically, and then went after his wife. And the smear campaign continues, as we have seen in recent columns and four statements this week.

I am not here to criticize or defend former Ambassador Joseph Wilson. I am here to make the point that when he dared to question whether one of the President's justifications for the war in Iraq was correct, the White House was so intent on discrediting him that they were willing to expose the identity of an undercover CIA agent in an act of vicious political retribution. They were willing to break the law, and to damage the relationship between the White House and the intelligence community. This administration purposefully stretched intelligence data they knew to be questionable to justify the war to the American people and to Congress.

According to the Senate Intelligence Committee report, in February of 2002, the CIA sent former Ambassador Wilson to Niger to investigate claims that Iraq had sought to purchase Nigerian uranium ore. His trip and subsequent debriefing neither verified the claim, nor disproved it. Following his trip, the intelligence community continued efforts to verify the claim.

In October of 2002, the White House sought to include that claim—that Iraq had tried to buy uranium ore from Niger—in a policy speech by the President that was to be given in Cincinnati. But the CIA had such serious concerns about this being in his speech that they sent a memo to the White House seeking changes. The CIA did not think these concerns were being taken seriously, so the following day, they sent a second memo that urged the information be deleted from the President's speech.

So now we have two memos to the White House on subsequent days asking that this be taken out of his speech because "the evidence was weak" and that the CIA had told Congress that "the Africa story was overblown." That same day, CIA Director Tenet personally called Deputy National Security Adviser Stephen Hadley to express his concerns about using this information in the speech. And guess what. It was taken out of the President's speech by Stephen Hadley, the Deputy National Security Adviser.

That is how concerned the CIA was about this information and about the credibility of the information: two memos and a personal call from the Director of the CIA to Deputy National Security Adviser Hadley. It was taken out of the President's speech. This is October.

Between October and January, both the State Department and the CIA obtained copies of documents that purported to be a uranium ore purchase agreement between Iraq and Niger. As I heard, these documents came from someplace in Italy. But the State Department determined the documents were probably a hoax.

So between October and January, there was even more reason to doubt the credibility of these uranium ore claims. Nonetheless, when the President took the floor in the House Chamber to give his State of the Union Message, what happened? Those claims were included in his speech.

Who was the person responsible for vetting, for clearing these kinds of statements in the President's State of the Union Message? Guess what, it was Stephen Hadley, the Deputy National Security Adviser. He was in charge of vetting the national security issues for the President's State of the Union speech. This was the same person who just a couple of months before had received two memos and a personal phone call from Mr. Tenet, the head of the CIA, telling him these claims were highly suspect. But these words made it into the President's State of the Union Message. Thus, the White House, in its determination to wage war, included information they knew to be questionable to justify the war in Iraq.

Six months later, when Joseph Wilson questioned that information, two senior White House officials undertook a campaign to destroy the career of his wife. Who would have known that Valerie Plame was married to Joseph Wilson? Maybe some in the CIA knew it. I don't know who else knew it. They had different names. She was deep undercover. She was not given diplomatic immunity. She was very deep undercover in the CIA.

In the process of blowing Ms. Plame's cover, these White House officials cost the people of this country a 20-year investment in Valerie Plame. They placed into jeopardy her entire network of contacts and CIA operatives. They caused the entire intelligence community to question whether they might be next and be exposed. Thus, they weakened the reputation of this country at home and abroad.

Don't take my word for it; take the words of three former CIA high-ranking officials. Vincent Cannistrano, former chief of operations and analysis at the CIA counterterrorism center, said of the Plame disclosure:

> The consequences are much greater than Valerie Plame's job as a clandestine CIA employee. They include damage to the lives and livelihoods of many foreign nationals with whom she was connected, and it has destroyed a clandestine cover mechanism that may have been used to protect other CIA non-official covered officers.

Or the words of James Marcinkowski, a former CIA operations officer, he said:

> The deliberate exposure and identification of Ambassador Wilson's wife by our own Government was unprecedented, unnecessary, harmful, and dangerous.

Larry Johnson, a former CIA analyst, said:

> For this administration to run on a security platform and to allow people in this administration to compromise the security of intelligence assets I think is unconscionable.

No one listening to these three men could have any doubts about the damage this act has done to our intelligence community and the extent to which this has weakened America.

We have seen that this administration has put relentless pressure on the intelligence community to justify the war. I have been informed that Vice President CHENEY personally went to the CIA headquarters—personally went across the river in Virginia to the CIA headquarters—at least eight times in the months when this intelligence data was under review. The Los Angeles Times reported last week that the Vice President's office even prepared its own dossier of all the information they thought should be used by the Secretary of State to justify the war, much of which the State Department rejected.

My question is, what was Vice President CHENEY doing visiting the CIA over eight times? This is unprecedented—unprecedented.

And my final question is this: Where is the same drive and determination by the President or the Vice President when it comes to finding those responsible for the breach of national security this leak caused?

The people who exposed Valerie Plame broke the law. Title 50 U.S.C., section 421. It is very clear on this: Any person who has access to classified information that identifies a covert agent shall be fined or imprisoned not more than 10 years or both.

I ask unanimous consent that the exact words of 50 U.S.C., section 421, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TITLE 50.—WAR AND NATIONAL DEFENSE

CHAPTER 15.—NATIONAL SECURITY, PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION, 50 USC §421 (2004)

§421. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources.

(a) Disclosure of information by persons having or having had access to classified information that identifies covert agent. Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than ten years, or both.

(b) Disclosure of information by persons who learn identity of covert agent as result of having access to classified information. Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(c) Disclosure of information by persons in course of pattern of activities intended to identify and expose covert agents. Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than three years, or both.

(d) Imposition of consecutive sentences. A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.

Mr. HARKIN. Mr. President, this law does not make any exceptions. It does not say, you can be fined or put in prison unless your spouse has gone against the administration's policy. It does not have that in here. No one is excused, not even, in my opinion, Mr. Novak.

One year and 6 days later we are still waiting for some action to be taken against those who broke the law. I have said repeatedly, if the President wanted to know the identity of these high-ranking officials, he could have done so within 24 hours. Clearly, Mr. Bush does not want to know the identity of the leakers, and when he was asked about it, he just dismissed it out of hand, smiled about it, said: There are a lot of leakers, who knows, a lot of people in the administration, and he just brushed it off. Where is Mr. Bush's sense of outrage that two people would do this and so weaken America's national security?

I think getting these answers means only one thing: The President of the United States, Mr. Bush, the Vice President of the United States, Mr. CHENEY, should be put under oath and filmed at the same time and deposed and asked these questions. One might say: Senator, that is an awful drastic step to be taken to put the President and Vice President under oath. I remind my colleagues that just a very few years ago a former President was put under oath and questioned under oath and filmed, and we sat in this Chamber and watched on television sets the deposition of former President Clinton when he was put under oath.

Regardless of how one may have felt about the impeachment one way or the other, I think the fact that the President was put under oath and questioned sent a signal very loudly and clearly to the people of this country: No one is above the law, not even the President of the United States. If it was good enough for a former President, it is good enough for this President.

The ACTING PRESIDENT pro tempore. The Senator has consumed the 5 minutes allocated to Senator REID as well.

All time has expired on the Democratic side.

Mr. LEAHY. Mr. President, am I correct that we will now go to the Myers nomination?

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF WILLIAM GERRY MYERS III TO BE A UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and resume consideration of Calendar No. 603, which the clerk will report.

The legislative clerk read the nomination of William Gerry Myers III of Idaho to be United States circuit judge for the Ninth Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12:30 p.m. shall be equally divided for debate only between the chairman and the ranking member or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, on this side I have how much time?

The ACTING PRESIDENT pro tempore. There is 34½ minutes.

Mr. LEAHY. Mr. President, not long ago the Democratic leadership reached an agreement with the White House that both sides believed was reasonable and fair. Actually, it was the Democratic leadership, the Republican leadership, and the White House. We agreed to hold votes for 25 of the President's judicial nominees, including one that was so controversial that he received what might have been the highest number of "no" votes ever from both Republicans and Democrats for a confirmed judge.

Now in return for those good-faith votes, the White House agreed not to make any more recess appointments of judges for the remainder of the President's term. So we fulfilled our end of the deal. When we were in the majority during 17 months, we moved 100 of President Bush's nominees. In about 27 or 28 months, the Republican majority has moved another 98 or 99. Of course, we brought up for consideration and agreed to consideration of all 25 of the judicial nominees we had agreed on with the President.

Probably on the basis that no good deed goes unpunished, especially with the most political, poll-driven administration I have seen in the time I have been here, the day after the debate and this extremely closely divided vote on the last of the group of those 25 judicial nominees, one many Republicans voted against, President Bush flew to North Carolina and then on to Michigan in an effort to politicize this issue anew. It appears that nominating and appointing his most ideological, partisan slate of judicial nominees is not enough for this President.

Besting the confirmation record of Ronald Reagan, former President Bush, and President Clinton does not satisfy him. The President continues to insist that every nominee, every nomination he makes to a lifetime, well-paying position, must be confirmed by the Senate because he is President, making the nominations. This ignores the fact that that has never been the case. Even President George Washington, the most popular President in this Nation's history, saw the Senate reject his nominees. President Franklin Roosevelt, who carried all but two States in the country in his reelection bid, with a heavily Democratic Senate, saw them reject his court-packing plan.

Like the recent abuse of the Constitution for partisan political purposes, I believe the President is trying to turn the independent Federal judiciary into an arm of the Republican Party. He has politicized the filling of judicial vacancies beyond anyone who preceded him and now we see he is exploiting this important Presidential authority as a campaign issue.

The independent Federal judiciary should not be an arm of the Democrat party or the Republican Party, and the American people should not fall for it. Facts are stubborn things. No amount of demagoguery overcomes the facts. The Senate has now confirmed 198 judges.

We have objected to a small handful of the most extreme or unqualified nominees. The President uses sharp rhetoric about "activist judges," yet he nominates activist candidates from the far right wing of his party. When we have felt it necessary to draw the line at some of these candidates, we have done so to protect the rights of the American people from being undercut by partisan and ideological activists. We have tried to ensure the independence of the federal courts so that this Administration and its enablers in the Senate would not successfully turn our courts into an arm of the Republican Party.

We have cut vacancies on the federal judiciary to one quarter of what Republicans maintained during the Clinton Administration. Let me repeat that: Today, vacancies are one fourth what they were when Republicans were blocking dozens of President Clinton's judicial nominees. We have even reduced circuit court vacancies by more than 60 percent. By contrast, under Republican Senate leadership during the Clinton Administration, circuit court vacancies more than doubled from 16 to 33. From the high of 110 vacancies in the federal system that Republicans maintained during the Clinton Presidency, the federal courts are now down to 27 vacancies. There are more active judges serving on the federal courts today than at any time in our nation's history.

Not that the facts will deter the President and Republican partisans during this election year. This is another area on which this President has been a divider and not a uniter, in spite of the promises he made during his last campaign. Instead of working with us and uniting all Americans and strengthening their confidence in our courts, he and his supporters criticize the courts and attack the Senate for fulfilling its constitutional responsibilities and standing up to the most extreme of his nominees. The Senate has withheld consent only from the worst of his nominees, but he insists on sending more nominees who divide the Senate and the American people.

The nomination before us on which the Republican leadership insists the Senate devote three days is perhaps the most anti-environmental judicial nominee sent to the Senate. The nomination of William Myers to the United States Court of Appeals for the Ninth Circuit is an example of how this President has misused his power of appointment to the federal bench. Mr. Myers is neither qualified nor independent enough to receive confirmation for a lifetime appointment to this federal circuit court. His nomination is the epitome of the anti-environmental tilt of so many of President Bush's nominees.

Mr. Myers' hometown newspaper warned that as Solicitor at the Department of the Interior: "Myers sounds less like an attorney, and more like an apologist for his old friends in the cattle industry." He has a record of extremism when it comes to his opposition to environmental protections, having gone as far as comparing the federal government's management of public lands to "the tyrannical actions of King George" over the American colonies and arguing that the government is fueling "a modern-day revolution" in the American West.

Well, I come from a part of the country that fought a revolution to overturn the tyrannical power of King George, and even though I may disagree with this administration, I do not liken this or any other administration to the tyrannical rule of King George.

I have carefully reviewed the record Mr. Myers has logged in private practice and in the Bush administration. I asked him a series of questions at his hearing in February and later in writing after that hearing. We gave Mr. Myers every opportunity to be heard and to make his case that he would be a fair and impartial adjudicator if he is confirmed to the Federal bench. Unfortunately, the only conclusion I have been able to arrive at is that if he is confirmed he would be an anti-environmental activist on the bench. He has a consistent record of using whatever position and authority he has had to fight for corporate interests at the expense of the environment and at the expense of the interests of the American people in environmental protections.

For 22 years, Mr. Myers has been an outspoken antagonist of long-established environmental protections, usually wearing the hat of a paid lobbyist for industry. At his hearing, he attempted to defend his anti-environmental statements and actions by saying he was just acting as an attorney, "on behalf of his clients." This is not a case of a representation of a defendant in a single case. He has chosen this career for which he has been amply rewarded both monetarily and by positions in the Bush administration.

An attorney also has a duty to follow the law and, on more than one occasion, Mr. Myers' advocacy has pushed the limits of the law. As The New York Times editorialized, Mr. Myers "regularly took positions that, though legally insupportable, would have had a devastating impact on the environment."

As the chief lawyer at the Department of the Interior, Mr. Myers disregarded the law in order to make it easier for companies to mine on public lands—a position consistent with his prior role lobbying for mining interests while he was in private practice. He interpreted the mining law in a way that would have allowed the reversal of Secretary Babbitt's rejection of a permit for Glamis Mining Co. on land in the Southeastern California desert. Fortunately, an independent review by a federal court concluded that Mr. Myers' interpretation was wrong. The court called into question his ability to interpret a statute as he violated "three well-established canons of statutory construction." In addition, he acted without government-to-government consultation with the Quechan Indian Nation, a federally-recognized tribe, or other Colorado River Tribes, before taking action to imperil their sacred places.

As Solicitor General at the Interior Department, Mr. Myers encouraged two Northern California congressmen to sponsor legislation that would have given a private firm eight acres of valuable federal land in Yuba County, CA. Recognizing that the government did not have the right to turn over the land without compensation, he told the landowners that the "department would support private relief legislation" to accomplish that goal. The Department has since withdrawn its support for the private relief bill after its own agents produced readily available documents that conclusively proved that the government owned the land.

Mr. Myers' record on the environment would raise serious concerns no matter where he would be sitting as a judge. However, it is especially disturbing given the court to which he has been nominated. William Myers has been nominated to a circuit court with jurisdiction over an area of the country which contains hundreds of millions of acres of national parks, national forests and other public lands, tribal lands, and sacred sites. Judges on the Ninth Circuit decide legal disputes concerning the use and conservation of many of the most spectacular and sacred lands in America and often make the final decision on critical mining, grazing, logging, recreation, endangered species, coastal, wilderness, and other issues affecting the nation's natural heritage. These judges are also the arbiters on treaty, statutory, trust relationship, and other issues affecting American Indian tribal governments, Native Americans, and Alaska Native groups. The Ninth Circuit plays an enormous and pivotal role in interpreting and applying a broad range of environmental rules and protections that are important to millions of Americans, and to future generations of Americans.

At Mr. Myers's hearing, I raised concerns over what might be at stake if he were to be confirmed. At stake is the longstanding acceptance of the Constitution's commerce clause as the source of congressional authority to enact safeguards to protect our air, water, and land. In Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, Mr. Myers submitted an amicus brief arguing that the Commerce Clause does not support the United States Army Corps of Engineers' jurisdiction over isolated, intrastate waters on the basis that they are or have the potential to be migratory bird habitat. Mr. Myers' position raises concerns whether his extremely narrow view of the scope of the Constitution's commerce clause would undermine our nation's environmental, health, safety, labor, disability and civil rights laws.

At stake are environmental protections which can be struck down if taxpayers do not pay polluters, according to the extreme expansion of the takings clause that some judges have begun to adopt. Mr. Myers has taken this extreme view by arguing that property rights should receive the same level of constitutional scrutiny as free speech. His position raises concerns that he will interpret as "takings" the very laws implemented by Congress to protect our lands and our environment.

At stake is the true meaning of the Constitution's Eleventh Amendment and the right of citizens to sue to enforce environmental protections. In an era of ballooning government deficits and cuts in environmental enforcement budgets, there is much at stake if courts eliminate or minimize the critical role of "private attorneys general" who are needed to ensure that polluters are complying with federal mandates. Mr. Myers has even argued that judges should take a more active role in reducing lawsuits brought by environmentalists by requiring non-profit environmental organizations to post a bond for payment of costs and damages that could be suffered by any opposing party. He wrote: "Environmentalists are mountain biking to the courthouse as never before, bent on stopping human activity wherever it may promote health, safety and welfare." These positions raise concerns that plaintiffs in his courtroom who are members of environmental organizations will not be treated fairly.

For the last four years, the Bush administration has systematically, and often stealthily, set out to undermine the basic safeguards that have been used by administrations of both parties to protect the environment. One way the Bush administration has demonstrated its contempt for our nation's environmental laws is in the court system. A Defenders of Wildlife study covering the Administration's first 2 years noted how its agencies argued in court. Amazingly, in cases where the Administration had a chance to defend the National Environmental Protection Act (NEPA), more than 50 percent of the time it presented arguments in court which would weaken NEPA. Similarly, the Administration argued to weaken the Endangered Species Act (ESA) more than 60 percent of the time.

Despite the Administration's arguments against the environmental laws it is entrusted with protecting, and despite the deference customarily paid to Executive agencies in federal court, the independent federal judiciary, thus far, has generally upheld our longstanding environmental laws. The courts ruled against the Administration's arguments to weaken NEPA 78 percent of the time, and ruled against the Administration's arguments to weaken the ESA an astounding 89 percent of the time. Further illustrating how important the judiciary has become for environmental protection, especially in the absence of a commitment to environmental protection by Executive agencies, the League of Conservation Voters for the first time included a vote on a judicial nominee on its 2003 scorecard of Senate votes. In the past year, our federal courts resisted efforts to weaken the Clean Water Act, the Clean Air Act, and the Endangered Species Act. The courts protected our National Monuments from challenges by extremist groups trying to strip them of their status, upheld air conditioning standards which save energy and money for consumers, and stopped Administration rollbacks that benefited industry at the expense of our forests. The result of these court decisions is that our vital wetlands and rivers are not decimated, diverse species are protected from extinction, and the standards for air quality are brought into compliance with the law.

There are, however, dark clouds on the horizon. There are cases pending where the outcomes could affect whether our air is threatened by toxic chemicals and whether our water and health are threatened by pollution and pesticides. There are cases pending whether to allow snowmobiles in our National Parks, whether to allow the Administration to open up 8.8 million acres of important wildlife habitat and hunting and fishing grounds in Alaska for oil and gas leasing, whether pumping dirty water into the Everglades violates the Clean Water Act, and whether the Administration can open our nation's largest National Forest to logging.

How will these cases be decided? Will the federal courts continue to stand as a bulwark against the administration's assault on environmental protection? Consider that in two recent cases, judges appointed by President Bush dissented, arguing against environmental protections. In one case, a Bush-appointed judge indicated that he might find the Endangered Species Act unconstitutional, and, in the other case, a Bush judge would have ruled to make it harder for public interest groups to prevent irreparable environmental harm through injunctive relief while claims are pending. What if President Bush succeeds in appointing more like-minded judges and these Bush judges become the majority next time, positioned to strike down vital environmental protections? This is the type of judicial activism against established precedent that President Bush says he deplores, but he nominates and appoints judges who engage in wholesale judicial activism.

The Bush administration has already proposed more rollbacks to our environmental safeguards, aiming to benefit industry at the expense of the public's interest in clean air and water, our public lands, and some of our most fragile wildlife populations. While today we have a Federal judiciary which has in many instances prevented this administration's attempts to roll back important environmental laws and protections, in the future we may not be so fortunate. Today, the appellate courts in this country have tilted out of balance with Republican appointees already in control of 10 of the 13 circuit courts. The American people expect good stewardship of the nation's air, water and public lands, and the American people deserve that. Judges have a duty to enforce the protections imposed by environmental laws. The Senate has a duty to make sure that we do not put judges on the bench whose activism and personal ideology would prevent fair and impartial adjudication and would circumvent environmental protections that Congress intended to benefit the American people and generations to come.

An editorial in The Boston Globe recognized: "When the White House is in the clutches of the oil, coal, mining, and timber companies, as it is now, the best defenders of laws to protect the environment are often federal judges." The editorial concludes that if the Senate confirms William Myers, "the judicial check in this administration's unbalanced policies will be weakened."

For almost his entire 22-year legal career, Mr. Myers has worked in Washington—in political positions for Republican Administrations and as a lobbyist. He received a partial "Not Qualified" rating from the American Bar Association—the ABA's lowest passing grade. He has minimal courtroom experience—having never tried a jury case and having never served as counsel in any criminal litigation. It seems clear that William Myers was nominated not for his fitness to serve as a lifetime member of the federal judiciary but rather as a reward for serving the political aims of the administration.

When Mr. Myers was appointed to his legal post at the Department of the Interior, some described it as putting a fox in charge of the henhouse. Another metaphor that comes to mind is the revolving door that is emblematic of so many of this administration's appointments, especially to sensitive environmental posts. Mr. Myers' Interior appointment was the first "swoosh" of the revolving door. His nomination by President Bush to one of the highest courts in the land completes the cycle. Mr. Myers is one of several nominees who have come before us because they are being awarded lifetime appointments to the federal courts based not primarily on their qualifications for the office, but as part of a spoils system for those who are well connected and have served the political aims of the Bush administration.

So many of President Clinton's judicial nominees upon whom the Senate took no action seemed to have been penalized for their government service or for having supported the President. Elena Kagan, James Lyons, Kent Markus and so many others never received hearings, and their nominations were defeated through Republican inaction and obstruction, without explanation. With a Republican President, Senate Republicans have reversed their field and position. We have already confirmed to lifetime appointments a number of Administration and Republican-connected candidates, including Judge Prost, Judge McConnell, Judge Cassell, Judge Shedd, Judge Wooten, Judge Chertoff, Judge Hudson, Judge Clark, and Judge Bybee. At this point in a presidential election year, in accordance with the Thurmond Rule, only consensus nominees being taken up with the approval of the majority and minority leaders and the chairman and ranking members of the Judiciary Committee should be considered. Mr. Myers is no such nominee. In 1996, the last time a President was seeking reelection, the Senate Republican majority refused to confirm any judges to the circuit courts. Not one was considered and confirmed that entire session. In contrast, this year we have already proceeded to confirm five additional circuit judges.

The list of those who are deeply concerned about, and who have felt compelled to oppose this nomination has been long and it continues to lengthen. More than 175 environmental, Native American, labor, civil rights, disability rights, women's rights and other organizations have signed a letter opposing Mr. Myers' confirmation to the Ninth Circuit Court of Appeals. The National Congress of American Indians, a coalition of more than 250 tribal governments, unanimously approved a resolution opposing Mr. Myers' nomination. The National Wildlife Federation, which has never opposed a judicial nomination by any President in its 68-year history, wrote:

> Mr. Myers has so firmly established a public record of open hostility to environmental protections as to undermine any contention that he could bring an impartial perspective to the issues of wildlife and natural resource conservation that come before the court. Indeed, Mr. Myers is distinguished precisely by the ideological rigidity that marks his positions on these issues.

A letter from the California Legislature, signed by the Senate President Pro Tem, the Chair of the Senate Natural Resources Committee, and the Chair of the Senate Environmental Quality Committee, strongly opposing Mr. Myers' nomination, told the Judiciary Committee:

> Mr. Myers' record as Interior Solicitor of favoring the interests of the grazing and mining industries over the rights of Native Americans and the environment, coupled with his long history as an extreme advocate for those industries, cause serious doubts on his willingness or ability to put aside his personal views in performing his official duties.

I have great regard for the Senators from Idaho. I have affection for the former Senator from Wyoming who was my colleague on the Judiciary Committee for many years and who I consider a friend. In deference to them, I have examined Mr. Myers' record and asked myself whether I could support this nomination. Regrettably, I cannot.

If you watch what the Bush administration does, instead of just listening to what it says, there is much evidence of this administration's outright contempt for high environmental standards. This nomination, in itself, says something about that.

I hope that the Senate's vote today will say something about the higher priority that the Senate makes of environmental quality.

I must oppose Mr. Myers' confirmation.

Also, we know under the Thurmond rule he can't even be confirmed without the agreement of the Republican leader, the Democratic leader, the chairman, and myself.

We have come to a time when we can't get our budget done. We can't pass veterans appropriations or homeland security. We can't do these things because we don't have time, and yet we are wasting time on something everyone knows will go nowhere.

I must oppose Mr. Myers' nomination.

I yield 5 minutes to the distinguished Senator from Illinois.

Mr. DURBIN. Before yielding to me, would the Senator yield for a question?

Mr. LEAHY. Of course.

Mr. DURBIN. Would the Senator from Vermont inform me and the Senate the number of nominees of the Bush administration to date who have been approved by the Senate and the number of those who have been disapproved?

Mr. LEAHY. Mr. President, I would note that we have approved, first, 100 in the 17 months that we, the Democrats, were in charge of the Senate.

In the next 21, 22, 23 months, however long it was that the Republicans were in charge, another 98 were confirmed.

I don't think a single one was defeated on the Senate floor. A small number had been held back—I think about one-tenth of what the Republican majority held back during the Clinton Presidency.

Actually, I might say to my friend from Illinois, we have confirmed more than we did during President Reagan's first term when, of course, you had a Republican Senate throughout his term. For that matter, we confirmed more than President George H.W. Bush.

Mr. DURBIN. If the Senator will further yield, if I am not mistaken, we have approved 198 nominees from the Bush administration, and only 6 have not been approved to date?

Mr. LEAHY. That is right.

Mr. DURBIN. Does that number meet the Senator's recollection?

Mr. LEAHY. Yes, and one highly contentious one went through. He had the most negative votes, of both Democrats and Republicans, of any nominee in history because of the extreme positions he had taken.

I yield 5 minutes.

Mr. DURBIN. Mr. President, I rise in opposition to the nomination of William Myers to the U.S. Court of Appeals for the Ninth Circuit.

William Myers is a successful lawyer and a passionate advocate. If I owned a mining company or a ranch and I needed a lobbyist, Mr. Myers would be the first person I would call. But I have concerns about whether Mr. Myers can walk away from a lifetime of lobbying for these special interests and be fair as a judge on the Nation's second highest court.

His loyalty to the grazing and mining industries and to ranchers has been undivided and passionate. He has advanced their agenda, whether on a private payroll or working for the Government.

For example, in a case from my home state of Illinois, Solid Waste Agency of Northern Cook County v. United States Corps of Engineers, Mr. Myers argued on behalf of the National Cattlemen's Beef Association that Federal regulation of certain land use was beyond the commerce clause power of Congress because that area is traditionally regulated by State and local governments. Mr. Myers' narrow reading of the commerce clause, if followed through, could jeopardize essential health, safety, environmental, and antidiscrimination laws.

In another Supreme Court case, Babbitt v. Sweet Home Chapter of Communities for a Great Oregon, Mr. Myers argued, on behalf of the National Cattlemen again, that:

> . . . the constitutional right of a rancher to put his property to beneficial use is as fundamental as his right to freedom of speech or freedom from unreasonable search and seizure.

He argued that the freedom claimed by a rancher to use his property was equivalent to our freedom of speech under the Constitution. This is an argument that would make any cowboy blush. Mr. Myers should have known better. He should have known that the Supreme Court has held that only a very limited number of rights are so fundamental, such as freedom of speech and the right to privacy. Mr. Myers' celebration of property rights is reminiscent of the Lochner decision, an era of court law when property and economic rights trumped almost all others. All but the most radical thinkers have rejected this ancient, discredited view. Mr. Myers lovingly embraces it.

The Ninth Circuit is a crucial battleground circuit. It hears a great many cases pitting property rights against environmental regulation. I have searched in vain for any evidence—any evidence—that Mr. Myers could rule on such cases with an open mind. I can't find it.

In a 1998 article entitled "Litigation Happy," Mr. Myers expressed concerns about environmental litigation. These are his words:

> Environmentalists are mountain biking to the courthouse as never before, bent on stopping human activity wherever it may promote health, safety and welfare.

End of quote from nominee Myers.

He wrote another article in which he compared the Federal Government's management of public lands to King George's tyrannical rule of the American colonies, and he claimed that public land safeguards are fueling "a modern-day revolution" in the West.

Mr. Myers has stated that many environmental laws have "the unintended consequence of actually harming the environment."

He has denounced the California Desert Protection Act, a significant environmental law that was passed in 1994, thanks to the leadership of our colleague, Senator DIANNE FEINSTEIN. Mr. Myers calls that particular law "an example of legislative hubris." In his hearing he acknowledged his remark was a "poor choice of words," and we all appreciated his honesty. But as the San Francisco Chronical put it:

> Poor choices of words seem to be the rule, not the exception, in Myers' career.

President Bush rewarded Mr. Myers for his track record of advocacy by appointing him to be the top lawyer at the Department of Interior in 2001. While there, he formulated several important policy changes that favored the industries that he traditionally represented in public life. He issued a controversial legal opinion that prevented the voluntary retirement of Federal grazing permits. These voluntary retirements had enjoyed bipartisan political support, but they were opposed by the grazing industry. He also wrote a legal opinion overturning the policy of the Clinton administration and allowed for mining of the 1,600-acre Glamis open-pit gold mine.

This decision was strongly opposed by the Quechan Indian Nation because the mining violates their sacred lands.

Because of his role in the Glamis project, Mr. Myers' nomination has been opposed by the National Congress of American Indians, the first time this organization of 500 tribes has ever opposed a judicial nominee.

In addition, he has been opposed by virtually every major environmental group, including the National Wildlife Federation, which has never opposed a judicial nominee in its history.

The final concern I have about Mr. Myers is his minimal courtroom experience. He is seeking a spot on the second highest court of the land and comes to this nomination with extremely limited experience in a courtroom. Mr. Myers' exposure to the courtroom has apparently been limited to watching the second half of "Law and Order."

He has never handled a case that went before a jury in 23 years of legal practice. He has participated in only three trials and he has no criminal litigation experience whatsoever. His lack of legal experience may explain why Mr. Myers received the ABA's lowest passing grade: "majority qualified" and "minority not qualified."

I believe President Bush can do better by this circuit. I don't think Mr. Myers should receive a lifetime appointment to the second highest court in the Nation.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be yielded 5 minutes from the time of the minority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. Thank you, Mr. President. I thank my colleagues here today.

I rise in strong opposition to the confirmation of William Myers. When the nine Democratic members of the Judiciary Committee unanimously vote against a nominee, you can be sure that there are real questions about the nominee that must be answered. We rarely do it.

Once again to reiterate, 198 judges approved, 6 opposed. Why are we trying to make Mr. Myers the seventh? Is it some lobbying group? Not at all. Is it the fact we just do not agree with his views? Clearly not.

The bottom line is that Mr. Myers is extreme on environmental issues and on land issues. And these issues are important where the Ninth Circuit probably has much more to say than any other circuit in the land, given the vast territory out west that it covers.

Mr. Myers is one sided and extreme. There has been no balance. There has been no attempt to see the other side. There has been no attempt to be judicious in the true sense of the word. That is why so many of us feel constrained to rise against him.

Nominating William Myers is like sticking a thumb in the eye of all Senators who believe extremists, right or left, should not be on the Federal bench.

The bottom line is very simple; that is, Mr. Myers has not shown a single iota of moderation as he has moved through his career. He has not been a judge or somebody who has had judicial experience. But that doesn't bother me. It bothers some. It doesn't bother me.

The problem is Mr. Myers' record screams "passionate activist." It doesn't so much as whisper "impartial judge."

Let us go over some of the things my colleague, Mr. DURBIN, mentioned. I will elaborate on some of those. It is not just that Mr. Myers has spent almost every day of his career as a professional lobbyist advocating for mining and ranching interests to the detriment of environmental concerns. It is how he has done it. There is never an understanding that the other side has any merit.

The bottom line here is what he said: "Environmentalists are mountain biking"—that was snide—"to the courthouses, never before done, stopping human activity wherever it may promote health, safety, and welfare."

Human activity that pollutes the air or water? This man comes from such a narrow mindset that it is clear he doesn't belong on the bench.

The cases he was discussing when he said that included suits to halt the discriminatory placement of waste treatment facilities, protection of irrigation canals from toxic chemicals, and to stop logging in protected national forests.

Again, he shows such little tolerance for the other viewpoint that one doesn't have much faith that he can be an impartial judge.

When it comes to the environment, it seems like confirming William Myers would be like putting the fox in charge of the environmental hen house.

If one remark were an isolated incident, you could say, well, one remark shouldn't stop someone from being a judge. But he said the Clean Water Act has the unintended consequence of actually harming the environment. Who in America believes that? Some people—very few—may say it goes too far. But that it harms the environment?

He argues that it is fallacious to believe the central government can promote environmentalists.

Let me tell Mr. Myers something. In New York City where I live my lungs are cleaner because the Federal Government has a Clean Air Act. Maybe he doesn't need one in Idaho, but they sure need one in Los Angeles which is in the Ninth Circuit.

And the intolerance to say that the central government can never promote environmentalism—he has compared the Government's management of public lands to King George's tyrannical rule over the American Colonies.

I guess that kind of selfish freedom—you own the land and you can do whatever you want with it—is Mr. Myers' view. It is not America's view. This man has continued to have that view.

He said that professional environmentalists are primarily interested in fundraising and the selling of magazine subscriptions. Do we want to say the Cattlemen's Association is only interested in making money no matter what happens? What would the Cattlemen's Association or a rancher who is trying to do a good job think of that?

Mr. Myers' comments are hardly reflective of the moderation and temperament we look for from judicial nominees. His lack of understanding and intolerance come across over and over and over again.

When it comes to comments about the environment, Mr. Myers is like the Energizer bunny: He just keeps on going and going.

Earlier this year, the Buffalo News ran an editorial against his nomination, saying in part:

> The Bush administration is showing an Oz-like talent for turning over protect-the-environment posts to former lobbyists who once sought to overturn the rules they are now being charged with keeping.

I couldn't agree more.

This is just another example of the Bush Administration saying one thing and doing another. They say they care more about the environment and then they nominate anti-environmentalists to defend it.

With Mr. Myers' nomination, we are not just through the looking glass; we are all the way down the rabbit hole.

I wish we didn't have rise today and vote no but I think we are compelled to. I urge my colleagues to reject this nomination.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HATCH. Mr. President, I yield such time as he needs to the distinguished Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAPO. Thank you very much, Mr. President, I thank the chairman of the Judiciary Committee, Senator HATCH, for yielding me this time.

It is my honor to stand here in strong support of the nomination of William G. Myers to the U.S. Court of Appeals for the Ninth Circuit.

Contrary to the remarks we have just heard, former Solicitor of the Interior, William G. Myers is a highly respected attorney who has had extensive experience in the field of natural resources, public lands, and environmental law. His nomination enjoys widespread support from across the ideological and political spectrum.

Mr. Myers has been nominated to the Ninth Circuit Court of Appeals which covers the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington, as well as Guam and the Northern Mariana Islands. He has a distinguished career serving on the issues that are critical to these States.

From July 2001 to October of 2003, Mr. Myers served as Solicitor of the Interior, the chief legal officer and third ranking official of the Department of the Interior. In that capacity, he was supervisor over 300 attorneys in 19 offices across the country and managed a $47 million annual budget, and provided advice and counsel to the Secretary of the Interior, as well as to the Department's offices and bureaus.

He was confirmed by the Senate as Solicitor of the Interior by unanimous consent. At that time, these arguments that are now being brought forward simply were absent from the floor.

The reason is because Mr. Myers' strong service is respected across the political spectrum.

Before coming to the Department of Interior, Mr. Myers practiced at one of the most respectable law firms in the Rocky Mountain region, where he participated in an extensive array of Federal litigation involving public lands and natural resource issues. Some of the attacks on him are attacks made against him because of positions he took on behalf of clients, something which Members across the board in this Senate have said is not the appropriate way to judge whether a person will, as a judge, take a balanced view.

An advocate in the courtroom is different than a judge. One should not be judged in their professional qualifications when they are serving as an advocate, as is being done to Mr. Myers today.

From 1992 to 1993, Mr. Myers served in the Energy Department as the Deputy General Counsel for Programs, where he was the Department's principal legal adviser on matters pertaining to international energy, Government contracting, civilian nuclear programs, power marketing, and intervention and State regulatory proceedings.

He served as Assistant to the Attorney General of the United States from 1989 to 1992. In this capacity, he prepared the Attorney General for his responsibilities as Chairman of the President's Domestic Policy Council.

Before entering the Justice Department, Mr. Myers served over 4 years as legislative counsel for one of our former colleagues, Senator Alan Simpson of Wyoming, where he was Senator's Simpson principal adviser on public lands issues. Mr. Myers is a nationally recognized expert in natural resource law and public lands law. He served as vice chairman of the Public Lands and Land Use Committee of the American Bar Association, the section on environmental and energy and resources. In his home State of Idaho, Mr. Myers chaired Idaho State Board of Land Commissioners, Federal Lands Task Force Working Group, and the Boise Metro Chamber of Commerce State Affairs and Natural Resources Subcommittee.

He is an avid outdoorsman and committed conservationist. For the past 15 years, he served as a volunteer for the National Park Service and over that span has logged at least 180 days of volunteer service in numerous parks, performing trail work, campsite cleaning, visitor assistance, and park patrols.

He has widespread support, as I indicated, from across the political spectrum. Again, contrary to the comments made in the Senate today, Mr. Myers has the balanced demeanor to be an excellent Federal judge.

Former Democratic Idaho Governor Cecil Andrus, who also served as Secretary of the Interior in the Carter administration, supports Mr. Myers. He stated that Mr. Myers possesses "the necessary personal integrity, judicial temperament and legal experience, as well as the ability to act fairly on matters of law that will come before him on the court."

In addition, former Democratic Governor of Wyoming, Mike Sullivan, who also served as a U.S. Ambassador to Ireland under the Clinton administration, endorses Mr. Myers. He calls Mr. Myers a thoughtful, well-grounded attorney who has reflected, by his career achievements, a commitment to excellence, and states that Mr. Myers would provide serious responsible and intellectual consideration to each matter before him as an appellate judge and would not be prone to extreme or ideological positions unattached to legal precedence or the merits of a given matter.

Mr. Myers is backed by every member of the Idaho congressional delegation and 15 State attorneys general, including three Democratic attorneys general—Ken Salazar from Colorado, Drew Edmondson from Oklahoma, and Patrick Crank from Wyoming—who strongly support Mr. Myers. These chief law enforcement officers from their States say Mr. Myers would bring to the Ninth Circuit strong intellectual skills combined with a strong sense of civility, decency, and respect for all.

Two former Attorneys General of the United States support Mr. Myers, one Republican and one Democrat. Former Attorney General William P. Barr states that Mr. Myers represents the epitome of judicial temperament and would do a great job, while former Attorney General Dick Thornburgh calls Mr. Myers exceptionally well-qualified to serve as a member of the Federal judiciary.

There have been some attacks made against Mr. Myers today to which I will briefly respond. As I said earlier, many of the attacks made against him are for positions he took advocating on behalf of clients or on behalf of an employer when he was working in the Department of the Interior or in other capacities.

Some groups claim that Mr. Myers did not adequately protect the environment as the Solicitor of the Interior. The record simply belies this argument. As Solicitor of the Interior, Mr. Myers vigorously fought to safeguard the environment and conserve natural resources. Mr. Myers sought to protect this country's lands and national parks and monuments. The list I have in front of me is extensive, listing actions he has taken as the Solicitor of the Department of the Interior to preserve and protect the incredible environmental resources which we have in this Nation.

He is also recognized for protecting indigenous animals as well as the environment and supported an agreement removing dams from the Penobscot River, in what conservationists called the biggest restoration project north of the Everglades. His involvement in working on wolf issues and on issues regarding nesting sites of endangered birds to protect them from harassment of bird watchers has been significantly noted. He has a very proconservationist leaning.

Mr. Myers fought to protect our Nation's waters and to ensure the Nation was adequately compensated for the private use of natural resources. Again, he has been attacked in the Senate today for his defense of private property rights by those who do not want to see a balance brought back to the Ninth Circuit Court of Appeals. Mr. Myers has defended reasonable interpretations of the Outercontinental Water Royalty Relief Act to ensure that oil and gas companies did not enjoy unjustified windfalls through royalty-free activity and supported record royalty recoupment against Shell Oil Company regarding natural gas in the Gulf of Mexico.

This shows when there are actions taken by those who would harm the environment, he is prepared and ready to step forward. Yes, he does protect private property rights. He has a belief that private property protection means something in this country. He recognizes the value of private property in our Constitution and in our system of government in America. For that, he is being criticized in the Senate today.

We should be glad to have a nominee to the Ninth Circuit Court of Appeals who will help us bring some sense of balance back to that court. Our colleague from New York, Senator SCHUMER, who just debated, stated last year on the nomination of Jay Bybee that the Ninth Circuit is by far the most liberal of any court in our country. Most of the nominees are Democrats and from Democratic Presidents. It is the Ninth Circuit that gave us the Pledge of Allegiance case, which is way out of the mainstream on the left side. Mr. Myers would bring some conservative balance back to that Ninth Circuit court, it is true. Frankly, I personally believe one of the reasons he is being so strongly objected to in the Senate today is because there are many who do not want to see that balance brought back to the Ninth Circuit Court of Appeals.

Finally, I conclude by discussing a little bit more the qualifications of Bill Myers. I know him personally. As has been stated, he is from Idaho. He has shown throughout his legal career that he can be a fierce, strong, eloquent advocate for those who were his clients and for those who were his employers. His effectiveness in advocating on behalf of his clients and his employers is now being utilized against him. If that were done to other nominees, as it has been done to some nominees, very few who were eloquent, strong advocates as attorneys or who were strong public servants serving as attorneys in the public service of our country would be able to pass through this Senate. We could find quotations in their briefs, quotations in their statements and in their advocacy which we could use in an isolated way to say they were taking too strong a stand.

The reality is, those who know him—Idaho Democratic Governor Cecil Andrus, Wyoming Democratic Governor, the Democratic Attorneys General who have worked with him—have given the true picture of Bill Myers. He is a man who with passion fights for that in which he believes but who has the ability, the skill, and the demeanor as a judge to stand in judgment with balanced reference to the precedent that comes before him. He would be an outstanding addition to the Ninth Circuit Court of Appeals. I encourage all Members in the Senate to vote to give him a chance to have his nomination considered.

In conclusion, let's remember what the vote is that we are having today. The vote we are having today is not on the nomination of Mr. Myers; it is on the effort to get cloture on the filibuster of his nomination.

We are voting today to answer the question of whether he is entitled to a vote on his nomination—something that, until this Congress, has always been allowed on someone who was put out of the Judiciary Committee and brought to the floor of the Senate. Never, before this Congress, has a nominee sent from the Judiciary Committee to the floor of the Senate been denied a vote on their nomination. Yet today we see, for the seventh time in this Congress, an honorable person who is nominated, and has made it all the way to the floor of this Senate, being threatened with the denial of even a vote on their nomination.

I encourage all of my colleagues to afford Mr. Myers the kind of opportunity that all persons before him—until this Congress—have been allowed to have; and that is, a vote on his nomination to the Ninth Circuit Court of Appeals.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that the distinguished Senator from Wyoming be granted up to 5 minutes, and immediately following him, the distinguished Senator from Idaho be granted up to 5 minutes of our time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming is recognized for up to 5 minutes.

Mr. THOMAS. Mr. President, I thank the chairman.

I come to the floor to speak on behalf of Bill Myers because of his activity in Wyoming and his work in Washington, working with a former Senator from Wyoming. But after hearing what was said on the other side of the aisle, I am particularly inclined to share a little bit about Bill Myers and the fact that he would bring some balance to the Ninth Circuit.

Fortunately, Wyoming is not in the Ninth Circuit, but I am concerned there would be someone there who has dealt with public lands issues, who has dealt with the kinds of issues we deal with in the West, and who has done so very successfully.

So I support Bill Myers' nomination to the Ninth Circuit Court of Appeals. He has had a distinguished career in public service and as a practicing attorney, as well as being Solicitor of the Interior Department. He was confirmed by the Senate unanimously to that job as Solicitor, which is a very difficult task, of course.

He is nationally recognized as an expert on natural resources and the use of natural resources and issues that are of particular importance to the West and the Ninth Circuit area. So I am not going to continue with his credentials. Our friends from Idaho know more about that than I, and they have talked about his qualifications.

But, unfortunately, western issues disqualify him for Idaho's only seat on the Ninth Circuit Court. That is a shame because there is nothing more important overall than natural resource kinds of issues. So I guess the court will not have a person with that kind of experience, but, rather, this floor will keep the citizens of Idaho from having someone there to represent them in those areas that are so important. I certainly feel badly about that kind of position.

There has been discussion that he is not supported by any Democrats. That is not the case. I have a statement from the Honorable Michael Sullivan, former Democratic Governor of Wyoming:

> Mr. Myers has a wealth of legal experience in the private practice, in Washington, and in the areas of public lands and the environment. Those are areas of extreme importance to the country and those of us in the West, and it is my view that Bill's experience would serve the Court and the Circuit well. . . . He is, in my view, an individual who would provide serious, responsible, and intellectual consideration to each matter before him as an appellate judge and would not be prone to extreme or ideological positions unattached to legal precedent or the merits of a given matter.

So I rise to say we have observed the activities of Bill Myers in the West. Certainly, from all the activities he has been involved in, he has done so well. It is my belief he should go on to this court. But, more importantly, in terms of process, he certainly ought to have an opportunity to have a vote on the floor of the Senate. So I urge that be the case this afternoon.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague from Wyoming for visiting with us about Bill Myers and his qualifications.

I was on the Senate floor yesterday and made my full statement on behalf of Bill Myers. I spoke this morning in opening remarks, but I did want to make a few additional comments before the chairman of the committee, once again, revisits the nomination of Bill Myers.

On the Senate floor this morning, I said I believed there was a selective, concerted effort on the part of our colleagues on the other side of the aisle to pick nominees and block a vote against them for the purpose of the filibuster and ultimately knowing they can kill these nominees because we cannot get to the 60-vote requirement or threshold they have provided us.

I made that statement this morning. I was told, very frankly, by a member of the Judiciary Committee on the other side, that when Mr. Myers was voted out, he would not be confirmed. Why? Because they were going to use him to demonstrate before their environmental constituencies that he was their token, and they would bring him down.

Bill Myers does not deserve that kind of treatment for a variety of reasons. My colleague from Idaho has expressed them very clearly, as have I, that in his private life he was a good attorney and an advocate for his clients.

But here is what Bill Myers said in the committee hearing that I chaired in his behalf when we were considering his nomination. He said:

> [W]hen a person takes on those robes—

Meaning the robes of a judge of the Ninth Circuit—

> takes the oath of office, swears to uphold the Constitution, that means they will follow the law and the facts, wherever the law and the facts take them, without regard to personal opinion, public opinion, friends or foes.

To me, that sounds like a gentleman of judicial temperament who understands the appropriate role of a judge, as some who have come to the floor who are Senators, and were attorneys in other lives, also understand the appropriate role of an advocate, an attorney for a client. Yet Mr. Myers is criticized today because he was a good attorney for a client. It was because he was a good attorney that the President of the United States said: This man will make a good judge in the Ninth Circuit. And now he is criticized for it.

The minority leader, after I had spoken this morning, said: Well, Senator CRAIG voted to not allow cloture on a judge of the Ninth Circuit before. I did. I did exactly what the minority leader said I had done. And the man's name was Richard Paez. That was in 2000. He was a nominee for the Ninth Circuit by President Clinton. I voted against cloture, and I lost. And why I lost is that it was not an organized "party" effort of the kind we now see demonstrated on the floor of the Senate today, that has openly and directly refused the right of seven people to have a vote on the floor.

I voted against Mr. Paez because I am a constituent of the Ninth Circuit, and I thought he would be a liberal, activist judge. I did something else. I voted to delay indefinitely a vote on Richard Paez. I lost. Why did I lose? Because it was not an organized "party" effort on this side of the aisle, as is the vote we will see at 2:15 this afternoon. I voted against confirming Richard Paez and I lost.

But the point here is clear: Richard Paez got his vote on the floor of the Senate. He was not denied a vote, as now the Democrat leader and his colleagues have decided to deny Bill Myers a vote. That is a fact. And the minority leader needs to know it. He needs to know that Richard Paez was not organized against. Up-or-down votes: I lost; Richard Paez won.

Now, I was not wrong in my vote. Richard Paez has now been on the Ninth Circuit bench for at least 3 years. He is an activist, liberal judge. And I was right about reviewing him.

He still got his vote. He still got his judgeship because a majority of the Senate said Richard Paez should serve in our advise and consent role under the Constitution. We advised the President of the United States on behalf of his nominee and he was confirmed.

I will talk about one other item I think is important. We are all entitled to our own opinions, but not to our own facts. We can all look at facts differently. I want to talk for a few moments about ABA ratings. I remember the American Bar Association ratings of nominees used to be called the "gold standard." If you didn't get a top rating, my goodness, you were not, nor should be, considered. Let me talk about those briefly.

The other side was saying Mr. Myers doesn't have the right rating. Well, they also riled and railed against Miguel Estrada and Priscilla Owen and, by the way, they had top ABA ratings. Have they already forgotten the very principles they applied to somebody else? You cannot reverse them in a 48-hour period and apply them in a different way to somebody else. I am sorry, you can be entitled to your own opinions, but you ought not to be entitled to your own facts.

As we each consider the weight of ABA ratings and what they should carry, let me remind this body that Mr. Myers' rating places him among an impressive group of individuals. Among the names of those who received similar ABA ratings, we find judicial nominees like Judge Richard Posner, arguably one of this generation's most prolific and impressive court of appeals judges, who was described by Supreme Court Justice William Brennan as one of the two geniuses he had ever met. Well, Bill Myers is in that category. Not bad. Other nominees included Judge Frank Easterbrook, Stephen Williams, James Buckley, Jerry Smith, and Laurence Silberman. No one familiar with their impressive experience, credentials, and legal acumen can honestly question these judges' fitness for the Federal bench. Yet Mr. Myers' ratings and theirs are the same.

Isn't it interesting how it can be so arbitrary and one can choose and pick based on one's opinions? I cannot criticize my colleagues on the other side. They are entitled to their own opinions. But they are not entitled to their own facts.

Finally, let me remind you that during the Clinton administration this committee voted out and the Senate confirmed 3 circuit court and 15 district court nominees who had ABA ratings identical to Mr. Myers' "majority qualified; minority not qualified" ratings. In August, September, and October of 1994, this committee even voted out three district court nominees who had "majority not qualified" ABA ratings, and all three judges were confirmed. These nominees include Roger Gregory, confirmed on a 93–1 vote, who now serves in the Fourth Circuit; Julio Fuentes, confirmed by a 93–0 vote. The reason that happened is because, at that time in the history of the Senate, we recognized the importance of the debate and we also recognized an up-or-down vote. What we did not see was a concerted party effort on selectively picked nominees for political purposes and denying them their right to a vote on the floor of the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. There is 8 minutes 15 seconds.

Mr. HATCH. Mr. President, I want to briefly make a point in rebuttal to the statement by the Senator from South Dakota, Mr. DASCHLE, this morning.

The minority leader seems to be trying to justify his obstruction of an up or down vote on Bill Myers by pointing to some in our caucus who voted against cloture on two very liberal Ninth Circuit judges whom the Senate confirmed without a filibuster in election year 2000. Just stating the facts makes it clear that there is no justification for the Democrats' obstruction. But let me also point out. Unlike their leadership, Republican leadership made sure that those two liberal nominees, now committed leftist activists on the Ninth Circuit, were not filibustered. They got up or down votes because the vast majority of us thought that filibusters of judicial nominees were completely out of order in the U.S. Senate.

These liberal activist judges, now issuing their often-reversed edicts from San Francisco, received up or down votes in this Senate in an election year. Bill Myers deserves no less.

I think it's important to get on record exactly what's happened here with Bill Myers' nomination. We originally asked for 5 or 6 hours of debate; Democrats objected. We settled on 4 hours of debate, equally divided, during yesterday's session, and not a single Democrat came to the Senate Floor to debate. It is puzzling to me why those who oppose him so vehemently did not come to the floor, stand up and defend their objections. It seems to me that if Senators can't defend their objections to a nominee, they certainly shouldn't object to an up or down vote. I appreciate that today we have at least heard some of their arguments, though I think they are not reflective of this qualified nominee nor his outstanding record.

So I want to return to what this debate is about, or at least what it should be about. While this nomination has been hijacked by another unparalleled filibuster—the seventh nominee to be subjected to this unprecedented form of obstruction—it should have been about the qualifications of Bill Myers to be a Ninth Circuit judge. And in that respect, let me remind my colleagues, that Bill Myers' nomination to the Ninth Circuit Court of Appeals is supported by a wide, bipartisan range of individuals and organizations, particularly those who value expertise in Western land use issues.

Let me provide just a few examples from several support letters received by the Judiciary Committee:

The Farm Bureau Federations of California, Oregon, Idaho and Montana, the Oregon Cattlemen's Association, the Oregon Forest Industries Council, the Oregon Wheat Growers League, the Oregon Women for Agriculture, and eight additional county farm and stock grower bureaus in Oregon, among others, wrote on February 18, 2004:

> Mr. Myers' background and legal career provide enormous experience that could only serve to benefit the citizens of the [Western United States]. His professional history shows clear leadership skills in resolving many complex issues. It is clear that Mr. Myers has an ability to analyze problems and make rational decisions that conserve our national heritage while at the same time move us forward in a responsible manner. Time and again he has shown a capacity to set aside the rhetoric and to objectively evaluate the respective interests of the parties involved. . . . Our organization and membership has found, whether through first hand experience or simply as interested observers, that Mr. Myers conducts himself with integrity, competence, professionalism and an unprecedented respect for the law.

The Tulalip Tribes of Washington State wrote on March 9, 2004:

> The Tulalip Tribes [write] to support the nomination of [Bill Myers]. . . . We find that he has a balanced record [of defending] the interest of Native Americans. The [Ninth Circuit] is in need of an appointment by an individual experienced and knowledgeable in Federal Indian Law.

And the Attorney Generals of South Dakota, North Dakota, Delaware, Hawaii, Nevada, Alaska, Colorado, Idaho, Ohio, Oklahoma, Wyoming, Pennsylvania, Virginia, Utah, and Guam wrote on January 30, 2004:

> As Attorneys General, we observed that Mr. Myers, while dutifully representing his client, the federal government, always maintained an objectivity and practical understanding of the conflicting demands relating

to those interests. In our view, his thorough understanding of relevant legal precedents, decisions and key policy interests and his outstanding legal reasoning as Solicitor demonstrate his keen intellect, sound judgment and the skills suitable to the bench. . . . [W]e appear before the Circuit Courts of Appeal with considerable frequency. Clearly, we value judges who display a temperament that is even-handed, respectful and thoughtful—the temperament displayed by Mr. Myers. Mr. Myers would bring to the Ninth Circuit strong intellectual skills, combined with a strong sense of civility, decency and respect for all.

Now, while such endorsements from these types of people—farming and ranching organizations, Indian tribes who do not have ideological axes to grind with the Department of the Interior, and 15 state Attorneys General—may not matter much to Senate Democrats, they do to me, and to most Westerners.

They matter to Senators CRAIG and CRAPO, whose state will effectively lose its representation on the Ninth Circuit by means of a stealth filibuster. This is grossly irresponsible and unworthy of the U.S. Senate. They matter to a majority of Senators who stand ready to vote and confirm Bill Myers to a Ninth Circuit that so badly needs qualified, non-activist judges who respect the law and the Constitution.

Let me just talk about the process here of confirming judges. We have confirmed 198 judges so far, which I might add, is fewer than President Clinton's first term. Yet some of my colleagues think that the constitutional duty to advise and consent has a time clock attached to it and that the time has run out for the Senate to do its duty. I reject this analysis, either that the previous agreement to allow the vote on the 25 judges was the sum total of our work in the Senate; or the notion that judicial nominations cannot be confirmed after some mythical deadline is announced.

There are plenty of examples of confirmations of judges in Presidential election years during the fall, some which occurred after the election was held. Stephen Breyer, confirmed to the First Circuit Court of Appeals, is just one example. I know, I was one who helped bring that about. Under the Senate Democrats theory, the remaining 25 judges pending before the Senate should be dismissed out of hand. This is not logical, nor is it the proper approach to take under the Constitution.

So it appears that the Democrats' newest tool of obstruction takes the form of a stealth filibuster. Sure, we object, my colleagues say, but we are not going to bother to explain to the American people why. To the Senator whose States are in the Ninth Circuit—Senators CRAIG and CRAPO, Senator SMITH, Senator ENSIGN, Senators STEVENS and MURKOWSKI, Senators KYL and MCCAIN, Senator BURNS—guess what? You are told by Senate Democrats that they are not going to allow you to vote on this nominee, that you need for the Ninth Circuit, and that the position papers of the extreme environmental groups that have distorted the record of and attacked Bill Myers for over a year should adequately explain their opposition and basis for refusing a vote.

Yesterday, I said that Senators should ask themselves, Is this vote on Bill Myers really about Bill Myers? It is clear that this cloture vote, this denial of an up-or-down vote, is not about Bill Myers. It is, in fact, nothing more than a reflection of special interest group disdain for policies favored by farmers, ranchers, miners, the Bush Interior Department, or anyone else who advocates balanced uses of Federal lands. It is, as Senator SESSIONS put it so well yesterday afternoon, a demonstration of the conceit of the elite, that Senate Democrats refuse to allow an up-or-down vote.

Bill Myers has been nominated to the Ninth Circuit, but I want to emphasize that the impact of this vote—or the Democrat minority's obstruction of an up-or-down vote—will be felt not only in the States within the Ninth Circuit, but throughout the West, as Senator ENZI so eloquently emphasized yesterday afternoon.

And it is, quite simply, a slap in the face to those farmers, ranchers, miners, and others who make their livings off of the public and private lands of our Western States to say that because a nominee has represented their interests, he does not even deserve a fair vote in the Senate. And, almost silently now, he is filibustered because he is too extreme to sit on a Ninth Circuit with a demonstrated record of leftist judicial activism.

Such a position is untenable, objectively, and I predict it will play even more poorly in the West. Let me read a recent letter to the editor, which was sent by a representative of South Dakota farmers and ranchers to that State's largest newspapers:

RAPID CITY JOURNAL AND
ARGUS LEADER,
Belle Fourche, SD, July 9, 2004.

SUPPORT NOMINATION

Agriculture producers in South Dakota and throughout our great country need elected representatives who understand our needs and respond to them. An important issue is currently before the U.S. Senate and Sen[ator] Daschle, the nomination of Bill Myers to serve on the Ninth Circuit Court of Appeals. We urge Sen[ator] Daschle to support the interests of South Dakota agriculture producers by allowing an up or down vote on the merits of the nomination on the floor of the Senate.

The Ninth Circuit issues many important decisions on resource use and environmental matters. Much of the opposition to Mr. Myers has been by environmentalists who have not liked his representation of people who make their living from the land in the West, including ranching interests in particular.

South Dakota producers would be well-served by having someone with direct knowledge of their concerns sitting on the Ninth Circuit, helping to set environmental legal policy for the entire country.

We hope Sen[ator] Daschle will hear our call and allow the Myers nomination to come to a full vote in the Senate. We are constantly reminded how powerful the minority leader position is. Bill Myers deserves a vote by the full Senate.

CHANCE DAVIS,
President, South Dakota Public Lands Council.

Indeed, I do hope that Senate Democrats hear this call. I hope they listened to Senators CRAIG, SESSIONS and ENZI yesterday, when they were too busy to even engage in a reasoned debate about why they insist on obstructing a qualified nominee.

In closing, the Senate should show the Constitution some respect by voting up or down on Bill Myers' nomination. I urge my colleagues to reject the filibuster of judicial nominations now and in the future, reject the smears of the extremist special interest groups who have poisoned this process. I urge my colleagues to support the cloture motion and allow the Senate to do its duty and vote up or down on the nomination.

Mr. President, I see Senator BIDEN is in the Chamber. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. BIDEN. Mr. President, I understand I have roughly 8 minutes; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be granted 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, the United States Senate has now confirmed more than 170 of President Bush's judicial nominees. The nomination the Senate is considering today—that of William G. Myers III for a lifetime seat on the United States Court of Appeals for the Ninth Circuit—is different from many because of both the background and experience of the nominee and the direct and lasting influence the nominee's decisions will have on Oregon and her citizens. This nominee's rulings will affect the fate of environmental and other safeguards in nine western States, including Oregon.

After a career as a grazing and mining industry lobbyist, Mr. Myers worked as Solicitor General for the Department of Interior, responsible for Indian Affairs and most Federal lands. In his position at the Department of Interior, Mr. Myers continued to advocate for his former clients, overturning precedent to allow mining on sacred Indian grounds and rendering a decision in direct response to a case he participated in as a lobbyist. Not only has Mr. Myers refused to recuse himself from cases where there may be a conflict of interest, he has limited judicial experience. He received a partial Not Qualified rating from the American Bar Association and has minimal courtroom experience. He has never tried a jury case and never been involved as counsel in any criminal ligation. Unfortunately, Mr. Myers has demonstrated neither the experience nor judicial temperament to qualify him for this position.

As a result of his performance as Solicitor General, at least 180 groups have come out in opposition to his nomination. Among those opposing his nomination are every major tribe in this Nation—including the Confederated Tribes of Siletz Indians, the Cow Creek, Warm Springs, and Umatilla tribes all from Oregon, and the National Congress of American Indians, which represents over 250 tribes nationwide, as well as Oregon groups such as the Oregon Natural Resources Council. The Oregonian just published an editorial today, which may have said it best: "Myers' anti-environmental activism by itself shouldn't disqualify him. The problem—and this gets back to his lack of judicial experience—is that he has no track record whatsoever to show how he would separate his ideology from his interpretation of the law on the Nation's second-highest court."

Mr. President, I take very seriously the Senate's role to advise and consent to the President's nominations, and in this instance, the facts require that I withhold my consent on this nominee.

Mrs. FEINSTEIN. Mr. President, I rise to urge my colleagues to oppose the nomination of William Myers to serve on the U.S. Court of Appeals for the Ninth Circuit, and to vote no on the motion to close debate. I came to my decision after a careful review of Mr. Myers' professional record. That review has convinced me that he is not the proper person to serve on this highly influential Federal court of appeals, which oversees all Federal litigation in my home State of California.

I met with William Myers and I found him to be an extremely polite and personable man. But I have serious reservations about whether he has the professional qualifications to serve on the Ninth Circuit. I also have serious doubts about his ability to rule on cases, particularly environmental and land-use cases, in an impartial, even-handed way.

A position on the appellate court should be reserved for our Nation's best legal minds and most accomplished attorneys. But, the American Bar Association gave Mr. Myers a partial "not qualified" rating. A key factor was his lack of legal experience.

This nominee has little litigation experience in either State or Federal court. By his own account, he has taken only a dozen cases to verdict—and six of those occurred before 1985 when he was a newly minted lawyer. He has never served as a counsel in criminal litigation. Even as Solicitor of the Department of Interior, Myers had no role in writing legal briefs.

Mr. Myers has spent a large part of his legal career as a lobbyist for cattle and grazing interests. Attorneys are obligated to zealously represent their clients and there is nothing wrong with this representation. But, I am troubled by a number of extreme comments that he made as an advocate.

For example, in a 1996 article, Myers equated Federal management of rangelands with the "tyrannical actions of King George" against the American colonists. According to Myers, these tyrannical practices included:

> over-regulation and efforts to limit [ranchers'] access to federal rangelands, revoke their property rights, and generally eliminate their ability to make a living from the land.

Source: "Western Ranchers Fed Up with the Feds," Forum for Applied Research and Public Policy, winter 1996.

Equating Federal rangeland policy with the tyrannical policies that sparked the American revolution is strong language. But when asked by Senator LEAHY to back up his claim, Myers could not come up with any examples.

Similarly, after the California Desert Protection Act was passed, he described the law as "an example of legislative hubris." The source is a book chapter: "Farmers, Ranchers, and Environmental Law," 1995, at page 209. As the author of the California Desert Protection Act, I was quite struck by this statement. Myers himself has acknowledged his "poor choice" of words, but this is one more piece of evidence that Mr. Myers can be intemperate and extreme.

The California Desert Protection Act created the Joshua Tree National Park, the Death Valley National Park, and the Mojave National Preserve. These are among our Nation's environmental jewels.

In total, the act set aside 7.7 million acres of pristine California wilderness, 5.5 million acres as a national park preserve, and provided habitat for over 760 different wildlife species. It has provided recreation and tourism for over 2.5 million people, provided more than $237 million in sales, more than $21 million in tax revenue, and more than 6,000 new jobs. This is what Myers called "legislative hubris."

Similarly, in a 1994 article, entitled "Having Your Day in Court," Myers railed against "activist" judges. He wrote of environmental groups:

> They have aggressively pursued their goals before friendly judges who have been willing to take activist positions and essentially legislate from the bench.

Source: National Cattlemen Magazine, November/December 1994, at page 34.

To illustrate his argument, he wrote:

> No better example can be found than that of wetlands regulation. The word "wetlands" cannot be found in the Clean Water Act. Only through expansive interpretation from activist courts has it come to be such a drain on the productivity of American agriculture.

When I and other Senators pointed out that, 10 years prior to his article, the Supreme Court had unanimously upheld the application of the Clean Water Act to protect wetlands, Myers backtracked and acknowledged Supreme Court precedent. He further acknowledged that he could not recall any specific cases that would justify the argument he made in his article.

Similarly, Myers, in another article, wrote that environmental groups are "mountain biking to the courthouse as never before, bent on stopping human activity wherever it may promote health, safety, and welfare." Source: ICA Line Rider, February, 1998. When queried about these statements, Myers again backtracked. And he has argued that he was merely the zealous lobbyist taking tough positions on behalf of his client.

There is one area of Myers' career where he can't attribute his words and actions solely to his role as a legal advocate. It is Myers' troubling body of work as Solicitor of the Department of Interior in the Bush administration. His record in this position provided for me the "tipping point" against his nomination.

As Solicitor of Interior, Myers' client was the American public. He had a duty to carry out his work in an impartial fashion just as he would if confirmed to be a Ninth Circuit judge. Nevertheless, on multiple occasions as Solicitor, Myers engaged in actions that raised questions about his impartiality and professional qualifications.

One of Myers two formal opinions as Solicitor involved the proposed Glamis Gold Mine in California.

During the Clinton administration, then-Solicitor Leshy wrote an opinion that led to the denial of an industry proposal which would have carved an 880-foot deep, mile-wide, open-pit gold mine out of 1,600 acres of ancestral tribal land in Imperial County, CA.

The Leshy opinion came out of an exhaustive review process spanning 5 years, three environmental documents, as well as several formal Government-to-Government consultations with the affected tribe, the Quechan Tribe. Within months of becoming Solicitor, Myers reversed the Leshy opinion.

In coming to his decision, Myers met personally with industry representatives, but not with the affected tribe. This one-sided dealing cannot be justified or explained away—particularly because Myers was mandated by law to engage in Government-to-Government consultation with the tribes and to protect sacred Native American religious sites.

Given that Myers would not even meet with the tribes to hear their point of view, it was not surprising that when Myers subsequently issued an opinion in favor of the industry, the District judge determined that Myers "misconstrued the clear mandate" of the applicable environmental law.

In his only other major opinion as Solicitor, Myers reversed a Clinton administration regulation on grazing permits challenged by his former clients, the Public Lands Counsel.

The issue involved whether environmental groups such as the Grand Canyon Trust could buy grazing permits from willing sellers in order to retire them. Myers, contrary to his strong support for property rights and free-market principles in other areas of Government regulation, found such a practice illegal.

Further, as the Los Angeles Times has reported, Solicitor Myers recommended that California State Representatives HERGER and DOOLITTLE introduce a private relief bill giving $1 million worth of public land in Marysville, CA, to a private firm. Source: "Interior Attorney Pushed Land Deal," Los Angeles Times, March 8, 2004, at B1.

The land, called locally the Yuba Goldfields, consists of 9,670 acres of gravel mounds and ponds created by hydraulic mining during the 19th century. According to the Bureau of Land Management, the land contains sand and rock that could be worth hundreds of millions of dollars for construction projects.

It turns out the companies seeking legislative relief did not have a valid claim to the land and had never even paid taxes on the property. And since 1993, the property had been carried on the county's tax records as public lands.

I am concerned that Myers committed the Department to support a bill without first doing the basic research needed to evaluate the issue, like consulting with local Bureau of Land Management officials.

I would like to comment briefly on one other area. Mr. Myers' nomination is to the Ninth Circuit. Some might argue that circuit could use some shaking up. But criticisms along those lines of the Ninth Circuit are not justified and do not do justice to the Ninth Circuit's judges.

This is not the time or the place for a long discussion of the Ninth Circuit generally. But I do want to cite just a few statistics to show that the Ninth Circuit's decisions are well within the mainstream of other circuit courts.

From 1994 to 2002, nationwide, the Supreme Court granted certiorari in only .23 percent of all Federal appellate cases. The Ninth Circuit had numbers that were a bit higher for that time period; the Supreme Court granted certiorari in .37 percent of all Ninth Circuit cases for those years. But while higher than average, this was entirely within the mainstream of other circuit courts. The range among circuits for that time period ranged from .13 percent of all Eleventh Circuit cases, to .5 percent for all DC Circuit cases. The Ninth Circuit is clearly in the mainstream of how its cases are treated by the Supreme Court.

Based on Myers' record, over 170 national groups have decided to oppose his nomination, including organizations that usually don't get involved in nominations. The National Congress of American Indians, NCAI, a coalition of more than 250 tribal governments, is opposing the nomination and they previously have not weighed in on any Bush-nominated judges. The National Wildlife Federation, which has never in its 68-year history opposed a judicial nominee, opposes Myers.

In closing, I would offer the observations of Joseph Sax, a nationally renowned professor of environmental and natural resources law at the Boalt Hall, U.C. Berkeley, who is familiar with Myers' work.

Sax writes:

> I do strongly believe that we are entitled to have persons of professional distinction appointed to important posts such as that of the U.S. Court of Appeals. Neither based on his experience as a practicing lawyer, nor while serving as Solicitor at Department of Interior has Myers distinguished himself, nor has he made any significant contributions to the law in his writings. . . . We can do much better.

Given Myers unremarkable record and the serious questions about his capability to judge cases impartially, I do not believe we should confirm him to the Ninth Circuit. So I will vote nay.

Mr. FEINGOLD. Mr. President, I oppose the nomination of William G. Myers to the Ninth Circuit Court of Appeals. After attending the hearing on his nomination, listening to his testimony, and reviewing his responses to my written questions, I am not persuaded that Mr. Myers can set aside his personal views and objectively evaluate cases that come before him. Many times during the nomination hearing, Mr. Myers simply evaded or refused to answer questions that were posed to him, claiming that he could not comment on an issue that could come before him if he is confirmed.

This was not the approach taken by at least some of President Bush's nominees. Then-Professor, now-Judge Michael McConnell, for example, was forthcoming in his testimony and answers to written questions. He convinced me in his hearing that he would put aside his personal views if he were confirmed to the bench. Mr. Myers did not.

Since Mr. Myers has never served as a judge, his published articles, his past legal work, his legal opinions at the Department of the Interior, and his testimony before the Judiciary Committee are all we have to assess his legal philosophy and views. This nominee did not simply make a stray comment that can be interpreted as indicating strong personal disagreement with our nation's environmental laws; he has a long record of extreme views on the topic.

Mr. Myers has called the Clean Water Act an example of "regulatory excess." He has stated that critics of the administration's policies are the "environmental conflict industry." He has stated that conservationists are "mountain biking to the courthouse as never before, bent on stopping human activity wherever it may promote health, safety, and welfare." He even compared the management of public lands to King George's "tyrannical" rule over American colonies.

Over 175 environmental, Native American, labor, civil rights, women's rights, disability rights, and other organizations oppose the nomination of Mr. Myers. This opposition speaks volumes about the concern that many potential litigants have about his views on a diverse range of issues that would come before his court. Rather than explaining what his views were during the nomination hearing or in responses to follow-up questions, Mr. Myers repeatedly ducked questions posed by me and my colleagues.

For example, during the hearing Mr. Myers was asked to identify which regulations he considered to be "tyrannical." After pointing out that he wasn't criticizing Government employees, which obviously wasn't the question, Mr. Myers finally identified a previous Federal rangeland policy. Yet, when pressed, Mr. Myers would not say that he personally believed these regulations were unneeded, but that he was merely "advocating on behalf of my clients." This is what all nominees say, of course, when challenged about past statements made on behalf of clients, but since Mr. Myers has never been a judge or a law professor, we have no other record to evaluate. And since he was repeatedly unwilling to tell us about his personal views in his hearing, we certainly cannot ignore his previous published statements on important legal issues that he will be called upon to decide.

Mr. Myers's views on the jurisdiction of Federal environmental laws, which he has called "top down coercion," also concern me. Mr. Myers authored a Supreme Court amicus brief on behalf of the National Cattlemen's Beef Association and others in an important case dealing with the jurisdiction of the Clean Water Act, Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers. The SWANCC case involved a challenge to the Federal Government's authority to prevent waste disposal facilities from harming waters and wetlands that serve as vital habitats for migratory birds. Mr. Myers argued in this brief that the commerce clause does not grant the Federal Government authority to prevent the destruction and pollution of isolated interstate waters and wetlands. The Department of Justice, on behalf of the Army Corps and EPA, has filed approximately 2 dozen briefs in Federal court since the SWANCC decision. DOJ has consistently argued that the Clean Water Act (CWA) does not limit coverage of the Clean Water Act to navigable-in-fact waters.

When I asked Mr. Myers about his view of the Clean Water Act, Mr. Myers would not say whether he agrees with this administration's consistent interpretation of the SWANCC case. He would not provide any information on how he reads the Supreme Court's SWANCC decision other than saying that it is "binding precedent", nor would he state what waters, if any, should not receive Federal Clean Water Act protection post-SWANCC. His refusal to respond to these questions gives me pause because of a recent Ninth Circuit decision that ruled that the SWANCC decision should be read narrowly and that wetlands, streams and other small waters remain protected by the statute and implicitly that the rules protecting those waters are constitutional. While Mr. Myers indicated that he would follow this Ninth Circuit precedent, he refused to elaborate on his views on this crucial issue.

In follow-up questions, I also asked Mr. Myers about a 1994 article he wrote for the National Cattlemen Beef's Association, which he also represented in the SWANCC case. Myers wrote that environmental organizations have:

> aggressively pursued their goals before friendly judges who have been willing to take activist positions and essentially legislate from the bench. No better example can be found than that of wetlands regulation.

Mr. Myers argued:

> The word "wetlands" cannot be found in the Clean Water Act. Only through expansive interpretation from activist courts has it come to be such a drain on the productivity of American agriculture.

Mr. Myers' answers to my questions about this article were not forthcoming. Mr. Myers would not list any of the cases he was referring to in that article or any cases of which he had subsequently become aware in which there has been an "expansive interpretation from activist courts" of "wetlands regulation." Nor could he provide me with his analysis of United States v. Riverside Bayview Homes, Inc., the 1985 case in which the United States Supreme Court unanimously upheld the Reagan administration's application of the Clean Water Act to protect wetlands. Mr. Myers stated that he considered the case to be binding precedent, which of course it is, but that doesn't shed much light on his views on the Clean Water Act.

I am also deeply troubled by Mr. Myers's record as Solicitor General at the Department of the Interior. During his tenure as the chief lawyer for the Department, Mr. Myers authored a very controversial Solicitor's opinion, and approved an equally controversial settlement. That Solicitor's opinion overturned a previous ruling regarding the approval of mining projects and greatly limited the authority of the Interior Department to deny mining permits under the Federal Land Policy Management Act—FLPMA.

FLPMA amends the Mining Law of 1872 in part by requiring that:

> in managing public land the Secretary shall, by regulation or otherwise take any action necessary to prevent the unnecessary or undue degradation of public lands.

In the Solicitor's opinion, Mr. Myers interpreted this law to mean that the Government could only deny a project to prevent unnecessary and undue degradation of public lands. Thus, if the proposed mining activity is "necessary," then Mr. Myers declared that the Government would have no authority to prevent a mine from going forward, even if it would harm sacred Native American grounds, historic sites, or environmentally sensitive areas. This legal opinion interpreting DOI regulations is one of the only guides we have to evaluate how a Judge Myers would interpret statutes.

Last year, a Federal court found that Mr. Myers's opinion:

> misconstrued the clear mandate of FLPMA, which by its plain terms vests the Secretary of the Interior with the authority—indeed the obligation—to disapprove mines that "would unduly harm or degrade the public land."

In response to questions posed about this opinion at the hearing, Mr. Myers could not adequately explain his statutory interpretation of "unnecessary or undue," nor could he articulate his rationale for finding that the word "or" in the statute actually meant "and."

After Myers's opinion, Secretary Norton approved the mining permit for the 1600-acre cyanide heap-leaching Glamis gold mine located on sacred tribal lands. Tribal leaders have called the Myers' legal opinion and the resulting decision to approve the Glamis mine "an affront to all American Indians." The National Congress of American Indians, which includes more than 250 American Indian and Alaska Native tribal governments, formally opposes the Myers nomination.

I have discussed my concerns about this nominee at some length because I wanted to show that my opposition to Mr. Myers is not based on a single intemperate remark he has made as an advocate. I simply am not convinced that Mr. Myers will put aside his personal policy views and fairly interpret and apply the law as passed by Congress. He has shown a willingness to disregard clear statutory language as Solicitor General of the Department of the Interior.

It is not enough for Mr. Myers to pledge that he will follow Supreme Court precedent. As we all know, the Supreme Court has not answered every legal question. Circuit court judges are routinely in the position of having to address novel legal issues. Mr. Myers's writings and speeches raise the question of whether he has prejudged many important legal questions. His answers to committee questions did not satisfy me that he has not. I will vote "No" on the nomination.

I yield the floor.

Mr. JEFFORDS. Mr. President, I rise today to express my opposition to the nomination of William G. Myers III to the Ninth Circuit Court of Appeals.

Looking over Mr. Myers record, it is clear that we do not see eye-to-eye on environmental policy. He once complained that the "federal government's endless promulgation of statutes and regulations harm the very environment it purports to protect." Mr. Myers believes that the Endangered Species Act and the Clean Water Act's wetlands protections are examples of "regulatory excesses." He has also compared the Government's management of public lands to King George's rule over the American colonies.

But policy disagreements alone are not enough to disqualify an individual from serving on our Nation's lower courts. I dare say that there has not been a judge confirmed during my almost 16 years in the Senate where the nominee and I have agreed on all issues. I believe the same could be said by any Senator who has ever served in the Senate.

For me to oppose a judicial nomination there needs to be more than just a disagreement on policy; there needs to be an issue concerning judicial temperament or competence. When reviewing the record compiled on Mr. Myers by the Judiciary Committee, I do believe there are serious deficiencies with this nomination, beyond a disagreement on policy, and I must oppose it.

First, Mr. Myers has very little litigation experience, a critical factor for serving on the circuit court level. In fact, he has never been a judge, nor has he participated in a jury trial, and only rarely has he participated in a nonjury trial. He has never been a law professor, and he has written only a few law review articles. Some candidates who I have supported in the past have lacked one kind of experience—being a judge, professor, or prolific writer—but have compensated for that gap with strength in other areas. Mr. Myers' resume, however, does not show any other such compensatory experience.

I am also greatly concerned that Mr. Myers' past actions bring into question his ability to separate his strong beliefs from his judicial duty to rule dispassionately on the law. This is a critical trait for any judge, at any level of the judiciary, and one that appears to be lacking in this nominee. For example, when he was the Interior Department Solicitor, which is the chief lawyer for the Department, he was sworn to defend the public interest and enforce Federal land regulations. However, in many actions taken by Mr. Myers, he used his position to weaken environmental regulations to the benefit of his former mining and grazing industry clients. This is a strong indication of his inability to separate his beliefs from his duty as a judge, and he must not be allowed to carry that to the Ninth Circuit Court of Appeals.

For those reasons I will oppose his nomination. In addition, as the ranking member of the Senate Environment and Public Works Committee, I am distressed that the majority leadership has decided to use valuable floor time to debate a nominee with horrible environmental perspectives and no chance at confirmation, while failing to take action on many important environmental issues.

We should be enacting comprehensive power plant antipollution legislation. We should be looking for new opportunities to improve the efficiency of our cars, homes, and buildings to help curb air pollution and reduce global warming. We should pass standards to improve reliable delivery of electricity. We should agree to produce more renewable motor fuels that meet Federal Clean Air requirements. We should build a pipeline to bring needed natural gas from Alaska to the lower 48 States. We should end manipulative electricity marketing practices that gouge our consumers. Finally, we should expand our use of renewable energy. We could do all these things, which would provide more energy for our country, and do them with substantial Senate support rather than debate a nomination that does not have the support necessary to be confirmed.

We also have failed to ensure that the United States continues to exercise leadership in multilateral efforts to protect the global environment. Even though the United States led the way in negotiating and signing several important international environmental treaties, we are not yet a party to these treaties because of a failure to pass necessary implementing legislation. The Law of the Sea Treaty is a perfect example. The Stockholm Convention on Persistent Organic Pollutants is, unfortunately, another.

These are some of the important environmental issues the Senate should be spending its precious remaining time on, and not on divisive nominees who have no chance for confirmation.

Mr. LEAHY. Mr. President, earlier today I discussed my concerns about the nomination of William Myers to a lifetime job as a judge on the U.S. Court of Appeals for the Ninth Circuit. Before we vote on the motion of Republican Senators to invoke cloture on this nomination, I would like to highlight a few things.

This nomination was reported out of the Judiciary Committee on April Fool's Day over the objections of every single Democratic member of the committee.

The Republican majority has failed to bring this nomination up for a vote during the past 4 months, knowing that Mr. Myers is strongly opposed by the widest coalition of citizen groups that have ever opposed a circuit court nominee in U.S. history. Suddenly last Friday, Republicans filed their cloture motion to end a debate that had not even begun about why President Bush nominated such an anti-environment activist for a judgeship. They set debate for a time they knew few were scheduled to be here on such short notice. It seems that they are afraid of a robust and thorough debate on the merits, or lack of merit, of this nomination but they are eager to try to create a political issue out of it.

I do not think it is too skeptical to suggest that Republicans are bringing this nomination up now only to try to politicize the judicial nominations issue further in advance of the Presidential nominating conventions. This is the partisan game plan proposed by the rightwing editorial page of the Washington Times and White House and rightwing advocacy groups such as the Committee for Justice. The White House and its Republican friends in this body should stop playing politics with these lifetime jobs as judges. Stop playing politics with our courts. Stop proposing extremists for our Federal bench. Stop trying to remake the Federal judiciary from an independent branch of Government into just another wing of the Republican Party.

We have stopped only a handful of this President's most extreme judicial nominees, even though Republicans blocked more than 60 of President Clinton's judicial nominees from getting an up-or-down vote. Republicans blocked nearly 10 times as many of President Clinton's moderate and well-qualified judicial nominees. Democrats have been judicious and sought to check only the worst nominations President Bush has proposed. This nomination is one of the most controversial and divisive, and the worst choice in terms of environmental protections and policy. It is so obvious he was chosen with the hope that he will continue to help roll back protections for clean water, clean air, and endangered ecosystems from the judicial bench.

Mr. Myers was picked to be a lifetime-appointed judge because for most of his working life he has been a strident opponent of environmental laws. The nomination of this industry lobbyist who has barely been inside a courtroom exemplifies the revolving door between corporate interests and the Bush administration. It is no wonder that his confirmation is opposed by more than 180 environmental, tribal, labor, civil rights, disability rights, women's rights and other citizen groups. I ask unanimous consent to have a list of those opposing this nomination printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Letters of Opposition to the Nomination of William G. Myers III—Nominee to the Ninth Circuit Court of Appeals

PUBLIC OFFICIALS

Senator James M. Jeffords, D–VT.

Members of Congress: George Miller, CA–7 (D); Peter A. DeFazio, OR– (D); Xavier Becerra, CA–31 (D); Luis V. Gutierrez, IL–4 (D); Jane Harman, CA–36 (D); Tom Lantos, CA–12 (D); Ed Pastor, AZ–4 (D); Nancy Pelosi, CA–8 (D); Raul Grijalva, AZ–7 (D); Earl Blumenauer, OR–3 (D); Grace F. Napolitano, CA–38 (D); Adam Smith, WA–9 (D); Anna G. Eshoo, CA–14 (D); Susan A. Davis, CA–53 (D); Dennis A. Cardoza, CA–18 (D); Jay Inslee, WA–1 (D); Zoe Lofgren, CA–16 (D); Bob Filner, CA–51 (D); Henry A. Waxman, CA–30 (D); Joe Baca, CA–43 (D); Linda T. Sánchez, CA–39 (D); Lucille Roybal-Allard, CA–34 (D); Maxine Waters, CA–35 (D); Jim McDermott, WA–7 (D); Barbara Lee, CA–9 (D); Brad Sherman, CA–27 (D); Ellen O. Tauscher, CA–10 (D); Hilda L. Solis, CA–32 (D); Jose E. Serrano, NY–16 (D); Lois Capps, CA–23 (D); Lynn C. Woolsey, CA–6 (D); Michael M. Honda, CA–15 (D); Mike Thompson, CA–1 (D); Robert T. Matsui, CA–5 (D); Pete Stark, CA–13 (D); Neil Abercrombie, HI–1 (D); Rick Larsen, WA–2 (D); Diane E. Watson, CA–33 (D); Sam Farr, CA–17 (D); Juanita Millender-McDonald, CA–37 (D); Adam B. Schiff, CA–29 (D); and Loretta Sanchez, CA–47 (D).

Members of the California State Senate: John Burton, President Pro Tempore (D-San Francisco); Shiela Kuehl, Chair, Senate Natural Resources Committee (D-Los Angeles); and Byron Sher, Chair, Senate Environmental Quality Committee (D-Stanford).

GROUPS

Affiliated Tribes of Northwest Indians; AFL-CIO; Ak-Chin Indian Community, Maricopa, AZ; Bear River Band of Rohnerville Rancheria Tribe, Loleta, CA; Big Sandy Rancheria, Auberry, CA; Cabazon Band of Mission Indians, Indio, CA; Cachil Dehe Band of Wintun Indians, Colusa, CA; California Nations Indian Gaming Association; California Rural Indian Health Board, Sacramento, CA; Circle Tribal Council, Circle, AK; Confederated Tribes of Siletz Indians, Siletz, OR; Delaware Tribe of Indians, Bartlesville, OK; Elko Band Council, Elko, NV (Te-Moak Tribe of Western Shoshone Indians of Nevada); Fallon Paiute-Shoshone Tribe, Fallon, NV; Friends of the Earth; Habematolel Pomo of Upper Lake, Upper Lake, CA; Ho-Chunk Nation, Black River Falls, WI; Hopland Band of Pomo Indians, Hopland, CA; Inaja Cosmit Band of Mission Indians; Inter Tribal Council of Arizona; Jamestown S'Klallam Tribe, Sequim, WA; Justice for All Project; Kalispel Tribe of Indians, Usk, WA; Kaw Nation, Kaw City, OK; Leadership Conference on Civil Rights; Mesa Grande Band of Mission Indians; Mooretown Ranchiera (Concow-Maida Indians); NAACP; National Congress of American Indians; National Senior Citizens' Law Center; National Wildlife Federation; Nightmute Traditional Council, Nightmute, AK; Oglala Sioux Tribe, Pine Ridge, SD; Paskenta Band of Nomlaki Indians, Orlando, CA; Passamaquoddy Tribe, Perry, ME; Public Employees for Environmental Responsibility; Pueblo of Laguna, Laguna, NM; Quechan Indian Tribe, Ft. Yuma Reservation; Ramona Band of Cahuilla Mission Indians, Anza, CA; Redding Rancheria Tribe, Redding, CA; San Pasqual Band of Mission Indians, San Diego County, CA; Santa Ysabel Band of Diegueno Indians, Tracts 1, 2, and 3; Seminole Nation of Oklahoma; Timbisha Shoshone Tribe of the Western Shoshone Nation, Bishop, CA; U ta Uta Gwaita Paiute Tribe, Benton, CA; Viejas Band of Kumeyaay Indians, Alpine, CA; and Winnebago Tribe of Nebraska

Coalition Letter from Civil, Women's and Human Rights Organizations: Advocates for the West; Alliance for Justice; American Rivers; Americans for Democratic Action; Clean Water Action; Committee for Judicial Independence; Defenders of Wildlife; EarthJustice; Endangered Species Coalition; Friends of the Earth; Leadership Conference on Civil Rights; Mineral Policy Center; NARAL Pro-Choice America; National Abortion Federation; National Environmental Trust; National Organization for Women; National Resources Defense Council; The Ocean Conservancy; Public Employees for Environmental Responsibility; Sierra Club; and The Wilderness Society.

Coalition Letter from Civil, Disability, Senior Citizens', Women's, Human rights, Native American, and Environmental Rights Organizations:

NATIONAL GROUPS

ADA Watch/National Coalition for Disability Rights; Alliance for Justice; American Lands Alliance; American Planning Association; American Rivers; Americans for Democratic Action; Association on American Indian Affairs; Campaign to Protect America's Lands; Citizens Coal Council; Clean Water Action; Coast Alliance; Community Rights Counsel; Defenders of Wildlife; Disability Rights Education and Defense Fund; Earth Island Institute; Earthjustice; Endangered Species Coalition; Environmental Law Association; Environmental Working Group; First American Education Project; Forest Service Employees for Environmental Ethics; Friends of the Earth; Indigenous Environmental Network; Leadership Conference on Civil Rights; League of Conservation Voters; Mineral Policy Center/Earthworks; The Morning Star Institute; National Association of the Deaf; National Congress of American Indians; National Employment Lawyers Association; National Environmental Trust; National Forest Protection Alliance; National Organization for Women; National Partnership for Women and Families; National Senior Citizens Law Center; National Tribal Environmental Council; Natural Heritage Institute; Natural Resources Defense Council; New Leadership for Democratic Action; Legal Momentum, formerly NOW Legal Defense and Education Fund; The Ocean Conservancy; People For the American Way; Progressive Jewish Alliance; PEER (Public Employees for Environmental Responsibility); REP America (Republicans for Environmental Protection); Sierra Club; Society of American Law Teachers; U.S. Public Interest Research Group; The Wilderness Society.

REGIONAL, STATE AND LOCAL GROUPS

Action for Long Island; Advocates for the West; Alaska Center for the Environment; Alaska Coalition; Alaska Rainforest Campaign; Arizona Wilderness Coalition; As You Sow Foundation; Audubon Society of Portland; Buckeye Forest Council; Cabinet Resource Group; California Employment Lawyers Association; California Nations Indian Gaming Association; California Native Plant Society; Californians for Alternatives to Toxics; California Wilderness Coalition; Cascadia Wildlands Project; Center for Biological Diversity; Citizens for the Chuckwalla Valley; Citizens for Victor!; Clean Water Action Council; Coast Range Association; Committee for Judicial Independence; Cook Inlet Keeper; Desert Survivors; Endangered Habitats League; Environmental Defense Center; Environmental Law Caucus, Lewis and Clark Law School; Environmental Law Foundation; Environmental Law Society, Vermont Law School; Environmental Protection Information Center; Environment in the Public Interest; Escalante Wilderness Project; Eugene Free Community Network; Florida Environmental Health Association; Forest Guardians; The Freedom Center; Friends of Arizona Rivers; Friends of the Columbia Gorge; Friends of the Inyo; Friends of the Panamints; Georgia Center for Law in the Public Interest; Gifford Pinchot Task Force; Grand Canyon Trust; Great Basin Mine Watch; Greater Yellowstone Coalition; Great Old Broads for Wilderness; Great Rivers Environmental Law Center; Headwaters; Heal the Bay; Hells Canyon Preservation Council; High Country Citizens' Alliance; Idaho Conservation League; Inter Tribal Council of Arizona; Jamestown S'Klallam Tribe; Kamakakuokalani Center for Hawaiian Studies; Kentucky Resources Council, Inc.; Kettle Range Conservation Group; Klamath Forest Alliance; Klamath Siskiyou Wildlands Center; Knob and Valley Audubon Society of Southern Indiana; Kootenai Environmental Alliance; Lake County Center for Independent Living; The Lands Council; Lawyers Committee for Civil Rights of the San Francisco Bay Area; Magic; Maine Women's Lobby; McKenzie Guardians; Mining Impact Coalition of Wisconsin; Mining Impacts Communication Alliance; Montana Environmental Information Center; Native Hawaiian Leadership Project; Northern Regional Center for Independent Living; Northwest Ecosystem Alliance; Northwest Environmental Advocates; Northwest Environmental Defense Center; Northwest Indian Bar Association; Northwest Old-Growth Campaign; Oilfield Waste Policy Institute; Okanogan Highlands Alliance; Ola'a Community Center; Olympic Forest Coalition; Oregon Natural Desert Association; Oregon Natural Resources Council; Pacific Environmental Advocacy Center; Pacific Islands Community EcoSystems; Placer Independent Resource Services, Inc.; Quechan Indian Nation; Reno-Sparks Indian Colony; Resource Renewal Institute; Rock Creek Alliance; San Diego Baykeeper; San Juan Citizens Alliance; Santa Monica Baykeeper; Save the Valley, Inc.; Selkirk Conservation Alliance; Siskiyou Project; Sitka Conservation Society; Southern Utah Wilderness Alliance; Southwest Environmental Center; St. Lucie Audubon Society; Tennessee Clean Water Network; Umpqua Watersheds; Valley Watch, Inc.; Waipa Foundation; Washington Environmental Council; WashPIRG; Waterkeepers Northern California; West Virginia Rivers Coalition; Western Environmental Law Center; Western Land Exchange; Western San Bernardino County Landowner's Association; Western Watersheds Project; Wildlands CPR; Wild South; Wyoming Outdoor Council; and Yuba Goldfields Access Coalition.

ATTORNEYS AND LAW PROFESSORS

Michael Dennis, Round Hill, VA; and Joseph L. Sax, Boalt Hall, Berkeley, CA.

Joint letter from Attorneys and Law Professors in the 9th Circuit: Robert T. Anderson, Director of the Native American Law Center; Keith Aoki, Professor of Law, University of Oregon Law School; Annette R. Appell, Professor of Law, William S. Boyd School of Law, UNLV; Barbara Bader Aldave, Stewart Professor of Law, University of Oregon; Michael C. Blumm, Professor of Law, Lewis and Clark School of Law; Melinda Branscomb, Associate Professor of Law, Seattle University; Allan Brotsky, Professor of Law Emeritus, Golden Gate University School of Law; Robert K. Calhoun, Professor of Law, Golden Gate Law School; Erwin Chemerinsky, Professor of Law, University of Southern California; Marjorie Cohn, Professor of Law, Thomas Jefferson School of Law; Connie de la Vega, Professor of Law, University of San Francisco; Sharon Dolovich, Acting Professor of Law, University of California Los Angeles; Scott B. Ehrlich, Professor of Law, California Western School of Law; Roger W. Findley, Professor of Law, Loyola Law School; Catherine Fisk, Professor of Law, University of Southern California; Caroline Forell, Professor of Law, University of Oregon School of Law; Susan N. Gary, Associate Professor of Law, University of Oregon School of Law; Dale Goble, Professor of Law, University of Idaho; Carole Goldberg, Professor of Law, University of California Los Angeles; A. Thomas Golden, Professor of Law, Thomas Jefferson Law School; Betsy Hollingsworth, Clinical Professor of Law, Seattle University Law School; M. Casey Jarman, Professor of Law, University of Hawaii; Kevin Johnson, Professor of Law, University of California, Davis; Craig Johnston, Professor of Law, Lewis and Clark Law School; Arthur B. LaFrance, Professor of Law, Lewis and Clark Law School; Ronald B. Lansing, Professor of Law, Lewis and Clark Law School; David Levine, Professor of Law, University of California Hastings College of the Law; Susan F. Mandiberg, Professor of Law, Lewis and Clark Law School; Karl Manheim, Professor of Law, Loyola Law School; Robert J. Miller, Associate Professor of Law, Lewis and Clark Law School; John T. Nockleby, Professor of Law, Loyola Law School; David B. Oppenheimer, Professor of Law, Golden Gate University School of Law; Laura Padilla, Professor of Law, California Western School of Law; Clifford Rechtschaffen, Professor of Law, Golden Gate University School of Law; Naomi Roht-Arriaza, Professor of Law, University of California Hastings College of Law; Michael M. Rooke-Kay, Professor of Law Emeritus, Seattle University School of Law; Susan Rutberg, Professor of Law, Golden Gate University School of Law; Robert M. Saltzman, Associate Dean, University of Southern California Law School; Sean Scott, Professor of Law, Loyola Law School; Julie Shapiro, Associate Professor of Law, Seattle University Law School; Katherine Sheehan, Professor of Law, Southwestern Law School; Paul J. Spiegelman, Adjunct Professor of Law, Thomas Jefferson School of Law; Ralph Spritzer, Professor of Law, Arizona State University; John A. Strait, Associate Professor of Law, Seattle University; Jon M. Van Dyke, Professor of Law, University of Hawaii at Manoa; Martin Wagner, Adjunct Professor of Law, Golden Gate University School of Law; James R. Wheaton, President, Environmental Law Foundation; Bryan H. Wildenthal, Professor of Law, Thomas Jefferson School of Law; Gary Williams, Professor of Law, Loyola Law School; Robert A. Williams, Jr., Professor of Law and American Indian Studies, and Faculty Chair of the

Indigenous Peoples Law and Policy Program, University of Arizona; and Jonathan Zasloff, Professor of Law, University of California Los Angeles.

CITIZENS

Nora McDowell, President, Inter Tribal Council of Arizona (19 member tribes); and Dyrck Van Hying, Great Falls, MT.

GROUPS EXPRESSING CONCERN OVER THE MYERS NOMINATION

Coalition Letter from Women's, Reproductive, and Human Rights Organizations: Alliance for Justice; American Association of University Women; Catholics for a Free Choice; Feminist Majority; Human Rights Campaign; NARAL Pro-Choice America; National Abortion Federation; National Council of Jewish Women; National Family Planning and Reproductive Health Association; NOW Legal Defense and Education Fund; National Partnership for Women and Families; National Women's Law Center; Planned Parenthood Federation of America; Religious Coalition for Reproductive Choice; and Sexuality Information and Education Council of the United States.

Mr. LEAHY. He is opposed because he should not be trusted with a lifetime job as an appellate judge. His record is too extreme.

If you watch what the Bush administration does, instead of just listening to what it says, there is much evidence of this administration's outright contempt for high environmental standards. This nomination, in itself, says something about that. This nomination is emblematic of so many of this administration's appointments, especially to sensitive environmental posts. Mr. Myers' Interior appointment was the first "swoosh" of the revolving door. His nomination by President Bush to one of the highest courts in the land completes the cycle.

I must oppose cloture on this nomination, and I hope that the Senate's vote today will say something about the higher priority that the Senate makes of environmental quality.

Mr. CHAFEE. Mr. President, today I will vote in favor of invoking cloture on the nomination of William G. Myers III to serve on the U.S. Court of Appeals for the Ninth Circuit. During the 108th Congress, the Senate has failed to invoke cloture on the nominations of Mr. Myers and several other circuit court nominees. I have supported invoking cloture on these nominations because I am concerned about how such filibusters will affect the judicial confirmation process, including the nominees of future Presidents. The overwhelming majority of editorial pages across the Nation agree that district and circuit court nominees are entitled to an up-or-down vote.

However, a vote to invoke cloture is not an automatic vote for confirmation. In fact, I joined several other Republicans in voting against a district court nominee earlier this month. I have heard from a number of Rhode Islanders who have serious concerns about Mr. Myers, particularly his views on property rights and environmental protection, and I will carefully weigh their objections should the Senate invoke cloture on his nomination in the future.

Ms. CANTWELL. Mr. President, over the last 3½ years, the Senate has approved 198 of President Bush's judicial nominees: more than were confirmed during President Reagan's first term, more than confirmed during the first President Bush's term, and more than were confirmed during President Clinton's second term, when the other party controlled this body.

The reality is that the Senate has made remarkable progress approving this President's nominees. Today, there are fewer Federal judicial vacancies than at any time in the last 14 years.

This is true because both sides of the aisle have been able to work together to identify talented, qualified, experienced nominees—nominees who can put their own ideologies aside and uphold the law.

We have a bipartisan selection process that has worked very well for Washington state. Members of Washington State's legal community, the White House, and my colleague Senator PATTY MURRAY and I worked together to review a group of applicants. I am proud of our work. This cooperative approach has produced a number of highly qualified judicial nominees—including two who were confirmed just last month—and I believe it is a sound model for other States.

Unfortunately, the nomination before us today—that of William Myers to the Ninth Circuit Court of Appeals—represents a break with this spirit of cooperation and fairness. As a Senator who represents a State in the Ninth District, I feel that I must explain why I have concluded that I have no choice but to oppose this nomination.

Other Senators have spoken about Mr. Myers' inexperience. I agree that the nominee before us has limited experience. He has never been a judge, he has never tried a jury case, he has never served as counsel in any criminal litigation, and he has tried just twelve cases to verdict or judgment.

I am troubled that this administration believes such a candidate is an appropriate choice to serve on the U.S. Court of Appeals, just one level below the U.S. Supreme Court. But I would like to spend my time discussing some other problematic aspects of this nomination.

The decision this body makes on the nomination before us will have a long-lasting impact on the States of the Ninth Circuit. For one thing, the person appointed to fill this seat on bench will receive a lifetime appointment. For another, the Ninth Circuit decides on many cases that can have dramatic impacts on land management policy and environmental protections. Decisions about how to use our natural resources and public lands can have irrevocable consequences.

With this in mind, I am concerned that this nominee has compared the federal government's management of public lands to "the tyrannical actions of King George" over the American colonies.

More troubling in his view of the Commerce Clause. In the face of decades of established law, Mr. Myers has argued for a more limited interpretation of this key portion of the Constitution, which underpins much of Federal environmental law. Rhetoric is one thing; radically re-interpreting the Constitution is another.

I am disappointed that the Senate has spent so much time debating a judicial nominee with such a poor record on protecting the environment, instead of taking up legislation that could actually improve the environment.

And in addition to public lands issues, the Ninth Circuit often considers cases regarding Native American issues. Yet here, too, Mr. Myers's record is troubling.

In one case, Myers reversed existing policy of the Department of the Interior, without seeking public opinion or input from affected Tribes. His decision, which relied on his interpretation of the Federal Land Policy and Management Act, FLPMA, allowed a mining company to contaminate a large area of land in California that was sacred to the Quechan tribe.

But when a Federal judge reviewed the case—the only time a Federal judge reviewed Myers' work—he concluded, "The Solicitor misconstrued the clear mandate of FLPMA."

It is for reasons like this that the National Congress of American Indians—which has never in its history opposed a Federal judicial nominee—opposes this nominee. Together, 560 tribes have spoken up and voiced their strong concerns with his nomination.

The Affiliated Tribes of Northwest Indians, which represents tribes in Washington, Oregon, Montana, and the nominee's home State of Idaho, has also never previously opposed a judicial nominee. But they believed it was necessary to step forward and oppose Mr. Myers. As they noted in a letter to me and other Northwest Senators, "We do not take this step lightly—but when a nominee has acted with such blatant disregard for federal law and our sacred places, we must speak out."

I ask unanimous consent that the Affiliated Tribes' letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Affiliated Tribes
of Northwest Indians,
Portland, OR, March 19, 2004.

Re: Opposition to the Nomination of William G. Myers III to the 9th Circuit Court of Appeals.

Senators: Stevens, Murkowski, McCain, Kyl, Feinstein, Boxer, Inouye, Akaka, Craig, Crapo, Baucus, Burns, Reid, Ensign, Wyden, Smith, Murray, Cantwell,
U.S. Senate,
Washington, DC.

Dear Senators: We write to you today as leaders of tribes within the jurisdiction of the 9th Circuit Court of Appeals to express our strong opposition to the confirmation of William G. Myers III to the 9th Circuit Court of Appeals. As President of the Affiliated Tribes of Northwest Indians/Chairman of the Coeur d'Alene Tribe in Idaho, and as Treasurer of the National Congress of American Indians/Chairman of the Jamestown S'Klallam Tribe, respectively, we represent a broad base of tribes in the Northwest who would be directly impacted by this nomination.

We have never before stepped forward to oppose a judicial nominee. We believe that the President is entitled to receive the consent of the Senate for his judicial appointments unless there are serious concerns regarding judicial fitness. However, former Solicitor of Interior Myers' disregard for federal law affecting Native sacred places compels our view that he is unable to fairly and impartially apply the law and thus should not be confirmed.

The U.S. government, as steward for millions of acres of Western lands, has accepted responsibility for maintaining and protecting religious sites of significance to Native Americans. This responsibility is clearly recognized not only by treaty and custom but also in laws such as the Federal Land Policy and Management Act (FLPMA).

Unfortunately, the nominee, while serving two years in the Bush administration as solicitor of the Department of the Interior, trampled on law, religion, and dignity. In his official capacity he orchestrated a rollback of protections for sacred native sites on public lands, although such places have been central to the free exercise of religion for many American Indians for centuries.

Most notably, despite his stewardship responsibility, with the stroke of his pen Myers reversed a crucial departmental decision that had been arrived at over a period of years with substantial public input. His action cleared the way for a massive hardrock mining operation employing cyanide to extract gold from enormous heaps of rock. This mine, run by Canada's Glamis Imperial Gold Company, stands to contaminate thousands of acres and destroy a vast swath of land in the California desert that is sacred to the Quechan tribe.

In one of only three formal opinions in his two-year tenure at Interior, Myers argued that the agency's Bureau of Land Management did not have authority under the FLMPA law to prevent the undue degradation of public lands that sometimes accompanies such mining operations. But this is contrary to the specific wording of the legislation, which requires the Department of the Interior to protect against public land degradation that is "unnecessary or undue."

Myers simply concluded that any practice necessary for a mining operation was, by definition, not undue. Such reasoning stands contrary to common sense and turns legislative statute on its head. While specifically addressing only the Glamis project, Myers's opinion, if followed, would block the Bureau from preventing undue degradation across millions of acres of public land.

It's hard to imagine a more fundamental misreading of the language and intent of the law. As Federal district Judge Henry Kennedy Jr.—the only judge to have reviewed Myers's handiwork—declared, "The Solicitor misconstrued the clear mandate of FLPMA."

Furthermore, the court held: "FLPMA by its plain terms, vests the Secretary of Interior with the authority—and indeed the obligation—to disapprove of an otherwise permissible mining operation because the operation, though necessary for mining, would unduly harm or degrade the public land." No wonder the American Bar Association questions Myers's legal qualifications for a position on the Federal appellate bench.

Equally troubling to tribes in the 9th Circuit is the shameful exclusion of the Quechan Indian Nation from the decision to reconsider the Glamis project. Neither Myers nor Interior Secretary Gale Norton engaged in government-to-government consultation with the Quechan Indian Nation or other Colorado River tribes before reopening and reversing the Glamis debate.

The Ninth Circuit Court encompasses a huge area. It contains scores of reservations, more than one hundred Indian tribes, millions of Indian people, and millions of acres of public lands. Because so few legal cases ever reach the U.S. Supreme Court, the Ninth Circuit is often the court of last resort for deciding critically important federal and tribal land management issues.

Judges on this court must understand and respect tribal values and the unique political relationship between the federal government and tribal governments. Myers' actions and legal advice in the Glamis matter trample on tribal values, raise serious questions about his judgment, and demonstrate a clear lack of the impartiality necessary to decide cases affecting public lands.

We ask that you stand with us in opposing this nominee. We do not take this step lightly—but when a nominee has acted with such blatant disregard for Federal law and our sacred places, we must speak out.

Ernest L. Stensgar,
President, Affiliated Tribes of Northwest Indians, Chairman, Coeur d'Alene Tribe.
W. Ron Allen,
Chairman, Jamestown S'Klallam Tribe, Former President, National Congress of American Indians.

Ms. CANTWELL. Mr. President, for the 29 tribes in my home State of Washington, and the many tribes throughout the West, this is a troubling report.

To be clear, I am not opposing Mr. Myers's nomination simply because we disagree on issues. I have voted for many of this President's nominees whose views on a range of issues differ from my own.

I have had ideological differences with many of the nominees put forth by this administration; yet I have voted to approve the overwhelming majority of those candidates. I do not believe that a difference in a nominee's views alone justifies voting against him or her.

But I cannot assent to a nominee who I do not believe will uphold the law when it conflicts with his ingrained political philosophy. Unfortunately, I believe Mr. Myers is such a nominee.

Mr. Myers has written, "Judge Bork's judicial philosophy was well within the parameters of acceptable constitutional theory, worthy of representation on the Supreme Court." More importantly, Mr. Myers indicated his support of "judicial activism" in his discussion of Bork's views: "Interpretivism does not require a timid approach to judging or protecting constitutionally guaranteed rights . . . interpretivism is not synonymous with judicial restraint and may require judicial activism if mandated by the constitution."

A Pacific Northwest newspaper, the Oregonian, summed up Mr. Myers's nomination this way: "Myers has overwhelmingly looked out for industry interests while antagonizing a vast array of conservation groups, tribes, labor unions and civil-rights organization." I ask unanimous consent that this editorial be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Oregonian, July 20 2004]

Wrong Pick for 9th Circuit; Surely the White House Can Find a More Qualified Nominee for the Appellate Court than William Myers

In conservative doctrine, no court in the land is more out of step than the 9th U.S. Circuit Court of Appeals. It's considered a nest of "activist" judges whose liberal leanings produce some truly wacky rulings.

That reputation reared its head again Monday in a hearing on the nomination of William G. Myers III to a 9th Circuit vacancy. One Republican senator after another testified that the Idaho lawyer is just what's needed to bring some "balance" to the court.

Wrong. The 28-seat appellate court may indeed harbor some ideology-driven activists. But the solution isn't to add another ideology-driven activist.

Myers didn't get this nomination because of superior judicial fitness. He got it because of his political views and friendly relationships with industries besieged by environmental lawsuits.

He lacks any judicial experience, but that isn't the real problem. Many outstanding judges, such as Portland's Diarmuid O'Scannlain, were appointed to the 9th Circuit without coming up through the judicial ranks.

But unlike Scannlain, Myers wasn't hailed by his peers as a brilliant legal mind. He received only a tepid "qualified" rating by the American Bar Association's judicial review panel. Not one member rated him "well-qualified," and several voted "unqualified."

No distinguished career in law won Myers the attention of the Bush administration. He toiled for years as a lobbyist for the mining industry and cattle interests before the White House appointed him to be the Interior Department's top lawyer in 2001.

In that role, Myers has overwhelmingly looked out for industry interests while antagonizing a vast array of conservation groups, tribes, labor unions and civil-rights organizations.

Myers' anti-environmental activism by itself shouldn't disqualify him. The problem—and this gets back to his lack of judicial experience—is that he has no track

> record whatsoever to show how he would separate his ideology from his interpretation of the law on the nation's second-highest court.
>
> The Senate is scheduled to vote today on Myers' confirmation. According to their aides, Sen. Gordon Smith, R-Ore., probably will support the appointment, which is unfortunate, and Sen. Ron Wyden, D-Ore., will vote against it.
>
> The Senate has confirmed more than 170 of Bush's judicial nominees, while blocking only seven. William Myers should be the eighth.

Ms. CANTWELL. Mr. President, Mr. Myers's embrace of judicial activism, combined with his anti-environmental record and a poor history of recognizing tribal rights, prevent me from offering my consent on this nomination.

I yield the floor.

Mr. HATCH. Mr. President, I rise today to rebut my colleagues' statements regarding our nominee William Myers. Some of these statements we have heard today are inaccurate and I would like to set the record straight.

Despite some accusations to the contrary, Myers has a proven record of defending Native American tribal interests in this country. For example, he defended the constitutionality of a provision of the California Constitution giving Indian tribes the exclusive right to conduct casino gaming in that State.

He also fought to uphold the Secretary of the Interior's decision to put a parcel of land located in Placer County, CA into trust for the United Auburn Indian Community. In addition, Myers supported legislation that vindicated the property rights of the Pueblo of Sandia, a federally recognized Indian tribe in central New Mexico, by creating the T'uf Shur Bien Preservation Trust Area within New Mexico's Cibola National Forest.

He also helped negotiate an agreement removing two dams from the Penobscot River in an effort to clear the way for the Penobscot Indian Nation to exercise its tribal fishing rights. Conservation groups and the Penobscot Indian Nation supported these efforts, and the agreement is now being implemented by the DOI's Boston field office.

And finally, with respect to tribal interests, Myers worked to implement an Indian Education Initiative that provided increased budget support to the Bureau of Indian Affairs schools, including over $200 million annually for school construction. This initiative emphasizes the teaching of tribal languages and cultures in addition to improving reading, math, and science education.

Some have also alleged that Myers demonstrated his hostility to environmental safeguards when he submitted a brief, on behalf of the North Dakota Farm Bureau, the American Farm Bureau and a similar group of clients, which challenged the Army Corps of Engineers' authority to regulate solid waste disposal into isolated wetlands. However, the U.S. Supreme Court agreed with his argument—pretty good evidence that the argument was both mainstream and stood on solid legal ground.

In fact, the U.S. Supreme Court agreed with Myers' clients that as a matter of statutory interpretation, the Clean Water Act did not authorize the Army Corps of Engineers to regulate the habitat of migratory birds in isolated, intrastate waters.

Myers' brief never contended that Congress lacks the ability to regulate wetlands under other statutes or provisions of the Constitution, e.g., under its spending clause powers. It simply argued that the Clean Water Act, as it existed in 1999, did not properly delegate such regulatory authority to the Army Corps of Engineers.

In his responses to Senator FEINSTEIN's written questions, Mr. Myers affirmed that Congressional intent in passing the Clean Water Act was to "restore and maintain the chemical, physical and biological integrity of the Nation's waters," and that "the health of our Nation's waters is often inextricably connected to the health of adjacent wetlands."

As Myers stated at his hearing, the Clean Water Act is clearly constitutional, and there's no question that he understands its importance. And there's also no question that advocacy of a position accepted by a Supreme Court majority should be viewed as a positive point for a nominee, not a negative due to someone's personal disagreement with the decision in question.

I would also like to set the record straight regarding our nominee and an amicus brief he submitted on behalf of the National Cattlemen's Association to the U.S. Supreme Court in the 1995 Sweet Home v Babbitt case. Despite what my colleagues allege, this brief did not argue that the Endangered Species Act itself was unconstitutional.

The brief simply relied on the then-recent precedent of Dolan v City of Tigard, in which the Supreme Court stated:

> We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or the Fourth Amendment, should be relegated to the status of a poor relation in these comparable circumstances.

The problem that Mr. Myers' clients had with the Endangered Species Act was that Babbitt Interior Department regulations defined the term "harm" in the statute in a way that essentially precluded any private landowner's use of property on which an endangered species might find habitat, and, importantly, that the Government had no intention of compensating affected landowners.

In fact, the Endangered Species Act contains provisions that enable the Secretary of the Interior to pay landowners to protect endangered species on their properties, while also preserving viable economic uses of the land. It's no surprise that the Babbitt Interior Department had no intention of enforcing those provisions of the law, but you can hardly blame ranchers and farmers adversely affected by Endangered Species Act regulations for hiring lawyers to ask the Supreme Court to remind the Interior Department of its obligations.

These provisions of the statute are, of course, in addition to the takings clause of the Fifth Amendment. Now, I understand that the Supreme Court ruled against Mr. Myers' clients' position in this case, but it seems to me that arguments well grounded in the plain language of the Constitution and the statute at issue, that acknowledged the basic validity of the statute, cannot credibly be tarred as "extreme."

By contrast, here is a situation that I think most people would agree is extreme. Last month, the Associated Press published an article entitled "So Endangered It Didn't Exist," in, among other newspapers, the Daily Southtown of Illinois. The article reports that the LeSatz family of Chugwater, WY:

> wants to be able to teach their clients the finer points of riding and roping without having to trailer their animals 25 miles to the nearest public indoor arena whenever the weather turns miserable. But the LeSatzes aren't able to build their own riding arena. The only decent site on their property in southeastern Wyoming lies within 300 feet of Chugwater Creek, and building there is far too expensive because of Endangered Species Act restrictions intended to protect the Preble's meadow jumping mouse.

The article then breaks it to the reader that the mouse doesn't exist:

> After six years of regulations and restrictions that have cost builders, local governments and landowners on the western fringe of the Great Plains as much as $100 million . . . new research suggests the Preble's mouse in fact never existed. It instead seems to be genetically identical to one of its cousins, the Bear Lodge meadow jumping mouse, which is considered common enough not to need protection.

Now, the U.S. Fish and Wildlife Service is in the process of deciding whether or not these two species of mice are identical; if they are, then neither needs protection from the Endangered Species Act. And the consequences would positively affect many Western communities, in Montana, Wyoming, Colorado, and perhaps several other Western States. As a spokesman for the Colorado Contractors Association put it:

> If we've shown that the mouse doesn't exist, what happens to all that has been set aside? Because that's been a huge economic burden.

Indeed it has. As the article reports, "nearly 31,000 acres along streams in Colorado and Wyoming have been designated critical mouse habitat." The mouse "also has blocked the construction of reservoirs amid a five year drought in the Rocky Mountains."

Naturally, environmental groups have begun their usual attacks in hopes of preserving the potentially bogus classification of this mouse as endangered. But the quote from one of those groups' spokesmen in the AP article is instructive. Does it attack the science? Does it say, well, let's get to the bottom of this? No. It personally attacks the biologist who raised this issue with the U.S. Fish and Wildlife Service, as having "a clear anti-Endangered Species Act agenda," and mocks him for "testifying in Washington, D.C. in front of committees headed by members of Congress who would like nothing better than having the Endangered Species Act thrown away." I guess that, by this individual's logic, any time someone who doesn't share his policy agenda is chairing a Congressional committee, testimony before that committee is illegitimate. An interesting standard—I wonder if Bill Myers' liberal environmentalist opponents would like it applied to their detriment.

Now, the biologist referenced in this AP article may or may not prove to be right about this mouse; it's the Fish and Wildlife Service's job to figure that out. But here's the point: anyone who suggests that sound science ought to inform Endangered Species Act classifications—as Bill Myers did when he was representing folks like the LeSatzes, trying to make a living off the land, in this case, their own land—is attacked by the liberal activists as trying to throw the entire law into the garbage can. Sound familiar? It should. It sounds exactly like the kinds of personal attacks we're hearing on Bill Myers today, and it sounds like the attacks on any member of Congress who has the gall to suggest that the Endangered Species Act must be reformed. While now is not the time to debate the ESA, now should also not be the time to personally attack a qualified judicial nominee for having represented Westerners who have suffered because of its draconian applications.

Let me also remind my colleagues of Mr. Myers' acknowledgement at his hearing, that:

> the Supreme Court, in interpreting the Takings Clause and the Fifth Amendment, has never interpreted it as an absolute. . . . [P]roperty rights are subject to reasonable regulation by government entities.

We all know this is the case—not only with the Takings Clause, by the way—and Mr. Myers has never suggested otherwise, despite the misrepresentations of his opponents.

I might note that I find it very unfortunate that the various Indian tribes that oppose Bill Myers have bought into the same false accusations about the Glamis Gold Mine issue.

The truth is Bill Myers was not involved in the permitting process for the proposed Glamis gold mine in southern California. He simply issued a Solicitor Opinion regarding the proper scope of the Interior Department's authority under the Federal Land Policy and Management Act, which allowed Glamis Gold, the owner of several mining claims in the area, to proceed with a pre-existing mining proposal. My colleagues should understand that the Babbitt Interior Department approved the same Glamis proposal—supported by two draft environmental impact statements in 1996 and 1997, and two separate Native American tribal cultural resource studies in 1991 and 1995—up until the last week of the Clinton Administration in January 2001.

At his hearing, Mr. Myers stated that:

> my role in that matter was looking at a fairly narrow [legal] point and determining whether the Department had the congressional authority that it needed to make certain interpretations [of the FLPMA].

And his legal conclusion was that the Interior Department did not have the authority to do what former Secretary Babbitt's Solicitor said it did, regardless of the policy merits.

In response to Senator LEAHY's written questions, Mr. Myers explained that prior to his tenure as Solicitor:

> Interior had suspended the 2000 regulations affecting hard rock mining. Those regulations were based in part on one of my predecessor's opinions. Multiple lawsuits regarding the suspended regulations were also pending when I arrived. I therefore felt an obligation to review the opinion that was common to these controversies to determine if the Department's defense to the lawsuits was viable.

In fact, Myers reached the legal conclusion that the regulations based on that opinion could not be credibly defended in Federal court.

Additionally, as his written responses to several other Senators' questions make clear, he reached that conclusion before he met with any mining industry representatives, and with the full awareness of the legal positions taken by the affected Indian tribes. Mr. Myers emphasized that:

> representatives of the mining company were disappointed by their meeting with me because I would not engage them in a discussion of their ideas or views on the [hardrock mining] matter.

Finally, last spring, a Department of the Interior Inspector General report, concluded:

> the conduct of the DOI officials involved in this [Glamis] matter was appropriate, that their decisions are supported by objective documentation and that no undue influence or conflict of interest affected the decision-making process related to the Imperial Project.

While a Federal district court judge here in D.C. disagreed with Myers' Opinion regarding mining operations on Federal lands, the judge upheld the Interior Department's regulations that were based on Myers' Opinion. As Bill noted in his responses to Senator FEINSTEIN's written questions, his opinion was consistent with the Carter administration's interpretation of the relevant portions of the FLPMA, and the D.C. judge agreed with Bill's Opinion's ultimate conclusion that the Bush administration's mining regulations would protect public lands from unnecessary and undue degradation.

Just once I would like to come here to vote on a nominee that some Democrats have maligned and misrepresented in order to make him or her "controversial," and hear more than one Democrat say, well, we've actually reviewed the hearing transcript and the nominee's answers to written questions, and he or she really is a balanced, reasonable person who doesn't deserve the slander we've hurled at him or her. Maybe just once those Democrats prosecuting these filibusters will stray from the talking points and press releases of the inside-the-Beltway smear groups.

But I fear that day will be a long time in coming. Until then, and today in Bill Myers' case, all I can do is calmly point out facts and in particular, statements that the nominee has made to us that conclusively rebut the fevered allegations against him.

Mr. Myers' opponents have continually argued that since Bill Myers had publicly advocated his former clients' causes, which clash with their own policy preferences, he is presumptively disqualified from service on the Federal bench. But here is what he said in response to Senator SCHUMER's question regarding the Federal Government's role in environmental policy:

> A centralized government, i.e., Congress, has an important role to play in environmental protection. And the Clean Water Act, the Clean Air Act—there are probably 70 environmental statutes that give evidence to that truth.

He further explained that much of his advocacy for ranchers against the Government was in response to the impact of environmental regulations on the generally good environmental stewardship of public lands by ranchers.

But, Mr. Myers explained in his responses to Senators' written questions that he has in fact represented "clients who actively opposed use of federal land for oil and gas exploration and ranching," in one case because "proposed oil and gas exploration conflicted with my client's use and enjoyment of . . . the land's aesthetic and ecosystem values." He also clarified that his lobbying on behalf of coal companies was limited to a piece of legislation supported by Bruce Babbitt's Interior Department.

In written questions, Mr. Myers was asked:

> In private practice, have you ever represented an environmental organization or Indian tribe in litigation against the grazing or mining industry, or lobbied for environmental or Native American organizations on

> an issue or piece of legislation that was opposed by the mining or grazing industries?

And here's how he responded:

> I have not represented environmental organizations in private practice. However, I have represented Native American tribal interests in pursuit of environmental matters unrelated to grazing or mining. In particular, I have represented tribal interests in securing water rights and damages for lost fishing rights. I have not lobbied for environmental or Native American organizations. While in private practice, I volunteered to chair a review commissioned by the State of Idaho regarding management of federal lands in Idaho. Environmental interests participated in that effort. Specific environmental groups were invited to join the group as full members but they declined to do so.

Mr. Myers also clarified that as Solicitor, he:

> supported litigation and non-litigation activities restricting commercial use of public land for gold mining, ranching, off-shore oil and gas development, trespass in National Parks, expansion of national monuments, and protection of Indian sacred sites.

The question is, Do Mr. Myers' opponents care about his statements and the facts of the particular matters they hold against him, or had they made up their minds, well before he ever had an opportunity to respond to their concerns, and regardless of what he's actually said in sworn testimony? I think I know the answer, and it is a profoundly unsettling one.

I would also like to respond briefly to a falsehood recently circulated by a reliably liberal environmental group about Mr. Myers' October 2002 Solicitor Opinion, which addressed the Bureau of Land Management's authority to permanently retire grazing permits on Federal lands. The Opinion concluded that BLM does have the authority to retire permits at the request of a permittee, but only after compliance with statutory requirements and a BLM determination that the public lands associated with the permit should be used for purposes other than grazing. And BLM's decision to retire grazing permits is subject to reconsideration, modification or reversal.

Some found this Opinion controversial; some saw it as a shot across the bow against environmental activist groups that try to buy up grazing permits and then seek to retire them permanently, in order to shut ranchers off from those permitted areas. But at least in the case of a dispute over a portion of Utah's Grand Staircase-Escalante National Monument, a spokesman for the environmental group that sought to buy and retire grazing permits had this reaction to your Opinion:

> What [Myers'] memo sets up is an acknowledgement of what we've already known . . . Once an area is closed to grazing, someone could still come along later and say "we want to graze here" and the BLM could reopen the area to grazing. . . . What people consider new about the memo is that plan amendments are not permanent. But that was not new to us.

I guess the extreme environmentalists opposition campaign didn't bother to read that quote, or Myers' Opinion.

In fact, the portion of the 1999 Tenth Circuit opinion in Public Lands Council v Babbitt that the U.S. Supreme Court did not review found that there is a presumption of grazing use within grazing districts, and that BLM could not unilaterally reverse this presumption. That finding supports the Opinion.

Let me also note that Myers' Opinion superseded a prior memorandum issued by former Secretary Babbitt's Solicitor on January 19, 2001, during the final hours of the Clinton Administration. That memorandum failed to consider a critical factor in any analysis of grazing permits under the Federal Taylor Grazing Act, namely, that the Secretary of the Interior has deemed lands within existing grazing districts "chiefly valuable for grazing and the raising of forage crops."

Now, the environmental group that's propagating the misrepresentations about this Solicitor Opinion also speculates that, if Myers' "authority also extended to the national forests," then groups that try to buy up land to preclude all subsequent economic uses of it wouldn't be able to duplicate the "success story" of wolf and grizzly bear reintroduction in Wyoming and Montana. It is hard to know where to start dismantling this absurd statement. First, as the record will now show, the relevant Solicitor Opinion does not, in any way, stop willing buyers of land from buying land from a willing seller—but the Federal Taylor Act must be respected in the process. Second, as a Federal appellate judge, Bill Myers, at his most powerful, would be on a panel of three judges. Given the overwhelming number of liberals on the Ninth Circuit, the odds are that he would be routinely outvoted.

The third and perhaps most telling, only a liberal environmental group believes that grizzly bear and wolf reintroduction in the West has been a "success." The verdict of the many farmers and ranchers, inside and outside of the Ninth Circuit, who have lost their livestock and livelihoods to these federally subsidized and protected predators is quite different. And it is Bill Myers' understanding of both sides of these types of issues that makes it absolutely essential that he be confirmed as a Ninth Circuit judge.

I would like to point out that at the Judiciary Committee markup on April 1, 2004, Bill Myers was unfairly characterized by one of my colleagues as "a man who has contempt for the views, the well-believed and cherished views of others," based on a couple of quotes, lifted out of context, from several advocacy articles he wrote on behalf of his clients: ranchers and farmers.

I thought I might read you a few quotes, not lifted out of context, from some of the many activist groups who have fomented much of the baseless opposition to Myers' nomination. Judge for yourselves whether this rhetoric fits the Senator's definition of contempt for the views of others, but I think it's crystal clear that what Myers' opponents would like to do is demonize him as a way to silence the opposition to their own favorite purveyors of contempt.

Here are a few choice quotes from a document posted by a coalition of several liberal environmental groups, all of which have vilified Bill Myers as an "extremist," in April 2002:

> One of the most nefarious strategies used by the Bush Administration and its industry allies to undermine environmental protections is to set policy by failing to defend against industry lawsuits or by reaching "sweetheart" settlements with industry.
>
> Among the top contributors to the 2000 Bush Presidential Campaign were the very industries oil—and gas, logging, ranching and large-scale real estate development—that stand to benefit most from the weakening of federal wildlife policy. The court cases discussed above [regarding the Endangered Species Act] were virtually all filed by developers, ranchers and loggers, so it is clear that these industries have already benefited from their generosity to the campaign and their otherwise close ties with the Bush Administration. The oil and gas industry similarly has enjoyed favored treatment, even when its activities would despoil some of the most important remaining habitats of imperiled species.
>
> Unfortunately, in the current Administration, science is often shortchanged when it gets in the way of favored corporate interests. Secretary Norton's Interior Department has repeatedly suppressed, distorted or scuttled the science, even when it comes from biologists within the Department.

Let's see if I've got this straight. The entire Bush administration is nefarious, corrupt, and bribed by corporate interests. Secretary Norton distorts science to benefit the administration's corporate contributors. But it's Bill Myers who is contemptible and "extreme" because he dared suggest that frivolous environmental lawsuits are increasing?

I think everyone ought to be honest about what's going on here. Groups like this, which I'm sure many Democrats would defend as "mainstream," and whose bidding Senators will be doing by refusing to vote on Bill Myers, are the ones spewing contempt.

I would like to respond to some of the rhetoric about Bill Myers' record as Solicitor at the Department of the Interior, a position to which this Senate confirmed him without opposition in 2001.

I understand that Mr. Myers's opponents believe that association with the Bush/Norton Interior Department is a disqualifier for service on the Federal bench I wonder if they will mind when such a standard is applied to the detriment of officials from the Clinton/Babbitt Interior Department, or any future Democratic administration, who might be nominated to the Federal bench. Regardless, let me point out just one example of where the Bush Interior Department clearly got a policy issue right, an issue on which Bill Myers himself has been extensively criticized.

The issue was decided just last month in the case of *Southern Utah Wilderness Alliance* [124 S. Ct. 2373 (2004)]: The Bush Interior Department's position in this case, for which Bill Myers laid the legal foundation, was upheld by a unanimous Supreme Court. The Court rejected environmental activists' challenges to a land use plan that was duly issued under authority of the Federal Land Policy and Management Act. The Court endorsed the Interior Department's "multiple use management" concept, describing it as "a deceptively simple term that describes the enormously complicated task of striking a balance among the many competing uses to which land can be put. . . ." The Court also held that while a ruling in favor of the environmental activists:

> might please them in the present case, it would ultimately operate to the detriment of sound environmental management. Its predictable consequence would be much vaguer plans from BLM in the future—making coordination with other agencies more difficult, and depriving the public of important information concerning the agency's long range intentions.

The fact that Bill Myers defended such policies cannot, in a rational confirmation process, disqualify him from service on the Federal bench. In fact, the endorsement of multiple use management policies by a unanimous Supreme Court in this case is compelling evidence against the absurd allegations that Bill Myers is somehow "out of the mainstream" with respect to public lands and environmental law.

I would also like to address a point raised earlier about some statements that Bill Myers made in articles that he wrote on behalf of his clients—cattlemen, ranchers and farmers who opposed Federal Government mismanagement of public lands.

In a July 1, 2004 article entitled "Ronald Reagan, Sagebrush Rebel, Rest in Peace," William Pendley of the Mountain States Legal Foundation wrote: "I am, former Governor Ronald Reagan proclaimed in 1980, 'a Sagebrush Rebel.'"

Now, at his hearing, Bill Myers was attacked merely for having used this same term, in an advocacy piece he wrote for his farming and ranching clients. In fact, he was mocked at this hearing, and after it, for merely channeling the concerns of his clients, who, like Ronald Reagan, considered themselves "Sagebrush Rebels."

Mr. Pendley's article goes on:

> When Ronald Reagan was sworn in, he became the first president since the birth of the modern environmental movement a decade before to have seen, first hand, the impact of excessive federal environmental regulation on the ability of state governments to perform their constitutional functions; of local governments to sustain healthy economies; and of private citizens to use their own property. . . . Reagan thought federal agencies in the West should be "good neighbors." Therefore, Reagan returned control of western water rights to the states, where they had been from the time gold was panned in California until Jimmy Carter took office. Reagan sought to ensure that Western states received the lands that they had been guaranteed when they entered the Union. Reagan responded to the desire of western governors that the people of their states be made a part of the environmental equation by being included in federal land use planning.

I would also like to note that Reagan criticized "excessive" regulation, not any regulation at all—neither Bill Myers nor anyone else thinks there is no role for the Federal Government in environmental regulation. And Bill Myers emphasized this at his hearing, in response to very hostile questioning by Democratic Senators:

> A centralized government—i.e. Congress—has an important role to play in environmental protection. And the Clean Water Act, the Clean Air Act—there are probably 70 environmental statutes that give evidence to that truth.

But the Reagan approach, which is also the Bush Interior Department's approach, which Bill Myers did his best to defend, is inimical to the environmental activist groups that oppose Mr. Myers' nomination. Any attempt to give the people who actually make their living on and around Western lands a stake in how those lands are regulated is violently opposed by these groups. And then these groups label their enemies "enemies of the environment," or "friends of polluters." It is unfortunate that such labels are uncritically accepted by some Senators, and because these liberal groups have similarly labeled Bill Myers, he won't get the up or down vote he deserves.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

EXECUTIVE SESSION

NOMINATION OF WILLIAM GERRY MYERS III TO BE A UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT—Continued

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 603, William Gerry Myers III of Idaho, to be U.S. circuit judge for the Ninth Circuit.

Bill Frist, Orrin Hatch, Christopher Bond, Chuck Hagel, Ted Stevens, John Cornyn, Wayne Allard, Lindsey Graham, Sam Brownback, Gordon Smith, Lisa Murkowski, Lamar Alexander, Robert Bennett, Elizabeth Dole, Don Nickles, James Inhofe, and Conrad Burns.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of William Gerry Myers III to be U.S. circuit judge for the Ninth Circuit shall be brought to a close?

The yeas are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 158 Ex.]

YEAS—53

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—3

Edwards
Kerry
Miller

The PRESIDING OFFICER. On this question, the yeas are 53, the nays are

44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATION SESSION

UNITED STATES-MOROCCO FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now resume legislative session and that the Senate proceed to the consideration of S. 2677, the Morocco free-trade legislation, as provided under the statute.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. We, of course, have no objection to this request. Senator BAUCUS will be the manager on our side. At some subsequent time, we will make a decision as to how much of the 10 hours we will use. We will report that through our manager to the chairman of the committee at the earliest possible time.

The PRESIDING OFFICER. Without objection, the requests are agreed to.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2677) to implement the United States-Morocco Free Trade Agreement.

Mr. GRASSLEY. Mr. President, I thank the distinguished assistant minority leader for his approval of going ahead on this issue. I thank every Senator on the other side because any Senator on the other side or, for that matter, this side can object to any legislation coming up. Trade legislation is a little more controversial than it used to be. We have had great cooperation from the Democrats in the bipartisan manner it takes to get business done in the Senate on three very important trade agreements, including now this one, the United States-Morocco Free Trade Agreement. Last week we did the United States-Australia Free Trade Agreement, and prior to that the extension and reauthorization of the African Growth and Opportunity Act, which was passed just prior to our previous recess for the Fourth of July.

So often in this body the antagonism gets highlighted between Republican and Democrats. I wish to thank all the minority Members for allowing me to move ahead with this legislation.

Obviously, since I presented this legislation, I support this bill, S. 2677. It is legislation that implements the United States-Morocco Free Trade Agreement. I happen to believe this agreement marks a solid win for America, and when it comes to trade legislation, when we talk about a solid win, that is in economic terms and that creates jobs in America because America produces, in most instances, more than we can consume, particularly in agriculture but in other areas as well.

The United States is 5 percent of the world's population. So if anybody thinks we should not accept goods from overseas and then other countries not let us export, understand that 5 percent of the people of this world, the Americans, when we produce much more than we consume—and in agriculture that is 40 percent—what they would be saying is that we ought to shut down part of productive America. Obviously, if we shut down part of productive America, we lose jobs. So if we are going to keep enhancing our economy, to increase our standard of living—and that is related to increased productivity—then, obviously, we have to look to the 95 percent of the people of the world who are outside the United States as a market.

Other countries, obviously, look to the world for a market. So it is a very competitive market. But the extent to which we reduce trade barriers—and this Morocco agreement is one example of reducing barriers to trade—then we let the marketplace make a decision on where goods go, what goods cost, and the quality of goods. For the most part, consumers of those respective countries, including America, make a determination as to what they want to pay and the quality of product they want. But the marketplace is going to be making that decision.

When we have barriers to trade that are set up by governments, then political leaders are making those decisions. Or if it is not political leaders, it is government employees making those decisions. Quite frankly, when government makes decisions, you do not reap the benefits of the efficiency of the marketplace and the efficiency of productivity of the respective workers of the respective countries that you do if the marketplace is making those decisions.

Willing buyer, willing seller, setting price, setting quality, setting time of transaction is better than 535 Members of Congress making that decision. All one has to do is look at Russia today. It is much more productive than it was when bureaucrats in Moscow were deciding how many acres of wheat to plant and when to combine those acres, the mature crop. A third of it was left in the field because when 5 o'clock came, they went home. When the American farmer goes out to harvest crops, he stays there until he gets it done, particularly something that is time sensitive, such as the maturing crop of wheat or soybeans. But not the Russian farmer under the Soviet system of command and control. Russia was not exporting grain. Today, Russia is exporting grain. We have to go back to the new economic program of the late 1920s for that to have happened, or you have to go back to the days of the czar for that to have happened in Russia.

So the marketplace is the best place to make these decisions, and agreements leveling the playing field, such as this Morocco agreement, are examples of the United States looking to the rest of the world to sell the surplus we manufacture, the surplus we produce, the excess—if you do not want to call it surplus, it is excess—of what we can consume here.

When this agreement is implemented, more than 95 percent of bilateral trade will become duty free immediately. According to the Office of the U.S. Trade Representative, this is the best market access package of any U.S. free-trade agreement with a developing country. This will bring important new opportunities for America's manufacturing sector. The agreement will also benefit our service providers with new market opportunities, particularly in key sectors such as engineering, telecommunications, banking, and insurance. U.S. intellectual property rights owners will obtain the benefits of stronger protection for their trademarks, for their copyrights, and for their patents.

Any agreement will lead to a more open and transparent trading regime with the implementation of the new transparency procedures for customs administration, new commitments to combat bribery, and strong protections for U.S. investors in the region.

Perhaps most importantly for my home State of Iowa, the agreement brings substantial benefits to the U.S. agricultural community. I note firstly that the agreement is comprehensive. No sector is excluded. This is important for the future of our U.S. agriculture. The fact is, when we take a sector off the table during negotiations, our trading partners are bound to do the same. All too often the sector they want excluded is one of our most competitive agricultural products. That means lost sales for America's family farmers.

It is very important that we send a strong message to our future trading partners that our country, the United States of America, remains committed to negotiating broad and very comprehensive free-trade agreements. Passage of this agreement moves that ball closer to the goalpost and reaffirms our commitment to negotiating and not being on the sideline.

Second, this agreement is sure to advance our agricultural exports in an important and growing region of the market. The recent trend of Argentine and Brazilian corn displacing American corn in the Moroccan market will end. In fact, the International Trade Commission predicts that absent the current tariff, United States corn producers will supply nearly all of Morocco's corn imports in the coming years.

The International Trade Commission also estimates that United States exports of soybean meal to Morocco will likely increase substantially under this agreement. With Morocco presently imposing tariffs as high as, believe this, 275 percent on the import of United States beef, the United States is in effect literally shut out of the Moroccan beef market. This will change under this agreement, with the United States gaining new access for our beef going into Morocco.

United States exporters are currently at a competitive disadvantage when they try to sell wheat to Morocco. The fact is that competitors of the United States can sell their wheat cheaper. This agreement will change that. This agreement will level the playing field for America's wheat farmers. It is also going to do it for our beef ranchers.

An independent study by the American Farm Bureau Federation found that under this agreement—now, this is the American Farm Bureau—the United States agricultural trade surplus with Morocco could reach $382 million by 2015 with Moroccan agricultural exports rising by only $25 million. Thus, under this agreement, U.S. agriculture would see roughly a 10-to-1 gain. Those figures speak louder than words.

I have received testimony and letters in support of this agreement from across America's agricultural sector. I concentrate on what we have heard from one Iowa farmer, but also a person who is very much a leader in the Iowa Soybean Association, Ron Heck from Perry, IA. He testified before the Finance Committee, which I chair, that the agreement will not only benefit soybean farmers directly in increased exports to the country of Morocco but also indirectly as they sell their grain to America's beef and poultry farmers who will in turn export these products of beef and poultry to Morocco.

When one sells meat, one sells a value-added agricultural product that has created more jobs in America. It is better to sell the beef and the poultry, it brings more wealth to America than sending our raw grain and our raw soybeans overseas.

We have the National Corn Growers Association, the International Dairy Food Association, the National Milk Producers Federation, the National Cattlemen's Beef Association, the National Association of Wheat Growers, the National Chicken Council, the Corn Refiners, and the USA Rice Federation, to name a few, that have all written to me in favor of this agreement.

The Morocco free trade agreement also contains a preference clause that grants the United States market access provisions that will be at least as good as those granted by Morocco to other countries in any future free trade agreement they may enter into.

Finally, the agreement enabled us to tackle tough sanitary and phytosanitary issues which had been acting as a bar to many of our agricultural exports.

In my mind, the economic benefits are enough for any Senator to support this agreement. I think my colleagues ought to take into consideration other less tangible reasons to cast their vote as yea.

Morocco is a longstanding friend and ally of the United States. In fact, Morocco was the first country to extend diplomatic relations to the United States following our independence. Our two nations first signed a treaty of peace and friendship in 1786, making this the oldest unbroken treaty in the history of the United States foreign relations.

Today, Morocco is a valuable ally in the war against terrorism, working with our country to bring peace and stability throughout the Middle East. In short, Morocco has been and still remains a valued friend of our country. I am pleased we will be able to strengthen our friendship with the passage of this free trade agreement.

The Morocco free trade agreement marks our third free trade agreement in the Middle East. Although we enjoy strong free trade agreements with Israel and Jordan, the Congress may soon have an opportunity to consider a fourth free trade agreement with Bahrain, another important Middle Eastern country and one that is very helpful to us in a military way.

While each free trade agreement is valued in and of itself, these free trade agreements are also steppingstones toward President Bush's broader vision of a Middle East free trade agreement by the year 2013. Today, far too many people in the Middle East are plagued by poverty and lack of education and opportunity. While trade itself will not alleviate every ill, it is a vital tool of development which has been lacking for far too long in that important region of the world. I am confident the passage of this free trade agreement, along with our continued efforts to build a Middle East free trade agreement, can help change that by ushering in a new era of hope and prosperity in that critical part of the world.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I rise in support of the legislation to implement the U.S.-Morocco free trade agreement. By voting to approve the Morocco implementing legislation, we can confirm our close and longstanding ties with Morocco.

In 1777, soon after a breakaway British colony calling itself the United States of America declared independence from Britain, Morocco was the first country in the world to recognize the new government.

In 1787, the two nations negotiated a Treaty of Peace and Friendship that is still in force, representing the longest unbroken treaty relationship in U.S. history.

Soon thereafter, Morocco's rule wrote to President Washington to ask for help in protecting Morocco's shipping fleet from marauding bandits.

Washington wrote back, apologizing that the United States was too poor and too weak from the recent American Revolution to help Morocco. But Washington said that perhaps someday, the United States would be strong enough to help its friends. For Morocco, that day has now come.

So there are strong foreign policy reasons to vote for the Morocco implementing legislation. But I have often said that foreign policy concerns alone should not control our trade policy. I have argued that we should negotiate free trade agreements with countries that offer real economic advantages for U.S. farmers, workers, and businesses.

I am happy to report that while Morocco has a relatively small economy, the agreement with Morocco is a strong agreement that offers significant opportunities for American exporters. In many ways, it sets a new standard for U.S. free trade agreements with developing countries.

Take, for instance, the provisions regarding intellectual property. Morocco has agreed to a high level of protection for intellectual property rights. The agreement includes state-of-the-art protections for digital copyrights and trademarks, expands protection for patents, and mandates tough penalties for piracy and counterfeiting.

Morocco has also agreed to the best market access package to date of any U.S. free trade agreement with a developing country.

Over 95 percent of our trade with Morocco in consumer and industrial products will become duty-free immediately upon the entry into force of the agreement. All remaining tariffs will be eliminated within 9 years.

The agreement is also good for U.S. agricultural producers. Wheat was a sensitive issue for the Moroccan negotiators. They initially resisted attempts to increase access to U.S. wheat exports. Morocco purchased most of the wheat it needed to import from the European Union. They did not want to open it up to America, but I fought hard to ensure that U.S. wheat producers would not be left out of the agreement. I made it clear that I could not—and would not—support any agreement with Morocco that excluded wheat. Wheat is an important export crop for many U.S. States, including my home State of Montana.

In the end, Morocco agreed to open up its market to U.S. wheat. The agreement creates new tariff rate quotas for wheat that could lead to a 5-fold increase in U.S. exports to Morocco. Most importantly, it will allow U.S. wheat producers to compete in Morocco on a level playing field with their European competitors.

Beef was another sensitive issue for Moroccans. Again, I made clear how important beef exports were to me and to others in the Congress. In the end, the agreement gives U.S. beef producers new access to Morocco for their high-quality beef exports.

The agreement is good for the United States, but it is also good for Morocco. It will help update and modernize Morocco's economy and attract investment to Morocco.

Morocco has used the free trade agreement negotiations to consolidate significant domestic reforms. For example Morocco recently enacted a new labor law and a new law on child labor, both of which were drafted with the help of the International Labor Organization.

Also, during the course of the negotiations, Morocco agreed to accede to the World Trade Organization Agreement on the Expansion of Trade in Information Technology.

As a result, Morocco recently eliminated tariffs on a number of information technology products. That could help increase Morocco's productivity as Moroccan businesspeople gain easier access to high-tech products.

By voting to approve Morocco implementing legislation, we can support reformers in Morocco who seek to modernize its economy. We can also send a signal to other developing countries with reform-minded governments that opening up their economies can lead to closer economic relations with the United States and new opportunities for their citizens.

I urge my colleagues to support this legislation.

Before I conclude, I would like to take a moment to thank my good friend, the chairman of the committee, Senator CHARLES GRASSLEY, for his leadership not only on this legislation but on every piece of legislation we have dealt with in this Congress. The chairman and I have worked with other members of the Finance Committee to address their concerns. I must say, there were several on this implementing legislation with Morocco. We worked with those Senators, with their concerns. I compliment the chairman for his leadership in working all that out, and I believe he has successfully addressed all those concerns.

I appreciate the willingness of the members of the committee to work cooperatively to get this legislation done in a timely manner.

I yield the floor, I suggest the absence of a quorum, and ask unanimous consent that time under the quorum call be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I was thinking about speaking about trade but I nearly wore out my welcome last week on that subject so I will only say that I would much prefer a trade bill be brought to the Senate floor that solves problems rather than creates new problems. I do not know that a trade agreement with Morocco is going to cause new problems but I do know that in trade agreement after trade agreement over a good many years, we have caused more problems, none of which ever get fixed. The problems of trade with Europe, with Japan, with Korea, with Mexico, with Canada never get fixed. Again, I do not know that this will cause problems with respect to Morocco. Morocco is one of those few countries with which we have a trade surplus.

But it has been the case that in every circumstance where we negotiated a trade agreement the surpluses that existed soon turned into deficits. In fact, we have the largest trade deficit in human history right now and that trade deficit exists with China, well over $130 billion a year; we have a trade deficit with Japan, Europe, Korea, and more. The NAFTA agreement was supposed to create a massive number of new jobs, hundreds of thousands of new jobs in this country, yet following the NAFTA agreement with Mexico and Canada we, in fact, turned a small trade surplus we had with Mexico into a very large deficit and we turned a modest deficit that we had with Canada into a very large trade balance deficit.

I do not intend to give a lengthy speech about trade today and repeat what I have talked about before, the outsourcing of American jobs, the movement of jobs from this country to other countries that is going on in a wholesale capacity. I will mention just a couple of issues, as examples of broken promises in trade. With respect to Mexico, we were told that we would see the products being imported into this country from Mexico, being the product of low-skill, low-wage labor. In fact, that is not the case at all.

The three largest imports into this country from Mexico are automobiles, automobile parts, and electronics, the products of high-skill, high-wage labor except they do not pay high wages in Mexico. That is why these jobs have moved to Mexico.

I was told, although I have not yet checked this, that we now perversely import more automobiles from Mexico into the United States than we export to all of the rest of the world. This is after we did a trade agreement with Mexico.

I could spend time talking about our trade agreements with China, Japan, Europe, and others, and it is the same result.

Now, especially during the Olympic trials, our negotiators really ought to be required to wear jerseys so they can look down and see, as the Olympic athletes do, "USA" so at least they know for whom they work.

It is not very easy, in my judgment, to see the result of their work and understand whose side they were on when they negotiated these agreements.

I mentioned last week the recent agreement that was negotiated with China. In the agreement between the United States and China, we agreed the Chinese could impose a 25-percent tariff on any automobiles the United States ships to China and that we would impose a 2.5-percent tariff on any Chinese automobiles they would aspire to sell in our marketplace. In other words, our negotiator agreed that, with a country with which we have a $100-plus billion deficit, we would allow them to put a tariff on automobiles that would be 10 times higher than the tariff we would impose on Chinese automobiles to be sold in our country.

I say to you, that is incompetent. I have no idea how that happens; how someone rationalizes that this is fair.

What does it mean to average folks? It means jobs lost. It means jobs are created there rather than here. It means jobs leave here to go there. It means outsourcing. In most cases, it is why I do not support these trade agreements. Those who negotiated the agreements did not decide to stand up for the economic interests of our country. I am not talking about protectionism, I am talking about standing up for our economic interests and requiring and demanding fair trade.

It was one thing post the Second World War to be able to have concessionary trade policies, to say to other countries: Look, we will be glad to provide some concessions because we are bigger than you are, we are stronger, we are more capable, we have a thriving, growing economy and we can beat almost anyone in economic competition with one hand tied behind our back. That wasn't a big problem then. But things have changed. We now face stiff, shrewd, international competitors, yet most of our trade policy is still softheaded foreign policy, and those who negotiate it don't stand up for the economic interests of this country, in my judgment.

So much for trade.

I did want to mention a couple of other items, if I might.

TAX SHELTERS

The Washington Post did a story which described something most of us now have known is occurring. The U.S. Treasury Department has tapped a private company called KPMG, one of the largest accounting companies, perhaps the largest in our country, to audit the Treasury Department's consolidated financial statements. These are audits that were done previously by Government folks. These are internal audits by the Inspector General's office or others. But now they have tapped this company to audit the Treasury Department's financial statements.

Interestingly enough, the company they have hired to do that down at the Treasury Department is the subject of a Federal grand jury probe into its tax shelter abuses. By tax shelter abuses I mean this is a company that by all accounts now was aggressively marketing tax shelter abuses to clients and refuses to provide to the Treasury Department names of its clients so we can find out who avoided paying taxes by using the aggressive tax shelters proposed by this company. The Treasury Department says: On the one hand, we are investigating you with a grand jury probe. On the other hand, let's give you a big contract.

I don't understand that. I don't understand it at all. Why on Earth would the Treasury Department do this?

This aggressive marketing of tax dodges to those who want to avoid paying taxes is pretty difficult for the Treasury Department to get at. They have a difficult time trying to shut these down, these aggressive tax shelters. Because of the marketing of aggressive and abusive tax shelters, more and more companies have decided I want to be an American company for purposes of doing business in America and calling myself American, but I don't want to be an American company when it comes to paying taxes. Then I want to call myself a citizen of the Bahamas, or the Cayman Islands, or the Dutch Antilles. I want to run my company through a mailbox. I want to rent a mailbox in one of these countries that sets themselves up as a tax haven, and I want to run my company through a mailbox. Why? Not because that is where the company is going to be run from. It is because they want to avoid paying U.S. taxes.

Some companies—not too many, but some—have gone the extra step of deciding to dump their U.S. citizenship, renounce their U.S. citizenship and become citizens of other countries.

These corporations are given life as an artificial person. A corporation isn't a real person, but we, in law in this country, have decided to create artificial persons. It is called a corporation. They can sue and be sued, contract and be contracted with. They, by a charter granted them in this country—in most cases by the State of Delaware but in other places as well—become an artificial citizen of the U.S. They do business. With a corporation, they limit liability and they are able to accumulate capital. It has been good for this system of ours, the capitalistic system, the free enterprise system. It has been good.

Except now this is what we are saying to companies such as KPMG, that are marketing aggressive tax shelters to these other companies, American companies who want to remain American companies and want to do everything but pay taxes to our country. We have the largest Federal budget deficit in history and we have companies trying to avoid paying taxes right and left and we have a big company that was advising them on how to avoid paying their taxes and in some cases creating abusive and aggressive tax shelters, and the Treasury Department says: Oh, by the way, I know we are investigating you in a grand jury probe, but on the other hand, let us help you out with a big, fat contract.

I don't understand who makes these decisions, but I don't think it is a decision that makes sense for the taxpayers of this country. I don't like the signal it sends. I don't know this company. I am not involved with the people involved in this company. It is not about this being personal. It seems to me, if a company, in order to curry favor with its clients, decides it wants to market aggressive and abusive tax shelters, it has to bear the responsibility for having done that. Part of the responsibility is not, in my judgment, bringing down a big, old contract on the positive side of the ledger, to now audit the Department of the Federal Treasury.

Let me say, while I am at this, Senator GRASSLEY and Senator BAUCUS have made statements about this which I think are very admirable. I could read some of them. I think the statements about this by both the chairman and the ranking member of the Finance Committee are right on target. Senator GRASSLEY says:

> If we could just get Federal agencies not to work at cross purposes it would go a long way towards ensuring everybody pays their fair share of taxes.

Senator BAUCUS launched a probe into the Department of Interior's planned acquisition of mineral rights from a seller who wanted to claim a big charitable deduction. That is the same thing.

These companies marketing these strategies these days, they even have now in this country something a lot of people would find strange, subway systems and city hall being sold to the private sector in a leaseback. You actually sell it and then lease it back so the private company can get tax benefits from a building that was owned by the Federal Government or State government or local government—in most cases it is State or local government—and it is kind of a golden handshake where a building that would not be depreciated, because the government wouldn't depreciate it, sells the building to a private business and then leases it back so the private company can actually collect more in tax benefits than it lays out to the government in the first place. It is a big tax dodge. It doesn't make any sense at all.

At a time when we have a giant Federal budget deficit, trying to figure out how we make enterprises pay their fair share and people pay their fair share, the ordinary folks, the folks who go to work every day and try to do the best they can, at the end of the year file a tax return on April 15 and pay their fair share, they look at this and say I don't understand that. A company that makes $500 million pays zero or next to zero, companies that make billions of dollars end up claiming these tax dodges.

Let me commend Senator GRASSLEY and Senator BAUCUS and encourage them and say, as one Member of the Senate, I hope you will be as aggressive as possible to try to shut this down because this makes no sense at all.

SECRET AIRPLANE FLIGHTS AFTER 9/11

Mr. DORGAN. Mr. President, I want to mention one other issue, one that I think very few people are paying as much attention to as they should, especially in the press.

I believe my colleague from New Jersey has discussed it on the Senate floor, it was discussed recently in a Commerce Committee hearing, and I have discussed it in many venues—the question of something that happened which was curious and very worrisome to me in the days following September 11, 2001. Let me describe what it was. We have all read snippets about it, and some of them are not accurate.

In the days following 9/11, there were six secret charter flights that were allowed to leave this country. They gathered up 142 Saudi nationals that were in the United States. They gathered up those Saudis, which included over two dozen members of the bin Laden family, and got them to a few gathering points, and on six secret charter flights they left this country. The public did not know they were leaving. The public did not know that these flights were occurring until after they left our country.

There have been a lot of questions about this issue. Let me describe some of what is in the public record.

Fifteen of the 19 terrorists who struck this country on September 11, 2001, were Saudi citizens. So who would have allowed the gathering up of 142 Saudi citizens to be put on 6 secret charter airplane flights to leave this country?

On September 3, 2003, Richard Clarke, head of counterterrorism in the White House at the National Security Council, said this before the Senate Judiciary Committee. He addressed this question:

> It's true that members of the bin Laden family were among those who left.

That is part of the 142 Saudis who left on the 6 secret flights.

> It is true that members of the bin Laden family were among those who left. We knew at the time—I can't say much more in open session—but it was a conscious decision with complete review at the highest levels of the State Department and the FBI and the White House.

That is Richard Clarke testifying before the Senate Judiciary Committee when asked about who allowed these secret flights. He said: Well, we knew about it. I can't tell you much more in open session, but it was a conscious decision with complete review at the highest levels of the State Department and the FBI and the White House.

Then Richard Clarke—the same Richard Clarke—appeared under oath in March 2004 at the 9/11 Commission. Here is what he said about who sought these secret charter flights:

> I'd love to be able to tell you who did it, who brought this proposal to me, but I do not know. The two possibilities that are the most likely are either the Department of State or the White House Chief of Staff's office.

That is what he told the 9/11 Commission when asked who proposed these secret flights to be allowed to leave. He said: I do not know. The two possibilities are the Department of State or the White House Chief of Staff's office.

In the same testimony before the 9/11 Commission, Mr. Clark testified with respect to the secret flights, and the request that the flights be approved:

> I suggested that it be routed to the FBI, and the FBI looked at the names of individuals who were going to be on the passenger manifest and that they approve it or not. I spoke with at the time the No. 2 person at the FBI, Dale Watson, and asked him to deal with this issue. The FBI then approved the flight.

That is Richard Clarke, a direct quote under oath to the 9/11 Commission.

The FBI spokesperson, speaking of these charter flights with the Saudis and the bin Laden family members, said:

> We haven't had anything to do with arranging or clearing the flights.

Then the FBI said no one was allowed to depart "who the FBI wanted to interview in connection with the 9/11 attacks."

That is what the FBI said. No one was allowed to leave who the FBI wanted to interview in connection with the 9/11 attacks.

However, Dale Watson, the No. 2 person at the FBI, head of counterterrorism at the time of these flights, said that the FBI did not conduct in-depth checks on the Saudis being repatriated.

He said:

> They were identified but they were not subject to serious interviews or interrogation.

What we now know, according to the 9/11 Commission, is that about 30 of the 142 Saudis who were allowed to leave were interviewed by the FBI. But the No. 2 person at the FBI said none of them were subject to interviews or interrogation.

Among those who were allowed to leave this country, the Saudis—and I will not use their names; though I may have used them before—was a cousin of Osama bin Laden who had run the U.S. operations of a charity that had been accused of financing terrorism by the Governments of India, Pakistan, the Philippines, and Bosnia. The FBI had investigated this person dating back to 1996. His case file was reopened on September 19, 2001, even as these flights were in progress.

Another individual was allowed to leave. He, it turns out, curiously, was in the same hotel as three of the hijackers the night before September 11, 2001. He was a former director of a Saudi charity that has been investigated for ties to terrorism. He was interviewed by the FBI shortly after 9/11, but the interview was cut short when he pretended to be ill. The FBI agent recommended that he should not be allowed to leave until a followup interview could occur. That recommendation was not complied with, and he was allowed to return to Saudi Arabia without a followup interview.

The interesting thing about the 9/11 Commission report is what they say about this flight and these citizens. The 9/11 Commission says that no one was allowed to depart who the FBI wanted to interview in connection with the 9/11 attacks. Incidentally, we can't get the manifest of the passenger list; I think Senator LAUTENBERG has gotten one of them, but the rest of them have not been made available—but at any rate, the 9/11 Commission says that no one was allowed to depart who the FBI wanted to interview in connection with the 9/11 attacks.

Just take that for a moment and understand what they are saying. No one was allowed to leave who the FBI wanted to interview in connection with the 9/11 attacks. What about someone who they should have interviewed in connection with financing terrorist activities? What about someone who they should have interviewed because of involvement with a charity that had been financing terrorist activities, perhaps not 9/11 but other terrorist activities?

They say no one was allowed to leave who the FBI wanted to interview in connection with these attacks, but I just described to you two people who left, one who an FBI agent did not want permitted to leave, and the other who had his case reopened on September 19, 2001.

This is really a little too cute, I think. The 9/11 Commission says no one was allowed to leave who might have had some issue dealing with 9/11. But what about other ties to terrorism? The issue is the gathering up of 142 Saudi citizens in the aftermath of 9/11—keeping in mind that 15 of the 19 terrorists on 9/11 were from Saudi Arabia—and putting these 142 people, including two dozen members of the bin Laden family, on 6 secret charter flights, disclosing those flights to no one until they left for Saudi Arabia.

The question for me is, Were any of those people involved in any way in the financing of terrorist activities anywhere any time in the world? That has not been answered. The 9/11 Commission has not answered that and may not answer it, apparently, and most people have stopped asking those questions.

My colleague from New Jersey, Senator LAUTENBERG, asked those questions. I asked those questions. The American people deserve to know answers to those questions.

I don't allege some elaborate coverup. I allege gross incompetence. Somebody said that I was alleging a conspiracy at the White House. I am not alleging that at all. Richard Clarke says that the decision to allow these six secret flights was "at the highest levels" of the State Department, the FBI, and the White House. But I am not alleging there is some sort of conspiracy or connection. All I am alleging is gross incompetence, I think, because somebody allowed there to be gathered up a big group of people who should have been properly interrogated, and they allowed them, before those proper interrogations, to jump on six secret charter flights and were given opportunities no one else in this country was given. There are a lot of other Saudi citizens here. A lot of other people weren't given the opportunity to leave this country on secret flights. Why did that happen? How did it happen? Who asked for it and who approved it? Those questions have not yet been answered. I think the American people deserve those answers.

We are told now that there is threat of a substantial terrorist attack against this country. Two weeks ago we were told that terrorists would attempt to strike this country between now and the election to disrupt the election, or disrupt the two political conventions. The ability of this country to detect and to stop a potential terrorist attack relies on our ability to use good intelligence and the coordination between the intelligence community and our law enforcement community. If that does not work, then we are in trouble.

I don't for the life of me understand how we could have allowed these secret flights to occur without learning everything there was to learn from these passengers. One might say: Well, maybe we would not have learned anything. Maybe not. I expect you would learn something from the two people I described, both of whom had previously been of interest to the FBI, but now, after 9/11, were not questioned thoroughly by the FBI. I don't know about the rest of them.

Someone made a grievous error, in my view. Someone did not exhibit the competence we should expect from those making decisions to protect this country.

I continue to ask these questions. I know my colleague, will, as well, and I hope at some point we will find out what the answers are. Who authorized these flights? Why were they authorized? What is on the passenger manifest list? Are there more Saudis who the FBI should have questioned further who were allowed to leave this country? I don't know the answer to that, but this country, in my judgment, deserves an answer.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 2694 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

20TH ANNIVERSARY OF RULE 208–AGE 21 ENACTMENT

Mrs. DOLE. Mr. President, 20 years ago this month, as Transportation Secretary, raising the drinking age to 21 across our Nation was a measure I was confident in supporting. I was confident it would prevent crippling and disabling injuries and save thousands of lives.

Statistics of teens driving across State borders, "blood borders," into a neighboring State with a lower drinking age, then driving back under the influence of alcohol, convinced me of the dire need to eliminate the differences between State laws.

Senator FRANK LAUTENBERG, Senator RICHARD LUGAR, and former Senator Jack Danforth were instrumental in the passage of age 21 legislation.

On July 17, 1984, when President Reagan signed this law in a Rose Garden ceremony, he said:

> We know that drinking, plus driving, spells death and disaster. . . . And I know there's one . . . simple measure that will save thousands of young lives . . . if we raise the drinking age.

And it has. Twenty thousand lives have been saved in 20 years. The numbers represent real people, tragedies averted, family members and friends who did not have to suffer the loss of a loved one in an alcohol-related automobile accident. My family had to suffer such a loss. My uncle, just out of college, just about to be married, was hit head on and killed by a drunk driver.

This month also marks the 20th anniversary of another revolution in highway safety. On July 11, 1984, the same week President Reagan signed the age 21 law, the Department of Transportation enacted rule 208 with the goal of saving as many lives as possible as quickly as possible. This successfully resolved the 17-year policy dispute that spanned four administrations. Rule 208 resulted in the production of airbags and the passage of State safety belt laws. It recognized the role of the States in automotive safety. No State, in July 1984, had passed a safety belt law, not a single State. Usage was only 13 percent. Airbags were virtually nonexistent. In fact, I had to look all over to find a car with an airbag to place on the White House lawn for President Reagan and the Cabinet to examine. Consumer acceptance was low. Many people thought airbags would go off just crossing the railroad tracks.

Most of us get into a car and automatically fasten our safety belts today. We barely notice that the vehicle has an airbag. Today, 49 States have belt laws. National belt usage is 79 percent and climbing. There are more than 149 million airbag-equipped vehicles on the road. As of this year, all cars, light trucks, and minivans come equipped with front seat airbags.

The National Safety Council reports that since 1984, 190,000 lives have been saved through this safety trifecta: the 21 drinking age, State safety belt laws, and airbags. They totally changed the climate of highway safety in America. My hat's off to the tremendous team I had at the Transportation Department—Jim Burnley, Diane Steed, Phil Haseltine, Erika Jones, Jenna Dorn, Bob Davis—and many others, like Chuck Hurley of the National Safety Council and the Mothers Against Drunk Driving.

According to the National Safety Council, since 1984, 157,500 lives have been saved by safety belts. The National Highway Traffic Safety Administration estimates that safety belt use has resulted in savings to the U.S. economy of $50 billion in medical care, lost productivity, and other injury-related costs. NHTSA also reports that more than 14,500 lives have been saved by airbags.

The record speaks for itself; however, work remains to be done. I am pleased the highway bill recently passed in the Senate contains numerous safety provisions. In particular, I commend my colleague, Senator JOHN WARNER, for introducing incentives for States to enact primary safety belt laws. Mothers Against Drunk Driving has voiced strong support for primary belt laws, allowing a law enforcement officer to write a citation when observing an unbelted driver or passenger. Secondary enforcement allows the citation only after stopping a vehicle for some other reason.

My home State of North Carolina was one of the first to enact primary belt laws in 1985. Our usage rate last year was 86 percent. But as of May 2004, only 20 States, Puerto Rico, and the District of Columbia have primary laws. According to NHTSA, safety belt usage is much higher on average in States with primary enforcement laws. Two decades after the safety trifecta, incentives for State safety belt laws, airbags, and 21 drinking age are reported by the National Safety Council to have saved 190,000 lives. This is just one example where we continue to strive for improvement, strive to prevent injuries, and strive to save lives.

UNITED STATES-MOROCCO FREE TRADE AGREEMENT

Mr. HATCH. Mr. President, I express my support for the United States-Morocco Free Trade Agreement. Under the leadership of U.S. Trade Representative Robert Zoellick, the U.S. has once again negotiated a sound free trade agreement with a country that is energetic in their support of U.S. interests around the world.

I thank all of those involved in negotiating this agreement, especially the dedicated staff at the U.S. Trade Representative's Office and my colleagues on the Finance Committee, Chairman GRASSLEY and ranking minority member BAUCUS. Although bilateral trade agreements with relatively small countries are very time consuming and difficult, when taken in aggregate, they add up to a substantial amount of U.S.

annual exports. In all, these smaller free-trade agreements end up saving U.S. businesses millions of dollars a year in tariffs and duties and, therefore, are worth all the effort exerted in getting them negotiated and enacted.

The United States-Morocco Free Trade Agreement will open up the Moroccan market to fair trade and will allow U.S. companies to compete effectively. In fact, with the signing of this agreement, more than 95 percent of bilateral trade in consumer and industrial products will become duty free immediately. Industries such as information technology, machinery, chemicals, and construction equipment will gain immediate duty-free access to Morocco. Agricultural markets in Morocco will continue to open up to U.S. imports at a rapid pace. Service industries that are so crucial to the economy of the State of Utah will have rapidly increasing access to Morocco, thereby, allowing banks, consulting companies, insurance companies, and telecommunications companies the ability to compete on a level playing field. Of particular note in this agreement is the inclusion of antibribery and transparency provisions. These provisions will help Morocco in cracking down on illegal activity which hurts U.S. exporters and leads to higher costs for consumers.

Utah companies have exported nearly $1 million worth of goods and services to Morocco over the last 5 years. Although this amount seems relatively modest, I take comfort in the fact that those small businesses engaged in this trade will be saving money under this agreement and be better positioned to increase the amount they export. One million dollars in trade with Morocco may not seem like much when measured against overall Utah exports, but to those individuals whose jobs depend on trade with Morocco, $1 million is a very big deal and I am proud to be able to help them. Much of the products exported by Utah companies are manufactured products and manufacturing jobs can be difficult to hold on to these days. Therefore, I am pleased to help lower barriers around the world and make it easier for Utah manufacturers and their employees to compete.

Utah workers, and American workers collectively, deserve to be treated fairly in the world-wide marketplace and this agreement accomplishes that goal. Fairness and transparency only help U.S. companies compete and that is why I support the swift approval of this implementing legislation.

THE SITUATION IN DARFUR AND SUDAN

Mr. DEWINE. Mr. President, I come to the floor today to discuss the situation in Darfur, Sudan. I have come to the floor many times before to discuss this horrible crisis. I do so again today.

My colleague Senator BIDEN and I have introduced a bill, which I will describe in detail in a few minutes. Significant, I think, within the past hour was a very graphic video and audio description of the situation in Darfur, as it appeared on CNN. I commend it to any colleagues who may have the opportunity to see it, or who can even get a transcript of that show. It is a 3- or 4-minute piece. It clearly demonstrated in the most stark terms that the tragedy of Darfur continues to unfold. We saw little children who were in danger of dying. Some may be dying. They described one man who had been injured—shot within the last week by the militias who came in. So despite the pledges of the Sudanese Government that they will stop the militias from carrying out this genocide, in fact, as we meet here today, it continues.

There has been a discussion about whether genocide is in fact occurring. Some have argued this is not genocide. So as I describe what is in the bill Senator BIDEN and I have introduced today, I want to describe for my colleagues what, under the law, it takes for genocide to occur, what the convention says, and what the facts are.

I am on the floor tonight to discuss whether what is happening in the Darfur region of Sudan is in fact genocide. I believe it is genocide, although for some reason there seems to be some confusion about what that term, in fact, means and what responsibilities come with that once it is determined that genocide is taking place.

I have been using the term "genocide" to describe what has been happening in the Darfur region of Sudan since May, and I think it is time, frankly, that this body, as a whole, and the world, more importantly, begins to do the same. That is why Senator BIDEN and I have introduced a bill that refers to what is happening, in fact, as genocide.

I thank my colleague, Senator BIDEN, for his leadership on this issue. He, too, has been calling this genocide since the beginning, and we hope our colleagues will join us and rightly identify the atrocities in Darfur as, in fact, genocide.

Our bill will also prevent any normalization of relations between the U.S. Government and the Sudanese Government unless and until the President of the United States can certify that the Government of Sudan is taking significant and demonstrable steps to stop the militias and allow humanitarian aid to flow.

The bill we have introduced today will allow us to place sanctions on Sudan contingent on improvements in Darfur. Simply put, this bill will use every weapon in our diplomatic arsenal to attack this problem, and, frankly, that is exactly what is needed.

Only when the Government of Sudan satisfies the requirements laid out in this bill—and we have set a high but, frankly, reasonable hurdle—would the Government of Sudan then be eligible for any U.S. assistance.

The bill will authorize $800 million in support of the north-south peace process, but that money will not be available until and unless the Government of Sudan complies with the terms of the bill. But separate and apart from that money, the bill will authorize an additional $200 million for humanitarian assistance for Darfur, obviously not going through the Government of Sudan.

Let me reiterate. The $800 million that we would authorize in support of the north-south peace process would only be available if and when the genocide has stopped, the atrocities have stopped, the humanitarian situation has improved, and the President of the United States is confident and willing to certify to Congress that the Government of Sudan is protecting its people.

It is my hope that this bill will be passed before the summer recess so the pressure on the Government of Sudan begins immediately and does not stop until that Government complies.

I want to return to the larger issue of whether what is taking place in Sudan now is, in fact, genocide because there does seem to be a lot of confusion about this issue. There should not be any confusion about it because what is taking place in Sudan today clearly is genocide.

The definition of "genocide" can be found in the Convention on the Prevention and Punishment of the Crime of Genocide which entered into force originally in 1951. Specifically, article 2 states that genocide is any one of five acts which is committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.

Let me repeat that. Specifically, article 2 states that genocide is any one of five acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.

Here are the five acts, any one of which will qualify for genocide.

First is the act of killing members of the group. There is no doubt that the militias in Darfur, aided by the Government of Sudan, have been killing the Black Africans of Darfur. Their scorched Earth campaign has left 30,000 dead—men, women, children. These people were killed because they were Black, while their Arab neighbors went untouched. That is the fact. Even when the people fled, the militias chased them into Chad trying to finish the job. Under this qualification alone, what is happening should be classified as "genocide."

The second group of actions that constitute genocide under the Convention is causing serious bodily or mental harm to members of the group. The militias have used rape as a weapon, killed children in front of the parents, killed parents in front of the children, made husbands stand by while their wives are raped and killed, and have done all of this because their victims are Black.

An Amnesty International report stated:

> The long-term effects of these crimes can be seen in countries like Rwanda where many women and children remain traumatized.

In the same way, the people of Darfur will remain traumatized for years to come, and this is what the militias want. The militias want to make sure that the Black Africans they do not kill are broken by the atrocities they have witnessed and suffered through.

Let me turn to the third measure. The third way to commit genocide is to deliberately inflict on a group conditions of life calculated to bring about a group's physical destruction in whole or in part. The numbers in Darfur are appalling and clearly makes a case that this provision is satisfied. Over 1 million people—1 million people—have been driven from their homes, over 400 villages have been destroyed, wells have been poisoned, crops have been destroyed, and granaries and herds have been looted. The militias and Government have done everything possible to ensure that the Black Africans of Darfur cannot survive even if they escape the initial killings. There is nothing left for them. Their herds are gone. Their crops are gone. What is worse is the Government militias are also now blocking humanitarian aid.

These tactics, in the face of the worst humanitarian crisis in the world, can be for no other purpose than to ensure that those who escape the killing now die along the way or die in camps.

The militias have turned the camps into prisons, killing those who leave in search of firewood and food. This campaign is, obviously, not just about driving these people off the land; it is about destroying the Black African groups, and that, I say to my colleagues, is what is genocide. That is genocide.

The final two acts that qualify as genocide are imposing measures intended to prevent births within a group and forcibly transferring children of the group to another group. We have reports that children have been abducted and that women are being raped by Arab men to "make a light baby."

In these societies, a child adopts the father's ethnic background, and by raping all of these women with the purpose of making lighter children, they are effectively meeting the fourth and fifth criteria for genocide in the Convention.

Specifically on the fifth criteria for genocide, forcibly transferring children from one group to another group, I want to share with my colleagues in the Senate the story of a woman named Mecca. She was killed by the militias when she tried to stop them from taking her 3-year-old son. I am sure there are countless others who were killed trying to save their children, as any parent would. For these parents, for the children who have been abducted, for the girls and women who have been raped, for the people dying right now, I ask this body, I plead with this body to support using the term "genocide" because that is what it is.

Although we can make a case that all five of these provisions have been met, the Convention is very specific. The Convention states that any one of these actions constitutes genocide. The fact that we have evidence to support all five qualifying categories only makes the decision to call this genocide that much easier.

The question remains, though, if we call it genocide, what does that mean? What is the significance? Maybe when we know the answer, that will tell us why sometimes some people in the international community may be a little reluctant to call it genocide. The answer to the question once again is right in the convention, both in its title and in its articles. The document is called the Convention on the Prevention and Punishment of the Crime of Genocide. It is called that for a good reason.

We need to make sure that the crimes being committed in Darfur are both prevented and punished. To prevent these crimes, the Government of Sudan and the militias need to be forced to end their reign of terror. We have tried to use diplomatic pressure to get them to start. The U.N. Secretary General and our own Secretary of State Colin Powell both went to the region to plead with the Government to stop the atrocities. The U.N. even submitted a draft U.N. Security Council resolution including targeted sanctions on the militias and an option for sanctions on the Sudanese Government if they did not keep their promises to rein in the militias. All of this, and yet, as Secretary Powell has said, the Government of Sudan is still not keeping their promises. The atrocities continue. That means to prevent genocide, we will need more than promises and high-level visits.

Quite frankly and bluntly, we need troops on the ground. The African Union is going to send 300 peacekeepers, but we all know that is not enough for a region that is the size of Texas. We need more countries to commit troops, and we, the U.S. Government, need to be prepared to fund and assist these troops in reaching the region and protecting the civilian population of Darfur.

The second major responsibility we have under the convention is to ensure that the crime of genocide is punished. The Government of Sudan must try those individuals suspected of committing these atrocities, and if they are found guilty, they must punish them. This includes vetting the ranks of the military to ensure that no further militia members find refuge there. It also means not just rounding up a few low-level members of the militias and punishing them. That is not enough.

In addition, the international community will not accept show trials and, if necessary, an international tribunal should be convened to ensure that justice is served in Darfur.

Justice also must be blind to the position held by those responsible for genocide. If any public officials in Sudan are guilty of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, an attempt to commit genocide, or complicity in genocide, they must be held just as accountable as the militia members themselves.

It does no one any good to wait until after the fact to call this genocide. Let's not wait 6 months. Let's not wait a year. Let's not wait 5 years. That is what happened in Rwanda. We cannot afford to let that mistake happen again. That is why I have been calling this genocide, because it is. We must call this genocide.

I urge my colleagues to join Senator BIDEN and myself in calling this genocide. I urge my colleagues to speak out. My colleagues, Senator MCCAIN, Senator BROWNBACK, and others, have been on the floor of the Senate speaking about this issue. Senator BIDEN and I have a bill. I urge my colleagues to come forward and cosponsor and help us pass this bill. I also urge my colleagues to come forward and help us pass Senator BROWNBACK's resolution condemning this as well. This is something that needs to be done. This Senate needs to speak out. This country needs to take action. The international community needs to take action.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that tomorrow morning, immediately following morning business, the Senate resume consideration of S. 2677; provided further that the time until 11:30 be equally divided between the chairman or ranking member of the Finance Committee, and at 11:30 the Senate proceed to vote on passage of the bill with no intervening action or debate, and all provisions of the governing statute remain in order; I further ask that when the Senate receives from the House the companion measure, the Senate proceed to its consideration, the bill will be read the third time and passed, with no intervening action or debate; provided further, once the Senate has passed the

House companion, passage of S. 2677 be vitiated, and the bill be returned to the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE NOMINATIONS

Mr. FRIST. Mr. President, last month, the Judiciary Committee reported the nomination of Henry Saad to be a U.S. circuit judge for the Sixth Circuit. I understand the other side will not agree to a time agreement for an up-or-down vote on this nomination. In addition, the Judiciary Committee reported two more Sixth Circuit nominations today. I hope that we could have the Senate vote on each of these judicial nominations prior to the close of this week.

In addition to these circuit nominations, we have three district judges that are available on the Executive Calendar. I will be talking to the Democratic leader about scheduling these for consideration as well.

EXECUTIVE SESSION

NOMINATION OF HENRY W. SAAD TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

Mr. FRIST. Mr. President, I move to proceed to executive session for the consideration of Executive Calendar No. 705, Henry Saad.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The legislative clerk read the nomination of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

Cloture Motion

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 705, Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Vice James L. Ryan, Retired.

Bill Frist, Orrin Hatch, Lamar Alexander, Charles Grassley, Mike Crapo, Pete Domenici, Lincoln Chafee, Mitch McConnell, Ted Stevens, George Allen, Lindsey Graham, John Warner, Jeff Sessions, John Ensign, Trent Lott, Jim Talent, Pat Roberts.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for morning business, for debate only, with Senators speaking for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

The Nation's leading gay and lesbian news magazine, the Advocate, reported that in Baton Rogue, LA, Cedric Thomas was shot several times on May 18, 2004, and finally succumbed to death from complications related to those wounds several weeks later.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SUBSTITUTE AMENDMENT TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 2004

Mr. HOLLINGS. Mr. President, today, I submit an amendment to the National Aeronautics and Space Administration Authorization Act, S.2541, to offer a more pragmatic and sustainable approach to future space exploration, given the uncertainties that now confront the National Aeronautics and Space Administration (NASA).

Put simply, this substitute addresses three fundamental flaws with the approach contained in the underlying bill. Like the underlying bill, the substitute endorses human exploration of the Solar System but places it in context alongside other, equally important, elements of scientific discovery in space. Second, it states that a gap in U.S. human launch capability is unacceptable and requires NASA to accelerate the development of the next crewed launch vehicle. Finally, it authorizes the National Aeronautics and Space Administration, NASA, for one year, fiscal year 2005, and rejects the "go-as-you-pay" approach the Administration wants to employ in planning for human space exploration.

Allow me to discuss this final point first. The underlying bill authorizes NASA at the President's requested level for five years. I took a different approach—if the agency is embarking on a broad new program, it is unlikely that estimates made now will have any fidelity three, four, or five years from now. After all, we were told in this past week—2 months before the new fiscal year will begin—that it will now take at least $450 million and possibly as much as $760 million more than was requested to fix the Space Shuttle just in fiscal year 2005. If the administration cannot make accurate budget predictions from one year to the next in a 20-year old program, I am not confident that we have any idea what a new exploration program will take. The go-as-you-pay approach is reckless and allows us to avoid difficult questions regarding costs, timetables, and reaching a consensus on the future of human space exploration that will generate not only the support of the space and scientific communities, but of the Congress and the American people, too. It's a license to throw fiscal discipline out the window and drag out projects until they never finish.

Under the substitute I am introducing today, fiscal year 2005 will become a year of planning for a new program of human exploration. The substitute authorizes NASA a single year's funding to plan for the decades of exploration ahead and to begin work on new space transportation and robotic solutions. These solutions are the pathfinders that will enable us to use earth's moon as a test-bed for developing and demonstrating the know-how we need to conduct extended operations on another world's surface beginning by the year 2020.

The substitute attempts to put the proposed program of exploration in context. It embraces the principles of exploration and embraces the human exploration of deep space as a core mission of NASA, including the demonstration of the human beings' abilities to explore and inhabit worlds far beyond the earth. It also embraces the ideals of space flight as expressed in 1958, when the original Space Act and NASA were founded, and restates them in a way that makes them relevant for today—with clarity, division of purposes, and the claim that the United

States shall have a U.S. space agency whose chief purpose shall be to contribute to life on earth, learn more about the universe and the mysteries of time and space, and provide leadership for our human pursuits in space.

Under the President's plan, NASA will have a 4-year gap in our ability to launch humans into space. The underlying bill calls for a study of the launch gap. My substitute declares it to be a matter of U.S. policy that any prolonged period of a year or more interruption in U.S. crewed space transportation shall cause the administrator of NASA to report and submit to the Congress a request for supplemental appropriations to resolve those circumstances. Since that is exactly the posture we are headed into in the next decade, we require the administrator to make such report and request within 60 days. In addition, my substitute calls on NASA to immediately begin work on the crew exploration vehicle the next human-capable rocket even in the planning year of FY 2005.

In addition to these three main pillars, the substitute calls for several reports to be prepared to lay the foundation for future programs. It calls for a plan of objectives, capabilities, costs, and milestones that will be used to manage the new program of human exploration.

The substitute requires an independent report on the changes to NASA's safety, operations, engineering, and management cultures to ensure that these changes meet the requirements of the Columbia Accident Investigation Board and the Nation's expectations of the U.S. space program. It requires NASA and the Departments of Defense and Transportation, each of which plays a key role in managing U.S. space transportation, to report on the state of the U.S. launch industry and to propose how the United States can achieve reliable, affordable, and safe space transportation by 2015. I also call for NASA to report on how the NASA and the United States should be organized to best achieve our broad national goals for space, including the role of industry and international collaboration in the future.

In addition, consistent with the Columbia Accident Investigation Board report, we apply its primary recommendation, to establish independent technical and safety controls over human space flight, to all U.S. organizations conducting human flight in space.

Finally, we call for reports on the Hubble Space Telescope, peer-review assessment of NASA's science programs, and grants to institutions of higher education offering advanced programs in aeronautics and aeronautics-related disciplines. While our legislation attends to the primary matter at hand—the future of human space exploration—it does not ignore the importance of having a balanced program and view of the contributions of space and aeronautics to our economy and society.

Mr. President, our mission to demonstrate humanity's future role in space cannot be founded upon goals without solutions, means that are intangible and unknown, and resources tied to timelines that have no definite end-point or objective. Just this morning, the House VA–HUD Appropriations Subcommittee reduced NASA's FY 2005 appropriation by over $1 billion, which makes it clear there are many doubts about this program and no consensus on how to move ahead.

The Congress must act now to ensure that our bold visions do not take the place of the hard work of planning, budgeting, and executing programs. Let us not pursue the folly of go-as-you-pay, but substitute a reasoned course of "pay and prove"-as-you-go, harnessing the proper capabilities and assigning the necessary resources to the journey of human exploration needed to make it successful, affordable, and safe.

IGNORING THE ENVIRONMENT

Mr. LEAHY. Mr. President, while the Senate is using scarce floor time to debate probably the most anti-environmental judicial nominee this body has seen, it has blocked any attempts to strengthen environmental and public health protections. Sitting on deck are critical bills to help cut harmful air pollutants, combat climate change, clean up toxic waste sites and protect our natural resources and improve our nuclear security.

In fact, the Republican leadership only begrudgingly conceded six hours of floor time for Senators McCAIN and LIEBERMAN's Climate Stewardship Act after blocking its consideration during the energy debate. Although the scientific and economic evidence of the toll climate change is and will take on this country, the Senate leadership continues to bury its head in the sand.

That is 6 hours total this Congress for the environment.

No time to consider Senator JEFFORDS's Clean Power Act that would finally require power plants to reduce emissions of toxic air pollutants like mercury. No time to consider the Chemical Security Act that would help ensure chemical plants are prepared for terrorist attacks. No time for the Toxic Cleanup Polluter Pays Renewal Act to reinstate fees paid by oil and chemical companies to cleanup waste sites across the country. No time for the Nuclear Infrastructure Security Act to improve security at over 100 nuclear facilities around the country.

Despite bipartisan support, Republican leadership has also blocked consideration of several bills to improve coastal protections. Of course, they also have failed to bring up any of the appropriations bills to fund our national parks, wildlife refuges and national forests or environmental cleanup programs.

Hundreds of thousands of Americans suffer every year from illnesses linked to emissions from power plants. One-fourth of Americans live within four miles of a Superfund waste site. Shouldn't the Senate be spending time finding solutions to these issues instead of debating a judicial nominee who wants to dismantle many of environmental protections?

Senate Republicans dare to come to the Senate floor to complain that Democrats are obstructionists when we have already confirmed nearly 200 of President Bush's judicial nominees. The Republican leadership has scheduled hundreds of hours for debate on judicial nominations but has allowed only six hours for debate on the critical issues affecting the health of our environment.

Packing the bench is obviously a top priority for this administration. Protecting our natural resources, along with our health, is not. By picking the most extreme judicial nominees, on the environment and other issues, the Bush administration demonstrates that one of its real long-term goals is to roll back these important protections.

CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION IMPROVEMENT ACT

Mrs. CLINTON. Mr. President, I rise today in support of the Carl D. Perkins Vocational and Technical Education Improvement Act of 2004.

I am extremely pleased that this bill was written in a bipartisan fashion. I thank Senator ENZI, Senator GREGG, Senator KENNEDY and their staff members, Scott Fleming, Ilyse Schulman, Kelly Scott, and Jane Oates, for working so hard and so quickly to make this happen. I sincerely hope that we continue in this spirit of bipartisanship as we work together on future legislation coming out of the HELP Committee.

It is an often-overlooked fact that the Perkins program is the largest Federal investments in our Nation's high schools. Over 66 percent of all public high schools have at least one vocational and technical education program and 96 percent of high school students in this country will take at least one vocational or technical course while they are in high school. In New York, this means that over 275,000 high school students benefited from Perkins Act programs last year.

Perkins also plays a key role in postsecondary education. According to the National Center for Education Statistics, nearly 38 percent of all degree-seeking undergraduates are pursuing vocational careers. When I travel throughout New York, I hear about how important career and technical education is for tens of thousands of New Yorkers. Institutions such as the Adirondack Community College and the Culinary Institute of America in the Hudson River Valley and thousands of our Nation's community colleges, skill centers and other postsecondary sub-baccalaureate institutions rely on the Perkins program to help provide vocational and technical courses to students.

Last year, 65 New York community colleges received funding under the Perkins Act, directly benefiting over 200,000 community college students. These schools use the funds to provide career counselors and academic curricula that guide students toward high-wage and high-skill occupations.

The Perkins program is extremely important—not just for the numbers of students it serves but for the communities that benefit from a better prepared workforce as a result of these programs. This is why for the last 2 years I have spearheaded a letter to the Senate Appropriations Committee requesting additional funding for Perkins. I also offered an amendment to the budget resolution in 2003 to protect the Perkins programs from cuts because I was deeply concerned that President Bush's proposal to slash the Perkins program by 25 percent would be reflected in the Senate's budget.

The Carl D. Perkins Vocational and Technical Education Improvement Act of 2004 will go a long way towards strengthening vocational and technical education in New York and across the country. Among other things, it will provide for comprehensive professional development for career and technical education teachers, increase States' flexibility to meet their unique needs, and align secondary and postsecondary indicators with those established in other programs to ultimately reduce paperwork.

I am particularly pleased that this bill also improves programs and services for women and girls pursuing non-traditional occupations. A few weeks ago at a HELP Committee hearing on vocational education, an inspiring woman from New York, Angela Olszewski, testified about how important it is that we support and encourage women and girls in their pursuit of nontraditional, traditionally "male" careers—in technology, math, science, and the construction and building trades. Unfortunately, women are still significantly underrepresented in these fields. For example, we know that while the number of women carpenters has tripled since 1972, they still only represent 1.7 percent of all carpenters. You can say the same about many other high-skill, high-wage trades.

Many of these skilled trades industries are experiencing a significant labor shortage and experts expect these shortages to get worse over the next two decades as many workers retire. If women were to enter these professions, most of which are unionized and pay a livable paycheck and benefits, women would increase their earnings and standard of living for their families. For example, a journey-level electrician will make over $1,000,000 more than a typical cashier in a 30-year career. That would go a long way toward putting many women on the road towards selfsufficiency. I want all New York women—and women throughout the country—to have the same opportunities. This bill helps us toward that goal.

I also want to highlight another successful program started in New York called Project Lead the Way. This program builds partnerships among public schools, institutes of higher education, and the private sector to promote pre-engineering and technology courses for middle school and high school students. Project Lead the Way is now a presence in more than 875 schools in 39 States and should serve as an example for career and technical education of the future.

I am very pleased with this legislation; it shows that we are moving in the right direction, tweaking our education policies to better serve our Nation's career and technical students. I look forward to working with my colleagues as this bill goes to conference.

ESSAY FROM THE 9/11 FAMILY STEERING COMMITTEE

Mrs. CLINTON. Mr. President, I ask unanimous consent that the following essay be printed in the RECORD on behalf of Kristen Breitweiser, Patricia Casazza, Mindy Kleinberg and Lorie Van Auken who lost their husbands on September 11, 2001 and became advocates on behalf of their own families and all who were affected by the tragic events of that day.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHAT IS A CITIZEN TO DO?

How could 19 middle-eastern men simultaneously hijack 4 commercial airplanes in two hours, crash them into the World Trade Center and the Pentagon and murder 3000 innocent people?

With the billions spent each year on defense and intelligence, why did our nation do so little in a defensive posture to mitigate the vast devastation that was brought upon us by these 19 men?

Our research began with every agency and every policy that could possibly shed some light on why the tragedy of 9/11 was not averted. With each revelation and each new understanding, our naïveté waned and the challenges loomed large. The problems were systemic in nature. Changes were needed everywhere. Agencies, 20 years after the Cold War had ended, were still operating in a Cold War posture. Terrorists were not watch-listed. FBI computers were antiquated. Intelligence agents and supervisors failed to analyze and investigate creatively, aggressively, and with curiosity. Congress and the Executive Branch failed to properly share their growing National Security concerns and garner the will of the nation to fight this new war against terrorism. The media was more prone to cover scandal than terrorism.

Our research revealed that numerous indicators throughout our intelligence history illustrated the use, or intended use of planes as missiles. We found field reports, case files and studies, eye witness testimony, intelligence community threat matrices, and Department of Defense mock drills all addressing the "planes as missiles" idea.

In fact, during the summer of 2001, President Bush attended the G–8 summit in Genoa Italy where specific protections were put into place to ward against an air attack. Moreover, FBI agents testified in the Embassy bombing trial in NYC during the spring of 2001 that al-Qaeda was interested in suicide hijackers flying planes into buildings—buildings like the World Trade Center and the Pentagon. Finally, we learned that the Olympic Games in Atlanta and Salt Lake City had included aerial attacks in their security protocols.

Indeed, most haunting is what we found out about al-Qaeda and their attempt to attack Atlanta, Georgia during the summer Olympics. Because of the heightened protection and alert status during the Atlanta Games, al-Qaeda got "spooked" and called off their planned attack. And thus began the "what ifs?"

What if the pre-9/11 national security apparatus', agencies and institutions had matched themselves with similar alert levels? What if the 19 hijackers on 9/11 noticed that same type of vigilant security, gotten spooked themselves and delayed their attack by days or even months? More potently, would such a delay have given enough time to our Intelligence Community to discover and/or minimize the damage of the plot?

Could the FBI have had enough time to receive the FISA warrant on Zaccharias Moussaoui? After all, the FBI had enough information to meet probable cause for a FISA warrant because French intelligence in August 2001 had handed over a huge file on Moussaoui linking him to terrorist groups. Moreover, given the fact that Moussaoui was attending the same flight school that the FBI had investigated since 1998 because of the many known middle-eastern terrorists training there, maybe the FBI could have applied for and received a simple criminal warrant.

Perhaps, the internal decision in May 2001 by FISA Court Chief Judge Royce C. Lamberth that had a "chilling effect" on all FBI surveillance and wiretapping of terrorist organizations—including Al-Qaeda cells in the US, during the spring and summer 2001 could have been lifted or at the very least tempered?

Or maybe the hijackers could have been watch-listed and forbidden to fly on commercial flights? What if the airline pilots were told that hijackers were capable of flying commercial airliners and to not allow anyone into the cockpit—whether or not they were in uniform? What if airport security was told to be on the lookout for possible terrorist suspects and/or contraband such as gas masks, mace, pepper spray, guns and/or knives?

Could the NSA have translated the phone conversations or intercepts of the hijackers, Bin Laden, Bin Laden family members, and other Al-Qaeda operatives that they had in their possession throughout the summer and early fall of 2001? Could the NSA have acted on and/or communicated this information to the FBI, CIA, and National Security Council in time?

Perhaps, FBI Agent David Frasca may have had the time to read the Phoenix memorandum and the Moussaoui information both of which were on his desk by August 2001 and put the two files together?

Could the FBI have had the time to find two of the hijackers, Al-Midhar and Al-hazmi, who were already under investigation for two years by the CIA after it had conducted surveillance on a terrorist meeting in Malaysia in January 2000? After all, Al-Midhar and Al-Hazmi were living in San Diego, listed in the phone book, had bank accounts in their own names, trained at flight schools and resided with a known FBI informant?

Could the CIA have found Marwan Al-Shehi? He was Mohammed Atta's roommate and visited the same flight school that Moussaoui was arrested at by the FBI. The CIA had the name "Marwan" and a phone number given to them by the German government. Could they have had the time to follow-up with this information?

Could our National Security Council's Principals who first met on September 4, 2001 had more time to hold a second meeting where they could have discussed the threat spikes and foreign government warnings from Russia, Israel, Germany, and Egypt that Al-Qaeda was planning an imminent and spectacular attack on the domestic US? Would our NSC Principals have had the time to harden our homeland security?

Could NORAD have placed fighter jets on shorter alert status, so that our air defense did not arrive too late like it did on 9/11? Perhaps, with over an hour's worth of notice before the attack on the Pentagon, the F-16's could have arrived on time to protect our Department of Defense.

Could we learn from this tragedy so that it would not be repeated? Could our fellow citizens be willing to shed sunlight onto the inadequacies of our government's ability to defend itself against terrorism? Could our elected officials cease the diversionary tactics of "mudslinging" and "name-calling" long enough to allow the facts to be revealed, examined, and fixed? Could the media no longer fall prey to sensational stories and feed the public information that truly informs and educates them about our nation's ability to fight terrorism?

Democracy cannot prosper on blind-faith. To work effectively, democracy's foundation—the people, must be well informed. And, in order to be more informed, more responsive, and more prepared for the challenges ahead, we must continue to ask questions to our leaders; that is our duty as responsible citizens. It is why the 9/11 Independent Commission's investigative work, public hearings, public Final Report and public Recommendations are so vital.

The only way elected officials, agencies and institutions can be held accountable and responsible is if we, the American people, stay vigilant and informed. Before 9/11, the will of the nation to fight terrorism was not present. Post 9/11, the will of this nation exists to confront the battle of terrorism.

But fighting terrorism is not simply an offensive strategy. It is a combined and cumulative process. We need the intelligence agencies to investigate more creatively and aggressively. We need our judicial process to permit the fair and just prosecution of terrorists. We need our foreign policy to issue sanctions to all countries that sponsor terrorism, even if that means our foreign economic dependency suffers. We need our Treasury Department to have the resources to dry up money lines that fund terrorist organizations. We need big business interests to yield to the common good.

Our elected officials who take an oath of office to lead, protect, and serve need to be held responsible and accountable. They must have the courage and curiosity to ask questions, to have established and reliable plans and back-up plans, to demand action, reforms and to welcome personal responsibility.

Most importantly, our elected officials need to remember that they are serving at the will of the people. As our public stewards, it should not be the sanctity of their own political well-being that most consumes their actions and decisions. More correctly, it should be the safety, security and well-being of the people that they serve that should pre-occupy their time.

In a post–9/11 world, it is the responsible preservation of all life that must transcend politics.

KRISTEN BREITWEISER,
PATRICIA CASAZZA,
MINDY KLEINBERG,
LORIE VAN AUKEN,
Members of the 9/11 Family Steering Committee for the 9/11 Independent Commission.

Mrs. CLINTON. In light of the pending release of the 9/11 Commission report, I wish to recognize the Family Steering Committee for the 9/11 Independent Commission and their efforts to establish the National Commission on Terrorist Attacks Upon the United States.

ADDITIONAL STATEMENTS

HONORING THE CITY OF MENNO

• Mr. JOHNSON. Mr. President, I honor and publicly recognize the 125th anniversary of the founding of the city of Menno, SD. The city of Menno has a proud past and a promising future.

The area that was to become the city of Menno was settled in 1874 by a group of Black Sea Germans from Russia. The great majority of settlers made their living off the land. According to a U.S. Government survey, Menno and the land surrounding it is made up of some of the richest most fertile soil in the country. Menno owes its beginnings to the railroad industry, which brought much-needed commerce.

The city of Menno bears the name intended for the town of Freeman, 10 miles away. When railroad officials were nailing the signs bearing the names of new towns to the depots, the name boards of the neighboring towns of Menno and Freeman were accidentally interchanged. With the result that Menno derives its name from the large settlement of Mennonites at Freeman, called Mennonites because the sect was founded by Menno Simons, while the town of Freeman is named for an early settler of Menno. The city of Menno was officially settled in 1879.

Currently, more than 800 people live in Menno. The city has already started celebrations for its 125th anniversary and will continue them throughout the year. It is with great honor that I advise my colleagues of the achievements made by this great community.•

HONORING THE MUHLENBERG CAREER DEVELOPMENT CENTER

• Mr. BUNNING. Mr. President, today I take the opportunity to honor the Muhlenberg Career Development Center. Beginning with the groundbreaking in 1973, this institution has been working diligently to better the lives of all its students. This has been acknowledged by a four-star rating from the National Job Corps Association and by the National Job Corps Award for Excellence it received from the same association earlier this year. The Career Center also received a "Top 50" national ranking for Job Corps centers.

The Muhlenberg Career Development Center has a profound impact on the surrounding community. The center employs 135 men and women, making it the fourth largest employer in Muhlenberg County. The center also generates a substantial amount of revenue for the community through the contract it has with the Department of Labor. The standard of excellence set by the career development center is greatly appreciated by the 404 students who are currently working towards a GED and vocation there. The dedication exhibited by the Muhlenberg Career Development Center towards its students, county, State, and country deserves to be recognized and honored.

The citizens of Kentucky are proud to have the Muhlenberg Career Development Center as a part of their community. Their example of hard work and determination should be followed by all in the Commonwealth. The Muhlenberg Career Development Center has successfully found a way to bring out the best in its men and women. I personally thank the leaders and supporters of this great organization for continually producing strong and bright men and women committed to making Kentucky a better place to live.•

TRIBUTE TO DR. NEAL R. BERTE

• Mr. SESSIONS. Mr. President, I take this opportunity to pay tribute to an outstanding citizen from my home State of Alabama. Dr. Neal Berte has been president of Birmingham-Southern College in Alabama since 1976. He recently retired, ending his 29 years of service to this great liberal arts institution. It has been my pleasure to work with Dr. Berte during my time in the Senate on issues affecting higher education and community service in the Birmingham area.

Dr. Berte recognized early on in his career the need to produce future leaders rich in a background of service to others. Therefore, he made service-learning a priority for himself and Birmingham-Southern students. Almost every student who graduates from Birmingham Southern College leaves the Hilltop having had some type of community-service experience. From serving food at a homeless shelter to mentoring children at the local elementary school, the opportunities are endless and involvement is always encouraged. Dr. Berte has led this effort by deeds, not words. He is the first to arrive at a service event and the last to leave. His involvement in the local community is unparalleled and has led to his being awarded Birmingham's Distinguished Citizen Award, Citizen of the Year, and the Erskine Ramsey Award for Outstanding Civic Service.

While developing and implementing an aggressive service-learning component to higher education has been a great achievement at Birmingham-Southern, it is far from being his only accomplishment. During the "Berte years," Birmingham-Southern College's student enrollment has doubled, the academic profile of the student body has increased and regularly leads other Alabama colleges and universities, the number of faculty has increased by almost 70 percent, the student-faculty ratio has lowered from 18-to-1 to 12-to-1, the campus has expanded, and the college's endowment has grown from $11 million to more than $122 million. It is difficult to fully gauge the impact Dr. and Mrs. Berte have had over the past 29 years, however, perhaps it is best captured in Dr. Berte's relationship with the students that have flowed through the campus. Dr. Berte's support of the student body has been unwavering. From attending campus sporting events to carrying the boxes of new students on move-in day, Dr. Berte's face has been a constant presence at events throughout each school year. Amazingly, he has learned the name and face of almost every student who has walked the halls at BSC and makes it a priority to greet each person he meets by name and to inquire about something occurring in his or her life at the moment. I think this commitment to the students, the life of any college, is what sets Dr. Berte apart and makes his retirement so poignant for so many of the school's faculty, alumni, and friends. For many, Dr. Berte is Birmingham-Southern.

Birmingham-Southern has achieved great success during Dr. Berte's time as president. The college has been consistently recognized by U.S. News & World Report as one of America's top national liberal arts colleges. It is currently a Tier I institution and ranked among the top 66 liberal arts colleges in the country. Its other recognitions include "100 Best Values in Private Colleges," "America's Best Christian Colleges," "Most Efficiently Operated Schools in America," "Colleges that Encourage Character Development," and "Best Values." The school is home to a Phi Beta Kappa chapter and annually ranks No. 1 among Alabama schools in percentage of all graduates accepted to medical and dental schools.

When Dr. Berte took over at Birmingham-Southern things were not so rosy. There had been several short-term presidents and the college faced many challenges. Few would dispute that his leadership has guaranteed that Birmingham-Southern is one of the premier liberal arts colleges in America and that few, if any, such colleges have had better leadership in the past 30 years. Dr. Berte has led with vision, compassion, constancy, faith, and courage. His superb graduates daily validate the value of the liberal arts curriculum. I have watched his success over the years with growing admiration. He has truly been one of the best college presidents in America.

But, as it is with any great thing, Dr. Berte's tenure must end. He will remain chancellor of Birmingham-Southern College and go on to increase his involvement in the community, as well as spend some much deserved time with his wife, children, and grandchildren. As Birmingham-Southern begins a new era with a new president, I would just like to take a moment to thank Dr. Berte for his service to this institution and the State of Alabama. I wish him the best and would like to echo his optimism that "the best is yet to come."•

HONORING THE CITY OF ELKTON

• Mr. JOHNSON. Mr. President, I wish today to honor and publicly recognize the 125th anniversary of the founding of the city of Elkton, SD. The city of Elkton has a proud past and a promising future.

The first settler in the area had been E.D. Johnson, who in the spring of 1877 had obtained a tree claimed half a mile north of the future site of the town. Other families started to move into the area in 1878 just in time for the railroad to arrive in 1879. Railroad officials wanted to place a station between the communities of Verdi and Aurora. Local railroad officials named it Ivanhoe, originally. Not until July 21, 1882 was its name changed officially from Ivanhoe to Elkton. The name came from Elkton, MD, which was the early home of one of the railroad officials. The town was plotted in the spring of 1880 and soon sprouted a variety of different businesses.

In 1896, an Elkton man named Henry Heintz obtained a patent on what some locals believe could have been the first airship in the United States. Working with Henry Wulf of Arizona, Heintz built a machine which lifted off the ground in its trial flight, to the amazement and delight of spectators. The craft wouldn't move ahead, however, and returned almost immediately to earth. There are apparently no records of rebuildings and further attempts.

Currently, more than 600 people live in Elkton. The city has already started celebrations for its 125th anniversary and will continue them throughout the year. These include an all-high school alumni reunion and a street dance. It is with great honor that I advise my colleagues of the achievements made by this great community.•

MESSAGE FROM THE HOUSE

At 2:23 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to House Resolution 719 the Senate is requested to return to the House of Representatives the bill (H.R. 4766) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 142. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, and to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project.

H.R. 1014. An act to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and for other purposes.

H.R. 1156. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project.

H.R. 1587. An act to promote freedom and democracy in Vietnam.

H.R. 2619. An act to provide for the expansion of Kilauea Point National Wildlife Refuge.

H.R. 2831. An act to authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District.

S. 2991. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga County Water District recycling project.

H.R. 3785. An act to authorize the exchange of certain land in Everglades National Park.

H.R. 3819. An act to redesignate Fort Clatsop National Memorial as the Lewis and Clark National Historical Park, to include in the park sites in the State of Washington as well as the State of Oregon, and for other purposes.

H.R. 3874. An act to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal.

H.R. 3932. An act to amend Public Law 99–338 to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project, and for other purposes.

H.R. 4115. An act to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Prima-Maricopa Indian Reservation.

H.R. 4158. An act to provide for the conveyance to the Government of Mexico of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

H.R. 4170. An act to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior.

H.R. 4492. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purpose.

H.R. 4625. An act to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes.

The message also further announced that the House has passed the following bill, without amendment:

S. 2264. An act to require a report on the conflict in Uganda, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 114. Concurrent resolution concerning the importance of the distribution of food in schools to hungry or malnourished children around the world.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker, was signed on today, July 20, 2004, by the President pro tempore (Mr. STEVENS).

S. 1167. An act to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 142. To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, and to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project; to the Committee on Energy and Natural Resources.

H.R. 1014. An act to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1156. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project; to the Committee on Energy and Natural Resources.

H.R. 2619. An act to provide for the expansion of Kilauea Point National Wildlife Refuge; to the Committee on Environment and Public Works.

H.R. 2831. An act to authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District; to the Committee on Energy and Natural Resources.

H.R. 2991. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga County Water District recycling project; to the Committee on Energy and Natural Resources.

H.R. 3874. An act to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal; to the Committee on Energy and Natural Resources.

H.R. 3932. To amend Public Law 99-338 to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4158. An act to provide for the conveyance to the Government of Mexico of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4170. An act to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior; to the Committee on Energy and Natural Resources.

H.R. 4625. An act to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4115. An act to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

H.R. 3785. An act to authorize the exchange of certain land in Everglades National Park.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4492. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes.

S. 2694. A bill to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes.

S. 2695. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 20, 2004, she had presented to the President of the United States the following enrolled bill:

S. 1167. An act to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1996. A bill to enhance and provide to the Oglada Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program (Rept. No. 108–311).

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

H.R. 982. A bill to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 401. A resolution designating the week of November 7 through November 13, 2004, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. Res. 404. A resolution designating August 9, 2004, as "Smokey Bear's 60th Anniversary".

S. Res. 407. A resolution designating October 15, 2004, as "National Mammography Day".

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 2677. A bill to implement the United States-Morocco Free Trade Agreement.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 109. A concurrent resolution commending the United States Institute of Peace on the occasion of its 20th anniversary and recognizing the Institute for its contribution to international conflict resolution.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Juan Carlos Zarate, of California, to be an Assistant Secretary of the Treasury.

*Stuart Levey, of Maryland, to be Under Secretary of the Treasury for Enforcement.

*Carin M. Barth, of Texas, to be Chief Financial Officer, Department of Housing and Urban Development.

By Mr. GRASSLEY for the Committee on Finance.

*Patrick P. O'Carroll, Jr., of Maryland, to be Inspector General, Social Security Administration.

*Timothy S. Bitsberger, of Massachusetts, to be an Assistant Secretary of the Treasury.

*Charles L. Kolbe, of Iowa, to be a Member of the Internal Revenue Service Oversight Board for the remainder of the term expiring September 14, 2004.

*Paul Jones, of Colorado, to be a Member of the Internal Revenue Service Oversight Board for a term expiring September 14, 2008.

By Mr. HATCH for the Committee on the Judiciary.

Richard A. Griffin, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

David W. McKeague, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Virginia Maria Hernandez Covington, of Florida, to be United States District Judge for the Middle District of Florida.

Michael H. Schneider, Sr., of Texas, to be United States District Judge for the Eastern District of Texas.

Robert Clark Corrente, of Rhode Island, to be United States Attorney for the District of Rhode Island for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN:

S. 2689. A bill to amend the Internal Revenue Code of 1986 to replace the recapture bond provisions of the low income housing tax credit program; to the Committee on Finance.

By Mr. HARKIN:

S. 2690. A bill to provide that no funds may be used to provide assistance under section 8 of the United States Housing Act of 1937, to certain students at institutions of higher education, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN (for himself, Mrs. CLINTON, Mr. DODD, and Mr. SCHUMER):

S. 2691. A bill to establish the Long Island Sound Stewardship Initiative; to the Committee on Environment and Public Works.

By Mr. JEFFORDS (for himself, Mr. SARBANES, and Mrs. FEINSTEIN):

S. 2692. A bill to authorize the Secretary of the Department of Housing and Urban Development to make grants to States for affordable housing for low-income persons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 2693. A bill to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office"; to the Committee on Governmental Affairs.

By Mr. BINGAMAN:

S. 2694. A bill to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes; read the first time.

By Mr. SPECTER:

S. 2695. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; read the first time.

By Mr. SCHUMER:

S. 2696. A bill to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies; to the Committee on the Judiciary.

By Mrs. HUTCHISON:

S. 2697. A bill to authorize the President to posthumously award a gold medal on behalf of the Congress to the seven members of the crew of the space shuttle Columbia in recognition of their outstanding and enduring contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2698. A bill to amend title XVIII of the Social Security Act to revoke the unique ability of the Joint Commission for the Accreditation of Healthcare Organizations to deem hospitals to meet certain requirements under the medicare program and to provide for greater accountability of the Joint Commission to the Secretary of Health and Human Services; to the Committee on Finance.

By Ms. SNOWE:

S. 2699. A bill to deauthorize a certain portion of the project for navigation, Rockland Harbor, Maine; to the Committee on Environment and Public Works.

By Mr. SPECTER (for himself and Mr. KERRY):

S. 2700. A bill to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 17, 2004, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself, Mr. ALEXANDER, Mr. BOND, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. CRAPO, Mrs. DOLE, Mr. FITZGERALD, Mr. LIEBERMAN, Mr. LUGAR, Mrs. MURRAY, Mr. SCHUMER, Mr. WYDEN, Mr. DEWINE, Ms. MIKULSKI, and Mr. ALLARD):

S. Res. 408. A resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence; to the Committee on Foreign Relations.

By Mr. BAYH:

S. Res. 409. A resolution encouraging increased involvement in service activities to assist senior citizens; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 410. A resolution to authorize Senate employees to testify and produce documents with legal representation; considered and agreed to.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 411. A resolution to authorize document production by the Select Committee on Intelligence; considered and agreed to.

By Mr. FITZGERALD (for himself, Mr. LEVIN, Mr. MCCAIN, and Mr. DURBIN):

S. Res. 412. A resolution expressing the sense of the Senate regarding the importance of maintaining the independence and integrity of the Financial Accounting Standards Board; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. LIEBERMAN, and Mrs. BOXER):

S. Con. Res. 127. A concurrent resolution expressing the sense of Congress that the President should designate September 11 as a national day of voluntary service, charity, and compassion; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NELSON of Nebraska (for himself and Mr. CHAMBLISS):

S. Con. Res. 128. A concurrent resolution expressing the sense of Congress regarding the importance of life insurance, and recognizing and supporting National Life Insurance Awareness Month; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 533, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. 540

At the request of Mr. INHOFE, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 1068

At the request of Mr. DODD, the name of the Senator from Hawaii (Mr.

INOUYE) was added as a cosponsor of S. 1068, a bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, and for other purposes.

S. 1368

At the request of Mr. LEVIN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 1890

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 1963

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1963, a bill to amend the Communications Act of 1934 to protect the privacy right of subscribers to wireless communication services.

S. 2077

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2077, a bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2417

At the request of Mr. COLEMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2417, a bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish care for newborn children of women veterans receiving maternity care, and for other purposes .

S. 2425

At the request of Mr. COCHRAN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2437

At the request of Mr. ENSIGN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2468

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2468, a bill to reform the postal laws of the United States.

S. 2564

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2564, a bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2654

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2654, a bill to provide for Kindergarten Plus programs.

S. 2659

At the request of Ms. COLLINS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2659, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 2686

At the request of Mr. ENZI, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 2686, a bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

S.J. RES. 11

At the request of Mr. KENNEDY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S.J. Res. 11, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

S. CON. RES. 112

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. Con. Res. 112, a concurrent resolution supporting the goals and ideals of National Purple Heart Recognition Day.

S. CON. RES. 113

At the request of Mr. SMITH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 113, a concurrent resolution recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month.

S. CON. RES. 124

At the request of Mr. CORZINE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Con. Res. 124, a concurrent resolution declaring genocide in Darfur, Sudan.

S. CON. RES. 126

At the request of Mr. COLEMAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Con. Res. 126, a concurrent resolution condemning the attack on the AMIA Jewish Community Center in Buenos Aires, Argentina, in July 1994, and expressing the concern of the United States regarding the continuing, decade-long delay in the resolution of this case.

S. RES. 271

At the request of Mr. CORZINE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 271, a resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

S. RES. 389

At the request of Mr. CAMPBELL, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Res. 389, a resolution expressing the sense of the Senate with respect to prostate cancer information.

S. RES. 401

At the request of Mr. BIDEN, the names of the Senator from Nevada (Mr. REID) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. Res. 401, a resolution designating the week of November 7 through November 13, 2004, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

At the request of Mr. CRAIG, his name was added as a cosponsor of S. Res. 401, supra.

S. RES. 404

At the request of Mr. CRAIG, his name was added as a cosponsor of S. Res. 404, a resolution designating August 9, 2004, as "Smokey Bear's 60th Anniversary".

S. RES. 407

At the request of Mr. BIDEN, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Vermont (Mr. LEAHY) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Res. 407, a resolution designating October 15, 2004, as "National Mammography Day".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. LINCOLN:

S. 2689. A bill to amend the Internal Revenue Code of 1986 to replace the recapture bond provisions of the low income housing tax credit program; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am introducing legislation today to correct a problem that is impairing the efficiency of the Low-Income Housing Tax Credit program. As my colleagues know, the low-income housing credit has been a remarkably successful incentive for encouraging investment in residential rental housing for low-income families. Under Section 42 of the Internal Revenue Code, a tax credit is available for investment in affordable housing. The credit is claimed annually over a period of ten years. Qualified residential rental projects must be rented to lower-income households at controlled rents and satisfy a number of other requirements throughout a prescribed compliance period which is generally 15 years from the first taxable year the credit is claimed.

Today, virtually all of the equity for housing credit investments comes from publicly-traded corporations investing through housing credit funds. An investor wishing to dispose of an interest in housing credit property during its 15-year compliance period is subject to a recapture of housing credits previously claimed unless a bond or U.S. Treasury securities are posted to the Internal Revenue Service. The amount of the bond to be posted is based on the amount of housing credits claimed and the duration remaining in the compliance period. The purpose of the bond is to guarantee to the IRS that it can collect the appropriate recapture tax amount in the event that the property is no longer in compliance with the requirements of the housing credit program.

At the time the housing credit program was enacted in 1986, the drafters of the statute were concerned that owners would claim the benefits of the tax credits and then avoid the continuing compliance requirements by transferring the credits to a straw party with minimal assets that the IRS could go after to collect recapture tax liability. This was a potential concern because housing credits are provided on an accelerated basis in the sense that they are claimed over a ten-year period, while the property must remain in compliance with the targeting rules over a minimum 15-year period.

However, the experience with the housing credit over the past 15 years demonstrates that this concern no longer has any validity. When the housing credit program was enacted, policymakers were thinking in terms of previous affordable housing tax incentives that supported an aggressive tax shelter market dominated by individual investors. As it turns out, over 99 percent of the investment capital in the housing credit program comes from publicly-traded corporations that pose none of the risks of noncompliance that motivated enactment of the recapture bond rules in the first place. Ironically, sales of individual partnership interests in low-income housing fund public partnerships with more than 35 investors are exempt from the recapture bond rules.

There are also a number of other provisions in Code section 42 that adequately address potential noncompliance. In 1989, Congress added the requirement that all state allocating agencies adopt "extended use agreements" to be recorded as restrictive covenants on housing credit properties, which require the property to remain in compliance. In addition, the State allocating agencies were given oversight responsibilities to ensure continued compliance through site inspections and property audits.

The requirement to purchase recapture bonds forces investors to incur unnecessary costs and has produced a complex administrative burden on the IRS. Because bond filings are done building-by-building, and single sales transactions frequently involve hundreds of properties, each with dozens of buildings, bond filings may involve thousands of separate filings. Worse yet, the few remaining surety companies writing this type of business operate in a very inefficient market. Recapture surety bonds are priced in a fashion that does not measure the true risk of non-compliance, but rather relies solely on the credit rating of the company requesting the bond. This is a function of the fact that surety underwriters do not understand the housing credit program in general or the risk of non-compliance in particular. At the same time, the incidence of non-compliance with housing credit program rules is exceedingly rare.

Meanwhile in the aftermath of the September 11th terrorist acts and the spate of corporate accounting scandals that occurred in 2002, the surety market has been in turmoil. Recapture bond premiums, even for highly rated public companies, have more than tripled over the past two years. This has imposed dead weight costs on the housing credit program. By making it more difficult to transfer credit investments, the recapture bond rule impairs the liquidity of housing credit investments, reducing credit prices generally, and undermining the overall efficiency of the program. In the absence of the recapture bond requirement, more dollars would flow into affordable housing itself and less into the higher rate of return that must be paid to investors to compensate for the dead weight costs that the bonds impose on the program.

The IRS recently responded to a series of questions posed about the recapture bond requirement. According to the IRS, between 1997 and 2003, recapture bonds covering approximately $1.8 billion of tax credits have been posted with the Treasury but in the 17 years since the requirement was enacted, the Service has never made a single claim on a recapture bond. That works out to bond premium payments in excess of $150 million to ensure against an event that has never occurred. These costs are unnecessary and are imposing a real drag on the market for investments in housing credit properties.

My bill will solve this problem by repealing the recapture bond requirement effective for disposition of interests in LIHTC properties after the date of enactment. An owner of a building, or interest therein, that has been the subject of a disposition and is still within the remaining 15-year compliance period with respect to such building would be required to submit a report to its former investors when a recapture event with respect to such building occurs. A copy of recapture event forms sent to investors would be required to be filed with the IRS in order to provide the Service with the information necessary to ensure that all recapture liabilities are timely paid.

The general statute of limitations applicable to taxpayers would also be modified so that investors who dispose of a building after the effective date of the legislation would remain liable for any potential recapture liability for a period extending through the compliance period for such building to provide the IRS with additional time to audit the partnership's return to ensure the building's continuing compliance with the credit's requirements. Taxpayers who disposed of a building (or interest therein) prior to the date of enactment would not be required to maintain existing recapture bonds (or other alternative security), but cancellation of existing bonds would trigger an extension of the statute of limitations provided for in the legislation.

These changes will improve the overall efficiency of the housing program and ensure that more dollars actually flow into affordable housing. This is a very important improvement in an otherwise excellent program, and I encourage my colleagues to join with me in cosponsoring this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD. The legislation is identical to a bill that Congressmen HOUGHTON, JOHNSON, NEAL, and RANGEL have introduced in the House. I also ask unanimous consent to include a copy of a letter from 12 national housing organizations to Chairman BILL THOMAS endorsing the House bill, H.R. 3610.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF RECAPTURE BOND RULE.

(a) IN GENERAL.—Paragraph (6) of section 42(j) of the Internal Revenue Code of 1986 (relating to recapture of credit) is amended to read as follows:

"(6) NO RECAPTURE ON DISPOSITION OF BUILDING (OR INTEREST THEREIN) REASONABLY EXPECTED TO CONTINUE AS A QUALIFIED LOW-INCOME BUILDING.—

"(A) IN GENERAL.—In the case of a disposition of a building or an interest therein, the taxpayer shall be discharged from liability for any additional tax under this subsection by reason of such disposition if it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

"(B) STATUTE OF LIMITATIONS.—

"(i) EXTENSION OF PERIOD.—The period for assessing a deficiency attributable to the application of subparagraph (A) with respect to a building (or interest therein) during the compliance period with respect to such building shall not expire before the expiration of 3 years after the end of such compliance period.

"(ii) ASSESSMENT.—Such deficiency may be assessed before the expiration of the 3-year period referred to in clause (i) notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by inserting after section 6050T the following new section:

"SEC. 6050U. RETURNS RELATING TO PAYMENT OF LOW-INCOME HOUSING CREDIT REPAYMENT AMOUNT.

"(a) REQUIREMENT OF REPORTING.—Every person who, at any time during the taxable year, is an owner of a building (or an interest therein)—

"(1) which is in the compliance period at any time during such year, and

"(2) with respect to which recapture is required by section 42(j)

shall, at such time as the Secretary may prescribe, make the return described in subsection (b).

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of each person who, with respect to such building or interest, was formerly an investor in such owner at any time during the compliance period,

"(B) the amount (if any) of any credit recapture amount required under section 42(j), and

"(C) such other information as the Secretary may prescribe.

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished on or before March 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(d) COMPLIANCE PERIOD.—For purposes of this section, the term 'compliance period' has the meaning given such term by section 42(i).".

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xii) through (xviii) as clauses (xiii) through (xix), respectively, and by inserting after clause (xi) the following new clause:

"(xii) section 6050U (relating to returns relating to payment of low-income housing credit repayment amount),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (AA), by striking the period at the end of subparagraph (BB) and inserting ", or", and by adding after subparagraph (BB) the following new subparagraph:

"(CC) section 6050U (relating to returns relating to payment of low-income housing credit repayment amount).".

(C) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

"Sec. 6050U. Returns relating to payment of low-income housing credit repayment amount.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to any liability for the credit recapture amount under section 42(j) of the Internal Revenue Code of 1986 that arises after the date of the enactment of this Act.

(2) SPECIAL RULE FOR LOW-INCOME HOUSING BUILDINGS SOLD BEFORE DATE OF ENACTMENT OF THIS ACT.—In the case of a building disposed of before the date of the enactment of this Act with respect to which the taxpayer posted a bond (or alternative form of security) under section 42(j) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), the taxpayer may elect (by notifying the Secretary of the Treasury in writing)—

(A) to cease to be subject to the bond requirements under section 42(j)(6) of such Code (as in effect before the enactment of this Act), and

(B) to be subject to the requirements of section 42(j) of such Code (as amended by this Act).

FEBRUARY 17, 2004.

Hon. WILLIAM M. THOMAS,
Chairman, House Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN THOMAS: We are writing in support of H.R. 3610, legislation introduced by Representatives Amo Houghton, Nancy Johnson, Charles Rangel, and Richard Neal, to repeal the recapture bond rules under section 42(j) of the Low-Income Housing Tax Credit program. We believe that repeal of the recapture bond rules will remove an unnecessary impediment to the transferability of housing credit investments, thereby increasing the overall efficiency of the LIHTC program and ensuring that more private resources wind up in the production of affordable housing in return for federal housing credits.

Our organizations play an active role in support of affordable housing policies. We represent builders, owners, investors, credit agencies, nonprofit housing groups, and capital aggregators, all with extensive experience with the housing credit program. The housing credit program has been a remarkably successful federal initiative that has delivered affordable housing to over a million low and moderate-income households. The program has operated very successfully and has been an efficient means of delivering federal support. But one notable exception that has been of concern to the industry for many years has been the requirement that when an investor disposes of an interest in housing credit property, a recapture bond must be purchased to guarantee payment to the Treasury of any potential recapture tax liability.

We believe this requirement impedes the transferability of credits, reduces investor demand for housing credits, and causes yields to be higher than necessary, which means that fewer federal resources wind up in housing credit properties. More importantly, this requirement imposes a significant and unnecessary cost on the program. While tens of millions of dollars have been expended on recapture bond premiums, the IRS has never collected on a recapture bond in the 17-year history of the LIHTC. Furthermore, we believe there is no public policy rationale for such bonds. The housing credit market is made up almost exclusively of large corporate investors who pose no risk to the Treasury that they will ignore their responsibility to pay a potential recapture tax liability. Indeed, there is no other provision in the Internal Revenue Code that requires taxpayers to post a bond to ensure payment of a potential tax liability. Moreover, noncompliance in the housing credit program is very small. In a recent letter to Reps. Houghton and Johnson, the Internal Revenue Service points out that the typical means of ownership through investment partnerships "minimizes the risk of recapture from any one project." In that letter, the Service goes on to say that "supporting the bond/security process is administratively difficult."

H.R. 3610 will correct this situation by removing the requirement that a recapture bond be purchased when there is a disposition of interests in LIHTC properties. The legislation replaces this unnecessary and expensive requirement with two new provisions that will improve the ability of the Treasury to collect potential recapture tax liability. First, investors who dispose of an interest in housing credit property would automatically be subject to a longer statute of limitations for any potential recapture tax liability that is identified in the future in connection with their ownership of housing credits. Second, improved information reporting would be required whereby the owner of housing credit property would be required to notify former investors and the IRS of any recapture liability that arises in connection with the period that the former investor owned an interest in the property.

We believe these changes will improve the administration of the housing credit program, better protect the interests of the Treasury, and result in more private dollars going into the development of affordable housing.

National Housing Conference; National Association of Home Builders; Affordable Housing Investors Council; National Multi Housing Council; National Leased Housing Association; National Association of Affordable Housing Lenders; National Association of State and Local Equity Funds; Affordable Housing Tax Credit Coalition; Local Initiatives Support Corporation/National Equity Fund; The Enterprise Foundation/ Enterprise Social Investment Corporation; Council for Affordable and Rural Housing; National Association of Local Housing Finance Agencies.

By Mr. JEFFORDS (for himself, Mr. SARBANES, and Mrs. FEINSTEIN):

S. 2692. A bill to authorize the Secretary of the Department of Housing and Urban Development to make grants to States for affordable housing for low-income persons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. JEFFORDS. Mr. President, I am pleased today to introduce the Affordable Housing Preservation Act of 2004, along with my colleagues, Senators SARBANES and FEINSTEIN. This bill provides matching Federal funds to States and localities seeking help to acquire and rehabilitate affordable housing that would otherwise be lost from the affordable housing inventory.

Affordable housing is facing a funding crisis. Across the country, the administration's proposed $1.6 billion budget cuts for Section 8, which serves nearly 3.5 million low-income households nationwide, would seriously undermine the availability of quality affordable housing. In Vermont, there are 6,080 authorized vouchers available this year. But with the proposed budget cut, Vermont could lose more than 700 vouchers next year alone. That's a loss of $4 million for housing assistance just in my small State. Over the next five years, it is estimated that Vermont could lose as many as 1,770 housing vouchers.

Affordable housing is a basic and critical need in every town and city, and these cuts are as indefensible as they are damaging. Cutting affordable housing is not about apartments and houses. It is about individuals and families, including our seniors, not having a safe and affordable place to call home. I have joined with many of my colleagues to protest these cuts.

The bill I am introducing today, the Affordable Housing Preservation Act of 2004, represents an effort to complement the good work being done throughout the country on Section 8 initiatives, and it strives to preserve existing affordable housing. Specifically, this bill would conserve federally subsidized housing units by providing matching grants to States and localities, seeking to preserve privately owned, affordable housing.

The Secretary of Housing and Urban Development (HUD) would make determinations for the grants based on a number of factors, including the number of affordable housing units at risk at being lost and the local market conditions in which displaced residents would have to find comparable new housing options. These funds would make a great deal of difference in keeping affordable housing affordable. States and localities could use the funds to acquire or rehabilitate affordable housing. They could use the funds, in part, for administrative and operating expenses. Properties with mortgages insured by HUD, Section 8 project-based assisted housing, and properties that are being purchased by residents would all be eligible for the matching grant funds. I believe that flexibility with the funding would make this program more efficient and cost effective, and, most importantly, more helpful to the recipients themselves.

Over the past several months, I have heard from many of my constituents who are genuinely concerned about Vermonters who are threatened with the loss of housing. This bill would give State and local housing authorities another tool to keep people in their homes. I believe we must act now to preserve our existing stock of affordable housing.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Affordable Housing Preservation Act of 2004".

SEC. 2. MATCHING GRANT PROGRAM FOR AFFORDABLE HOUSING PRESERVATION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the availability of low-income housing rental units has declined nationwide in the last several years;

(B) as rents for low-income housing increase and the development of new units of affordable housing decreases, there are fewer privately owned, federally assisted affordable housing units available to low-income individuals in need;

(C) the demand for affordable housing far exceeds the supply of affordable housing, as evidenced by recent studies;

(D) the efforts of nonprofit organizations have significantly preserved and expanded access to low-income housing;

(E) a substantial number of existing federally assisted or federally insured multifamily properties are at risk of being lost from the affordable housing inventory of the Nation through market rate conversion, deterioration, or demolition;

(F) it is in the interest of the Nation to encourage transfer of control of such properties to competent national, regional, and local nonprofit entities and intermediaries, the missions of which involve maintaining the affordability of such properties;

(G) such transfers may be inhibited by a shortage of such entities that are appropriately capitalized; and

(H) the Nation would be well served by providing assistance to such entities to aid in accomplishing this purpose.

(2) PURPOSES.—The purposes of this section are—

(A) to continue the partnerships among the Federal Government, State and local governments, nonprofit organizations, and the private sector in operating and assisting housing that is affordable to low-income persons and families;

(B) to promote the preservation of affordable housing units by providing matching grants to States and localities that have developed and funded programs for the preservation of privately owned housing that is affordable to low-income families and persons; and

(C) to minimize the involuntary displacement of tenants who are currently residing in such housing, many of whom are elderly or disabled persons and families with children.

(b) DEFINITIONS.—In this section:

(1) CAPITAL EXPENDITURES.—The term "capital expenditures" includes expenditures for acquisition and rehabilitation.

(2) CONSORTIUM.—The term "consortium" means a group of geographically contiguous localities that jointly submit an application under subsection (d).

(3) ELIGIBLE AFFORDABLE HOUSING.—The term "eligible affordable housing" means housing that—

(A) consists of more than 4 dwelling units;

(B) is insured or assisted under a program of the Department of Housing and Urban Development or the Department of Agriculture under which the property is subject to limitations on tenant rents, rent contributions, or incomes; and

(C) is at risk, as determined by the Secretary, of termination of any of the limitations referred to in subparagraph (B).

(4) ELIGIBLE ENTITIES.—The term "eligible entities" means any entity that meets the requirements of subsection (e)(6) and the rules issued under that subsection.

(5) LOCALITY.—The term "locality" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State, or a consortium thereof.

(6) LOW-INCOME AFFORDABILITY RESTRICTION.—The term "low-income affordability restriction" means, with respect to a housing project, any limitation imposed by law, regulation, or regulatory agreement on rents for tenants of the project, rent contributions for tenants of the project, or income-eligibility for occupancy in the project.

(7) LOW-INCOME FAMILIES; VERY LOW-INCOME FAMILIES.—The terms "low-income families" and "very low-income families" have the meanings given such terms in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(8) PROJECT-BASED ASSISTANCE.—The term "project-based assistance" has the same meaning as in section 16(c) of the United

States Housing Act of 1937 (42 U.S.C. 1437n(c)), except that the term includes assistance under any successor programs to the programs referred to in that section.

(9) QUALIFIED LIMITED LIABILITY COMPANY.—The term "qualified limited liability company" means a limited liability company with respect to which a credit is allowed under section 42 of the Internal Revenue Code of 1986 with respect to the company's qualified basis (as defined in section 42 (c)(1) of such Code), in a qualified low-income building (as defined in section 42(c)(2) of such Code) for which grant funds received under this section shall be used.

(10) QUALIFIED PARTNERSHIP.—The term "qualified partnership" means a limited partnership with respect to which a credit is allowed under section 42 of the Internal Revenue Code of 1986 with respect to the partnership's qualified basis (as defined in section 42(c)(1) of such Code) in a qualified low-income building (as defined in section 42(c)(2) of such Code) for which grant funds received under this section shall be used.

(11) SECRETARY.—The term "Secretary" means the Secretary of the Department of Housing and Urban Development.

(12) STATE.—The term "State" means each of the several States of the United States and the District of Columbia.

(c) AUTHORITY TO MAKE GRANTS.—The Secretary shall, to the extent that amounts are made available in advance under subsection (k), award grants under this section to States and localities for low-income housing preservation and promotion.

(d) APPLICATIONS.—

(1) IN GENERAL.—Any State or locality that seeks a grant under this section shall submit an application (through appropriate State and local agencies) to the Secretary.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall contain any information and certifications necessary for the Secretary to determine who is eligible to receive a grant under this section.

(e) USE OF GRANTS.—

(1) ELIGIBLE USES.—

(A) IN GENERAL.—Grants awarded under this section may be used by States and localities only for the purposes of providing assistance—

(i) for acquisition, rehabilitation, capital expenditures, and related development costs for a housing project that meets the requirements of paragraph (2), (3), (4), or (5); or

(ii) to eligible entities under paragraph (6) for—

(I) operational, working capital, and organizational expenses; and

(II) predevelopment activities to acquire eligible affordable housing for the purpose of ensuring that the housing will remain affordable, as the Secretary considers appropriate, for low-income or very low-income families.

(B) USE AGREEMENT.—A project receiving assistance under this paragraph shall be subject to an agreement (binding on any subsequent owner of such project) that ensures that the project will continue to operate, for a period of not less than 50 years after the date on which any assistance is made available under this paragraph, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by any program under which the project, if offered, was eligible for assistance, subject to available appropriations.

(C) SERVICE OF UNDER-SERVED AND RURAL AREAS.—States receiving funds under this section shall ensure that, to the maximum extent practicable, that projects in under-served and rural areas in that State receive assistance.

(2) PROJECTS WITH HUD-INSURED MORTGAGES.—A project meets the requirements of this paragraph if the project is financed by a loan or mortgage that is—

(A) insured or held by the Secretary under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715l(d)(3)) and receiving loan management assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) due to a conversion from section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

(B) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act (12 U.S.C. 1715l(d)(5)); or

(C) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act (12 U.S.C. 1715z–1).

(3) PROJECTS WITH SECTION 8 PROJECT-BASED ASSISTANCE.—A project meets the requirements of this paragraph if the project is subject to a contract for project-based assistance.

(4) PROJECTS PURCHASED BY RESIDENTS.—A project meets the requirements of this paragraph if—

(A) the project is or was eligible low-income housing (as defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4119)) or is or was a project assisted under section 613(b) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4125);

(B) the project has been purchased by a resident council or resident-approved nonprofit organization for the housing, or is approved by the Secretary for such purchase, for conversion to homeownership housing under a resident homeownership program meeting the requirements of section 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4116); and

(C) the owner of the project has entered into binding commitments (applicable to any subsequent owner) to extend—

(i) project-based assistance for not less than 15 years (beginning on the date on which assistance is made available for the project by the State or locality under this section); and

(ii) any low-income affordability restrictions applicable to the project in connection with that assistance.

(5) RURAL RENTAL ASSISTANCE PROJECTS.—A project meets the requirements of this paragraph if—

(A) the project is a rural rental housing project financed under section 515 of the Housing Act of 1949 (42 U.S.C. 1485), or a farm labor housing development financed under section 514 of the United States Housing Act of 1949 (42 U.S.C. 1484); and

(B) the restriction on the use of the project (as required under section 502 of the Housing Act of 1949 (42 U.S.C. 1472)) will expire not later than 12 months after the date on which assistance is made available for the project by the State or locality under this subsection.

(6) ELIGIBLE ENTITIES.—

(A) IN GENERAL.—The Secretary shall establish, by regulation, standards for eligible entities under this subsection.

(B) REQUIREMENTS.—An eligible entity shall—

(i) be a nonprofit organization (as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704)), or a qualified limited liability company or a qualified partnership whose managing member or general partner, respectively, is—

(I) a nonprofit organization; or

(II) a for-profit entity that is wholly owned by an eligible non-profit organization;

(ii) have among its purposes, maintaining the affordability to low-income or very low-income families of multifamily properties that are at risk of loss from the inventory of housing that is affordable to low-income or very low-income families; and

(iii) demonstrate to the Secretary—

(I) the need for the types of assistance described under paragraph (1)(A)(ii);

(II) experience in providing assistance described under that paragraph; and

(III) its ability to provide the assistance described under that paragraph.

(7) FUNDING REQUIREMENTS.—

(A) OPERATING SUPPORT.—Each State and locality awarded a grant under this section shall transfer at least 5 percent, but no more than 10 percent, of such grant to eligible entities for the purposes described under paragraph (1)(A)(ii)(I).

(B) NONPROFIT PURCHASES.—Each State and locality awarded a grant under this section shall transfer at least 15 percent of such grant to eligible entities for the purposes described under paragraph (1)(A)(ii)(II).

(8) RETURN OF UNUSED FUNDS.—If any amount of a grant awarded to a State or locality under this section has not been obligated 3 years after the grant is awarded, such amount shall be returned to the Secretary to be redistributed in accordance with this section the following fiscal year.

(9) ADMINISTRATIVE COSTS.—A State or locality that is awarded a grant under this section may use no more than 10 percent of such grant for costs associated with the administration of the grant.

(f) AMOUNT OF STATE AND LOCAL GRANTS.—

(1) IN GENERAL.—Subject to paragraph (3) and subsection (g), in each fiscal year, the Secretary shall award to each State and locality approved for a grant under this section a grant in an amount based upon the proportion of the need for assistance of that State or locality under this section (as determined by the Secretary in accordance with paragraph (2)) to the aggregate need among all States and localities approved for assistance under this section for that fiscal year.

(2) DETERMINATION OF NEED.—In determining the proportion of the need of a State or locality under paragraph (1), the Secretary shall consider—

(A) the number of units in projects in the State or locality that are eligible for assistance under subsection (e)(1)(A)(i) that are, due to market conditions or other factors, at risk for prepayment, opt-out, or otherwise at risk of being lost to the inventory of affordable housing; and

(B) the difficulty that residents of projects in the State or locality that are eligible for assistance under subsection (e)(1)(A)(i) would face in finding adequate, available, decent, comparable, and affordable housing in neighborhoods of comparable quality in the local market, if those projects were not assisted by the State or locality under subsection (e)(1)(A)(i).

(3) LIMITATIONS.—

(A) MANDATORY ALLOCATION.—In any fiscal year, of the total amount appropriated under subsection (k)—

(i) 40 percent shall be allocated for grants to States; and

(ii) 60 percent shall be allocated for grants to localities.

(B) MINIMUM GRANT AMOUNT.—Notwithstanding subsection (g), a State receiving a grant under this section shall receive no less than .4 percent of the total amount appropriated under subsection (k) in any fiscal year.

(g) MATCHING REQUIREMENT.—

(1) IN GENERAL.—Except as provided under paragraph (2), a grant under this section to a State or locality for any fiscal year may not exceed an amount that is twice the amount that the State or locality certifies, as the Secretary shall require, that the State or locality will contribute for such fiscal year, or has contributed since January 1, 2003, from non-Federal sources for the purposes described in subsection (e)(1).

(2) LIMITATIONS.—Paragraph (1) shall not apply to any amounts to be used by a State or locality for—

(A) administrative costs under subsection (e)(9); and

(B) operating support and working capital of nonprofit organizations under subsection (e)(7)(A).

(3) TREATMENT OF PREVIOUS CONTRIBUTIONS.—Any portion of amounts contributed after January 1, 2003, that are counted for the purpose of meeting the requirement under paragraph (1) for a fiscal year may not be counted for that purpose for any subsequent fiscal year.

(4) TAX CREDITS AND PRIVATE ACTIVITY BONDS.—Fifty percent of the annual amount of tax credits allocated to the project under section 42 of the Internal Revenue Code of 1986, or proceeds from private activity bonds issued for qualified residential rental projects under section 142 of that Code, shall be considered funds from non-Federal sources for purposes of paragraph (1).

(h) TREATMENT OF SUBSIDY LAYERING REQUIREMENTS.—Neither subsection (g) nor any other provision of this section may be construed to prevent the use of tax credits allocated under section 42 of the Internal Revenue Code of 1986, in connection with housing assisted with amounts from a grant awarded under this section, to the extent that such use is in accordance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) and section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note).

(i) REPORTS.—

(1) REPORTS TO SECRETARY.—Not later than 90 days after the last day of each fiscal year, each State and locality that receives a grant under this section during that fiscal year shall submit to the Secretary a report on the housing projects and eligible entities assisted with amounts made available under the grant.

(2) REPORTS TO CONGRESS.—Based on the reports submitted under paragraph (1),. the Secretary shall annually submit to Congress a report on the grants awarded under this section during the preceding fiscal year and the housing projects assisted and eligible entities with amounts made available under those grants.

(j) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue regulations to carry out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section such sums as may be necessary for each of fiscal years 2005, 2006, 2007, 2008, and 2009.

SEC. 3. PRESERVATION PROJECTS.

Section 524(e)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking "amounts are specifically" and inserting "sufficient amounts are".

By Mr. BINGAMAN:

S. 2694. A bill to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes; read the fist time.

Mr. BINGAMAN. Mr. President, today I am reintroducing the Medicare Assurance of Prescription Transition Assistance Act of 2004. It is my hope that this will be put on the Senate Calendar so it can be considered under rule XIV.

Let me give a little background about what this legislation is intended to correct.

As all of us know, this last year we passed a major revision, a major amendment to the Medicare Act. The Medicare Act was passed in 1965. In this last year, the prescription drug bill has been added to it. That was a controversial piece of legislation which I wound up opposing in its final form. I supported the version we passed through the Senate initially. I opposed the version that finally came from the conference and was sent to the President for signature.

But there was one part of that prescription drug legislation that contained a very real benefit for a lot of low-income Americans. That is the $600 subsidy that was made available this year and again next year for Medicare recipients with incomes in this category that allowed them to take advantage of the benefit.

The legislation I am introducing today will provide simply that CMS automatically enroll many of these low-income Medicare seniors and people with disabilities into this prescription drug card in order that they get the benefit of the discount card. Of course, that benefit is hard to quantify. They would get that benefit, but more importantly, they would get access to this $600 subsidy this year and another $600 subsidy next year, which would go against the cost of prescription drugs they incur during those 2 years.

Underscoring the need for this legislation, yesterday Dr. Mark McClellan, the Administrator of the Centers for Medicare and Medicaid Services, or CMS, testified before the Senate Special Committee on Aging that only 1 million of the more than 7 million low-income Medicare beneficiaries who are eligible for the $600 subsidy under the Medicare prescription drug card are currently enrolled.

This chart makes that point very clearly. The title of this chart is "Low Enrollment Plagues Prescription Drug Plan." This first bullet states that 7 million low-income Medicare beneficiaries are eligible for this $600 subsidy. The number of low-income beneficiaries that CMS projected would actually enroll would be 5 million. So 5 million of the 7 million were supposed to enroll. In fact, the number of low-income beneficiaries who have enrolled turns out to be 1 million.

So there are 6 million Americans eligible for the $600 transition assistance under the Medicare prescription drug bill who are not receiving any help. In other words, 14 percent of those who are eligible for this $600 subsidy are actually getting assistance at the present time. Unfortunately, many of those seniors who are eligible live in my home State of New Mexico, and I am very anxious that we provide this benefit to them since it is a part of the law.

The President and the leadership in the Senate have vowed to bottle up any legislation that would reopen the Medicare prescription drug bill at this time, or before the end of this Congress. Unfortunately, that would include bills such as the one I am reintroducing today, which is really intended to ensure that the people who are eligible for the limited benefit provided under this bill actually receive that benefit.

If we are serious about trying to provide assistance to our Nation's most vulnerable low-income seniors and people with disabilities, then we should undertake the rather straightforward but significant step that is called for in this legislation, and that is automatically enrolling those who are eligible for the $600 subsidy into the discount drug card program.

Considering that it is unclear whether the savings offered by the drug discount card itself will amount to much, and that is just hard to quantify, frankly, the main benefit is not the discount card itself; it is the $600 credit which is available to low-income individuals.

Specifically, the $600 is available to any individual whose income is less than $12,569 per year or any married couple whose income is less than $16,862 per year. For those Medicare savings program beneficiaries who get cost-sharing assistance through Medicaid because they have incomes below 135 percent of poverty but are not receiving prescription drug coverage, they clearly meet the income criteria under the act and their automatic enrollment is the only way to ensure they will receive the $600 subsidy that those of us in Congress intended they receive.

In fact, when the prescription drug bill was passed, the administration claimed that 65 percent of those eligible for the $600 transitional assistance would actually be enrolled.

According to the Centers for Medicare and Medicaid Services, or CMS, the agency expected 5 million people of the 7 million—again, as is stated on this chart—including 29,000 of the estimated 45,000 in my home State of New Mexico, would actually enroll. Under the CMS assumptions, those beneficiaries combined would save $5 billion nationally, or $35 million in my home State of New Mexico, over this 2-year period.

Much of that savings is not going to be realized by those seniors unless we pass the legislation I am introducing today.

Part of the explanation for the low enrollment is the poor advertising campaign that the General Accounting Office has criticized and with which we are generally familiar. This poor advertising campaign included running ads in Capitol Hill newspapers such as Roll Call and the Hill. Unfortunately, most of the low-income seniors in my State do not subscribe to either Roll Call or the Hill. In fact, they do not know those publications exist.

According to a national survey by the Kaiser Family Foundation, only 18 percent of senior citizens are even aware that the low-income transitional assistance program was included in the prescription drug bill. So it is hard to believe that 65 percent of those who are eligible will enroll when less than one-fifth of them even know the program exists.

Fortunately, CMS has already laid the groundwork for this automatic enrollment. Two months ago, the agency issued guidance for how State pharmacy assistance programs can automatically enroll their members who have incomes below 135 percent of poverty in the low-income assistance benefit. Those enrollees continue to represent the bulk of those who have enrolled and they remain the model for how to ensure that low-income beneficiaries get the prescription drug assistance they need.

CMS can take this additional step, which I am calling for in this legislation, to automatically enroll MSP members who do not have prescription drug coverage. I believe CMS has the authority to take the step on its own right now, but the legislation I have reintroduced today would clarify the law in this regard and would ensure that low-income seniors and people with disabilities actually receive this transitional assistance as promised by the administration and the Congress.

As the Medicare Rights Center has asked: Given their definite eligibility and clear need for help to pay for their prescription drugs, why not save these people and the Government the hassle of application and automatically enroll them?

That is exactly the right question to be asked. There are a number of low-income seniors and people with disabilities who are very sick, who have cognitive and mental illnesses and do not have access to or feel comfortable with the use of the Internet. Many will wrongly slip through the cracks and fail to get the $600 subsidy that could benefit them substantially this year and next year. In such cases, if an individual has not enrolled for whatever reason, it begs the question as to what choice automatic enrollment would take away at that point.

It is not enough to say, look, we believe these seniors have a choice of a great many discount cards and we do not want to prejudge that for them. The truth is, most of the people I am talking about are completely unaware that there is such a thing as a drug discount card or that there is such a thing as a $600 subsidy for which they could qualify. This lack of knowledge on their part is through no fault of their own and we should do all we can, and CMS should do all it can, to get them enrolled so they can benefit from this $600 subsidy. Either CMS or the States should take the affirmative step of automatically enrolling these individuals in the program. If we fail to assist them in this manner, what is really lost is not the choice that they might have between one card or another but the $1,200 in real prescription drug assistance that they do today qualify for and that they should be receiving.

As a Kaiser Family Foundation study last year indicated, Medicare beneficiaries with no drug coverage were nearly three times more likely than people with drug coverage to forgo needed prescription drugs. While CMS has estimated that 65 percent of the low-income beneficiaries would sign up for the $600 subsidy, by any measure signing up just 14 percent of these beneficiaries can only be viewed as a major failure. It has not been viewed as that so far either by the administration or by the Congress.

Once again, I call on the administration to take this important step on its own and enroll these individuals for this benefit. In light of the fact they have failed to do so, despite several calls from me and other Members of Congress for them to do so, I am reintroducing this bill, and I hope the Senate leadership will bring it to the floor for immediate action.

There is over $1 billion of prescription drug assistance for over 1 million of our Nation's most vulnerable citizens at stake. It is time for the Senate to pass this bill.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2694

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act, may be cited as the "Medicare Assurance of Rx Transitional Assistance Act of 2004".

SEC. 2. AUTOMATIC ENROLLMENT OF MEDICAID BENEFICIARIES ELIGIBLE FOR MEDICARE PRESCRIPTION DRUG BENEFITS.

(a) AUTOMATIC ENROLLMENT OF BENEFICIARIES RECEIVING MEDICAL ASSISTANCE FOR MEDICARE COST-SHARING UNDER MEDICAID.—Section 1860D–14(a)(3)(B)(v) (42 U.S.C. 1395w–114(a)(3)(B)(v)) is amended to read as follows:

"(v) TREATMENT OF MEDICAID BENEFICIARIES.—Subject to subparagraph (F), the Secretary shall provide that part D eligible individuals who are—

"(I) full-benefit dual eligible individuals (as defined in section 1935(c)(6)) or who are recipients of supplemental security income benefits under title XVI shall be treated as subsidy eligible individuals described in paragraph (1); and

"(II) not described in subclause (I), but who are determined for purposes of the State plan under title XIX to be eligible for medical assistance under clause (i), (iii), or (iv) of section 1902(a)(10)(E), shall be treated as being determined to be subsidy eligible individuals described in paragraph (1).".

(b) ASSURANCE OF TRANSITIONAL ASSISTANCE UNDER DRUG DISCOUNT CARD PROGRAM.—

(1) IN GENERAL.—Section 1860D–31(b)(2)(A) of the Social Security Act (42 U.S.C. 1395w141(b)(2)(A)) is amended by adding at the end the following new sentence: "Subject to subparagraph (B), each discount card eligible individual who is described in section 1860D–14(a)(3)(P)(v) shall be considered to be a transitional assistance eligible individual.".

(2) AUTOMATIC ENROLLMENT OF MEDICAID BENEFICIARIES.—Section 1860D–31(c)(1) of the Social Security Act (42 U.S.C. 1395w–141(c)(1)) is amended by adding at the end the following new subparagraph:

"(F) AUTOMATIC ENROLLMENT OF CERTAIN BENEFICIARIES.—

"(1) IN GENERAL.—Subject to clause (ii), the Secretary shall—

"(I) enroll each discount card eligible individual who is described in section 1860D–14(a)(3)(13)(v), but who has not enrolled in an endorsed discount card program as of August 15, 2004, in an endorsed discount, card program selected by the Secretary that serves residents of the State in which the individual resides; and

"(II) notwithstanding paragraphs (2) and (3) of subsection (f), automatically determine that such individual is a transitional assistance eligible individual (including whether such individual is a special transitional assistance eligible individual) without requiring any self-certification or subjecting such individual to any verification under such paragraphs.

"(ii) OPT-OUT.—The Secretary shall not enroll an individual under clause (i) if the individual notifies the Secretary that such individual does not wish to be enrolled and be determined to be a transitional assistance eligible individual under such clause before the individual is so enrolled.".

(3) NOTICE OF ELIGIBILITY FOR TRANSITIONAL ASSISTANCE.—Section 1860D–31(d) of the Social Security Act (42 U.S.C. 1395w–141(4)) is amended by adding at the end the following new paragraph:

"(4) NOTICE OF ELIGIBILITY TO MEDICAID BENEFICIARIES.—Not later than July 15, 2004, each State or the Secretary (at the option of each State) shall mail to each discount card eligible individual who is described in section 1860D14(a)(3)(B)(v), but who has not enrolled in an endorsed discount card program as of July 1, 2004, a notice stating that—

"(A) such individual is eligible to enroll in an endorsed discount card program and to receive transitional assistance under subsection (g);

"(B) if such individual does not enroll before August 15, 2004, such individual will be automatically enrolled in an endorsed discount card program selected by the Secretary unless the individual notifies the Secretary that such individual does not wish to be so enrolled,

"(C) if the individual is enrolled in an endorsed discount card program during 2004, the individual will be permitted to change enrollment under subsection (c)(1)(C)(ii) for 2005; and

"(D) there is no obligation to use the endorsed discount card program or transitional assistance when purchasing prescription drugs.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

By Mr. SPECTER:

S. 2695. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; read the first time.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Christopher Kangas Fallen Firefighter Apprentice Act, a bill designed to correct a flaw in the current definition of "firefighter" under the Public Safety Officer Benefits Act.

On May 4, 2002, 14-year-old Christopher Kangas was struck by a car and killed while he was riding his bicycle in Brookhaven, PA. The local authorities later confirmed that Christopher was out on his bike that day for an important reason: Chris Kangas was a junior firefighter, and he was responding to a fire emergency.

Under Pennsylvania law, 14- and 15-year-olds such as Christopher are permitted to serve as volunteer junior firefighters. While they are not allowed to operate heavy machinery or enter burning buildings, the law permits them to fill a number of important support roles, such as providing first aid. In addition, the junior firefighter program is an important recruitment tool for fire stations throughout the Commonwealth. In fact, prior to his death Christopher had received 58 hours of training that would have served him well when he graduated from the junior program.

It is clear to me that Christopher Kangas was a firefighter killed in the line of duty. Were it not for his status as a junior firefighter and his prompt response to a fire alarm, Christopher would still be alive today. Indeed, the Brookhaven Fire Department, Brookhaven Borough, and the Commonwealth of Pennsylvania have all recognized Christopher as a fallen public safety officer and provided the appropriate death benefits to his family.

Yet while those closest to the tragedy have recognized Christopher as a fallen firefighter, the Federal Government has not. The Department of Justice announced that Christopher Kangas was not a "firefighter," and therefore not a "public safety officer" for purposes of the Public Safety Officer Benefits Act. The DOJ based its determination on an arbitrarily narrow definition of "firefighter," deciding that the only people who qualify as firefighters are those who play the starring role of spraying water on a fire or entering a burning building. According to this definition, those who play the essential supporting roles of directing traffic, performing first aid, or dispatching fire vehicles apparently don't count.

Any firefighter will tell you that there are many important roles to play in fighting a fire beyond operating the hoses and ladders. Firefighting is a team effort, and everyone in the Brookhaven Fire Department viewed young Christopher as a full member of their team.

As a result of this DOJ determination, Christopher's family will not receive a $267,000 Federal line-of-duty benefit. In addition, Christopher will be barred from taking his rightful place on the National Fallen Firefighters Memorial in Emmitsburg, MD. For a young man who dreamed of being a firefighter and gave his life rushing to a fire, keeping him off of the memorial is a particularly cruel blow.

The bill I introduce today will ensure that the Federal Government will recognize Christopher Kangas and others like him as firefighters. The bill clarifies that all firefighters will be recognized as such "regardless of age, status as an apprentice or trainee, or duty restrictions imposed because of age or status as an apprentice or trainee." The bill applies retroactively back to May 4, 2002 so that Christopher can benefit from it.

My bill is a companion to H.R. 4472, introduced by Congressman CURT WELDON, Congressman WELDON, who is himself a former fireman and fire chief, is chairman of the Congressional Fire Services Caucus. There is no one in Congress better suited to understand this situation than Congressman WELDON, and I am honored to join him in the effort to right this wrong.

I am submitting together with this bill a request under Senate rule XIV that the bill be placed directly on the Senate calendar and not be referred to committee. This is a noncontroversial, technical bill. I hope that my colleagues will join me in ensuring its speedy passage into law.

By Mrs. HUTCHISON:

S. 2697. A bill to authorize the President to posthumously award a gold medal on behalf of the Congress to the seven members of the crew of the space shuttle *Columbia* in recognition of their outstanding and enduring contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. HUTCHISON. Mr. President, I rise today to introduce a bill to honor seven individuals who last year made the ultimate sacrifice. The crew of flight STS–107 was tragically lost aboard the space shuttle *Columbia* on February 1, 2003. Debris from the vehicle was found in several cities and towns in my home State of Texas, where memorials will be raised to the mission's memory.

Commander Rick Husband, Pilot William McCool, Payload Specialist Michael Anderson, Mission Specialists Kalpana Chawla, David Brown and Laurel Clark, and Payload Specialist Ilan Ramon, Israel's first astronaut, admirably exemplified our commitment to human space exploration. These men and women labored for years to join the select group of NASA astronauts. Their 16–day mission was dedicated to research in physical, life, and space sciences. They conducted approximately 80 separate experiments comprised of hundreds of samples and tests, for 24 hours a day in alternating shifts. This selfless toil has repeatedly formed the basis of NASA's significant discoveries about our universe.

The *Columbia* crew, by participating in this effort, fully endorsed manned space exploration, which has been among NASA's missions since its inception in 1958. Beginning with NASA's earliest Mercury, Gemini, and Apollo missions which first put men on the moon, to this year's Mars rovers, the benefits of space technology are far-reaching and affect the lives of every American. The work of people like those lost last year has led to myriad tangible benefits here on Earth, such as the life-saving CAT Scan. This very American desire to cross frontiers and explore our surroundings drives critical innovation and development, and it does not exist without people like those we commemorate today.

I believe these cherished husbands and wives, sons, daughters, parents, and friends deserve to be counted among another exclusive number. For their bravery, dedication, audacity, and perseverance, these astronauts should be posthumous recipients of the Congressional Gold Medal, which is awarded as the highest expression of national appreciation for distinguished achievements and contributions. According to convention, this measure must be cosponsored by 67 Senators before it can be considered, and I am certain my colleagues hold the *Columbia* crew in the same high regard as I do. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill ordered to be printed in the RECORD, as follows:

S. 2697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) On Saturday, February 1, 2003, the space shuttle Columbia exploded upon re-entering the atmosphere following a 16-day mission.

(2) Before the Columbia started its tragic descent, the shuttle crew completed some 80 scientific experiments and much of their research data had already been relayed to Houston where it has added to the pool of scientific knowledge.

(3) The Nation pays tribute to the memory of Colonel Rick Husband, Lieutenant Colonel Michael Anderson, Commander Laurel Clark, Captain David Brown, Commander William McCool, Dr. Kapana Chawla, and Ilan Ramon, a colonel in the Israeli air force. The diversity of crew represented the ideals of our Nation.

(4) These seven courageous explorers paid the ultimate price to improve our understanding of the universe, to advance our medical and engineering sciences, to make the Nation safer and more secure, and to keep the United States economy on the cutting edge of technology.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) Presentation Authorized.—The President is authorized, on behalf of the Congress, to award a gold medal of appropriate design to each of the seven crew members of the space shuttle Columbia—

(1) Rick D. Husband;
(2) Michael P. Anderson;
(3) Laurel Clark;
(4) David M. Brown;
(5) William C. McCool;
(6) Kapana Chawla; and
(7) Ilan Ramon.

(b) Design and Striking.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck under this Act, are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING.

(a) Authority to Use Fund Amounts.—There is authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) Proceeds of Sale.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

By Mr. GRASSLEY (for himself and Mr. Baucus):

S. 2698. A bill to amend title XVIII of the Social Security Act to revoke the unique ability of the Joint Commission for the Accreditation of Healthcare Organizations to deem hospitals to meet certain requirements under the medicare program and to provide for greater accountability of the Joint Commission to the Secretary of Health and Human Services; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today to speak to an issue that is vitally important—hospital safety. For too long, the Federal Government has not had the appropriate oversight authority to assure safety in our Nation's hospitals.

I am proud to introduce the Medicare Hospital Accreditation Act, bipartisan legislation that will give the Centers for Medicare and Medicaid Services (CMS) the same oversight capacity over hospital accreditation that it has over all other health care accrediting bodies.

The Joint Commission for Accreditation of Health Organizations (JCAHO) is a private, not-for-profit organization. In 1965 Congress granted JCAHO "deeming authority" for Medicare certification under Section 1865 of the Social Security Act. This sweeping authority gave hospitals accredited by JCAHO the ability to participate in Medicare with minimal CMS oversight. Since then, JCAHO has accredited most of our Nation's hospitals—over 80 percent in 2002. No other health care accreditation program has had this same statutory exception.

Congress gave JCAHO an important role to detect and correct problems that directly affect the lives of patients in hospitals. Congress, CMS and in turn the American people, rely upon JCAHO's work to ensure the quality and safety in our Nation's hospitals.

JCAHO's own mission claims to continuously improve the safety and quality of care provided to the public through the provision of health care accreditation.

Unfortunately, JCAHO was entrusted with this responsibility without the necessary checks and balances so crucial to a government responsive to the needs of the people it serves.

This GAO report is only the most recent evidence showing problems with the Joint Commission. In June of 1990, the GAO found that CMS, which was then called the Health Care Financing Administration (HCFA), needed to reevaluate the criteria used to evaluate the JCAHO's survey process and recommended that HCFA establish a means to detect significant differences between state agency and Joint Commission surveys.

In May of 1991, the GAO published a report titled "Hospitals with Quality-of-Care Problems Need Closer Monitoring" and recommended that HCFA closely monitor the Joint Commission's follow-up of hospital efforts to correct deficiencies it found related to Medicare conditions of participation.

Then in 1999, the Inspector General for the Department of Health & Human Services also raised serious concerns. The IG looked at how well the Joint Commission identified deficiencies in hospitals and found that the Joint Commission's surveys were not likely to identify patterns of deficient care.

Today's GAO findings are likewise significant. Over the course of 3 years—between 2000 and 2002—500 hospitals were surveyed by both JCAHO and by a state survey agency on behalf of CMS. According to the GAO, a comparison of these surveys revealed that the state surveys often found serious deficiencies—serious deficiencies that went overlooked or unnoticed by JCAHO.

In fact, the GAO found that out of the 157 hospitals found with serious deficiencies, JCAHO identified only 34. In other words, compared to state surveyors, JCAHO missed hospitals with deficiencies 78 percent of the time.

A hospital that prepared and administered drugs in violation of federal and state laws is just one example of a serious deficiency found by a state agency, but missed by JCAHO in its 2000 survey.

Serious deficiencies found by state agencies but missed by JCAHO represent a pattern of deficient care—not merely isolated incidents. Unlike isolated incidents, a pattern of deficient care raises grave concerns because of the potential to place dozens of lives in danger, involving for example a floor or entire wing where many hospital patients are receiving their care.

Because JCAHO's hospital "deeming authority" is statutorily mandated, CMS cannot terminate this authority. Today, we are taking the first step to give CMS the same oversight capability over JCAHO that it has over all other health care accrediting organizations.

This legislation will give CMS the authority and responsibility to hold JCAHO accountable and, if necessary, restrict or remove its hospital accreditation authority. It will bring uniformity to the health care accreditation process and will provide a more effective chain-of-command. JCAHO will have to answer to CMS—as it does in other sectors of health care accreditation.

The GAO recommends that Congress grant CMS greater oversight over JCAHO's hospital accreditation process. CMS agrees. JCAHO agrees. My colleague from across the aisle and across the Capitol, Congressman Stark—who as we speak is introducing the companion bill in the House of Representatives—agrees with this finding.

I urge your support for this much-needed legislation.

Mr. BAUCUS. Mr. President, I rise to call my colleagues' attention to a very important matter—the safety of America's hospitals. This is an issue that affects every State and people of all political beliefs. In an effort to keep American hospitals safe and ensure they provide quality health care, Chairman Grassley and I are introducing the Medicare Hospital Accreditation Act of 2004, which is simultaneously being introduced by our colleagues in the House of Representatives.

As I can attest through personal experience, America's hospitals provide outstanding health care. Every day, thousands of people receive the treatment they need from dedicated and highly competent hospital staffs working in well-run hospitals across the country.

But confidence in our hospitals should not be confused with complacency. Every so often, someone from outside a hospital must come in to each facility and look under the hood, so to speak, to read through patient charts, check clinical practices and to make sure that sprinklers are working and stairways are sound. We have put our trust in accrediting organizations to identify problems in hospitals so that they may be corrected and quality and safety improved.

Most hospitals are accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), which has been accrediting hospitals for over 50 years. When JCAHO accredits a hospital, that hospital is deemed to be in compliance with the conditions of participation for Medicare. As today's report by the Government Accountability Office (GAO) shows us, JCAHO's record of identifying problems in hospitals is far from perfect. Furthermore, the GAO points out that government has little oversight authority over JCAHO's hospital accreditation process. Less oversight authority, in fact, compared to accrediting organizations for other kinds of healthcare facilities.

While the GAO's findings are a reason for concern, the report does not mean that American hospitals are unsafe. But it does send a clear message—one that the Congress and the Administration should heed—that there is room for improvement in identifying problems at hospitals. Given my commitment to keep hospitals as safe as possible, I view the GAO's recommendations as a call to action.

Therefore, I am pleased to join Chairman GRASSLEY in introducing legislation to remove JCAHO's unique status as an accreditation body and to give the Centers for Medicare & Medicaid Services (CMS) the same authority over JCAHO's hospital accreditation that it already has with respect to the accreditation of other healthcare facilities. Putting all accrediting organizations on equal footing will result in better accreditation and better healthcare facilities for everyone. Expanding oversight by CMS of JCAHO's hospital accreditation will help improve the process, keep patients safe and ensure that hospitals continue to perform to our expectations.

The legislation we're introducing today is bipartisan and bicameral. I urge my colleagues to join us in cosponsoring this bill and working together to get it passed.

By Ms. SNOWE:

S. 2699. A bill to deauthorize a certain portion of the project for navigation, Rockland Harbor, Maine; to the Committee on Environment and Public Works.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that could make the mooring of an historic windjammer fleet in Rockland Harbor a reality by deauthorizing a section of the Federal Navigational Channel that will allow a windjammer wharf to be built. Originally a strong fishing port, Rockland retains its rich marine heritage, and it is one of the fastest growing cities in the Midcoast. Like many of the port cities on the eastern seaboard, Rockland has been forced to confront an assortment of financial and environmental changes, but the city has been able to respond to these challenges in positive and productive ways.

The City of Rockland has hosted the Windjammer fleet since 1955, earning a well-deserved reputation as the Windjammer Capitol of the World. Rockland's Windjammers are now National Historic Landmarks, and as such, are vitally important to both the City and the State. The image of *The Victory Chimes*—a three-masted, gaff-rigged schooner whose National Historic Landmark designation I supported in 1997, and one of five vessels slated to be berthed at the new wharf—graces the 2003 Maine quarter! This beautiful fleet of windjammers symbolizes the great seagoing history of Maine as well as the sense of adventure that we have come to associate so closely with the American experience.

Lermond Cove is perfectly situated in the Rockland Harbor to be the new and permanent home for these cherished vessels. The proposed Windjammer Wharf will also provide a safe harbor from storms, as it is tucked nicely near the Maine State Ferry and Department of Marine Resources piers.

The State of Maine capitalizes on the visual impact of the Windjammers to promote tourism, working waterfronts and the natural beauty that distinguishes our landscape. Over $300,000 is spent yearly by the Maine Windjammer Association to advertise and promote these businesses. Deauthorizing that part of the Federal navigational channel will clearly trigger significant and unrealized economic gains for the region, providing many beneficial dollars to the local area and the State of Maine. According to the Longwood study, which uses a multiplier of 1.5, the economic impact of this spending is 3.8 million dollars a year. Conservatively, the Windjammers spend over 2.5 million a year in the State.

My hope is that the legislation I am introducing today can be included in the Water Resources Development Act (WRDA), S 2554, which has been marked up by the Senate Environment and Public Works Committee and awaits floor action. I want to thank the New England Corps of Engineers for their help in drafting the language and working with the Maine Department of Transportation, which runs the state ferry line, and the Rockland city officials, the Rockland Port District, and the Captains of the Windjammer vessels—Mainers and businesspeople with the vision and commitment we need to complete Windjammer Wharf and create a permanent home for this historic fleet of windjammers in Rockland Harbor.

My legislation is important to the entire Rockland area, to the economy of my State of Maine, and important as a living history of a long held tradition in the Northeastern part of the country bordering the Atlantic Ocean where eyes have traditionally turned to the sea, fixed on hope and the horizon, and a way of life.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 408—SUPPORTING THE CONSTRUCTION BY ISRAEL OF A SECURITY FENCE TO PREVENT PALESTINIAN TERRORIST ATTACKS, CONDEMNING THE DECISION OF THE INTERNATIONAL COURT OF JUSTICE ON THE LEGALITY OF THE SECURITY FENCE, AND URGING NO FURTHER ACTION BY THE UNITED NATIONS TO DELAY OR PREVENT THE CONSTRUCTION OF THE SECURITY FENCE

Mr. SMITH (for himself, Mr. ALEXANDER, Mr. BOND, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. CRAPO, Mrs. DOLE, Mr. FITZGERALD, Mr. LIEBERMAN, Mr. LUGAR, Mrs. MURRAY, Mr. SCHUMER, Mr. WYDEN, Mr. DEWINE, Ms. MIKULSKI, and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 408

Whereas the United Nations General Assembly requested the International Court of Justice to render an opinion on the legality of the security fence being constructed by Israel to prevent Palestinian terrorists from entering Israel;

Whereas, on February 23, 2004, the International Court of Justice commenced hearings on the legality of the security fence;

Whereas, on July 9, 2004, the International Court of Justice issued an advisory opinion that was critical of the legality of the security fence and that accused Israel of violating its international obligations;

Whereas the security fence is a necessary and proportional response to the campaign of terrorism by Palestinian militants;

Whereas, throughout Israel, the West Bank, and Gaza, terrorist groups have sent suicide bombers to murder Israeli civilians in buses, cafes, and places of worship, have used snipers to shoot at Israeli civilians in their homes and vehicles and even in baby carriages, and have invaded homes and seminaries in order to carry out acts of terrorism;

Whereas Palestinian terrorists routinely disguise themselves as civilians, including as pregnant women, hide bombs in ambulances, feign injuries, and sequence bombs to kill rescue workers responding to an initial attack;

Whereas a security fence has existed in Gaza since 1996 and that fence has proved effective at reducing the number of terrorist attacks and prevented many residents of Gaza from crossing into Israel to carry out terrorist attacks;

Whereas, from the onset of the Palestinian campaign of terror against Israel in September 2000, until the start of the construction of the fence in July 2003, Palestinian terrorists based out of the northern West Bank carried out 73 attacks in which 293 Israeli were killed and 1,950 were wounded, and during the period since construction began, from August 2003 through June 2004, only 3 attacks were successfully executed, 2 of which were executed by terrorists coming from areas where the fence was not yet completed;

Whereas this reduction in number of attacks represents a 90 percent decline since construction of the security fence commenced;

Whereas, on June 30, 2004, Israel's High Court of Justice issued a dramatic ruling that supported the need for the security fence to fight terror, but ruled that its route must take into account Palestinian humanitarian concerns, thus reinforcing the central role that the rule of law plays in Israeli society;

Whereas United Nations Security Council Resolution 242 (November 22, 1967) and United Nations Security Council Resolution 338 (October 22, 1973) require negotiated settlement of the Israeli-Palestinian conflict, including the demarcation of final borders and recognition of the right of Israel to "secure and recognized boundaries";

Whereas, according to international law and as expressly recognized in Article 51 of the Charter of the United Nations, all countries possess an inherent right to self-defense;

Whereas the security fence and associated checkpoints are crucial to detecting and deterring terrorists among the Palestinian civilian population;

Whereas there is concern that the International Court of Justice is politicized and critical of Israel;

Whereas construction of the security fence does not constitute annexation of disputed territory because the security fence is a temporary measure and does not extend the sovereignty of Israel;

Whereas the security fence is permitted under the Declaration of Principles on Interim Self-Government Arrangements, signed at Washington September 13, 1993, between Israel and the P.L.O. (hereinafter referred to as the "Oslo Accord") in which Israel retained the right to provide for security, including the security of Israeli settlers;

Whereas the case regarding the legality of the security fence in the International Court of Justice violates the principles of the Oslo Accord that require that all disputes between the parties be settled by direct negotiations or by agreed-upon methods; and

Whereas the United States, Korea, and India have constructed security fences to separate such countries from territories or other countries for the security of their citizens: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Israel's right of self-defense against Palestinian terrorist attacks, and supports the construction of a security fence, the route of which, with the support of the Government of Israel, takes into account the need to minimize the confiscation of Palestinian land and the imposition of hardships on the Palestinian people;

(2) condemns the decision of the International Court of Justice on the legality of the security fence; and

(3) urges the United States to vote against any further United Nations action that could delay or prevent the construction of the security fence and to engage in a diplomatic campaign to persuade other countries to do the same.

SENATE RESOLUTION 409—ENCOURAGING INCREASED INVOLVEMENT IN SERVICE ACTIVITIES TO ASSIST SENIOR CITIZENS

Mr. BAYH submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 409

Whereas approximately 13,000,000 individuals in the United States have serious long-term health conditions that may force them to seek assistance with daily tasks;

Whereas 56 percent of the individuals in the United States with serious long-term health conditions are age 65 or older;

Whereas the percentage of the population over the age of 65 is expected to rise from 13 percent in 2004 to 20 percent in 2020;

Whereas the number of individuals entering the workforce and the number of health care professionals with geriatric training are not keeping pace with the changing demographics;

Whereas medicaid paid for 51 percent of total long-term care spending in 2002, as compared to the 15 percent of total long-term care spending paid by medicare;

Whereas the long-term care system of the United States, funded largely with Federal and State dollars, will have difficulty supporting the coming demographic shift;

Whereas 80 percent of seniors live at home or in community-based settings;

Whereas 3,900,000 people of the United States who are over age 65 receive long-term care assistance in home and community settings;

Whereas 65 percent of seniors who need long-term care rely exclusively on friends and family, and another 30 percent rely on a combination of paid caregivers and friends or family;

Whereas 15 percent of all seniors over the age of 65 suffer from depression;

Whereas studies have suggested that 25 to 50 percent of nursing home residents are affected by depression;

Whereas approximately 1,450,000 people live in nursing homes in the United States;

Whereas by 2018 there will be 3,600,000 seniors in need of a nursing home bed, which will be an increase of more than 2,000,000 from 2004;

Whereas as many as 60 percent of nursing home residents do not have regular visitors;

Whereas older patients with significant symptoms of depression have significantly higher health care costs than seniors who are not depressed;

Whereas people who are depressed tend to be withdrawn from their community, friends, and family;

Whereas the Corporation for National and Community Service (CNS) Senior Corps programs currently provide seniors with the opportunity to serve their communities through the Retired and Senior Volunteer Program, Foster Grandparent Program, and Senior Companion Program;

Whereas through the Senior Companion Program in particular, in the 2002 to 2003 program year, more than 17,000 low-income seniors volunteered their time assisting 61,000 frail elderly and homebound individuals who have difficulty completing daily tasks;

Whereas numerous volunteer organizations across the United States enable Americans of all ages to participate in similar activities;

Whereas Faith in Action, 1 volunteer organization, brings together 40,000 volunteers of many faiths to serve 60,000 homebound people with long-term health needs or disabilities across the country, 64 percent of whom are 65 years of age or older;

Whereas the thousands of volunteers that, through the Senior Companion Program and volunteer organizations nationwide, provide companionship and assistance to frail elderly individuals and homebound seniors, deserve to be commended for their work;

Whereas the demand for these services outstrips the number of volunteers, and organizations are seeking to enlist more individuals in the United States in the volunteer effort;

Whereas companionship and assistance programs for seniors with long-term health needs offer many demonstrated benefits, such as: allowing frail elderly individuals to remain in their homes; enabling seniors to maintain independence for as long as possible; providing encouragement and friendship to lonely seniors; and providing relief to family caregivers;

Whereas regular visitation and assistance is the best way of assuring seniors that they have not been forgotten, and State and local recognition of regular visitation programs can call further attention to the importance of volunteering on an ongoing basis; and

Whereas a month dedicated to service for seniors and recognized across the United States will call attention to volunteer organizations serving seniors and provide a platform for recruitment efforts: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2004 as "Service for Seniors Month";

(2) recognizes the need for companionship and assistance with daily tasks among seniors with long-term health conditions throughout the year, and encourages the people of the United States to volunteer regularly with homebound frail elderly or at a nursing home or long-term care facility;

(3) encourages volunteer organizations that offer companionship and assistance to seniors to incorporate "Service for Seniors Month" in their recruitment efforts;

(4) encourages individuals in the United States to volunteer in these service organizations in order to give back to a generation that sacrificed so much; and

(5) requests that the President issue a proclamation calling on the people of the United States and interested groups to observe "Service for Seniors Month" with appropriate ceremonies and activities that promote awareness of, and volunteer involvement service for, seniors with long-term health needs.

SENATE RESOLUTION 410—TO AUTHORIZE SENATE EMPLOYEES TO TESTIFY AND PRODUCE DOCUMENTS WITH LEGAL REPRESENTATION

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 410

Whereas, the Department of Justice is requesting testimony in connection with a pending investigation into potential false statements to a committee of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence, under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved That present and former employees of the Senate are authorized to testify and to produce documents, except as to matters for which a privilege should be asserted, in connection with the pending investigation into potential false statements to a committee of the Senate, and any related proceedings.

SEC. 2. The Senate Legal Counsel is authorized to represent present and former employees of the Senate in connection with the testimony authorized in section one of this resolution.

SENATE RESOLUTION 411—TO AUTHORIZE DOCUMENT PRODUCTION BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 411

Whereas, the United States Department of Justice has requested that the Senate Select Committee on Intelligence provide it with documents in connection with a pending investigation into the involvement of U.S. government officials in the counter-narcotics air interdiction program in Peru;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved That the Chairman and Vice Chairman of the Senate Select Committee on Intelligence, acting jointly, are authorized to provide to the United States Department of Justice, under appropriate security procedures, copies of Committee documents sought in connection with its investigation into the involvement of U.S. government officials in the counter-narcotics air interdiction program in Peru.

SENATE RESOLUTION 412—EXPRESSING THE SENSE OF THE SENATE REGARDING THE IMPORTANCE OF MAINTAINING THE INDEPENDENCE AND INTEGRITY OF THE FINANCIAL ACCOUNTING STANDARDS BOARD

Mr. FITZGERALD (for himself, Mr. LEVIN, Mr. MCCAIN, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 412

Whereas the Financial Accounting Standards Board (FASB) was created in 1973 to establish and improve standards of financial accounting and reporting by publicly traded companies for the guidance and education of the public, including issuers of securities, auditors, and users of financial information;

Whereas the FASB is composed of a diverse, seven-member board of accounting experts representing the private sector, public accounting, academia, and Wall Street, all of whom are specifically qualified to set technical accounting standards;

Whereas the accounting standard setting process of the FASB involves an extensive "due process" that is open to public observation and participation;

Whereas on March 31, 2004, the FASB issued a proposed statement entitled "Share-Based Payment" that addresses the accounting of share-based payment transactions, including stock options, in which an enterprise receives employee services in exchange for equity instruments of the enterprise, or liabilities that are based on the fair value of the enterprise's equity instruments or that may be settled by the issuance of such equity instruments;

Whereas legislation has been introduced in Congress that would undermine the independence of the FASB by nullifying or delaying ongoing efforts by the FASB to improve accounting for equity-based compensation;

Whereas Congressional action that dictates accounting treatment of stock options by publicly traded companies would inject Congress directly into the accounting standard setting process mandating which types of stock-based compensation should be expensed, how such expenses should be measured, what enterprises should be exempt from expensing, and when and under what circumstances the Securities and Exchange Commission recognizes and enforces standards for the accounting of stock-based compensation;

Whereas Congressional action to set accounting standards would set the dangerous precedent of substituting provisions advocated by special interests in place of standards that are set independently and objectively by the FASB;

Whereas Congressional intervention in this area would not only politicize but also compromise the integrity of the accounting standard setting process of the FASB and undermine the credibility of financial reporting by United States companies;

Whereas Congress has long recognized the fundamental importance of the independent private sector accounting standard setting process to United States capital markets;

Whereas Congress reaffirmed this principle in the Sarbanes-Oxley Act of 2002 by authorizing the FASB to obtain independent funding through assessments on private industry rather than through appropriations from Congress or donations from private industry; and

Whereas the April 2003 Policy Statement of the Securities and Exchange Commission endorsed the fundamental importance of the independent private sector accounting standard setting process: Now, therefore, be it

Resolved by the Senate, That the Senate—

(1) should continue to recognize and support the integrity and independence of the accounting standard setting process of the Financial Accounting Standards Board;

(2) should not interfere with the independence of the Financial Accounting Standards Board; and

(3) should not dictate accounting standards to the Financial Accounting Standards Board for stock-based compensation or for any other financial accounting issue.

Mr. FITZGERALD. Mr. President, I rise today to submit a resolution on the importance of maintaining the independence and integrity of the Financial Accounting Standards Board (FASB). I am pleased to be joined by my colleagues, Senator LEVIN, Senator MCCAIN and Senator DURBIN in this initiative.

For the past 30 years, the Financial Accounting Standards Board has been responsible for establishing and improving standards of financial accounting and reporting that are deemed "generally accepted accounting principles." In order to ensure that these accounting principles are "generally accepted," the FASB utilizes a deliberative process that is open to comment from the public, including the users of the financial statements and other third parties. The FASB has a diverse, seven-member board of accounting experts representing not only users of the financial statements but also preparers of financial statements. Because of its open deliberative process, the FASB has been able to maintain the integrity of its work through the independence it enjoys in setting accounting standards, away from special interests.

But it appears that special interests are pressuring the FASB and lobbying Congress to take a different route than the norm on the financial accounting treatment of employee stock options. Several bills have been introduced in Congress that would block the FASB's proposal to require the fair value of employee stock options to be expensed on grant date. Instead, those bills dictate the specific accounting treatment to be applied to employee stock options and when and under what circumstances the Securities and Exchange Commission should recognize accounting standards for employee stock options.

Political interference with the FASB's standards setting process would set a dangerous precedent. It is a bad idea for politicians in the House and the Senate to be substituting political decisions for the decisions by an expert private sector accounting standards board.

On July 6, 2004, The Washington Post published an editorial by Mr. Warren Buffett, Chief Executive Officer of Berkshire Hathaway, entitled "Fuzzy Math And Stock Options." Mr. Buffett points out that the House of Representatives' "anointment of itself as the ultimate scorekeeper for investors . . . comes from an institution that in its own affairs favors Enronesque accounting." Accordingly, he urges Congress not to interfere with the FASB's standard setting process and encourages chief executives who issue stock options "to live with honest accounting." I ask unanimous consent that Mr. Buffet's op-ed be reprinted in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed at the conclusion of the statement.

We have been down this road before. A decade ago, the FASB proposed an accounting standard that would have required companies to record the value of employee stock options as a compensation expense on their income statements. At that time, the Senate overwhelmingly passed a resolution that condemned the FASB's new standard, and a separate bill was introduced that would have stripped the FASB of its rulemaking authority. Under this threat of evisceration, the FASB withdrew its recommendation. In my opinion, Congress' interference with that 1993 FASB proposal resulted in disastrous consequences with the accounting scandals at Enron, Global Crossing and WorldCom.

I believe congressional interference in this issue will ultimately undermine the FASB's credibility and make it more difficult in the future for the FASB to adopt standards when a powerful special interest stands in the way. If that occurs, the real losers will be the millions of investors who help drive our economy by investing in companies' debt and equity securities. Investors depend on financial statements to make critical judgments about where to direct their capital investments. It is no exaggeration that the integrity of these investment decisions and, indeed, of U.S. financial markets as a whole, depend upon the integrity of the accounting rules that ensure that each company's true financial condition is reflected in its financial statements.

I believe it is critical for the United States Senate to speak out at this pivotal time. Therefore, the resolution I introduce today would express the sense of the Senate that the Senate: (1) should continue to recognize and support the independence and integrity of the FASB's accounting standard setting process; (2) should not interfere with the FASB's independence; and (3) should not dictate accounting standards to the FASB for stockbased compensation or for any other financial accounting issue.

As members of Congress, we must allow the FASB to do its job, free from political interference. Therefore, I urge my colleagues to support expeditious adoption of this resolution.

[From the Washington Post, July 6, 2004]

FUZZY MATH AND STOCK OPTIONS

(By Warren Buffet)

Until now the record for mathematical lunacy by a legislative body has been held by the Indiana House of Representatives, which in 1897 decreed by a vote of 67 to 0 that pi—the ratio of the circumference of a circle to its diameter—would no longer be 3.14159 but instead be 3.2. Indiana schoolchildren momentarily rejoiced over this simplification of their lives. But the Indiana Senate, composed of cooler heads, referred the bill to the Committee for Temperance, and it eventually died.

What brings this episode to mind is that the U.S. House of Representatives is about to consider a bill that, if passed, could cause the mathematical lunacy record to move east from Indiana. First, the bill decrees that a coveted form of corporate pay—stock options—be counted as an expense when these go to the chief executive and the other four highest-paid officers in a company, but be disregarded as an expense when they are issued to other employees in the company. Second, the bill says that when a company is calculating the expense of the options issued to the mighty five, it shall assume that stock prices never fluctuate.

Give the bill's proponents an A for imagination—and for courting contributors—and a flatout F for logic.

All seven members of the Financial Accounting Standards Board, all four of the big accounting firms and legions of investment professionals say the two proposals are nonsense. Nevertheless, many House members wish to ignore these informed voices and make Congress the Supreme Accounting Authority. Indeed, the House bill directs the Securities and Exchange Commission to "not recognize as "generally accepted" any accounting principle established by a standard setting body" that disagrees with the House about the treatment of options.

The House's anointment of itself as the ultimate scorekeeper for investors, it should be noted, comes from an institution that in its own affairs favors Enronesque accounting. Witness the fanciful "sunset" provisions that are used to meet legislative "scoring" requirements. Or regard the unified budget protocol, which applies a portion of annual Social Security receipts to reducing the stated budget deficit while ignoring the concomitant annual costs for benefit accruals.

I have no objection to the granting of options. Companies should use whatever form of compensation best motivates employees, whether this be cash bonuses, trips to Hawaii, restricted stock grants or stock options. But aside from options, every other item of value given to employees is recorded as an expense. Can you imagine the derision that would be directed at a bill mandating that only five bonuses out of all those given to employees be expensed? Yet that is a true analogy to what the option bill is proposing.

Equally nonsensical is a section in the bill requiring companies to assume, when they are valuing the options granted to the mighty five, that their stocks have zero volatility. I've been investing for 62 years and have yet to meet a stock that doesn't fluctuate. The only reason for making such an Alice-in-Wonderland assumption is to significantly understate the value of the few options that the House wants counted. This undervaluation, in turn, enables chief executives to lie about what they are truly being paid and to overstate the earnings of the companies they run.

Some people contend that options cannot be precisely valued. So what? Estimates pervade accounting. Who knows with precision what the useful life of software, a corporate jet or a machine tool will be? Pension costs, moreover, are even fuzzier, because they require estimates of future mortality rates, pay increases and investment earnings. These guesses are almost invariably wrong, often substantially so. But the inherent uncertainties involved do not excuse companies from making their best estimate of these, or any other, expenses. Legislators should remember that it is better to be approximately right than precisely wrong.

If the House should ignore this logic and legislate that what is an expense for five is not an expense for thousands, there is reason to believe that the Senate—like the Indiana Senate 107 years ago—will prevent this folly from becoming law. Sen. Richard Shelby (R-Ala.), chairman of the Senate Banking Committee, has firmly declared that accounting rules should be set by accountants, not by legislators.

Even so, House members who wish to escape the scorn of historians should render the Senate's task moot by killing the bill themselves. Or if they are absolutely determined to meddle with reality, they could attack the obesity problem by declaring that henceforth it will take 24 ounces to make a pound. If even that friendly standard seems unbearable to their constituents, they can exempt all but the fattest five in each congressional district from any measurement of weight.

In the late 1990s, too many managers found it easier to increase "profits" by accounting maneuvers than by operational excellence. But just as the schoolchildren of Indiana learned to work with honest math, so can option-issuing chief executives learn to live with honest accounting. It's high time they step up to that job.

SENATE CONCURRENT RESOLUTION 127—EXPRESSING THE SENSE OF CONGRESS THAT THE PRESIDENT SHOULD DESIGNATE SEPTEMBER 11 AS A NATIONAL DAY OF VOLUNTARY SERVICE, CHARITY, AND COMPASSION

Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. LIEBERMAN, and Mrs. BOXER) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 127

Whereas across the United States and around the world, people of all ages and walks of life collectively witnessed an event of immense tragedy on September 11, 2001;

Whereas the events of that day instantly transformed many lives, some through personal loss and many others through an unfamiliar sense of individual and national vulnerability;

Whereas an unprecedented, historic bonding of the people of the United States arose from the collective shock, unifying the United States in a sustained outpouring of national spirit, pride, selflessness, generosity, courage, and service;

Whereas on that day and the immediate days that followed, many brave people heroically, tirelessly, and courageously participated in an extraordinarily difficult and dangerous rescue and recovery effort, in many cases voluntarily putting their own well-being at risk;

Whereas September 11 will never and should never be just another day in the hearts and minds of all people of the United States;

Whereas the creation of memorials and monuments honoring the lives lost on September 11, 2001, as well as the efforts of those who participated in rescue and recovery and voluntary service efforts, are necessary, proper, and fitting, but alone cannot fully capture the desire of the United States to pay tribute in a meaningful way;

Whereas it is fitting and essential to establish a lasting, meaningful, and positive legacy of service for future generations as a tribute to those heroes of September 11, 2001;

Whereas many citizens wish to memorialize September 11 by engaging in personal and individual acts of community service or other giving activities as part of a national day of recognition and tribute; and

Whereas to lose this opportunity to bring people together for such an important endeavor would be a tragedy unto itself: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of Congress that the President should designate September 11 as an annually recognized day of voluntary service, charity, and compassion; and

(2) Congress urges the President to issue a proclamation calling upon the people of the United States to observe this day with appropriate and personal expressions of service, charity, and compassion toward others.

SENATE CONCURRENT RESOLUTION 128—EXPRESSING THE SENSE OF CONGRESS REGARDING THE IMPORTANCE OF LIFE INSURANCE, AND RECOGNIZING AND SUPPORTING NATIONAL LIFE INSURANCE AWARENESS MONTH

Mr. NELSON of Nebraska (for himself and Mr. CHAMBLISS) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 128

Whereas life insurance is an essential part of a sound financial plan;

Whereas life insurance provides financial security for families in the event of a premature death by helping surviving family members to meet immediate and longer-term financial obligations and objectives;

Whereas nearly 50,000,000 Americans say they lack the life insurance coverage needed to ensure a secure financial future for their loved ones;

Whereas recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the insured results in three-fourths of surviving family members' having to take measures such as working additional jobs or longer hours, borrowing money, withdrawing money from savings and investment accounts, and, in too many cases, moving to smaller, less expensive housing;

Whereas individuals, families, and businesses can benefit greatly from professional insurance and financial planning advice, including the assessment of their life insurance needs; and

Whereas the Life and Health Insurance Foundation for Education (LIFE), the National Association of Insurance and Financial Advisors (NAIFA), and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2004 as "Life Insurance Awareness Month", the goal of which is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve the financial security of their loved ones: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes and supports the goals and ideals of "Life Insurance Awareness Month"; and

(2) requests the President to issue a proclamation calling on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe "Life Insurance Awareness Month" with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3566. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2541, to reauthorize and restructure the National Aeronautics and Space Administration, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3566. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2541, to reauthorize and restructure the National Aeronautics and Space Administration, and for other purposes; which was ordered to lie on the table; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act of 2004".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) American space flight is imbued with the promise of expanding the boundaries of human knowledge and human adventure. It is a beacon of leadership and a proud demonstration of human freedom, destiny, and progress.

(2) The National Aeronautics and Space Administration is uniquely qualified and positioned to develop space on behalf of and for the American people, requiring its mission to be broad and include many disciplines and interests that might contribute to, or benefit from space flight.

(3) Like our other American institutions, American space flight is founded upon the principle that human fallibility and frailty can be overcome through personal dedication and institutional strength and determination. The National Aeronautics and Space Administration must continue to listen to the voices of change and restore its commitment to safety and the protection of human life.

(4) In a year of tragedy, renewal, and re-envisioning, it behooves the United States to reflect deeply on both the strengths and weaknesses of American space flight, to build upon foundations, and to reformulate purposes while not abandoning proven purposes and capabilities needlessly nor carelessly.

(5) Fiscal year 2005 should be a year of continued reassessment and planning for the National Aeronautics and Space Administration, laying the groundwork for implementing a United States space program for the future that reflects the role of space flight in the everyday affairs of the American people and the future prestige and betterment of the Nation while ascertaining the specific roles that many other American institutions could and should play in that future.

SEC. 3. PURPOSE.

The purpose of this Act is to authorize programs of the National Aeronautics and Space Administration for fiscal year 2005 and to better define the policy of the United States regarding the future of U.S. space flight.

SEC. 4. DECLARATION OF UNITED STATES SPACE POLICY.

(a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended to read as follows:

"SEC. 102. CONGRESSIONAL DECLARATION OF POLICY AND PURPOSE.

"(a) IN GENERAL.—The Congress hereby reaffirms that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

"(b) PURPOSE.—The United States shall conduct such activities as are required to sponsor, guide, and secure the development of space for the peaceful benefit of all mankind through fostering the use of space for science, for the preservation of the Earth, and for the advancement of peace and worldwide economic well-being.

"(c) ACTIVITIES.—The Congress also reaffirms that the general welfare and security of the United States require that adequate provision be made for aeronautical and space activities, including—

"(1) the promotion and development of the use of space for United States civil, economic, and national security purposes;

"(2) ensuring the safety of civil, commercial, and military space operations; and

"(3) protection of the territorial and extraterritorial claims and interests of the United States in space.

"(d) ROLE OF NASA.—The role of the National Aeronautics and Space Administration shall be to foster the development of space flight and aeronautical capabilities on behalf of the United States, including—

"(1) conducting a program of scientific discovery in and from the vantage point of space;

"(2) demonstrating the merit and ability of humans to explore and inhabit deep space; and

"(3) promoting the development of technologies and capabilities to be used by the United States for the preservation and development of the Earth.

"(e) OTHER ACTIVITIES.—The United States shall establish other capabilities related to using space for peaceful purposes, including the promotion and development of national, state, local, tribal, and international capabilities in—

"(1) public safety, homeland security, and public health management;

"(2) telecommunications, transportation, and urban and regional development;

"(3) agriculture, wildlife, forestry, mineral, and energy resource management; and

"(4) other uses benefiting the Earth and the Earth's people, natural resources, and economies.

"(f) COMMERCIAL USE OF SPACE.—It is the policy of the United States to seek and encourage, to the maximum extent possible, the fullest commercial use of space, including the use of commercial capabilities to support United States civil and national security purposes.".

SEC. 5. EXPLORATION PROGRAM.

(a) IN GENERAL.—In fiscal year 2005, the National Aeronautics and Space Administration shall formulate plans, develop requirements, and make recommendations for a multi-decadal program of human travel, habitation, and exploration of other bodies and locations in Earth's solar system, beginning with the start of demonstration of human capabilities on Earth's Moon by 2020.

(b) PLAN FOR U.S. HUMAN SPACE EXPLORATION.—As part of the budget request for FY 2006, the Administrator shall provide an independent assessment of the status and plans for the National Aeronautics and Space Administration's human exploration program. The assessment shall include—

(1) the schedule, technical milestones, and costs for design and construction of human crewed transport systems including a crew exploration vehicle and launch systems and other ground, in-space, and surface capabilities necessary to conduct extended missions on Earth's Moon by 2020;

(2) the objectives of extended presence on Earth's Moon and the proposed timetable for their accomplishment;

(3) the contribution of human presence to meeting those objectives; and

(4) the program of basic and applied research and development of advanced robotic and robotic-hybrid technology that will be used to demonstrate human exploration capabilities on Earth's Moon.

(c) MANAGEMENT PLAN.—As part of the budget request for fiscal year 2006 and each succeeding fiscal year, the Administrator shall submit a management plan and life cycle cost estimate for its human exploration program to the Congress. The Administrator shall include all the assessment items described in subsection (b) as baseline requirements and specifications. The Administrator shall include in the initial plan submitted under this subsection a description of the process for making the annual revisions of the plan.

(d) LUNAR CAPABILITIES.—The National Aeronautics and Space Administration is hereby authorized to begin studies, tests, demonstrations, and design of a crew exploration vehicle and launch system to be used for future human exploration to Earth's Moon and other destinations, subject to formal approval of the program at the time of development, and of robotic systems necessary to survey and demonstrate other robotic and robotic-assisted capabilities to explore the Earth's Moon.

(e) CONTINUITY OF U.S. CREW TRANSPORTATION.—The Congress hereby declares that a prolonged gap of 1 or more years in the United States' capability to transport and return American astronauts living in space is an emergency period of space flight operations inconsistent with the safety and management objectives of United States space flight. Whenever such an emergency period is forseen, the Administrator shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and make a request for supplemental appropriations, if so required, to remedy this situation in a safe, justifiable, and timely manner.

SEC. 6. HUBBLE SPACE TELESCOPE.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the Hubble Space Telescope is—

(1) the Hubble Space Telescope is a source of inspiration to the American people and their support for the United States space program; and

(2) a tangible measure of the success of the United States space program, as reflected by the extraordinary contributions made to scientific research and education, without parallel since the Apollo missions to Earth's Moon.

(b) SERVICING MISSION.—The Administrator shall continue to examine all possible options for carrying out alternative servicing of the Hubble Space Telescope while continuing to plan for a human-assisted servicing mission using the Space Shuttle if alternative servicing cannot fully accomplish the original objectives of the SM-4 mission.

(c) HUBBLE SERVICING PLAN.—Within 60 days after the National Academy of Sciences issues its study on the future of the Hubble Space Telescope, the Administrator shall submit a plan for servicing the Hubble to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science. The plan should address the risks, benefits, and costs of fully accomplishing the original objectives of the SM-4 mission and shall propose options for servicing of the facility.

SEC. 7. REPORTS.

(a) NASA CHANGES.—By May 1, 2005, or 30 days prior to the return-to-flight of the Space Shuttle if earlier, the Administrator shall report to the Congress summarizing and independently reporting on the status and effectiveness of National Aeronautics and Space Administration's compliance with all observations and recommendations of the Columbia Accident Investigation Board, including changes at the National Aeronautics and Space Administration in resolving concerns about the safety, operations, engineering, and management cultures of the agency. This report shall also address the adequacy of these changes in achieving safe design, management, and operation of any future human space flight systems, including international and commercial crew and cargo transportation and habitation systems used to support the International Space Station or to support United States human space flight and operation at other destinations.

(b) UNITED STATES LAUNCH TECHNOLOGY.—As part of the budget request for FY 2006, the Administrator, in concert with the United States Department of Transportation and the United States Department of Defense, shall produce a report on the state of launch technology, systems, facilities, and programs of the United States. This report shall provide—

(1) an assessment of the state of United States technologies and systems and steps necessary to achieve safe human launch and in-space operations and reliable launch and transport of physical cargo and systems;

(2) a retrospective and prospective analysis of the cost of United States space transportation, including human and cargo transport, and steps by which these costs can be reduced by a factor of 10 or more; and

(3) a proposed program of government and private investments needed to achieve safe, reliable, low cost space flight by 2015 or earlier.

(c) CONTINUITY OF U.S. CREW TRANSPORTATION CAPABILITY.—Consistent with section 5(e) of this Act, the Administrator shall submit a plan and request for supplemental appropriations within 60 days after the date of enactment of this Act that addresses how United States astronauts will be transported to and from the International Space Station or other locations in space using United States space systems following the termination of flight of the Space Shuttle, including the possibility of accelerating the availability of the crew exploration vehicle by that time.

(d) PRIORITIZATION OF SCIENCE PROGRAMS.—As part of the budget request for fiscal year 2006 and each subsequent year, the Administrator shall submit to the Congress a prioritization of scientific research projects with an estimated life cycle cost greater than $250,000,000 along with a justification of that prioritization. The prioritization shall be based upon the scientific merit of the missions, the potential scientific impact of the missions products and results, the complexity of the mission, and the real and anticipated readiness of the technologies to be used in the mission. The prioritization shall be developed in consultation with the NASA Advisory Council and the Space Studies Board of the National Research Council.

(e) ORGANIZATION OF UNITED STATES SPACE ACTIVITIES AND PROGRAMS.—By August 1, 2005, the Administrator shall report to the Congress on future United States plans to carry out the provisions of section 4 of this Act, including—

(1) the organization of the United States governmental and industrial partners necessary to ensure safe, reliable United States space transportation;

(2) the organization of the National Aeronautics and Space Administration, its operating centers, and its relationship to industry and other private partners; and

(3) the role of international partners and firms in future United States human space exploration.

SEC. 8. ESTABLISHMENT OF NATIONAL OFFICES OF SAFETY AND TECHNICAL ENGINEERING.

All public and private entities of the United States that develop or operate space transportation or habitation systems certified for human use shall make provision for the separation of flight operations from development and shall implement independent safety and technical organizations to oversee the safe conduct of flight.

SEC. 9. AEROSPACE WORKFORCE INITIATIVE.

(a) IN GENERAL.—The Administrator shall establish a program of competitive, merit-based, multi-year grants for eligible applicants to increase the number of students studying toward and completing technical training programs, certificate programs, and associate's, bachelor's, master's, or doctorate degrees in fields related to aerospace.

(b) INCREASED PARTICIPATION GOAL.—In selecting projects under this paragraph, the Administrator shall strive to increase the number of students studying toward and completing technical training and apprenticeship programs, certificate programs, and associate's or bachelor's degrees in fields related to aerospace who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) SUPPORTABLE PROJECTS.—The types of projects the Administrator may support under this paragraph include those that promote high quality—

(1) interdisciplinary teaching;

(2) undergraduate-conducted research;

(3) mentor relationships for students;

(4) graduate programs;

(5) bridge programs that enable students at community colleges to matriculate directly into baccalaureate aerospace related programs;

(6) internships, including mentoring programs, carried out in partnership with the aerospace and aviation industry;

(7) technical training and apprenticeships that prepare students for careers in aerospace manufacturing or operations; and

(8) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(d) 50 Percent Federal Share.—Not less than 50 percent of the publicly financed costs associated with eligible activities shall come from non-Federal sources. Matching contributions may not be derived, directly or indirectly, from Federal funds. The Administrator shall endeavor to minimize the Federal share, taking into account the differences in fiscal capacity of eligible applicants.

(e) Grantee Requirements.—

(1) Targets.—In order to receive a grant under this section, an eligible applicant shall establish targets to increase the number of students studying toward and completing technical training and apprenticeship programs, certificate programs, and associate's or bachelor's degrees in fields related to aerospace.

(2) Grant Period.—A grant under this section shall be awarded for a period of 5 years, with the final 2 years of funding contingent on the Director's determination that satisfactory progress has been made by the grantee toward meeting the targets established under paragraph (1).

(3) Community College Rule.—In the case of community colleges, a student who transfers to a baccalaureate program, or receives a certificate under an established certificate program, in science, mathematics, engineering, or technology shall be counted toward meeting a target established under paragraph (1).

(f) Definitions.—In this section—

(1) Eligible applicant defined.—The term "eligible applicant" means—

(A) an institution of higher education;

(B) a consortium of institutions of higher education; or

(C) a partnership between—

(i) an institution of higher education or a consortium of such institutions; and

(ii) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in aerospace education.

(2) Institution of higher education.—The term "institution of higher education" has the meaning given that term by subsection (a) of section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and includes an institution described in subsection (b) of that section.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) Science Aeronautics and Exploration.—There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 2005 $7,995,700,000 for science, aeronautics, and exploration, of which—

(1) $4,138,300,000 shall be for Space Science;

(2) $1,605,500,000 shall be for Earth Science;

(3) $984,600,000 shall be for Biological and Physical Research;

(4) $1,036,900,000 shall be for Aeronautics; and

(5) $230,400,000 shall be for Education, including ($20,000,000 for EPSCoR and $28,000,000 for Space Grant).

(b) Space Flight and Exploration.—There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 2005 $8,220,400,000 for space flight and exploration capabilities, of which no less than $4,319,200,000 shall be for the Space Shuttle and no less than $30,000,000 shall be for the Independent Technical and Engineering Authority, each of which shall be maintained as separate accounts.

(c) Inspector General.—There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 2005 $28,300,000, which shall be for the use of the Inspector General.

SEC. 11. RESTRICTION ON TRANSFER OF FUNDING.

In fiscal year 2005, no funds other than those appropriated for Biological and Physical Research may 'be transferred from the account for Science, Aeronautics, and Exploration to the account for Space Flight and Exploration Capabilities without the approval of the Chairman and Ranking Member of the Senate Committee on Commerce, Science, and Transportation Committee and the House of Representatives Committee on Science.

SEC. 12. ADMINISTRATOR DEFINED.

In this Act, the term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 20, 2004, at 9:30 a.m., in closed session to receive a classified briefing from Major General Keith W. Dayton, USA, Former Commander of the Iraq Survey Group (ISG) regarding the activities of the ISG in Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 20, 2004, at 2:30 p.m., to conduct an oversight hearing on the Semi-Annual Monetary Policy Report of the Federal Reserve.

Concurrent with the hearing, the Committee intends to vote on the nominations of Mr. Stuart Levey, of Maryland, to be Under Secretary of the Treasury for Enforcement; Mr. Juan Carlos Zarate, of California, to be Assistant Secretary of the Treasury for Terrorist Financing and Financial Crimes; and Ms. Carin M. Barth, of Texas, to be the Chief Financial Officer, Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 20 at 10 a.m. to receive testimony on S. 2590, a bill to provide a conservation royalty from outer continental shelf revenues to establish the Coastal Impact Assistance Program, to provide assistance to States under the Land and Water Conservation Fund Act of 1965, to ensure adequate funding for conserving and restoring wildlife, to assist local governments in improving local park and recreation systems, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on July 20, 2004, at 10 a.m., to consider favorably reporting S. 2677, the U.S.-Morocco Free Trade Agreement Implementation Act; H.R. 982, a bill to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa, and, the nominations of Joey Russell George, to be Treasury Inspector General for Tax Administration, U.S. Department of Treasury; Patrick P. O'Carroll, Jr., to be Inspector General, Social Security Administration; Paul B. Jones, to be Member, IRS Oversight Board; and, Charles L. Kolbe, to be Member, IRS Oversight Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 20, 2004, at 9:30 a.m. to hold a hearing on The Road Map: Detours and Disengagements.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, July 20, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 2605, the Snake River (Nez Perce) Water Rights Act of 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup on Tuesday, July 20, 2004, at 9:30 a.m. in Dirksen Senate Office Building Room 226. The agenda is attached.

Agenda

I. Nominations: Claude A. Allen to be U.S. Circuit Judge for the Fourth Circuit; David W. McKeague to be United States Circuit Judge for the Sixth Circuit; Richard A. Griffin to be United States Circuit Judge for the Sixth Circuit; Virginia Maria Hernandez Covington to be United States District Judge for the Middle District of Florida; Michael H. Schneider, Sr., of Texas to be United States District Judge for the Eastern District of Texas; David E. Nahmias, of Georgia to be United States Attorney for the Northern District of Georgia; Robert Clark Corrente to be United States Attorney for the District of Rhode Island; Ricardo H. Hinojosa to be Chair of the United States Sentencing Commission; Michael O'Neill to be a Member of the United States Sentencing Commission; and Ruben Castillo to be a Member of the United States Sentencing Commission.

II. Legislation: S. 1635, L-1 Visa (Intracompany Transferee) Reform Act of 2003—Chambliss; S.J. Res. 4, Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States Act of 2003—Hatch, Feinstein, Craig, Sessions, DeWine, Grassley, Graham, Cornyn, Chambliss, Specter, Kyl; S. 700, Advancing Justice through DNA Technology Act of 2003—Hatch, Biden, Specter, Leahy, DeWine, Feinstein, Kennedy, Schumer, Durbin, Kohl, Edwards; S. 2396, Federal Courts Improvement Act of 2004—Hatch, Leahy, Chambliss, Durbin, Schumer; S. Res. 401, A resolution designating the week of November 7 through November 13, 2004, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country of 2004—Biden, Chambliss, Cornyn, Durbin, Feingold, Feinstein, Graham, Grassley, Kennedy, Sessions, Specter; and S. Con. Res. 109, A concurrent resolution commending the United States Institute of Peace on the occasion of its 20th anniversary and recognizing the Institute for its contribution to international conflict resolution of 2004—Inouye, Harkin, Warner.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, July 20, 2004, at 2:30 p.m., for a markup on the pending legislation. The meeting will be held in room 418 of the Russell Senate Office Building.

Agenda

1. S. 1153, the "Veterans Prescription Drugs Assistance Act of 2004;"
2. S. 2483, the "Veterans Compensation Cost of Living Adjustment Act of 2004;"
3. S. 2484, the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003," as amended;
4. S. 2485, the "Department of Veterans Affairs Real Property and Facilities Management Improvement Act of 2004," as amended;
5. S. 2486, the "Veterans Benefits Improvements Act of 2004," as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 20, 2004 at 10:30 a.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 20, 2004 at 2:30 p.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, be authorized to meet on Tuesday, July 20, 2004 at 9 a.m. for a hearing entitled, "Building the 21st Century Federal Workforce: Assessing Progress in Human Capital Management."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Substance Abuse and Mental Health Services be authorized to meet for a hearing on Performance and Outcome Measurement in Substance Abuse and Mental Health Programs during the session of the Senate on Tuesday, July 20, 2004, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that privilege of the floor be granted to law clerks from my office, Patrick Campbell and Daniel Urman, during consideration of the nomination of William Myers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following fellows and interns be granted the privilege of the floor during consideration of the Morocco bill: Sarah Hagigh, Molly Bell, Tony Cerise, Ashley Griffith, Ade Ifelayo, Kellen Moriarty, Scott Richardson, Alex Robles, Ben Sather, John Van Atta, Chris Wardell, Steve Beasley, Jodi George, Scott Landes, Pascal Niedermann, and Matt Stokes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Debbie Singer, a fellow in the Office of Senator LEVIN, be granted floor privileges for tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES READ THE FIRST TIME—S. 2694, S. 2695, and H.R. 4492

Mr. FRIST. Mr. President, I understand there are three bills at the desk, and I ask unanimous consent that they be read for the first time en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will read the titles of the bills for the first time, en bloc.

The legislative clerk read as follows:

A bill (S. 2694) to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes.

A bill (S. 2695) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations.

A bill (H.R. 4492) to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes.

Mr. FRIST. Mr. President, I now ask for their second reading and, in order to place the bills on the Calendar under the provisions of rule XIV, I object to further proceedings on these matters, en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bills will receive their second reading on the next legislative day.

COMMEMORATING THE 400TH ANNIVERSARY OF THE JAMESTOWN SETTLEMENT

COMMEMORATING THE 230TH ANNIVERSARY OF THE UNITED STATES MARINE CORPS

IN COMMEMORATION OF CHIEF JUSTICE JOHN MARSHALL

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 642 and 643, and H.R. 2768, which is at the desk, en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report the titles of the bills en bloc.

The legislative clerk read as follows:

A bill (H.R. 1914) to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

A bill (H.R. 3277) to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

A bill (H.R. 2768) to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

There being no objection, the Senate proceeded to consider the bills, en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent that the bills be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bills be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bills (H.R. 1914, H.R. 3277, and H.R. 2768) were read the third time and passed.

JOHN MARSHALL COMMEMORATIVE COIN ACT

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing legislation to honor the contributions of John Marshall, the great Chief Justice of the Supreme Court, through the minting and issuance of a commemorative coin by the U.S. Treasury.

As an original cosponsor of S. 1531, the Chief Justice John Marshall Commemorative Coin Act, I have worked closely with Senator HATCH to do all that we possibly can to speedily pass this act into law. The act authorizes the Treasury Department to mint and issue coins in honor of Chief Justice John Marshall in the year 2005. Funds raised by sale of the coin will support the Supreme Court Historical Society. Sales of the coin also cover all of the costs of minting and issuing these coins, so that the American taxpayer is not bearing any cost whatsoever of this commemoration.

It is fitting that sales of a coin that bears the likeness of Chief Justice Marshall will be used to support the Supreme Court Historical Society. The society is a nonprofit organization whose purpose is to preserve and disseminate the history of the Supreme Court of the United States. Founded by Chief Justice Warren Burger, the society's mission is to provide information and historical research on our Nation's highest court. The society accomplishes this mission by conducting programs, publishing books, supporting historical research, and collecting antiques and artifacts related to the Court's history. We are happy to assist a worthwhile organization like the Supreme Court Historical Society.

In our successful efforts to obtain support for the bill, we gained 75 cosponsors in the Senate over the past year. Given the noble cause, it was not a hard sell. Yet, the number of bipartisan supporters is a proper tribute to the great Chief Justice John Marshall. John Marshall is known as "the great Chief Justice" of the Supreme Court. Marshall served on the bench for 34 years and established many of the constitutional doctrines we revere today. He is best known and respected for the fundamental principle of checks and balances of our democratic government.

I thank all the Senators and Representatives who supported this legislation—too numerous to name. I also thank the Supreme Court Historical Society for its dedication to this important tribute to Chief Justice John Marshall.

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the majority leader, pursuant to Public Law 96-114, as amended, appoints the following individuals to the Congressional Award Board: Kathy Didawick of Virginia and Michael Carozza of Maryland.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 410 which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 410) to authorize Senate employees to testify and produce documents with legal representation.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, the Department of Justice is conducting an investigation into whether false statements were made to a committee of the Senate in the course of responding to oversight inquiries by that committee. As part of that investigation, the Justice Department is seeking testimony about potentially relevant information from the Senate.

Accordingly, in keeping with the Senate's usual practice, this resolution would authorize present and former employees of the Senate to provide testimony sought by the Justice Department, except for material as to which a privilege should be asserted, in order to assist the Department in this matter.

Also in keeping with the Senate's usual practice, this resolution authorizes documentary production and representation by the Senate legal counsel in connection with this testimony, where appropriate.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 410) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 410

Whereas, the Department of Justice is requesting testimony in connection with a pending investigation into potential false statements to a committee of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved That present and former employees of the Senate are authorized to testify and to produce documents, except as to matters for which a privilege should be asserted, in connection with the pending investigation into potential false statements to a committee of the Senate, and any related proceedings.

SEC. 2. The Senate Legal Counsel is authorized to represent present and former employees of the Senate in connection with the testimony authorized in section one of this resolution.

AUTHORIZING DOCUMENT PRODUCTION BY SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 411 which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 411) to authorize document production by the Select Committee on Intelligence.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, the Select Committee on Intelligence conducted a review in 2001 of United States assistance to Peruvian counter-drug air interdiction efforts, following the mistaken shootdown of a civilian aircraft by the Peruvian Air Force in that same year. The committee prepared a report in which it made factual findings detailing the shortcomings that led to this tragic incident. The committee report made a number of recommendations about requirements that should precede further U.S. assistance to a foreign government engaged in a program of interdicting drug trafficking aircraft.

The United States Department of Justice is now conducting an investigation of the involvement of U.S. government officials in the Peruvian counternarcotics air interdiction program, which has been operating since 1995. During that time the Senate Intelligence Committee has had oversight jurisdiction. As part of that investigation, the Justice Department is reviewing the testimony and briefings that CIA personnel gave to the congressional oversight committees, including the Senate Intelligence Committee, from the inception of the air interdiction program.

To assist the Justice Department in its investigation, this resolution would authorize the chair and vice chair, acting jointly, to provide to the Justice Department, under appropriate security procedures, committee hearing transcripts and other committee records pertinent to its oversight of the Peruvian counter-narcotics air interdiction program.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 411) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 411

Whereas, the United States Department of Justice has requested that the Senate Select Committee on Intelligence provide it with documents in connection with a pending investigation into the involvement of U.S. government officials in the counter-narcotics air interdiction program in Peru;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved That the Chairman and Vice Chairman of the Senate Select Committee on Intelligence, acting jointly, are authorized to provide to the United States Department of Justice, under appropriate security procedures, copies of Committee documents sought in connection with its investigation into the involvement of U.S. government officials in the counter-narcotics air interdiction program in Peru.

UNANIMOUS CONSENT AGREEMENT—H.R. 4766

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of H.R. 4766 and that the papers then be returned to the House of Representatives.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL TEMPORARY EXTENSION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2700, which was introduced earlier today by Senators SNOWE and KERRY.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2700) to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 17, 2004, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, today I join Chairman SNOWE in supporting legislation to keep the Small Business Administration and its financing and counseling assistance available to small businesses. This bill authorizes the SBA and most of its programs through the September 17, 2004, which will allow time for the House to complete its work on the SBA's 3-year reauthorization bill, passed by the Senate in September 2003, and for the committee to find common ground with the administration on needed program changes to SBA's venture capital program, the Small Business Investment Company program. In addition to the 8-week extension, this bill includes a provision necessary to bring the administration into compliance with a January 2004 recommendation by the SBA's Inspector General. This change will save the SBA hundreds of thousands of dollars by allowing the agency's fiscal and transfer agent for the 7(a) loan program's secondary market program to keep the interest earned on fees lenders pay before they are remitted to the government. Currently, the SBA does not have that authority. The committee wants the program to continue running smoothly and successfully, and we think this change should accomplish this.

With passage of this bill, the committee expects the SBA to move forward on grants for all its programs and certification for minority businesses, and any other business it has been delaying.

I am pleased that this bill will extend all of SBA's programs and pilot programs; however I am disappointed that the dire and urgent needs of the Women's Business Center program have yet to be fully addressed.

As many of my colleagues know, there are currently 88 Women's Business Centers. Of these, 35 are in the initial grant program and 53 will have graduated to the sustainability part of the program in this funding cycle. These sustainability centers make up more than half of the total Women's Business Centers, but under the current funding formula are only allotted 30 percent of the funds. Without changing the portion reserved for sustainability centers to 48 percent as the Snowe-Kerry bill, S. 2266, contemplates, all grants to sustainability centers could be cut in half, or worse, 23 experienced centers could lose funding completely. In short, this change would simply direct the SBA to reserve 48 percent of the appropriated funds for the sustainability centers, instead of 30 percent, which would allow enough funding to keep open the most experienced centers, while still permitting the establishment of new centers and protecting existing ones.

I believe it is not enough to merely extend the Women's Business Center program and not make this critical and bipartisan change.

I thank my colleagues for their support of small businesses and for considering immediate passage of this important small business bill.•

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 2700) was read the third time and passed, as follows:

S. 2700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF PROGRAMS UNDER SMALL BUSINESS ACT AND SMALL BUSINESS INVESTMENT ACT OF 1958.

The authorization for any program, authority, or provision, including any pilot program, that was extended through June 4, 2004, by section 1 of Public Law 108–217 is further extended through September 17, 2004, under the same terms and conditions.

SEC. 2. TECHNICAL AMENDMENT.

Section 2 of Public Law 108–205 is amended by striking "October 1, 2003" and inserting "March 15, 2004". The amendment made by the preceding sentence shall take effect as if included in the enactment of the section to which it relates.

SEC. 3. COMPENSATION OF AGENTS.

Section 5 of the Small Business Act (15 U.S.C. 634) is amended—

(1) in subsection (g)(4), by adding at the end the following:

"(C) The Administration may contract with an agent to carry out, on behalf of the Administration, the assessment and collection of the annual fee established under section 7(a)(23). The agent may receive, as compensation for services, any interest earned on the fee while in the control of the agent before the time at which the agent is contractually required to remit the fee to the Administration."; and

(2) in subsection (h)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) The agent described in paragraph (1)(B) may be compensated through any of the fees assessed under this section and any interest earned on any funds collected by the agent while such funds are in the control of the agent and before the time at which the agent is contractually required to transfer such funds to the Administration or to the holders of the trust certificates, as appropriate.".

ORDERS FOR WEDNESDAY, JULY 21, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, July 21. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for statements only for up to 90 minutes, with the first 45 minutes under the control of the Democratic leader or his designee, and the last 45 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of S. 2677, the Morocco trade bill, as provided under the previous order.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, if I could ask a question of the majority leader, we are going to complete our vote at about 12 o'clock tomorrow. Does the leader have an idea as to what we might do tomorrow afternoon?

Mr. FRIST. Mr. President, over the course of the next several hours, we will be working on a number of pieces of business that we might be able to address. Just for general information, the work we need to do over the next several days includes the DOD conference report; we will know within an hour or so when it will be coming back. We will proceed with that as soon as we can, as soon as it is available; we are still in discussions over some tax extensions that we have been in discussions on in the last several days. We would like to proceed with that at this juncture, until we see what the discussions entail. The resolution of that, I would expect, will be in the early afternoon, but it is uncertain.

Mr. REID. It is my understanding that there are events tomorrow night, so we should not be in late tomorrow night. Would it be appropriate to indicate that for Members on this side of the aisle?

Mr. FRIST. Mr. President, indeed, we will not be going late tomorrow night. It will be early. I am not sure exactly what time, but there are events planned tomorrow night. We don't expect to be in tomorrow night.

In terms of scheduling, because we are waiting for certain bills from the House, we will be in close touch and let our Members know. We understand that we have events beginning this weekend and some beginning on Friday as well. I had discussions with the Democratic leader earlier. We have a lot to do, and a lot of it is not seen on the Senate floor, but it is being produced. We have to address it before we leave.

The cloture vote I just filed on the circuit court judge we will be debating for some time after tomorrow morning, so that may be what we do tomorrow.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, in closing, under the previous order, we will vote on passage of the Morocco trade bill, which we have discussed today, at 11:30 tomorrow. We are going to have a busy week, as I just mentioned, before going out on a long recess. There is a lot of important legislation that we are and will continue to be discussing.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:41 p.m., adjourned until Wednesday, July 21, 2004, at 9:30 a.m.

DISCHARGED NOMINATIONS

THE SENATE COMMITTEE ON FINANCE WAS DISCHARGED FROM FURTHER CONSIDERATION OF THE FOLLOWING NOMINATIONS AND THE NOMINATIONS WERE PLACED ON THE EXECUTIVE CALENDAR PURSUANT TO AN ORDER OF THE SENATE OF JULY 8, 2004:

*JUAN CARLOS ZARATE, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

*STUART LEVEY, OF MARYLAND, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT.

*NOMINATION WAS REPORTED WITH RECOMMENDATION THAT IT BE CONFIRMED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, July 20, 2004*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BISHOP of Utah).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 20, 2004.

I hereby appoint the Honorable ROB BISHOP to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Illinois (Mr. EMANUEL) for 5 minutes.

MIDDLE CLASS SQUEEZE

Mr. EMANUEL. Mr. Speaker, the lead story in today's Wall Street Journal, "So Far, Economic Recovery Tilts to Highest Income Americans," provides further evidence of a two-track economy and an economic squeeze on middle class families.

While there has been a profits boom for corporations and a 16 percent increase in pay on Wall Street, there is a growing wage and benefits recession for the middle class of America. To those who say redistribution of wealth is wrong, I agree, whether it is to the top 1 percent or to the bottom 25 percent.

For America's workers, a new study by the Economic Policy Institute reports that weekly earnings have fallen for 6 of the last 7 months. When the recovery began in November of 2001, hourly wages were actually higher than what those same jobs pay today.

Evidence of this two-track economy is evident throughout the country. As the article points out, while corporate profits have risen around 87 percent and sales at BMW and Nieman Marcus are booming, sales at Wal-Mart and Target are flat.

But don't take my word for it, Today's Wall Street Journal quotes J.P. Morgan Chase and the former Federal Reserve economist Dean Maki: "To date, the recovery's primary beneficiaries have been the upper income. Two of the main factors supporting spending over the past year, tax cuts and increases in stock wealth, have sharply benefited upper income households relative to others."

David Rosenberg, chief economist at Merrill Lynch, "The income from the recovery has been locked up in the corporate sector. We have had a redistribution of income to the corporate sector."

So if you sit in the board room, you are doing just right. For the rest of us, it is an economic squeeze.

With working families' household incomes down nearly $1,500 over the last 2 years, people are working harder just to stay in the same place. And for the middle class, this has become a step master economy. All the while, the expense side of the ledger shows:

According to the Kaiser Foundation, that health care costs for a family of four have gone up from $6,500 to $9,000, a 49 percent increase from 2000 to 2003. And as health care costs have risen, corporations have shifted the burden to employees.

Millions of middle class families now carry, on average, the average American middle class family, $9,000 in credit card debt and $17,000 in overall household debt. The squeeze has resulted in 33 percent more bankruptcies for households.

One hundred eighty billion dollars has been evaporated from 401(k)s and retirement security for middle class families. College tuition costs have gone up 26 percent in the last 2 years.

With a record like this, only this admission could wave the banner "mission accomplished" above the economy.

The concentration of wealth and the two-track economy can be traced right back to President Bush's tax cuts. A study cited by The New York Times found that Americans are being taxed more than twice as heavy on earnings from work as they are on investment income, even though more than half of all investment goes to the wealthiest 5 percent of taxpayers.

The shifting of the tax burden from wealth to work is the essence of class warfare. And as Warren Buffet, the legendary investor said, "If class warfare is being waged in America, my class is clearly winning."

In the 1990s, we ended welfare as we know it because it was a failed system. Now this administration is bent on ending the middle class as we know it. This administration has two books, two sets of values, two sets of priorities, and a single economic strategy that divides this country along income.

If you want to live in a country without class divisions, we cannot deny the middle class families the same dreams of affordable health care, higher education, and a retirement that is secure. We have to give that dream to every American, not just to the wealthiest Americans.

Renowned Supreme Court Justice Louis Brandeis once said, "We can either have a democracy in this country or we can have a great concentration of wealth in a few hands, but we cannot have both."

Today's economic policies have shifted this great economy and the benefits of this great country and this economy to the wealthiest 1 percent, as today's Wall Street Journal notes. When I look at this and think about what has happened to the middle class family, with increasing health care costs, college costs, retirement that is less secure, and jobs that pay less than they did just 3 years ago, I'm reminded, especially as I look at communities across this country, with police officers and police departments and fire departments that are under stress, schools that are closing, teachers that are being laid off, and libraries that are cutting hours, I'm reminded of when George Bush declared in 2000 that he was opposed to nation-building. Who knew it was America he was talking about.

Mr. Speaker, we have to return this economy and this country back to the people who built it and to the families and respect their values. The middle class and their values and their economic interests are under assault. It is time we turned this country around and focused our policies on the middle class and their families.

TAX SIMPLIFICATION AND REFORM WEEK

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. DELAY) is recognized during morning hour debates.

Mr. DELAY. Mr. Speaker, the rhetoric of class warfare has never worked,

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and it certainly is not going to work today, particularly when we see opportunities proceeding for Americans all over this country.

So rather than sit back and enjoy the historic success of the 2001 and 2003 tax measures this Republican majority has passed into law, which have accounted for opportunities, certainly for more than 1.3 million new jobs already this year, we have developed legislative proposals to address longstanding impediments to prosperity in this Nation.

Rather than simply looking for new taxes to reduce, we looked around for other friction heaped upon the free market by this government, and we came up with an eight-part strategy to increase the competitiveness of our economy for years to come: The 21st Century Careers Initiative.

We began to look at ways to make the health care system even more flexible and responsive to the needs of American consumers. We began the process of reforming the way that the Federal Government regulates small businesses in this country. We began a rethinking of the role of the government in lifelong learning programs, so that Americans never stop increasing their skills and their earning power. And this week we began what we hope will be a long debate about the future of taxation in the United States.

While tax relief has been part of the Republican agenda for decades, the time has come for us to not simply lower taxes but to reform the way people are taxed in the first place. And so we come to the Tax Simplification and Reform Week on the House floor.

We will begin with consideration of two bills that begin to fix our Tax Code so that it will make more sense for Americans. One will increase the income limit to qualify for filing the form 1040–EZ income tax return for the first time in more than 20 years. The other will create the first-ever short-form tax return specifically for seniors.

Now, the debate about tax reform and simplification, like the other components of the career initiative, is not designed to score partisan points, but, instead, to move our economy past the artificial shackles of over taxation, over regulation, and over litigation, which keep the American people from enjoying the full benefits of their economic competitiveness.

This week, Mr. Speaker, we will take another step closer to a friction-free environment that our economy demands and our people deserve.

LAGGING WAGES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, this weekend, we had more proof that middle- and low-income workers are still feeling the economic squeeze when it comes to making ends meet. Last Friday, the Bureau of Labor Statistics reported that hourly earnings of production workers, non-management workers ranging from nurses and teachers to assembly-line workers, fell 1.1 percent last month. That is the steepest decline since the recession of 1991, and makes up the lowest level of weekly pay since October 2001.

While weekly pay is at its lowest levels in over a decade, middle- and lower-income workers are feeling the squeeze thanks to ever-increasing education, health care, and gas prices that are rising at rates much higher than the stagnant incomes.

Let us consider a middle-class nurse in my State of New Jersey whose income fell 1.1 percent last month. How can this nurse afford the average $2,700 increase in health care premiums that New Jersey families face this year? How can this nurse and her family afford the $1,600 increase in college tuition costs? How can this nurse afford the more than $2,000 increase in child care costs? These increases would be difficult to keep up with if the nurse was actually receiving cost of living raises, however; it is impossible to meet with rising costs when you are actually seeing a cut in pay.

There is no doubt it is becoming more and more difficult for these middle-class families to make ends meet. You would think this disappointing news would concern President Bush. After all, he already has the dubious distinction as the only President since Herbert Hoover to lose jobs on his watch—1.8 million private sector jobs have been lost over the last 3 years thanks to the economic neglect of President Bush and Republicans here in Congress.

Instead of showing any concern, the President has said that our economy does not need boom or bust type growth. The President ought to tell that to the millions of families around America that are struggling to make ends meet.

The economic record of President Bush and the Republican House of Representatives has been an utter failure, and the President's statement that an economic boom is not needed today shows he is clearly out of touch by the economic realities middle-class Americans presently face.

You do not have to take my word for it, Mr. Speaker, two members of the President's own party have voiced concern about the economy and the President's inability over the last 3 years to ease the economic concerns of both the unemployed and the middle class. Last week, Senator VOINOVICH from Ohio signaled his frustration with the Bush administration when he stated, and I want you to keep in mind this is a Republican Senator from Ohio I am quoting, "Despite these overwhelming problems facing our Nation's manufacturers, I must say I have yet to see any significant action on behalf of the Bush administration to respond."

Now, that is a member of the President's own party admitting that the administration has not properly responded to the economic hardships many Americans now face. And, last week, another Republican Senator said the President's economists gave him bad advice on the impact his tax cuts would have on the economy.

I am quoting Charles Grassley, the Republican chairman of the Senate committee that writes all the tax laws. He said, "U.S. President Bush should have been more skeptical about economic predictions regarding jobs created by tax cuts totaling $1.7 trillion over 10 years." Grassley continues: "His economists screwed up and Bush was not right in not questioning his economists."

Now, again, that is a Republican Senator admitting that the tax cuts President Bush and Congressional Republicans have been touting as the answer to our Nation's economic problems will not actually create jobs or help middle-class families.

It is nice that some within the Republican Party are finally realizing that their tax cuts for the wealthiest have not trickled down to the middle class. Maybe these statements from Republican senators will serve as a wake-up call not only to President Bush but also to Republican leaders in Congress that our Nation needs a real economic stimulus plan.

You cannot actually fix a problem until you admit a problem. And, unfortunately, President Bush is still in denial that the economy needs fixing.

CLINTON NATIONAL SECURITY ADVISER UNDER INVESTIGATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Arizona (Mr. HAYWORTH) is recognized during morning hour debates for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, in front of the grand edifice known as our National Archives, where this Nation's records and a good bit of its written history is kept, are these words: "What is past is prologue." And yet today, in the wake of last night's wire service and subsequent press reports, perhaps that should be amended to read, "What is past is purloined" or "What is secret is stolen."

Mr. Speaker, press accounts today indicate that former National Security Adviser Sandy Berger is the focus of a criminal investigation dealing with the theft of classified documents in the care of our National Archives. It seems that former National Security Adviser Berger, at the direction of former

President Clinton, was sent to the National Archives to review documents that might be germane to the mission of the bipartisan 9/11 Commission examining the events of 9/11 and the security situation and intelligence situation which our country confronts.

Mr. Speaker, according to press accounts, former National Security Adviser Berger took copies of some documents. By some accounts he stuffed them into his pants, into his pants pockets, and he left the National Archives with secret material.

Now, Mr. Speaker, in a rather pathetic effort at defense, Mr. Berger's attorney said that his client's actions were inadvertent. I thank my colleague from Kansas for handing me the unabridged dictionary of the English language from which I will read today: "Inadvertent: Unintentional, not attentive, heedless of, pertaining to, or characterized by a lack of attention." Inadvertent.

That is curious. The former National Security Adviser inadvertently putting classified documents into his pockets; inadvertently leaving the archives with classified material? Oh yes, his legal counsel went on to say that our former National Security Adviser was sloppy. Sloppy? Inadvertent? No, Mr. Speaker, there was a purpose to what Mr. Berger did. What was Mr. Berger, Mr. Speaker, trying to keep from the American people and from the 9/11 Commission?

It seems to me, Mr. Speaker, before any report is released, we should find out exactly what documents were taken and exactly what those documents indicated. This is not an inadvertent act. This is not an act of sloppiness. It is an act that is criminal, and it carries with it not only consequences for Mr. Berger, I daresay it carries with it, sadly, perhaps even deadly consequences for the United States.

It is not sloppiness that led to a lack of security. It is not an inadvertent act. There are purposes behind those who would attempt to shield the truth, and those purposes need to be determined and the American people need to be aware of what action was taken or what action was not taken by those who served in positions of trust, by those who purport to uphold the Constitution of the United States.

And, even at this time of year, where inevitably the call from the left will be that this is some effort to politicize what has transpired, Mr. Speaker, this is too important for politics. This is national survival.

No, what is past is prologue. And, Mr. Speaker, I pray it is not prologue to yet another attack.

ECONOMIC GOOD NEWS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Kansas (Mr. TIAHRT) is recognized during morning hour debates for 5 minutes.

Mr. TIAHRT. Mr. Speaker, we have heard a lot about how bad the economy is, but I want to tell my colleagues that there is a lot of good news out there about the economy. Since last August, we have created 1.5 million jobs. There are more new housing starts than ever before in the history of our Nation. More minorities are owning homes than ever before in the history of our Nation. More people today in America are working than ever before in the history of our Nation. The economy is strong. In fact, wages are at their highest point higher than ever before in the history of our Nation.

We have heard a lot of gloom and doom about how the President is not paying attention to the economy. Well, he has had a lot to overcome. In fact, in 1999, we had the tech bubble burst. The NASDAQ dropped by more than half its value. November 2000 the recession technically started, both before President Bush was sworn into office. Those were tremendous impacts on our economy. We had to overcome that. Then, on September 11, 2001, a fact many Democrats forget, our economy was dealt a severe blow. In fact, we lost hundreds of thousands of jobs across the Nation. In Wichita, Kansas, alone we lost 13,000 aerospace jobs following September 11, 2001.

But, Mr. Speaker, we have passed tax relief and it has strengthened our economy, but we can do much better than that. In fact, when we look at the barriers to bringing jobs into America, we see that it is not about wages, that it is not about overhead, it is not about something that CEOs or employees or small business owners can control. Most of the barriers to bringing jobs into America were created right here on the floor of the House of Representatives over the last generation.

It started back in the 1960s, when we started piling regulation and more taxes on businesses and individuals. We started burying into the cost of building products regulations, trade policies, taxation, and medical costs. So now we have come up with a plan, the Republicans have come up with a plan to deal with these issues and help change the environment so we can bring jobs into America. In fact, we have been dealing with this for about 7 weeks.

We have broken the barriers into eight categories. Six of these categories we have confronted right here on the floor of the House, and we have passed 25 pieces of legislation. We started out with health care security. We passed legislation to help lower health care costs. Then we moved to bureaucratic red tape termination, and we passed legislation that would help cut the red tape in America and lower the cost of doing business. We then went on to lifelong learning, to prepare the workforce for the jobs we will be bringing back into America.

We then dealt with energy self-sufficiency and security. We should not be paying $2 a gallon for gasoline when we have billions of barrels of oil on reserve, and when we have a bad economic policy where we cannot build a refinery even if we could get more oil in; or we cannot distribute it properly or bring down the cost of natural gas. So we addressed that bill during the energy self-sufficiency week with the energy bill.

We then moved on to spurring innovation through research and development so that we can continue the innovation that has been the real strength of this country over the years.

And last week we dealt with trade fairness and opportunity. We passed another free trade agreement with Australia. This week we are going to pass one with Morocco. And these are bringing down the barriers that keep us from bringing jobs into America.

So this week we are dealing with tax relief and simplification, a very important issue because our tax system buries cost into our products. U.S. corporate tax rates are the second highest in the industrialized world, after Japan. America's corporate tax rate is higher than even socialist welfare States, like France and Sweden. Our competitors, such as Germany and Russia, see the value in lowering their corporate tax burdens, and that is just what they are doing.

One study estimated that a 40 percent marginal corporate tax rate, including Federal and State taxes, has the effect of raising the cost of U.S. labor by $1.43 an hour. So our employers are taking on these costs that they have no control over, but Congress does, and it is time we pass legislation that will help lower this burden, especially in the area of taxes.

This week, we are going to amend the IRS code in order to simplify taxes for business. Then we are going to simplify taxes for certain individuals so they can use the 1040–EZ form. We will use the Tax Relief Simplification and Equity Act on the floor as the method of bringing down the cost of business here in America.

Republicans have a solution for the problems. It is not Benedict Arnold CEOs, it is not raising taxes on businesses or the top 1 percent in America, it is lowering taxes so that we can bring jobs back into America. That is what we need to be doing today. This is the debate we should be having, and it will be here on the floor this week.

LISTEN TO THE WOMEN OF IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized during morning hour debates for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, in late October, I had the opportunity to be in Iraq as part of a bipartisan female congressional delegation, and to visit there with our military men and women. Also, while I was there, I had the opportunity to visit and meet some of the Iraqi women who are taking a very strong and very decisive stand for freedom in that country.

Since returning from that trip, I have participated in the Iraqi Congressional Caucus for Women's Issues, and I would commend my colleague, the gentlewoman from Washington (Ms. DUNN), for her incredible work on pulling that caucus together and for her efforts in continuing to work with and supporting the Iraqi women.

We had the opportunity last week to have some of those Iraqi women here. A group of Iraqi women were here to look at how we participate in freedom, how we learn to run for office, and how we learn to take a leadership role. They had a fantastic story to tell, and it is a story that we should be listening to. We should be participating with them in celebrating the successes that they are having and the achievements that they are making over in Iraq.

Mr. Speaker, I find it really quite amazing that much of the liberal media chooses not to communicate the story of the great successes that are taking place there in Iraq. At a policy committee last Thursday morning, we had many of these women with us and we listened to them, and it was a wonderful opportunity for our Members to ask questions of these Iraqi women. Many of them did, and the responses were phenomenal. I wish each and every Member could have heard some of these responses.

One of our colleague's asked, what do you say, what do you say when Members and constituents will say, well, I do not think we should have gone into Iraq. What do you say? How do you reply? And the responses from those very brave and courageous Iraqi women ranged from, well, you waited too long; to, if you leave, 25 million Iraqis will be subjected to torture; to, a mother who told us about trying to take a telephone call from her son when his tongue had been cut out by Saddam's regime; and the affliction that is felt when 48 of your relatives are killed; and the sorrow you feel when a million of your fellow countrymen are missing.

These are all stories that we need to hear, and then celebrate and support the success that these women have as they are accepting the responsibility of freedom.

Mr. Speaker, I had this article forwarded to me yesterday by General David Patrias and his wonderful wife Holly. They have just left the command at Fort Campbell, Kentucky. General Patrias commanded the 101st and is now back over in Iraq. This is something that probably we are never going to see on the front page of many of our Nation's major newspapers, and certainly on many of the networks we are not going to hear this story. It comes from a military training post in Jordan, and it is a story about not the first but the second group of Iraqi women to complete military training.

This is about 39 women who have graduated from the military training camp here in Jordan on July 8. And, listen to this, all, all, each and every one of them, all, with the hope of making a differences for their country, and none thinking about that they are making history.

And look at this, the reason they are doing this. These women are committed to freedom. They know that the terrorists are now using women more often in attacks. So these women are coming forward. One of them says, "From when I was young, I dreamed of being in the military." Dreamed of fighting for her country; dreamed of fighting for freedom. "I have some fears, but we have to control them. I'm optimistic about the future."

They have such a hope for what can happen in their country, and they want to be a part of it. They want to support freedom. Then this quote I really love. "Everything starts from scratch."

They realize it is going to be a long time in coming, but they continue their commitment.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 30 minutes a.m.), the House stood in recess until 10 a.m.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

With Your prophet Ezekiel to guide us, You ask us to be honest with ourselves and one another while looking always to You, Eternal Wisdom, for lasting vision.

With strident tone and disturbing discord, Your prophetic words rap the beat of every human heart. "Son of man, when a land sins against me by breaking faith, I stretch out my hand against it and break its staff of bread. I let famine loose upon it and cut off from it both man and beast."

Yet You, O Lord, bring the same prophet to the banks of a mighty river and ask him to remember the vision. "Have you seen this son of man?"

"Along the banks of the river I saw trees on both sides, and every sort of living creature that can multiply and live. Fruit trees of every kind were growing; and their leaves do not fade nor their fruit fall. Every month they bear fruit for they are watered by You, O Lord. Their fruit shall serve for food and their leaves for medicine."

Leave not our land as lonely dust, O Lord, so we can plant nothing and build only on sand. Rather nourish us with Your hidden spring of life now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Ms. WATSON) come forward and lead the House in the Pledge of Allegiance.

Ms. WATSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles;

H.R. 1572. An act to designate the United States courthouse located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow United States Courthouse."

H.R. 4380. An act to designate the facility of the United States Postal Service located at 4737 Mile Stretch Drive in Holiday, Florida, as the "Sergeant First Class Paul Ray Smith Post Office Building."

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 2277. An act to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

S. 2385. An act to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the "Santiago E. Campos United States Courthouse".

S. 2398. An act to designate the Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, as the James V. Hansen Federal Building.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain requests for 1-minute speeches.

CELEBRATING SOUTH CAROLINA'S LOW COUNTRY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, since 1956, residents of South Carolina's low country have gathered around the Henry C. Chambers Waterfront Park in Beaufort for a Southern celebration. This year's 49th Annual Beaufort Water Festival will attract people from all over the world to come and enjoy sailboat races, sport tournaments, arts, crafts, music and other events which display the best of South Carolina's culture.

Beaufort is South Carolina's second oldest city, is a picturesque port town with a rich history. Its beautiful views of waterways bordered by oak trees with Spanish moss and pre-Revolutionary homes have been featured in countless motion pictures and have made Beaufort a world-class vacation destination.

I look forward to joining Beaufortonians this weekend in the Water Festival Parade, which moves along historic Bay Street.

I ask all of my colleagues to join me in thanking this year's commodore, Marvin Morrison, and his team of coordinators for their efforts in making the 49th Beaufort Water Festival a great success.

In conclusion, God bless our troops; and we will never forget September 11.

TAX CUTS SHORTCHANGE COPS PROGRAM

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, we are now almost 3 months past the deadline for Congress to pass a Federal budget. At this point, it is likely that Congress will not pass one at all. The cause of this breakdown is the ongoing misguided policies of the administration which have put irresponsible tax cuts ahead of the programs that Americans rely on to move our country forward.

One such program is COPS, or Community Oriented Policing Services. Since its inception, COPS has put more than 140,000 police officers on the streets. In Los Angeles, my hometown, that meant 240 new officers last year alone. But despite all of the talk about supporting local police, Republicans are starving the COPS program of funds. Because of their marriage to big tax cuts, Republicans have proposed cutting this vital program by over $100 million. That means about half as many new police on the streets next year.

RETIREE HEALTH BENEFITS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, I would just remind the gentlewoman from California (Ms. WATSON) that this body passed its budget in March of this year. We are waiting for across the rotunda as usual.

Mr. Speaker, I want to talk about the Medicare Modernization Act which we passed last year. I wanted to discuss the fact that employers have been dropping health care benefits for retirees for 2 decades. This is prior to our passing the Medicare bill. A Kaiser Foundation survey notes that the percentage of all large firms offering retiree health benefits has declined from 66 percent in 1988 to 34 percent in 2002.

Rather than worsening the situation, the Medicare Modernization Act works to stop the trend of employers dropping retiree coverage. We achieve this goal by providing incentives to employers to continue offering health care to their retired employees. Employers offering retirees coverage that at least equals the Medicare benefit will receive a tax-free direct subsidy.

The Congressional Budget Office has predicted that substantially fewer employers will drop or reduce coverage under the Medicare conference report.

KERRY-EDWARDS OFFER UPLIFTING MESSAGE

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to praise the middle-class values and positive vision for our country that JOHN KERRY and JOHN EDWARDS are offering America.

Yesterday, Senator EDWARDS brought the ticket's Front Porch Tour to the Triangle region of North Carolina. My North Carolina neighbors are excited about the uplifting message that the Senator presents for a better tomorrow. The Kerry-Edwards ticket offers real hope to make America stronger at home and respected throughout the world.

Unfortunately, Republicans in Washington are so afraid of running on their record, they have launched a ferocious negative attack on JOHN EDWARDS. Just yesterday, Roll Call ran an article quoting a Republican leader saying, "It is now critical to brand JOHN EDWARDS." After 4 years of running this country into the ground, the Republican regime has nothing to offer but attack politics.

Democrats offer a better alternative. Senator JOHN KERRY plans to fully fund the No Child Left Behind Act that the Republican leadership has shortchanged by $27 billion. Senator KERRY also supports school construction legislation to build new schools and get children out of trailers. As the first member of his family to go to college, JOHN EDWARDS will work to make sure that families have opportunities for higher education.

CHARLEE PROGRAM MAKES VALUABLE CONTRIBUTIONS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize Marilyn March, Mary Cagle, and the entire staff of the CHARLEE Program for their valuable contribution to the abused and neglected children in my hometown of Miami, Florida.

CHARLEE stands for Children Have All Rights, Legal, Educational and Emotional. It was established in 1983 through the efforts of the Junior League of Miami, the National Council of Jewish Women, and the Episcopal Diocese of southeast Florida.

It has an extensive history of providing critical services such as foster care and treatment services for Miami-Dade counties' neediest children.

As a mother of two teenage daughters, I realize the profound impact that a positive relationship with one's primary caregiver can have on the development of our most precious resource, our young people.

Mr. Speaker, I am proud of the work CHARLEE does, and I wish all of CHARLEE'S volunteers much future success in helping our precious children.

NATIONAL DEBT RISES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, it has been 1,167 days since President Bush and the Republican Party embarked on their economic plan for our country. During that time, the national debt has increased by $1,663,467,070,131.85.

According to the Web site for the Bureau of Public Debt at the Treasury Department, yesterday the Nation's outstanding privately held debt was $4,228,533,122,486.63.

Foreign holdings of U.S. privately held debt now total $1.75 trillion. This is an increase of $740 billion since January of 2001 and is 41 percent of all privately held debt.

DRUG DISCOUNT CARDS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, one of the aspects of the Medicare bill is the market-based provisions contained in the discount drug card program. These cards provide immediate help to seniors who need prescription drugs.

By bringing transparency and accountability to Medicare, the cards will help 7.3 million people with Medicare save between $1.4 billion and $1.8 billion altogether in discounts on their prescription. An additional feature is the $600 credit that helps low-income cardholders buy medicine.

Individuals who make less than $12,569 per year and couples who make less than $16,862 are eligible for the credit. That means the first $600 in drug costs incurred by the recipients will be covered by the Federal credits.

More than 83,000 Pennsylvania low-income seniors will benefit from the plan. There are some 40-plus cards available. Seniors can call 1-800-MEDICARE to figure out which card is best for them.

REPUBLICAN TAX REFORM HURTS SOCIAL PROGRAMS

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, I rise today because I am deeply concerned that the Republican tax scheme is ignoring the real needs of American families. Day in and day out, we hear that the Republican majority wants to boost our economy by helping our working families, but the economic stimulus Republicans were supposed to deliver has not trickled down.

The median household income has declined by 3.3 percent, and there are over 3 million Americans living in poverty, and many of those are children. In addition, the average American worker is making less today than he did a year ago. Under this administration, our Nation and our budget does not have the resources to invest in making health care affordable, providing a sustainable Social Security plan for seniors, and ensuring that our environment is clean and safe for all of our families and our children.

Let us start listening to the real people, the working-class people who pay their taxes, who really deserve better treatment by this administration. Fundamental resources need to be restored to our families.

FOUNDING OF VALMONT IRRIGATION

(Mr. TERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TERRY. Mr. Speaker, 50 years ago a visionary named Robert B. Daugherty introduced the world to an extraordinary product, one that would fundamentally change how the world grows its food. Mr. Daugherty went on to found Valmont Industries, maker of the center irrigation pivot. This technology has revolutionized agricultural productivity while helping to protect our vital water resources.

Today, Valmont is the world's leader in mechanized irrigation. I am proud that this company and its primary manufacturing facilities are located in Valley, Nebraska, within the Second Congressional District. But Valmont's contributions to agriculture go far beyond Nebraska's borders.

Mr. Speaker, I commend Mogens Bay, the chairman and CEO for Valmont; as well as Terry McClain, senior vice president; and CFO, Bob Meaney, senior vice president; and Tom Spears, president of the irrigation division, for their dedication and leadership of a global corporate company. And, of course, I offer my best wishes and heartiest congratulations to the man who started it all, Bob Daugherty.

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DISTRICT OF COLUMBIA APPROPRIATIONS

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise this morning in support of the fiscal year 2005 District of Columbia Appropriations Act and most especially the responsible educational choice scholarship provisions that were added in just last year's bill, provisions that reflect the support and leadership of Mayor Anthony Williams of the District of Columbia.

It was decades ago that a southern governor stood in the doorway of a public school and said to young African American children, because of their race, they may not come in. For years the education establishment stood in the schoolhouse door and said to the grandchildren of many of those Americans that, in the interest of preserving the establishment, they may not come out.

That wall, that barrier, started to crack in recent years in Wisconsin and in Ohio and last year here on the floor of the Congress when millions of dollars were made available for thousands of children in inner city schools that have been failing for decades here in the District of Columbia.

We have the opportunity today to renew the second year of the District of Columbia opportunity scholarships. I am confident we will. I rise to praise the leadership of the Committee on Appropriations and District of Columbia Mayor Anthony Williams for taking such a strong stand for educational opportunity for all the children of the District of Columbia.

THE U.S. ECONOMY

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, if the U.S. economy is a racehorse, this administration has led the thoroughbred into a pool of wet concrete, and it is starting to set. The speed is slower and every stride is harder to take.

The U.S. economy is not some anonymous subject. It is millions of American people. What is the health of the U.S. economy? Take the pulse of the people to find out. Over 8 million Americans are without jobs. Over 43 million Americans are without health insurance. For those Americans who are working, wages are not even keeping up, much less moving ahead. The President has lost almost 2 million jobs during his watch, a feat not seen since the Depression. The drag Republicans have placed on the economy with massive budget deficits will be felt and paid for by future generations.

The American economy is a thoroughbred. It has not lost its heart but its stride is shorter and its breathing is more labored. America does not lack for heart or for innovation. America lacks leadership. It is a shortcoming we will remedy in 105 days.

RESURRECTING THE VISION OF A SPACEFARING PEOPLE

(Mr. FEENEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEENEY. Mr. Speaker, this is a great occasion because 35 years ago a mesmerized world watched as Americans landed on the Moon. Behind me stands a moon rock that was brought back by our Apollo astronauts, and next to me is a picture of a man standing on the Moon. Thousands viewed Apollo as their calling. They assembled and launched the Saturn V from Kennedy Space Center. They overcame the tragedy of Apollo 1 and guided Apollo 11 through harrowing moments. Many of today's science and engineering leaders throughout our country were inspired as children by this adventure.

We will be able to surpass our current discoveries. The space vision that the President has laid out will take us beyond imagination. Recently Americans watched in awe at pictures coming from the Mars rovers. Soon thousands will come to Florida's space coast to watch the Shuttle return to space.

We are a restless, inquisitive, pioneering people. We yearn to go. We yearn to explore. We are Americans.

Mr. Speaker, I rise to commemorate this great 35th anniversary of Apollo 11.

DO-NOTHING CONGRESS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I would like to ask my Republican friends what they have accomplished here in the House this year. We have been here almost 8 months, and we have yet to pass any meaningful legislation into law.

Republicans will list off countless bills that they have passed here in the House. Some of them are actually recycled from last year. We do not actually have to vote on them again, but because Republicans do not have any new ideas, they have to bring up old bills that have already been passed but have yet to be signed into law.

House Republicans will blame the other Chamber. They will say they have passed all sorts of legislation but because the other Chamber does not see things their way, they cannot come to a suitable compromise. House Republicans can pass all sorts of legislation, but unless it becomes law it is meaningless.

Let me remind my Republican colleagues that they control the White House, the Senate and this House. Yet Congress is being forced to work without a budget because Republicans could not come to an agreement amongst themselves.

At the end of this week, Congress adjourns for 6 weeks. Yet congressional Republicans cannot point to one congressional achievement. Talk about a do-nothing Congress.

MEDICARE PRESCRIPTION DRUGS

(Mr. WHITFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITFIELD. Mr. Speaker, one uplifting message for the American people is the legislation that this House passed relating to the prescription drug benefit under Medicare.

This weekend I hosted three meetings in my district. Vicki Mayes came to one of those meetings. This was what she said. When she used her Medicare-approved drug discount card for the first time a week and a half ago, she was shocked. Drugs that normally cost her $50 cost her only $2.90. On Thursday when she went to the pharmacy for two more refills, drugs that would normally cost her $54 cost her $16.90.

All of us can be proud of this new prescription drug benefit passed by this Congress. As President Bush said, it was the most important expansion of Medicare that we have had since the inception of the Medicare program.

MEDICARE PRESCRIPTION DRUGS

(Mr. BEAUPREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEAUPREZ. Mr. Speaker, as my colleague, the previous speaker, just mentioned, today America's seniors are receiving significant discounts on their prescription medications for the first time in the history of Medicare. Discounts range from approximately 20 percent for brand-name drugs to as much as 60 percent on mail order prescriptions. These savings can be seen all across the country.

My own parents, for example, back home in Colorado can save a combined $1,300 a year on their prescription medications. The money they are saving goes a long way toward helping them with their retirement savings or, more, to be generous with their grandchildren and great-grandchildren.

I am told that certain low-income seniors are realizing even greater savings from this program. Qualifying Medicare beneficiaries can save as much as 86 percent, as we just heard, on what they currently pay for prescription drugs. Millions of seniors are already enjoying these significant savings from their Medicare prescription drug cards.

I commend the Members of this House and the President for passing this legacy legislation.

PROVIDING FOR CONSIDERATION OF H.R. 3574, STOCK OPTION ACCOUNTING REFORM ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 725 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 725

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us is a well-balanced, structured rule that makes in order a manager's amendment and three amendments offered by members of the minority, including a minority amendment in the nature of a substitute. It provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services.

The rule waives all points of order against consideration of the bill and provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services, now printed in the bill, shall be considered as an original bill for the purpose of amendment, and shall be considered as read.

It makes in order only those amendments printed in the Committee on Rules report accompanying the resolution, and provides that the amendments printed in the report may be considered only in the order printed in the report, and may only be offered by a Member designated in the report. They shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, not be subject to amendment, and not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Finally, the rules waive all points of order against the amendments printed in the report, and provides one motion to recommit with or without instructions.

Mr. Speaker, I rise today in strong support of the rule for H.R. 3574 as well as the underlying legislation. This bill offered by my good friend from Louisiana (Mr. BAKER) is carefully constructed legislation that will help the United States to retain its global dominance in the biotechnology and high-technology sectors while creating new jobs, fostering innovation and enhancing productivity. It will also empower rank-and-file employees to share in the benefits of their hard work by allowing them to earn an equity stake in the companies where they work every day to create new products and technologies keeping America one step ahead of the rest of the world in technological advances and competitiveness.

H.R. 3574 achieves this worthy goal by bringing some common sense and discipline back to the debate over stock options expensing. First, it requires the immediate expensing of the stock options granted to the CEO and the next four most highly compensated executives of a company, consistent with information that must be filed with the SEC.

Second, it requires that options granted to the five top senior executives be valued in such a way that mitigates some of the most severe problems with FASB's expected valuation models which are based on valuation models for a type of option that differs fundamentally from stock options by virtue of being freely traded on open exchanges.

Third, it exempts certain small businesses from what we call the top five rule expensing requirement and delays option expensing for small business issuers until 3 years after an initial public offering has taken place, allowing a small business' stock to settle down from the initial volatility of the initial public offering.

Fourth, it prohibits the SEC from recognizing any stock option expensing accounting standard until the standard recognizes the true expense of the stock option on a company's financial statement when the option is exercised, expires or is forfeited, and a comprehensive economic impact study has been completed by the Secretary of Commerce and the Secretary of Labor.

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Finally, this legislation improves corporate governance and transparency by requiring the SEC to issue a rule mandating that public companies include more detailed information on stock option and stock purchase plans in their public periodic reports, such as plain-English descriptions that describe the effect that stock options will have on earnings per share and the number of outstanding stock options.

Throughout the 108th Congress, the Republican majority in this House has championed and advanced a legislative program full of efforts to improve economic growth, corporate governance, and transparency on behalf of investors across the United States. Unfortunately, the Financial Accounting Standards Board's recent recommendation to mandate the expensing of stock option runs contrary to this pro-investor agenda. It represents a step in the wrong direction by providing investors with less accurate information about public-traded companies which will lead investors to a distorted picture of a company's financial performance. Even worse, the mandatory expensing proposal threatens to destroy broad-based plans and the productivity, innovation, and economic growth they currently generate.

I do not believe that Congress should replace FASB or become suddenly interested in micromanaging accounting standards; however, the proposal to expense all stock options does not simply have an academic outcome. It would have a negative real-world policy impact by destroying the American partnership culture of distributing stock options to our entire workforce. I believe that allowing such a proposal to go forward will choke off job growth, innovation, and entrepreneurship that broad-based ownership generates; and Congress does have a very real and immediate response to prevent this from happening.

The research behind the economic benefits of stock options support this view. As two Rutgers researchers recently concluded " . . . using broad-based options to create a partnership model of the corporation will, over the long run, help to make most companies more competitive and create more wealth for shareholders."

Research also shows that companies with stock-based option plans receive a one-time, but permanent, boost to their productivity of about 4 percent compared to what productivity would have been without entrepreneurship and employee ownership. More importantly, total shareholder returns go up by an average of about 2 percent. This kind of growth is vital to improving our economy and creating jobs; and I believe this kind of incentive should be nurtured, not eliminated.

Data on stock ownership also shows that the 100 largest high-tech firms that focus on the Internet, average employees hold approximately 19 percent of their company's stock, 17 percent accumulated through stock options. Top executives hold only 14 percent, demonstrating that stock options have empowered rank-and-file employees and low-level managers to acquire a stake in their work by accumulating more ownership in their companies than their bosses. Ninety-eight of these 100 companies provide options to them or to most of their employees. In Intel's case, for example, 98 percent of the options granted between 1998 and 2002 went to employees other than the top five executives.

More than 200 companies from more than 29 States have filed public comments opposing mandatory expensing. The NASDAQ, which lists 3,600 companies, opposes expensing, and opposition to FASB's proposal comes not only from the high-tech and biotech sectors but also from other areas of our economy, such as from the National Association of Manufacturers, the U.S. Chamber, America's Community Bankers, the Business Roundtable, and the Association of Financial Professionals.

I would like to thank the gentleman from Louisiana (Mr. BAKER), the Committee on Financial Services chairman; the gentleman from Ohio (Mr. OXLEY); and the gentleman from California (Mr. DREIER), the young chairman of the Committee on Rules, for all of their hard work, their vision, and leadership on this issue on behalf of American workers and investors. I believe this legislation improves the financial information available to investing for the public while ensuring that rank-and-file employees and middle management can still participate in the great American tradition of a broad-based employee ownership of their company.

The choice presented by this legislation is very stark and clear: Should Congress allow inside-the-beltway accounting technicians to implement standards with severe negative economic consequences, or should we develop policies that encourage economic growth, job creation, and international competitiveness? I say yes. I believe the choice is clear and that Congress should take this opportunity to stand up for American workers and business. I encourage all of my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time.

Mr. Speaker, while I would prefer that this be an open rule, I rise today in support of the rule, as it makes in order those amendments which were submitted yesterday evening during the Committee on Rules hearing.

I note that this is the 149th rule that this body has considered in the 108th Congress. Of those 149 rules, 18 have been procedural. Of the remaining 131 rules, 106, or more than 83 percent, have been closed or restricted. One can only hope that the majority will use this rule as the template for future rules.

As my colleague from the majority pointed out, the underlying legislation blocks the implementation of new accounting standards recently proposed by the Financial Accounting Standards Board. These new standards would require companies to deduct from their profits the value of the stock options they issue to employees and executives.

Supporters of the Stock Option Accounting Reform Act will note that their bill includes a compromise, requiring the inclusion of stock options afforded to a company's top five executives in that company's profits. The Wall Street Journal, however, has noted that such disclosure would not adequately reflect a company's true profits. Top executives of companies which offer stock options to their employees typically only receive 2 percent of the options that are issued.

Another study found that in the year 2003, only 18 percent of the options provided by the S&P 500 companies went to the top five executives. The standard included in the underlying legislation potentially leaves anywhere between 82 and 98 percent of a company's stock option expenses hidden from the public. This failure to disclose runs the grave risk of inflating a company's profits and misleading investors.

For example, if this bill were law in 2003, Intel would have deducted $3.5 million from its 2003 profits, although it actually doled out more than $990 million in options.

Investors have a right to know the true profits and total expenses of the companies in which they invest. The underlying legislation fails them, in my judgment, in this arena.

In addition to my concerns about the policy of the underlying legislation, I am equally concerned about the implications of Congress overriding the rulings of the Financial Accounting Standards Board, an independent governing authority. I echo the comments that have already been made by the chairman of the Senate's Banking, Housing and Urban Affairs Committee, who has noted that Congress has no business undermining the Accounting Standards Board.

Independent boards, such as FASB and the Securities Exchange Commission, exist to ensure the veracity of the financial services industry. Efforts on the part of Congress to undermine their decisions compromise the integrity and reliability of the industry. When congressional pressure, political ideology, or legislative fixes play a role in the decisions of boards such as the FASB and SEC, these boards will cease to be independent.

The gentleman from Pennsylvania (Mr. KANJORSKI), ranking Democrat of the Capital Markets, Insurance and Government Sponsored Enterprises Subcommittee, as well as the gentleman from Delaware (Mr. CASTLE) will offer an amendment in the nature of a substitute that I intend to support. Their substitute recognizes the roles of the FASB and SEC as independent boards, and I urge my colleagues to support it.

Mr. Speaker, Congress has a role to play to regulate and observe the financial services industry. The underlying legislation, however, runs the risk of crossing the line that currently exists. I urge my colleagues to strongly consider the implications of the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

What this legislation does do is run the risk of encouraging entrepreneurs and companies and people to work harder, produce better products for this country, to do the right thing for the investor, but mostly it runs the risk of making sure that the person who would get that stock option is able to then take advantage of that and better their life and to better the life of America by making sure that people have money in their pockets to where they can make their own decisions.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS), my friend, for his fine management of this rule and his commitment to the structure which will encourage innovation and creativity.

We are on the verge of yet another very important bipartisan victory for this institution and, most important, for the American people.

Mr. Speaker, I would like to begin my comments by extending my appreciation to a couple of Californians on the other side of the aisle who have played a very important role in getting us to the point where we are. First and foremost, the gentlewoman from California (Ms. ESHOO), my great friend with whom I have been privileged to work on this issue for literally years now as we have been trying to tackle and deal with this very important challenge. And also I would like to praise the gentlewoman from California (Ms. PELOSI), our minority leader, my fellow Californian who has joined as a cosponsor of this legislation and understands how important it is not only for our State of California and for the area that is represented by the gentlewoman from California (Ms. ESHOO) and the gentlewoman from California (Ms. PELOSI), but for the overall concept of encouraging innovation and creativity. And I do know that we have a wide range of other Members on the other side of the aisle who have followed the lead of the gentlewoman from California (Ms. ESHOO) and the gentlewoman from California (Ms. PELOSI) on this issue.

I also want to say, Mr. Speaker, that on our side of the aisle there have been a number of people who have been great champions in this. First of all, I want to express appreciation to the gentleman from Illinois (Speaker HASTERT) and the gentleman from Texas (Mr. DELAY), majority leader, for working closely with me and ensuring that we would have an opportunity to bring this measure to the floor; also to the two committee chairmen who have been very involved in this.

The prime committee of jurisdiction is the Committee on Financial Services. I would like to congratulate the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) and other members of that committee, including the gentleman from California (Mr. ROYCE) and the gentleman from California (Mr. OSE) and the gentleman from Arizona (Mr. SHADEGG), who have worked very hard on this issue. And also I would like to express appreciation to the gentleman from Texas (Mr. BARTON), who has just recently become the chairman of the Committee on Energy and Commerce and is doing a great job and joins with us in support of this important legislation.

I should also say that there are a number of staff people who have been very involved as well, Mr. Speaker. I see a number of them on the floor, but I do want to specifically mention the staff director of the Committee on Rules, Mr. Pitts; and from the Speaker's office, Seth Webb; and from the majority leader's office, Brett Shogren, who worked very hard with us in making sure that we got to the point where we are today, because this has been a difficult and a real challenge for us, but it is the right thing for us to do.

Mr. Speaker, I want to state for the record that I am an ardent opponent of mandatory stock option expensing.

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With all due respect to the wonderful people who are supporting the Financial Accounting Standards Board's expensing proposal, the notion that stock options are an expense is absolutely absurd. You do not have to be an accountant to clearly understand that stock options result in no cash outflows from a company, nor do they add to its financial liabilities. But I recognize that in the wake of the corporate accounting scandals, and I know many people are going to be talking about that as we begin debate on this issue, a whole new environment does now exist.

In this arena, those who have long opposed the use of employee stock options, and recognize, there are many people, Mr. Speaker, who have long been opponents of the utilization of employee stock options, they have been able to artificially link the public's legitimate hunger to rein in corporate abuse with their desire to kill the use of employee stock options.

Let me say that again. We all are outraged at the corporate abuse that we have seen over the past few years, but it is, to me, very troubling that a number of people who are opponents of the utilization of employee stock options are using that shared concern that we all have to try and limit the opportunity for stock options to exist. In effect, they are trying to use an accounting sleight of hand to eliminate stock options in the name of investor interests and open corporate reporting.

If stock option opponents succeed, innovation and ingenuity, the indisputable drivers of our 21st century economy, will be unquestionably undermined. Millions and millions of rank and file employees will lose their ability to hold stakes in their company's future successes. A troublesome precedent will have been set in the promulgation of accounting standards.

Expensing proponents have successfully used what is supposed to be a technical, a technical, determination of an accounting standard to obtain what is really a corporate governance policy decision. That is why I want to applaud, as I said earlier, the gentleman from Louisiana (Chairman BAKER) for crafting a bill that achieves a critical balance.

H.R. 3574, the Stock Options Accounting Reform Act, while implementing stock option expensing for, as has been pointed out by my colleague the gentleman from Texas (Mr. SESSIONS), for the company's top five executives, does so in a way that will preserve the continued viability of broad-based employee stock option plans. It is one of two critical reasons why I am a proud cosponsor of this Baker-Eshoo bill.

It is that latter objective, giving workers on the lower rungs of the corporate ladder the opportunity to own a piece of the company pie, that is so important to the health and growth of our ingenuity-driven economy.

Remember, it is the estimated 14 million workers, 90 percent of whom hold nonmanagement positions, who would be immediately affected by a mandatory expensing standard. These are the rank-and-file workers, the Americans who have invested their sweat equity in the hope, not the guarantee, but the hope that their investment will provide future retirement funds, college tuition or a housing downpayment.

I am reminded how my friend, the gentlewoman from California (Ms. ESHOO), and I joined in getting a wide range of employees, from Sun, Cisco, Intel and other companies, who have talked about the fact that their opportunity to own a home, to pay for their college education for their children, has come from the existence of these options.

Many argue that expensing will prevent CEOs from abusing stock options. That is simply untrue, Mr. Speaker. Illegal accounting tactics are just that, they are illegal. An accounting standard is not going to stop an individual who is intent on breaking the law. Instead, FASB's proposed accounting standard will eliminate what has been a valuable employee incentive tool. That will not help the top managers. Similar to what traditional companies, like Coca-Cola do now, we know that executives will continue to receive stock options even with mandatory expensing.

Speaking more broadly, if high-growth industries lose their flexibility to use broad-based stock options, we will all lose. Stock options align the employee interests with the company interest, and that produces a motivated worker. Nowhere has that formula proven more effective than in the technology sector of our economy, particularly in California's Silicon Valley.

No matter what area of technology you look at, you will find that the common thread to a company's success has been employee stock options. Without that flexibility, we would lose a key motivator for would-be entrepreneurs and existing innovative companies to take risks and transform new ideas into industry. New industries create new jobs, higher wages and increased standards of living.

That brings me to my other primary reason for supporting this legislation, and that is the investor. Expensing proponents cite time and time again the urgency of giving investors accurate information about a company's use of stock options. I absolutely agree with that goal, Mr. Speaker. Investors need meaningful and transparent information. However, the real investor class issue here is a corporate reporting issue, not an accounting issue. Options do not cost a company money, but they do have an impact on share value.

We must stand on the side of investors and ensure that they have clear and accurate information about how stock options dilute the value of their shares. I want to commend the gentleman from Ohio (Chairman OXLEY) for adding provisions to this measure that will do just that. His language will expand required disclosures to include plain English discussion of the dilutive effects of stock option plans, increased comparability information, the number of outstanding stock options and the estimated number of outstanding stock options that will vest in each year.

Many of us, Mr. Speaker, may have been following this issue closely over the past few years. Actually, I know a number of our colleagues, frankly, have not been following this issue in great detail over the last couple of years, so it is for that reason I think it is important to explain why stock option expensing will do everything but bring clarity and accuracy to corporate financial statements.

The inability to correctly value options that have not been exercised, may never be exercised and are not tradable in open markets means investors will necessarily get wrong information from expensing. Why? Because no one has been able to figure out how to value these options. That, in and of itself, should make anyone question FASB's fundamental premise that stock options are a corporate expense.

FASB set up an options valuation group earlier this year to come up with one single method, but the group was unable to do so. FASB now is preparing to recommend allowing companies to choose from two different valuation models in its pending proposal.

Mr. Speaker, Professor William Sahlman from Harvard, commenting on the Black-Scholes model said, "If anything, expensing options may lead to an even more distorted picture of a company's economic position and cash flows than financial statements currently paint."

One of the inventors of the other model, the binomial method, recently said, "I was one of the inventors of the board-proposed model, and I say: Don't use it. It doesn't work."

Mr. Speaker, I want to close my remarks by doing what I did when the gentlewoman from California (Ms. ESHOO) and I testified before the Committee on Financial Services subcommittee on this issue by taking us back nearly two millennia to around 100 A.D.

During that time, a brilliant mathematician, astronomer and geographer named Claudius Ptolemy, wrote a 13-volume treatise entitled The Mathematical Compilation. It is also known as the Almagest. It explained the movements of the sun, moon and five planets around the center of the Earth.

For nearly 15 centuries, his work was the leading scientific explanation of that "truth." And based on the fact that the Earth was at the center of the universe, scientists of that time developed very complicated and precise answers to all types of questions, such as why the visible planets take certain paths around the sky.

Mr. Speaker, geniuses like Nicolaus Copernicus improved on the Ptolemaic work by proposing that the sun and Earth revolved around a point near the sun. And Tycho Brahe explained how the planets revolved around the sun, and the sun and planets revolved around the Earth. Even Galileo did not break completely from the intellectual view underpinning the 15 centuries of Ptolemy's astronomy.

What does Ptolemy have to do with stock options, expensing and the FASB? Mr. Speaker, the accountants at FASB, good people that they are, are determined to fit the entire universe around a world view that in the end is flawed as much as Ptolemy's universe was. Their view is that everything must be able to be scored and placed on a corporate balance sheet. Well, the Earth is not the center of the universe, and everything does not belong on a balance sheet.

That is not to say that given enough hard thinking, a smart person could not figure out a way to put everything on a balance sheet. Utterly brilliant people figured out a way to explain with amazing precision how and why the sun and planets revolved around the Earth. You can explain just about anything with mathematical precision, but that does not make it true.

FASB is not populated by Ptolemy, Copernicus, Brahe or Galileo, and you do not have to be a Johannes Kepler to know that FASB is just plain wrong when it comes to stock option expensing.

Mr. Speaker, the Stock Options Accounting Reform Act is one of the most important proeconomic growth, pro-employee ownership bills that we will consider in this Congress. Unlike the FASB, and I do recognize their independence, we as elected officials have an obligation to American workers and investors to preserve an environment that allows entrepreneurs to grow our economy. A potential change in accounting treatment may be arcane to some, but it is in the real world that the negative impact of mandatory expensing will hurt the risk-takers who are creating jobs and wealth in this country.

Mr. Speaker, we have made a rule in order that will allow for consideration of all the amendments that have been submitted to us, but I want to urge my colleagues to vote in opposition to those amendments that could in any way undermine the basis of this very important legislation.

So I urge my colleagues to support the rule and, of course, enthusiastically support this measure as it comes to passage, and enjoy a strong bipartisan victory at the end of the day.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman has certainly given us an enlightened view of the universe. I want to remind him that the Vatican did not agree with much of what he talked about. But Ptolemy, I did not know he was going to wind up being here with us on this important subject.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. STARK), a good friend of all of us, to enlighten us perhaps in yet another of the universal aspects of this business.

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding me time.

I really meant to talk about celebrating the 35th anniversary of Apollo 11, but I can see that my distinguished colleague from California was there with me. I thought we were really talking about accounting, and we are talking about H.R. 3574, which is appropriate, because it is sheer lunacy.

While our soldiers are fighting overseas, our children are crying out for better schools, 45 million people have no health insurance, we have set the goal today of "Let's help the rich get richer." Yes, sir, Mr. Speaker, let us give more money to the millionaires.

Frankly speaking, do you know how high gas prices have gone? Do you know how much jet fuel costs? Do you know how much private jet pilots earn? We must help those people so they do not have to go from $4,000 to $5,000 to fly those little things. And that is what this bill today is doing.

I am glad to see we are helping. Why? Right now, corporations can deduct stock options for tax purposes, ha-ha, and not pay the income tax, but they do not have to report those expenses to shareholders on their SEC financial statements. That is what I call sleight of hand.

You cannot have it both ways. If you want to not deduct options, then do not take them off your income tax. It makes some sense.

This accounting loophole was encouraged by companies like Enron and Cisco to artificially inflate the value of their company while deceiving their investors and evading corporate income tax. It is much simpler than moving to Bermuda. Even Alan Greenspan has criticized this practice.

To fix this problem, the FASB board has drafted a rule requiring that we expense the options. It makes some sense. But rather than following FASB, a board made up of professional accountants, I might add, to implement a sensible rule, why, Congress has decided to use their accounting expertise.

I look around the room at my fellow Congressmen, and wonder how many of them have taken the accounting course I took?

☐ 1100

And if they did, they all know that debits are in the column next to the windows, except as one looks around this Chamber, there are windows on four sides. No wonder we are confused.

So let the FASB rule be damned; we are going to set some rules of our own about accounting around here. Do my colleagues know what? They anticipate that there will be criticism that lets rich corporate executives off the hook, so they are going to limit it to the top five executives. I say to my colleagues, nice try, but as Warren Buffett points out, that is like saying in a large company which gives everyone a bonus, only five bonuses have to be expensed.

This bill requires companies to assume also that stocks have zero volatility. Stocks with zero volatility? Now, that does not pass the laugh test. Ask Martha Stewart about stocks with no volatility. She knows something about stock volatility. I suspect Ken Lay could tell us that it is a real phenomenon that we cannot do away with by legislation.

So the bill perpetuates the Bush administration's failed economic policies, while simultaneously lining the pockets of their fat cat friends. And the sponsors of this bill should be proud. It increases the deficit, it falsifies corporate earnings, and it serves the millionaires in this country well.

Mr. SESSIONS. Mr. Speaker, I would like to notify my colleague, the gentleman from Florida (Mr. HASTINGS), that at this time the majority does not have additional speakers. I believe I have approximately 5 minutes remaining, and I would encourage him to utilize that time that is necessary for him to close, and then I will do so myself.

Mr. HASTINGS of Florida. Mr. Speaker, just so that we can accurately record it so that I may dispense time on our side, how much time remains for both sides?

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Florida (Mr. HASTINGS) has 21½ minutes remaining; the gentleman from Texas (Mr. SESSIONS) has 5 minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. ESHOO), my good friend, who is an original cosponsor of this legislation; and she and I came to Congress together, and she has worked actively. The first bill that she introduced was a measure dealing with what we are discussing today.

Ms. ESHOO. Mr. Speaker, I thank the gentleman from Florida (Mr. HASTINGS), my good friend and classmate, for yielding me this time.

I am very proud to be the Democratic lead sponsor of the Stock Option Accounting Reform Act, and I want to thank the gentleman from California (Chairman DREIER) for his partnership and his hard work, and the gentleman from Louisiana (Chairman BAKER), as well as colleagues from both sides of the aisle for the work that they have done to bring this issue forward so that we can take this up on the floor of the House today.

The Financial Accounting Standards Board, FASB, has sought for years to force public companies to expense stock options from their earnings, and Congress has consistently turned away these efforts. This is not the first time. I hope it will be the last time, but it is not the first time.

Now, the board has seized on the recent corporate scandals to push this controversial proposal through. But supporters of the FASB rule, including FASB itself, are unable to identify a single instance where the accounting treatment of broad-based stock option plans for rank-and-file employees has contributed to corporate misconduct or shareholder fraud. Stock options are already fully disclosed in corporate financial treatments. They are not, however, deducted from earnings.

The reason most companies reject the expensing of stock options is that their actual cost is highly speculative and extremely difficult to measure. Options have a direct impact on the dilution of shareholder value, but the actual cost to the company is uncertain. Furthermore, valuation of employee options is highly inaccurate, and FASB has yet to come up with an acceptable means for estimating their value.

That is why this legislation is needed. It is needed to prevent FASB's new rules from taking effect later this year, causing substantial disarray in corporate accounting. Implementation of these new accounting rules would have a disastrous impact on American companies and, most importantly, American workers. If companies are forced to expense stock options, most likely they will drop broad-based stock option plans because of the prospect of taking a huge and misleading charge against their bottom line.

So while corporate executives will undoubtedly continue to receive lucrative compensation, rank-and-file employees will lose the benefits of these employee ownership programs.

Congress, I believe, has the responsibility to ensure that a major change in corporate accounting is appropriate and that it is implemented prudently. Why? Because impacts on our national economy are the business of the Congress. We would not have stepped in before, and I would not be offering this legislation were this not the case. FASB has acknowledged that to us, that they are in charge of accounting rules; but they do not take into consideration the economic impacts.

So I urge my colleagues to look at this carefully. There are many, many complications to this. More than anything else, this is not for corporate executives. This is for rank-and-file employees who take a risk in start-up companies and say that when the risk is realized in a positive way that everyone wins. Let us protect that, especially at a time where our national economy needs to protect something that we know works.

Mr. HASTINGS of Florida. Mr. Speaker, at this time I am pleased to yield 2½ minutes to my good friend, the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in yielding me this time, and I rise in strong support of the sentiments just expressed by my good friend, the gentlewoman from California (Ms. ESHOO).

This is about fundamental policy, not just accounting standards. I am as reluctant as any to have Congress meddle in regulatory affairs, but this legislation is most decidedly not about helping rich people. Enron did not have a broad-based stock option program. Indeed, the evidence is those companies that have broad-based stock option programs have a countervailing force that militates against this sort of abuse.

I personally am not worried about the investor class. They hire smart people to check what is already a part of company financial records. The mutual funds, the pension funds, the venture capitalists all know the status. Expensing would have a negative impact on the value of these companies who use broad-based stock options, and retroactive application would make it even worse. It would make it much less likely that we are going to have these programs in the future, and many current programs will be eliminated. This is a fundamental issue of policy that Congress can and should be involved with.

I take modest disagreement with some sentiments that were expressed here earlier. I do not know anybody who is against stock options per se. I do not think Warren Buffett is a part of a conspiracy to eliminate stock options, and there are legitimate issues about how they are taxed.

But my concern is making sure that we have an entrepreneurial tool that is available for start-up enterprises, particularly in high tech, where people can invest their sweat equity, that are broad based, and help not just the top of the financial heap. The top executives are going to be taken care of one way or another. The enactment of this standard is simply going to take it away from the vast majority of employees in the broad-based program.

I think it is important for us to maintain this tool. It is currently used by a minority of companies with no evidence of abuse. Strong support here from Congress in being able to keep this going is going to be good for the economy, it is going to be good for these entrepreneurial efforts; and, indeed, the extent to which we transition to broad-based stock options, I think it will be a tool against abuse in the future.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3½ minutes to the gentlewoman from New York (Mrs. MALONEY), my good friend, who represents the financial district of this country.

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me this time.

I am pleased that the Committee on Rules has decided to allow my amendment to protect investors by making companies show their true earnings in their public filings, and I am pleased that they have placed this in order. This amendment keeps whole the authority of the SEC to regulate the contents of public filings by companies issuing stock. The SEC has had that authority since its inception, and for good reason, to protect investors, to protect stockholders, and to protect the safety and soundness of our financial institutions.

This bill would remove the SEC's existing power to regulate whether stock options are shown as an expense. Simply put, a stock option is either an expense, or it is not an expense. My amendment preserves present law and the policy that Congress has followed since 1934, of letting an independent agency make the rules about what information companies must tell their investors and their filings. It preserves transparency to the investing public.

Accounting standards, like interest rates, should not be set by Congress, although we do have oversight. A host of the biggest names in financial policy have spoken out against this bill and in support of my amendment and in favor of preserving independent standard-setting for corporate accounting: Alan Greenspan, Arthur Levitt, William Donaldson, Warren Buffett, John Bogle; and the list goes on and on. Many editorials across this country have come out against the bill that is before us today. I will include the statements of these individuals and the editorials in the RECORD.

Expensing is the overwhelming view of financial experts, even before Enron. A 2001 survey of over 18,000 analysts and portfolio managers showed that 83 percent agreed that stock options must be expensed. None of these authorities stand to make a dime off expensing. They are standing up for the right thing to do for investors and shareholders in our country.

On the other hand, we have the corporate views of Cisco, Intel, and others who will lose, at least on paper, a cool billion-plus each if they have to show their options as expenses. Now, whose interests do they have at heart? Is it the investors? I do not think so.

It is a tragedy that these few corporations have set up a false war between investors and employees. Nothing in the FASB standard prevents expensing. Over 600 companies in America voluntarily expense. These companies tell the truth about the expense of stock options, but still give them to employees. Other companies can do the same. Is showing the true cost of stock options so damaging to these companies that no one should know how much they are spending for them?

I have received several letters from employees. They say that they need these options because they do not have pension plans or health care plans; and I ask my colleagues, is this what we want to encourage? Employees deserve pensions and health care. Hidden stock options should not be used as a substitute.

Expensing stock options is the right thing to do for both investors and employees; and as Arthur Levitt said, finally and plainly put, this bill hurts investors and the financial markets of America.

I urge a "no" vote on this bill and a "yes" on the amendment.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from Oregon (Ms. HOOLEY), my good friend.

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Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

I rise in support of the legislation before us today. I would like to give special thanks to the gentlewoman from California (Ms. ESHOO) for working on this important legislation.

The legislation before us today is in response to FASB's proposed rules that would require the expensing of all stock options. First, let me quickly touch on the specific issue of accounting accuracy, which proponents of the FASB rule argue is a primary motivation. They claim that expensing options is right because in the accounting world, it is the accurate way to do things. Well, this is wrong in two ways.

First, it is impossible to accurately value the expense of stock options. That fact is indisputable.

Second, options are already reflected in the earnings per share calculation with before-and-after dilution. Requiring expensing options would be double-charging their issuance, once as an expense and the second time as a dilution.

In a broader sense and somewhat separate from the accounting issue is the larger problem with FASB's proposal, and that is why, by all appearances, they have given no consideration toward the economic consequences. Their proposal would seriously jeopardize the health of the American economy. The issuance of stock options has allowed small start-up companies to present the motivation, an essential tool for new recruits. These new employees are literally given a piece of the company, and consequently, they have a vested interest in the success of that company.

The stock options have helped new businesses. They have helped start-up companies. In fact, that is one of the ways that really makes those companies go.

People have accused supporters of this legislation as being in the pocket of huge technology companies. Well, nothing could be further from the truth. The fact is that when I talk to companies at home about stock options, it is the small companies, it is the start-up companies, it is the innovators that say we would be lost without this.

And it makes sense. Large companies already have the capital to recruit the best and the brightest, and they do not really need to offer stock options as an incentive, but the small companies, the new start-ups who are struggling to meet the day-to-day costs, they are the ones to rely on the prospect of future successes of the company. That is the heart of this debate.

Preserving stock options is preserving an optimism in the growth of our economy and our Nation. Stock options we know have increased productivity. We know they have increased innovativeness, and they were a large part of the emergence of the new economy in the 1990s. When we are striving to have an economic recovery, the last thing we need is a proposal to stifle the growth, productivity and the innovativeness that stock options have provided. This bill is a vehicle to protect the safety of the American economy, and it is vital that we support it today.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

The problem with this bill is that it has so many flaws in it that it just would not work in the real world. How can there possibly be an argument made that the four highest paid executives, plus the chief executive of a company, their stock options would be counted one way and all the other stock options of the other employees would be counted another way inside of the same company? It makes no sense at all.

But the biggest detour into accounting Never-Never Land that the bill provides is when a company is calculating the expense of the options to these five executives, it must assume that the stock price has zero volatility. That is right, zero.

So let me read the language, which appears on page 4 of the bill. "To the extent that an option pricing model is used to determine the fair value of an option, the assumed volatility of the underlying stock shall be zero." It will be zero. Volatility for stocks is zero. We are legislating that here on the floor of Congress today.

Now, there are lots of assumptions, which this Congress could actually begin to write right into the law, and I am sure the Republicans would like to do that. When it comes to the budget, the Republican Party is a great proponent of dynamic scoring as a way of getting the numbers to come out right. Here is an alternative, static scoring, no volatility whatsoever. Let us just legislate that.

How about the cost of the war in Iraq? We could assume that the volatility is zero. It would be zero, after all, if we simply assumed that we have already won the war, transformed Iraq into a pluralistic, secular, capitalistic democracy. So easy, we just declare the war won and we go home. No messy occupation, no truck bombs, no terrorism. Just hold a big parade to celebrate.

Hey, I have got an idea for the banner too. It could just read, "Mission Accomplished." No volatility in Iraq. Let us just legislate that out here on the floor as well.

Al Qaeda, pay no attention to Al-Jazeera broadcast. We just assume that terrorism has ended as well. We will just legislate. No volatility in terrorism.

And while we are at it, let us just legislate that if we have a couple of hot fudge sundaes every day, it will have no impact on our weight, no volatility in our weight. We will just legislate it down here. Let us just legislate.

That is what they are saying today, that stocks have no volatility. Tell them who tune into CNBC and Bloomberg all day long with their eyes glued to the set, no volatility.

What are we doing here in Congress? We have no right, we have no right, ladies and gentlemen, in making that assumption for all of the investors in our country.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I rise today in support of the rule and in support of the Stock Option Accounting Reform Act. This bipartisan legislation has widespread support on both sides of the aisle. This bill is all about maintaining the leadership role of the United States in emerging industries such as high technology and biotechnology and by recruiting and sustaining the best available workforce. This bill is about giving employees an incentive to be the best that they can be and encouraging small companies, not stifling them.

Mr. Speaker, this legislation ensures that the rank-and-file employees who have benefited from broad-based stock option plans in the past can continue to reap these benefits in the future. Broad-based employee stock option plans benefit middle-class and younger workers who have taken a chance on smaller companies right out of school with the opportunity and promise to grow with that company and share in its success professionally and financially.

In my congressional district, companies such as American Airlines, Verizon, Time Warner and Jet Blue are just a few of the companies that provide stock options as a benefit to their employees. And throughout this debate, some have claimed that stock option benefits only benefit senior corporate executives. The facts say otherwise; 14.6 million American workers held stock options in 2002, representing 13 percent of private sector workers nationwide. Eighty-five percent of stock options are held by nonmanagement workers, and one out of eight employee option-holders is either a union member or married to someone who is. And 39 percent of the employees earning stock options earn only $30,000 to $75,000 a year.

Meanwhile, this bill is also about combating abuse in executive compensation. The bill immediately requires the expensing of all stock options given to the top five executives of a company, but exempts small companies from this requirement for 3 years so that they do not get penalized disproportionately, a balanced and fair compromise.

There are undoubtedly reservations about having Congress enact accounting laws, and I share these reservations and counsel that we should be prudent in our approach. However, the granting of stock options to certain employees in the early and growth stages of a company, particularly in a technological industry, has been a critical component and the success of many technological companies and technological innovations that many Americans utilize, including the devices we carry around with us in the House.

Mr. Speaker, this is bipartisan legislation which reflects the kinds of issues that this Congress needs to address to jump-start our economy with quality jobs for all of American workers. I urge my colleagues to join me in voting for this bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I thank my colleague from Florida for yielding me the time.

Mr. Speaker, I had an amendment to the Committee on Rules that unfortunately did not get a part in this debate process. My amendment to the bill of the gentleman from Louisiana (Mr. BAKER) would allow companies that voluntarily expense all employees' options to continue doing so. I contend, and I submit, that the original bill, H.R. 3574, would bar them from that practice.

At a recent hearing I held as chairman of the Committee on Energy and Commerce Subcommittee on Commerce, Trade, and Consumer Protection with jurisdiction over FASB, the Financial Accounting Standards Board, the chairman of FASB said that 576 companies are currently expensing options. Think of that, 576 are expensing options, and as it now stands, H.R. 3574 would prevent these companies from continuing to voluntarily expense stock options.

Now, my amendment would correct that, and I believe congressional interference into FASB rule-making sets a dangerous standard and a precedent and that the process should be left to independent experts. And as the bill now stands, that is not true. We hope we can correct it, but my amendment was not included as part of this debate.

And I filed this amendment in the Committee on Rules to correct it, and subsequent to that, I think the proponents of this legislation realized the wisdom of my amendment. In fact, I think they have adopted it as their own in the manager's amendment, and I consider that high flattery that they would take what we offered and adopt it as a manager's amendment, but I still believe that this stand-alone amendment would make a better point in this case for why FASB should be left intact, and we should not, as Members of Congress, go about the process of instituting, by statute, written accounting rules.

In fact, I know of no occasion in history in which Congress, by statute, has written an accounting rule, and so I do not think Members are that confident that they can go ahead and disregard the unanimous advice of the President's leading economic advisers and the most famous investor in history.

When we think about it, the most famous investor in the country indicated that in a sense this bill H.R. 3574 sets an accounting rule that is in direct contradiction to the treatment of the same item in the Tax Code. So Warren Buffett has 62 years of investing experience. That seems to be a lot, a lot more, perhaps, than many of us here in the House, and I think if his recommendation is that we not institute a statute which changes the accounting rule, we should also abide by what he is talking about.

We saw what happened with Enron and WorldCom, and they paid themselves tens of billions of dollars in stock options. And they were never accounted for, and I do not think this bill is going to do it. And I think my amendment would have helped.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I thank you for your indulgence in hearing this debate today and for your wisdom and hard work to be with us through this process.

Mr. Speaker, what we have heard today is, Members of Congress from all across this great country, California, Oregon, Florida, Texas and other places, who have talked about the need and the desire for us to pass this legislation that we have before us.

I am proud that our speaker, the gentleman from Illinois (Mr. HASTERT) and our majority leader, the gentleman from Texas (Mr. DELAY) are fully in support of this bipartisan legislation, legislation that has been brought to the floor through the leadership of the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) and the gentleman from Texas (Mr. BARTON), who is the chairman of the Committee on Energy and Commerce, and certainly the words from the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, in talking about how this excites America and workers to achieve not only dedication and hard work, but also encourages biotech firms.

I think this is exciting. I think this is the right thing. I think this is what Congress should be doing in the leadership of the gentleman from Texas (Mr. DELAY) and the gentleman from Illinois (Mr. HASTERT) to make sure this kind of legislation consumes our time, is important to America and our future.

In 2002, nearly 15 million Americans held stock options, about 13 percent of private sector workers nationwide. About 85 percent of the existing stock options are held by nonmanagement workers. This is a whole lot to do about allowing people who get up and go to work every day, Mr. Speaker, who care about not only this country and about their families, but this offers them to protect that nest egg that grows.

I am proud of what the Republican Party is doing by bringing this legislation to the floor. I am equally as proud that it is bipartisan, because it is doing the right thing for people, and I stand in support of this, encourage my colleagues to support the underlying legislation in the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

☐ 1130

PROVIDING FOR CONSIDERATION OF H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 724 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 724

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except: sections 116, 126, 130, and 131. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

H. Res. 724 provides for consideration of H.R. 4850, the District of Columbia Appropriations Act of 2005, under an open rule, as is customary with most annual appropriations measures.

I am very pleased that the normal, open amendment process outlined in H. Res. 724 will allow a Member to offer any amendment to the bill, as long as it complies with the standing rules of the House.

The rule provides 1 hour of debate in the House on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The resolution waives all points of order against consideration of the bill.

H. Res. 724 waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill, except as specified in the resolution.

H. Res. 724 also authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. This procedure will help the House in considering amendments in a more orderly manner. Finally, H. Res. 724 provides for one motion to recommit with or without instructions.

Mr. Speaker, with respect to the underlying legislation, I want to begin by commending the chairman of the Subcommittee on the District of Columbia of the Committee on Appropriations, the gentleman from New Jersey (Mr. FRELINGHUYSEN). He has done a good job in working with the gentleman from Pennsylvania (Mr. FATTAH) in crafting H.R. 4850, and the bill deserves the support of the House today.

This provides the District of Columbia with a $560 million Federal payment, and it provides $8.2 billion in funds for the District of Columbia's governmental activities. Both of these figures match the President's budget request.

On a parenthetical note, I would note that the county in which I live, Gwinnett County, Georgia, has 50 percent more citizens than the District of Columbia and provides all the same services with the exception of welfare, and it does it for $1 billion a year.

Mr. Speaker, this rule provides for an open amendment process for consideration of the FY 2005 District of Columbia appropriations bill. I urge my colleagues to support this fair rule.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER) for the time.

Mr. Speaker, this rule is typical for most appropriations bills, and I would support it. I rise today, albeit reluctantly, in support of the District of Columbia appropriations bill for fiscal year 2005.

Mr. Speaker, as there is no perfect legislation and certainly not when it comes to funding matters, I would be remiss if I did not say that the bill includes provisions that are controversial and detrimental, in my view, to the District's residents and the country as a whole. I do not have to tell any of my colleagues about the uniqueness of the District of Columbia as a Federal city.

It is the only place in the Nation where constitutionally Congress can exercise micromanagement at the highest and lowest levels. It is the petri dish of the country where the ideological differences of those in this body wreak havoc on the lives of some 560,000-plus District of Columbia residents.

Taking into consideration the fact that the District of Columbia has no voting representation in Congress, we should be mindful of the privileged duties and be careful not to put our own parochial agendas on the table when considering this legislation. The underlying legislation includes a direct Federal funding increase for the District of $18 million over last year. A large part of the increase will go towards paying the cost of the District's court system as well as related criminal justice programs.

The bill also provides for direct appropriations for the Resident Tuition Support program and $13 million for District of Columbia charter schools. It also includes $14 million for school vouchers, despite the fact that a significant portion of the funds appropriated last year for this controversial program went unused.

The underlying legislation also includes legislative riders that prohibit the use of funds for abortions, registering same-sex couples. And for the distribution of clean needles and syringes. This bill has quickly become a smorgasbord of controversy.

Hot-button social issues should not enter into play when considering the needs and lives of the residents of the Nation's capital. It is high time that we as lawmakers in this great body stop playing political chess games with our responsibility to this process. We should allow the people of Washington, D.C. to govern themselves.

Funding for the education of the Nation's children and the overall healthy well-being of its citizens should be our primary focus and goal. The District of Columbia appropriations bill is not the stage to act out experimental projects that will not necessarily prove beneficial in the end. We must be mindful of the District's citizens that we have been given charge of. They are silenced in this process by the Constitution, and we must be responsible in our actions on their behalf.

I urge my colleagues to consider this responsibility when voting on the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON), who knows more about this appropriations measure and about the things of which I just spoke.

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time. I thank the gentleman from Georgia (Mr. LINDER) and the gentleman from Florida (Mr. HASTINGS) for their work in the Committee on Rules on this bill.

Everything is relative in the Congress and, I appreciate the bill that has been brought forward this year, particularly when I compare the time that this body has had to take up on the smallest appropriations in prior years, and so I thank both of the gentlemen for their work. I want to thank and congratulate the full committee chairman, the gentleman from Florida (Mr. YOUNG), and the full committee ranking member, the gentleman from Wisconsin (Mr. OBEY), for the way in which they urge and guide our appropriations bill through, because of their concern for the process and their respect for self-government in the District of Columbia. And their guidance has been, I think, heard and felt this year.

I am particularly grateful to the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), who did all the heavy lifting on this work. I am grateful for their bipartisan efficiencies and cooperation in handling this appropriations. They have been mindful of the fact that

Members are here appropriating funds for a city, not a Federal agency; and that makes all the difference in the world.

First, most of the money comes from the taxpayers of the District of Columbia. This is one of the great anomalies that the Congress has thrust on itself to force taxpayer funds from the District of Columbia to come here and be blessed. And by the way, I thank the committee that from time immemorial the committee does not, in fact, go into the body of the District of Columbia budget. Everybody understands that that would be treacherous. So mostly it comes here for oversight and for attachments that the ranking member spoke of, attachments that would never be abided in Members' own districts. But I am very pleased to simply have this money get out of here with the kind of rule that the Committee on Rules has come forward with this year.

There are huge hardships in any delay in the District of Columbia appropriations, hardships, chaos in city operations, hardships on District of Columbia residents. When our appropriations do not go smoothly and it has to go back and forth, the biggest hit is taken by school children and the schools of the District of Columbia. All manner of problem breaks out with ordering school books, with having to send supplies back because the appropriations is not out yet. I will not regale you with those problems this year, particularly since the Committee on Rules and the Committee on Appropriations have worked so hard to bring this forward.

I do note for Members, particularly those Members who have not had to go through this ordeal before, who are scratching their heads saying, what am I doing here considering the appropriations of a city, that this appropriations has had the oversight of the authorizing committee, the Committee on Government Reform, whose chairman is the gentleman from Virginia (Mr. TOM DAVIS) and the ranking member is the gentleman from California (HENRY WAXMAN).

It has had the oversight of, of course, the Committee on Rules, and I thank them for the way they have done the rule this year. And, of course, it has gone through the subcommittee and the full Committee on Appropriations.

Let us look and see what these three committees have come forward to recommend to this body. I will call it a clean bill because everything is relative, and this is a clean dirty bill; but it is the kind of bill, perhaps the best bill, that one could get from this House.

Now, all the old attachments are there, and the ranking member has spelled out some of them. I cannot say enough about how much those attachments are resented in the District of Columbia. I cannot say enough about the price residents pay for them. Perhaps the worst price is paid for the needle exchange attachment where none of our own money, there is some private money, but none of our own money can be used to save the lives of men, women, and children with AIDS now being spread in the District of Columbia faster than in any other jurisdiction in the United States, most of it intravenously; and we cannot do what I must tell you dozens and dozens of jurisdictions do and have done with great effect in halting AIDS, and that is to professionally use needle exchange programs now recommended by literally all the great scientific authorities.

The attachment forbidding abortions for poor women when hundreds of jurisdictions all over the United States, in fact, fund abortions for poor women speaks for itself. Why should one jurisdiction be the exception in the United States of America?

□ 1145

Of course, I suppose the House should really think about how to hang its head in shame, that there is an attachment that bars the District of Columbia from using its own money to lobby for its own rights. George Washington, Thomas Jefferson, try not to turn over in your graves. In the year 2004, we have the Congress saying that American citizens cannot use their own tax money to lobby their own Congress where they have no vote for their own rights.

My colleagues heard me. I hope they will not hear me have to say this again. I do not think that anyone in this House has anything to fear from hearing from elected officials and from the residents of the District of Columbia using their own money to petition their government for their basic rights. It is one of the great shames of this bill, and one that I cannot believe today enjoys majority support of Members of this House.

So I am asking, in short, the House to respect the work of the Committee on Rules, the work of the Committee on Appropriations, and yes, by direction the work of the Committee on Government Reform, and in doing so, I am going to lead by example.

I am asking Members not to come forward with amendments. I am going to lead by example because there is an amendment that I feel strongly about. Again, the gentleman from Florida (Mr. HASTINGS) spoke of that amendment as well, and that is an amendment I fought in this House with a lot of Republican support last year, when I sought to keep the House from imposing vouchers against the will of a supermajority of the elected officials, the great majority of the people of the District of Columbia, and yet, this was done to the District what has not been done to any other district.

I intended to come forward with an amendment, even if I had to withdraw it, and I would have had to withdraw it because it would have been out of order, to take the $4 million that is lying on the table, that cannot be used for vouchers because not enough residents came forward in the grades that the bill calls for in order to take up the vouchers. All along we had said that what District residents want is charter schools if there is to be an alternative. They have our D.C. public schools. We have the largest number of charter schools per capita in the United States, and I think that is shown by the fact that the waiting lists continue to grow in charter schools. Yet there is $4 million left on the table that has not been used for school vouchers.

So I intended to come forward and say, Pick that money up off of the table, and let it be used by the children of the District of Columbia; but I am going to respect the work of the Committee on Rules, I am going to respect the work of the Committee on Appropriations because they have come forward with a bill without additional attachments, and I am not going to offer that amendment. It particularly would have been subject to a point of order or would have drawn people down here to talk about it.

But if the point is to compliment the Committee on Rules and the Committee on Appropriations for the efficiency with which they have handled this committee, then I think I ought to get in line with what they have done, and I will, therefore, not come forward with such an amendment during the debate.

The matter never passed in the Senate. It passed here by one vote. This was the test vote for the prescription drug vote. This was the vote that was kept open over 40 minutes while they flipped somebody in order to let vouchers go through. It never did get through in the Senate. It was simply attached to an omnibus bill.

This is the great hall of democracy, great Congress of democracy. So I feel strongly about it, but I also feel strongly about the way in which the Committee on Appropriations and the Committee on Rules have accommodated the District of Columbia during this appropriations process, and I am not going to waste the time of this body, and I ask other Members not to waste the time of this body.

I understand a letter went around concerned that a Council member had put a bill in to allow noncitizens to vote in local elections. I do want Members to know that that was put in on the last day of the Council. Everybody went home, taking no action on it, and this is an election year.

One of the things we ought not to do is rise to every bait. Obviously, this is not a bill that was considered serious, certainly not at the moment, because it would have been introduced earlier and there would have been some action on it. If we really feel so moved to come to the floor, it seems to me we ought to wait and see if the District of Columbia, in fact, is going to act on the matter or if there, in their own Council, they can dispose of the matter. At least give us that respect.

Just like there were Members who were concerned about slots. Boy, they could not have been more concerned about slots, as I am. I am with my good friend, the gentleman from Virginia (Mr. WOLF), when it comes to gambling. I am kind of an extremist on the question of gambling. I consider the kind of gambling that goes on, in slots especially, a kind of tax on the poor.

They tell people it is going to be used for their schools. Fine, well, let people who can afford in a progressive fashion to pay for schools do it. It is a real game played on the poor. I could not hate it more. The people who bring it forward in this city are playing a game on the city, particularly on the poor people of the city.

This is basically a class matter. Better-educated people look at the odds and tend not to play these slots. Poor people who, after all, do not have the same opportunities, who cannot see any other way for their ship to come in, are most vulnerable to certain kinds of gambling measures.

So this matter has come forward in the District. Guess what, the majority of the City Council has already said they are going to overturn it.

Suppose we had jumped up here and run to the Committee on Rules and run to the Committee on Appropriations without giving the sensible Council of the District of Columbia the right to say, Slots is not economic development, and we do not want that sleazy stuff in the District of Columbia. We do not want it even if we were not the capital of the United States, but we certainly do not want it, not in the capital of the United States.

We understand who we are, and I am saying to other Members, who would be inclined to come down and offer amendments, to give us the opportunity to consider these matters. My colleagues can always have their opportunity because there is always another appropriation, so they can always come forward with the very same matter. At least give us the respect of dealing with the matter ourselves, particularly if it is a bill that has only been introduced at the end of the session, then everybody went home.

Note that all of the committees I have cited have come to the same conclusions, have come forward with a cleaner bill than I have seen in some time. These are only the committees that spend any time on the District of Columbia, and I apologize to all Members that we are having to spend any time whatsoever on an appropriation that, if it means anything to them, they are in trouble because when the people back home find out they are spending any but the time that they are committed to spend by law on somebody else's money, and almost all of this is our money, I do not think they would be very pleased.

Anything that would be, shall we say, "untoward" had opportunity to come to the attention of the Committee on Appropriations, the authorization committee, and the Committee on Rules, and they have put forward the bill that we see before us; and I ask my colleagues to pass the bill we see before us.

Finally, Mr. Speaker, I have to certainly say that while I have apologized that Members are having to consider this matter at all, and I do apologize for it, at the same time I want to say this is a burden that they could relieve themselves of. This entire process violates the most basic American idea, that is, the idea of Federalism. It is the idea of local control on local matters.

The gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) have worked very hard to make this process no worse than it already is by doing it as the law requires. I ask my colleagues to respect their work. I ask them to respect the people of the District of Columbia. I ask my colleagues to pass this rule so that we can get the District's own taxpayer-raised money to the District of Columbia.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3574, the Stock Option Accounting Reform Act.

The SPEAKER pro tempore (Mr. LINDER). Is there objection to the request of the gentleman from Ohio?

There was no objection.

STOCK OPTION ACCOUNTING REFORM ACT

The SPEAKER pro tempore. Pursuant to House Resolution 725 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3574.

The Chair designates the gentleman from Iowa (Mr. LATHAM) as chairman of the Committee of the Whole, and requests the gentleman from Texas (Mr. BONILLA) to assume the chair temporarily.

□ 1156

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes, with Mr. BONILLA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

I would like to commend the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, for his great leadership on the Stock Option Accounting Reform Act. His legislation strikes a significant compromise between those who believe that expensing options will help prevent some of the corporate governance abuses we have seen in the last few years and those who believe that expensing options will harm our most innovative companies, especially those in the high-tech industry, but not exclusive to them.

Requiring publicly held companies to record as an expense options granted to the chief executive and the next four most highly compensated officers will help preserve broad-based employee stock options and, at the same time, addresses the corporate governance concerns voiced by advocates of expensing.

Our most successful enterprises, many of which are small businesses and venture capital companies, would not be as successful as they are today but for their ability to attract and retain talented employees by giving them ownership in that endeavor. Ownership rewards due to one's personal contribution to a successful enterprise is the ethos of our capital markets system.

While I have been, and continue to be, a strong supporter of FASB's independence, I am supportive of the gentleman from Louisiana's (Chairman BAKER) legislation because I believe FASB's proposal, as currently drafted, would do harm to our most innovative companies. While I believe that FASB should be separated from the political process, and I have supported FASB's independence during all of my 20-plus years here in the Congress, its authority is subject to review by the Congress.

In extraordinary circumstances, and I believe this is one of those rare occasions, FASB's rule-making should be halted when its proposal will do harm to our economy, and I believe that is the case here. The Congress is ultimately responsible for the economic well-being of this country. Policies that could create an environment that is hostile to innovation and entrepreneurship must be reviewed and altered accordingly.

Therefore, I urge all of my colleagues to support the gentleman from Louisiana's (Chairman BAKER) important legislation.

Mr. Chairman, I reserve the balance of my time.

☐ 1200

Mr. KANJORSKI. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, we are unfortunately meeting today to consider the Stock Option Accounting Reform Act. This bill would begin the process of repealing the reforms we enacted in the historic Sarbanes-Oxley Act just 2 years ago. As I repeatedly noted during the Committee on Financial Services' consideration of these matters, deciding what should be accounted for and how it should be accounted for is the job of the Financial Accounting Standards Board, not the Congress.

Nevertheless, I recognize the strong feelings and deep concerns expressed by the parties on the other side of this contentious issue. The accounting treatment of stock options has caused significant controversy for more than a decade and FASB's decision to revisit this matter has rekindled a fiery debate.

Although I have great sympathy for those individuals in the high-tech community who have raised considerable reservations about the expensing of stock options and the effects on business operations and compensation plans, H.R. 3574 would interfere with FASB's independence. It could also undermine the credibility of financial reports.

We need to work in Washington, particularly in the wake of recent accounting scandals, to improve the transparency of financial reporting statements in order to help average investors make better decisions. A decade ago, the Congress strong-armed FASB into abandoning an effort to adopt a rule requiring stock option expensing. We now know that this retreat helped contribute to a recent financial storm on Wall Street. In fact, a recent study by economists at Texas A&M found that companies where CEOs had options equal to 52 times their annual salary were 70 percent more likely to have a restatement than similar-sized companies in similar industries where CEO had little option wealth.

In considering this bill today, we may, therefore, ultimately allow history to repeat itself. We would for the first time also be making the Congress an appeals board for the development of accounting standards. Support in the business community for mandatory expensing has increased significantly in the wake of the recent tidal wave of accounting scandals. A Merrill Lynch study found more than 90 percent of institutional investors want stock options expensed. This view is shared by the American Institute of Certified Public Accountants, the Investment Company Institute, and the Council for Institutional Investors. Our largest accounting firms have also called for the expensing of stock options.

In addition, nearly 600 companies have already voluntarily adopted or are in the process of adopting fair-value expensing of stock options. Respected corporations like Home Depot, General Motors, General Electric, Wal-Mart, Microsoft, and Amazon have all decided to treat stock options as expenses.

In a recent letter to FASB, Citigroup emphasized its "strong support for private sector standard setting" and "its opposition to congressional intervention on the accounting for stock options."

Furthermore, in recent proxy votes at IBM, Peoplesoft, Hewlett-Packard, and Texas Instruments, the shareholders of these leading high-tech companies have voted in favor of stock options expensing. Moreover, in May the shareholders of Intel approved a proposal asking the company to expense stock options. This proposal passed with 54 percent of the 5.7 billion votes cast. To date, however, Intel's management has disregarded the decision of its stockholders.

Numerous consumer groups, including the Consumer Federation of America, Consumers Union, and Consumer Action, are also supporting the expensing of stock options. They have determined that the legislation we are considering would deprive investors of comprehensive and transparent financial transactions. Many in the labor movement share these concerns. These entities include the AFL–CIO, the Teamsters, and AFSCME, among others. Each of these groups has called on us to reject H.R. 3574.

Additionally, our Nation's leading financial regulators have previously made the case for options expensing and recently advised us to preserve FASB's independence. In a recent letter to me, SEC Chairman Donaldson notes his strong support for an independent and open standard-setting process for establishing accounting standards.

At a congressional hearing in April, Federal Reserve Chairman Alan Greenspan said, "I think the Congress would err in going forward and endeavoring to impede FASB," in its consideration of stock options expensing rule.

Moreover, leaders on Capitol Hill have already opined on the need to protect FASB's independence. In a recent op-ed in the Wall Street Journal, the chairman of the Senate Banking Committee asserted that Congress should "stay out of FASB's rulemaking, and let the experts do their job." Because many of his colleagues in the other body on both sides of the aisle agree with this assessment, this legislation seems unlikely to become law.

In sum, Mr. Chairman, I agree with the assessments of my esteemed colleagues, leading regulators, reputable financial experts, concerned consumer groups, interested labor leaders, and a growing number in the business community regarding the need to protect FASB's independence.

To strengthen investor confidence and promote the international convergence of corporate reporting standards, FASB must proceed with diligence, and without political interference, in its consideration of a rule proposal on the mandatory expensing of stock options. I urge my colleagues to reject H.R. 3574.

Mr. OXLEY. Mr. Chairman, I ask unanimous consent that the gentleman from Louisiana (Mr. BAKER) be permitted to control the remainder of my time for consideration of this bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I speak in favor of this bill for the fundamental reason that this protects an extremely successful tenet of the American innovation economy. I look around my district and what I see is a collection of companies, 10, 20, 30 employees doing incredible things and frequently using stock options. These are companies which may be on the cusp of actually developing a cure for diabetes, a company with a couple dozen employees which may develop a cure for stroke, a company with a couple dozen employees that have a solution so you cannot see muzzle fire from our soldiers' rifles. These type of companies use this system to bring in talent, and bringing in talent is absolutely fundamental to the innovation economy of America.

Stock options have been one of the most successful mechanisms to make sure that when someone has a good idea, they can marry it with good brains around them who can come in without a paycheck. Let us preserve and protect the ability to use stock options.

Mr. KANJORSKI. Mr. Chairman, I reserve the balance of my time.

Mr. BAKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to acknowledge at this time the leadership of the gentleman from Ohio (Chairman OXLEY) on this most important and difficult matter. Over the course of the past months, the committee has engaged in numerous hearings and roundtables to discuss the advisability of FASB's recommendation and to craft the appropriate remedy given the committee's concerns. The chairman at all times has been insistent on a balanced analytical process to afford all stakeholders the ability to be heard.

I certainly would also wish to extend my appreciation to the leader on the Democratic side, the gentlewoman from California (Ms. PELOSI); and the gentlewoman from California (Ms. ESHOO), who have been at the forefront of leading the charge from their perspective on what they both believe to be an important economic tool for job creation.

Mr. Chairman, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Chairman, I yield 4 minutes to the gentlewoman from California (Ms. ESHOO), a chief sponsor of the bill.

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. KANJORSKI) for yielding me this time.

I am very proud to be the lead Democratic sponsor of this bill. My partner, the gentleman from Louisiana (Mr. BAKER), the gentleman from California (Mr. DREIER) before him, and colleagues from both sides of the aisle, this is a true bipartisan effort: over 100 cosponsors, including leadership from the Democratic side, our distinguished leader, the gentlewoman from California (Ms. PELOSI), as well as from the Republican side. This is not a partisan issue, nor should it be.

What this debate is about is not simply the grays and the green eye shade issues of accounting. What stands front and center in this issue is the American economy and how we continue to spur it. There are three major ingredients that other countries around the world have come to understand because they have studied it, and it has been part of our success: venture capital, the protection of intellectual property, and stock options. Why stock options? Because it is a magnet that attracts workers to a company; and with that magnet it is stated, yes, we are willing to take a risk and make this company grow. And when we do, we will all share in the rewards. That is intrinsically American.

Now, have there been people who have abused stock options at the top? Sadly, that was the case. And the Congress stepped in because the SEC needed us to step in. The SEC did not do what it was supposed to do, and the Sarbanes-Oxley legislation was passed. So in terms of the debate, leave the SEC alone, leave the FASB alone, we should not interfere, we should not step in, that case is absolutely blown by having adopted Sarbanes-Oxley.

The FASB has put out an accounting standard. They understand that they have nothing to do with the economy, and they are proud of saying that. The Congress does have a responsibility for anything that impinges on our economy. There are institutional investors in this country that are not interested in individual stakes and shareholders. That is all right; it is the view that they hold.

So this debate today, and make no mistake about it, listen carefully, this is about protecting a tool that has paid off for rank-and-file workers across the country. This is not only about high technology and biotechnology. In fact, most of the stock option holders' rank-and-file are outside of those two industries, and they represent 14.6 million workers in our country.

Now why expense the people at the top? Because they come to their compensation package differently. Rank-and-file workers do not negotiate with a board of directors; the top five in the company do. This is balanced. This is important. This is essential. Do not wreck one of the most valuable tools that we have in our country today to expand our economy, to expand new businesses and to have a stake in the future of America. I urge my colleagues to support H.R. 3574.

Mr. Chairman, I'm proud to be the lead Democratic sponsor of the Stock Option Accounting Reform Act, and thank Chairman BAKER for his leadership, moving it through the Financial Services Committee with such strong support. The legislation is urgently needed to avert the implementation of new accounting rules that would have a disastrous impact on American companies, and more importantly, American workers.

The Financial Accounting Standards Board (FASB) has long threatened to require stock options to be deducted from a company's earnings, and this bill would prevent FASB from implementing this requirement for many critical reasons. Mandatory expensing of stock options would have a terrible impact on companies that rely on options to recruit and retain the most talented employees. Without stock options, many of these companies—including some of the most successful high-tech and biotech firms—would not even exist today.

Stock options have become associated with corporate scandals and excessive executive compensation, leading to a call for expensing as the ultimate prescription for these problems. But stock options were not the cause of the recent corporate accounting scandals, and eliminating stock options would do nothing to instill corporate responsibility or accountability. The crimes committed at Enron, Tyco, and other companies would not have been prevented if expensing was the accounting rule of the day.

The Sarbanes-Oxley legislation, which I was proud to support, was passed to prevent future corporate swindles. If companies are forced to expense stock options, most will drop broad-based option plans because of the prospect of taking a huge and misleading charge against their bottom line in accounting statements.

Make no mistake about it. Stock option plans or some other form of lucrative compensation for senior executives will undoubtedly continue to be offered. Consider this: Only a small portion of employee-held options—about 15 percent—are held by corporate management. 14.6 million American workers—13 percent of private-sector workers nationwide—held stock options in 2002.

It's ironic that many are calling for the expensing of stock options in order to reign in executive compensation, when expensing stock options would do little to accomplish this. Rather rank and file employees would be the ones to lose, because they don't get to negotiate with a Board of Directors for their compensation package.

H.R. 3574 also answers many of the critics of stock options who maintain (wrongly) that this compensation is an "executive perk" and a tool to avoid reporting executive salaries. The Stock Option Accounting Reform Act requires companies to expense options granted to the CEO and the next four highest paid officers. Small businesses are exempted from this requirement and cannot be required to expense options for the 3 years following an initial public offering.

The bill would also enact new disclosure rules for companies who offer stock options, requiring them to disclose additional information regarding share value dilution and other stock option-related information.

Some have also argued that FASB's independence must be protected and accounting standards—like other technical rules—should not be set by Congress. While in general this is the case, there are many occasions when expert bodies fail to fully protect the public interest and it's incumbent on Congress to step in. For example, the Securities and Exchange Commission—an independent, expert agency—failed to adequately protect investors and the public from the corporate scandals of recent years: Congress stepped in to enact the reforms of Sarbanes-Oxley.

Recently, a "determination on drug safety" was made by the Food and Drug Administration which found that the morning-after birth control pill was not safe enough to approve for over-the-counter sale, despite ample evidence to the contrary. I would hope that if the FDA does not change its position on the morning-after pill, we will act to overturn this decision as well.

Even the Chairman of FASB recently acknowledged that the Board has proceeded too quickly and the implementation of the new expensing rules may need to be delayed. H.R. 3574 would simply ensure that the rules are not implemented for at least a year, pending economic impact studies by the Commerce and Labor Departments.

Given the radical change the new rules would establish and the potentially devastating impact on employee ownership programs, Congress has the responsibility to make sure that these rules are appropriate and implemented responsibly. I urge my colleagues to support this legislation and protect broad-based employee ownership programs.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, the illusion that stock options only benefit fat-cat corporate executives is just that, an illusion. Fifty-three percent of companies that offer stock option plans offer them to all employees. Within the tech sector, 88 percent offer them to all employees. With start-ups it is even more important. According to the National Venture Capital Association, more than 70 percent of venture-backed companies award stock options to all employees.

As my colleague, the gentlewoman from California (Ms. ESHOO), has noted, this is an essential component to the innovation economy that really is pulling the entire American economy forward, but that does not seem to matter to FASB.

□ 1215

When stock options that have a strike price of $40 are being traded at $18 and the FASB accounting system accounts for that as a valuable option, there is something wrong with the standards that they are using. We need to study this matter and to make sure that in our efforts to be clear, we do not destroy the tech economy.

Mr. KANJORSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. I thank the gentleman for yielding time.

Mr. Chairman, I rise today in strong opposition to this legislation and in support of the Kanjorski amendment which is going to be offered later.

The real issue we are debating today is whether or not we in the House want to set a dangerous precedent and politicize the process of setting accounting standards. The Financial Accounting Standards rule does not in any way, despite the implication of some other statements, prevent the issuance of stock options. It just says you have to honestly tell the shareholders what their real cost is.

If we pass this bill and prevent the SEC from adopting FASB's draft rule, American workers and other investors may invest their pensions and other retirement incomes in unprofitable companies because they will continue to be given misleading financial statements.

Under our current accounting standards, companies are allowed to choose whether or not to expense stock options, and many have chosen not to report any expense of this compensation, even when they claim stock option expenses on their tax returns. Stock options are the only form of compensation that may be omitted from a corporation's financial statements. The issue is not whether these forms of compensation provide useful incentives, but whether all of them should be reflected honestly on company financial records as company expenses.

Objective observers are virtually unanimous in calling for expensing of stock options. They include Federal Reserve Chairman Alan Greenspan, Treasury Secretary John Snow, SEC Chairman William Donaldson, Public Company Accounting Oversight Board Chairman William McDonough, former SEC Chairman Arthur Levitt, and investor Warren Buffett, who in a July 6, 2004 editorial gave, quote, this bill's opponents an "A" for imagination and a flat-out "F" for logic.

It is also supported by the Council of Institutional Investors, the Investment Company Institute, Financial Services Forum and the Consumer Federation of America. The FASB standards are about having honest and not misleading reporting to people who have invested in a company.

I urge my colleagues to oppose this legislation.

Mr. BAKER. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. I thank the gentleman from Louisiana for yielding me this time.

Mr. Chairman, I rise in strong support of the Stock Option Accounting Reform Act, and I urge my colleagues on both sides of the aisle to support this bill without any damaging amendments. This legislation is a necessary response to proposed damaging regulations by the Financial Accounting Standards Board which threaten broad-based employee stock options. This bill will not cloud basic accounting principles as investors and analysts who are interested in adjusting an issuer's income statements for the cost of stock options already have the necessary information available to them.

This FASB rule will lead to greater confusion for investors as this rule actually allows corporate accountants to pick and choose their expensing methods instead of implementing a uniform standard.

This FASB rule will effectively destroy broad-based stock option plans, plans that have spread real wealth creation among employees as opposed to the consolidation of wealth at the top of a corporate pyramid.

The FASB rule hurts the ability of high-tech firms to recruit and retain good personnel as stock options were and still are used by start-up and venture capital firms to attract the talent that is needed when capital is sparse.

Finally, FASB, by definition, does not take economic impacts into effect when issuing its regulations, meaning they did not take into consideration the negative effects of this bill when drafting this rule. This bill also actually allows for transparency at the top, the top five individuals of a corporation, those who are most at risk in putting a company in danger when they play around with stock options.

Mr. Chairman, for all those reasons I urge my colleagues to support this balanced approach to the issue of stock options.

Mr. KANJORSKI. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, I rise today to oppose H.R. 3574, the so-called Stock Option Accounting Reform Act. The bill will actually take away the power from the Financial Accounting Standards Board, an independent agency, to protect investors, pension holders and workers by requiring corporations to expense stock options.

In the wake of Enron and other corporate scandals, this is the wrong message to be sending to all those workers and investors who lost their life savings and retirement security, and it is the wrong policy to pursue if we want to boost consumer confidence and improve our economy.

We know from all the corporate scandals that have come to light that accurate and transparent accounting is vital to corporate accountability and shareholder confidence. Yet the accounting treatment of stock options allows corporations to continue to distort their true financial standing.

Stock options make up 80 percent of compensation packages for corporate managers. In 2003, CEO pay at 350 major U.S. public companies averaged $8 million, with stock options as the largest component. Despite those facts, stock options are the only form of compensation that may be completely absent from corporate financial statements.

H.R. 3574, a supposed compromise from the FASB rule, only counts stock options given to the top five executives, when calculated using what Warren Buffett describes as "fuzzy math," in the bottom line but not those options given to all the other employees.

The special accounting treatment of stock options which this bill would allow to continue has fueled abuses linked to excessive executive pay, inflated earnings, dishonest accounting and corporate misconduct. Nobel prize winner Joseph Stiglitz believes that the absence of stock option expensing requirements has "played an important part in the spread of other forms of financial chicanery."

A report by a blue-ribbon panel of the Conference Board found that the current treatment of stock options has fostered a vicious cycle of increasing short-term pressures to manipulate earnings to bolster stock price so that those receiving options could cash in, take the money and run.

FASB is currently working to address this problem, yet Congress with the passage of this bill will undercut its effort. I would suggest that we let FASB do its job and oppose this legislation that would eliminate the possibility of the transparency that stockholders and pension recipients need.

Mr. Chairman, I rise today to oppose H.R. 3574, the so-called Stock Option Accounting Reform Act. This bill will take away Financial Accounting Standard's Bd., FASB's, an independent agency, power to protect investors, pension holders, and workers by requiring corporations to expense stock options. In the wake of Enron, and other corporate scandals, this is the wrong message to be sending to all those workers and investors who lost their lives' savings and retirement security, and it is the wrong policy to pursue if we want to boost consumer confidence and improve our economy.

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The special accounting treatment of stock options which this bill would allow to continue, has fueled abuses linked to excessive executive pay, inflated earnings, dishonest accounting, and corporate misconduct. Nobel Prize winner, Joseph Stiglitz, believes that the absence of stock option expensing requirements has "played an important part in the spread of other forms of financial chicanery" where corporate energy and creativity was "directed less and less into new products and services, and more and more into new ways of maximizing executives' gains at unwary investors' expense." A report by a blue-ribbon panel of the Conference Board found that the current treatment of stock options has fostered a vicious cycle of increasing short-term pressures to manipulate earnings to bolster stock price so that those receiving options could cash-in, take the money, and run.

FASB is currently working to address this problem, yet Congress, with the passage of this bill, will undercut its effort. FASB's proposed rule would remove the perverse incentives to manipulate earnings and help bring transparency to corporate financial statements. FASB is trying to close an accounting loophole that has allowed corporations to understate executive compensation and distort the companies' financial standing. Investors and pension plan managers want the kind of accurate financial information that FASB's rule would provide: it would help them make informed investment decisions about retirement security. Let us let FASB do its job.

Two years ago, when we passed the Sarbanes-Oxley Act, we recognized the need to protect the Financial Accounting Standards Board, or FASB's, independence for setting accounting standards. We knew then that if we wanted true corporate accountability, if we wanted to protect investors and pension holders, then we needed to make sure that an independent body was overseeing accounting standards to which corporations had to adhere, and FASB's independence became an important part of the Act. We knew that then, but how soon we forget. As Consumers Union states, "Those reforms (to hold corporations accountable) will have proven to be all but meaningless if less than two years after they were enacted, Congress reneges on its promise and subjects the independent, standard-setting process to political interference." That is exactly what we will do—render meaningless our own reforms—if we pass H.R. 3574.

As Alan Greenspan recently said, "With respect to stock options, I think it would be a bad mistake for the Congress to impede FASB in this regard. And in this regard, as best I can judge, the FASB changes in recommendations with respect to accounting procedures strike me as correct, and it's not clear to me what the purpose of the Congress is in this particular procedure." It is not clear to me either. What is clear is that if this bill passes, we are telling investors, pension holders, and workers that Congress believes it is fine to keep them in the dark, and that corporations can continue to hide their true financial standing. I urge my colleagues to vote no on H.R. 3574.

Mr. BAKER. Mr. Chairman, I yield 2½ minutes to the gentleman from Arizona (Mr. SHADEGG), a member of the committee and an interested party in this most important issue.

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding time and I rise in strong support of H.R. 3574, the Stock Option Accounting Reform Act.

Let me make it very clear, this is not a technical issue which Congress should leave to FASB. This is not how do we account for something. Indeed, that issue presents itself here, and no one can agree on how we should account for the expensing of stock options.

But the issue that brings us here is not a technical FASB issue; the issue that brings us here is one that has great implications on public policy. That is, do we continue to incent companies to use stock options to give employees a stake in their company, which I believe all Americans want and is the key to our Nation's vibrant economy, or do we squelch that by allowing a technical rule to go into place forcing the expensing of all stock options the minute they are issued.

I submit to my colleagues that it is FASB that is acting too fast. It is FASB that is acting imprudently and without taking the time to study this area closely. Indeed, there has been no study yet of the impact on our economy were we to suddenly jump forward and require the expensing of all stock options immediately. This economy is beginning to emerge from a recession and is getting stronger every day, but it is critically important that we allow America's companies to continue to give incentives to their employees.

This is particularly true of start-ups. It may be that the big companies, those with billions of dollars in assets, can handle this requirement, but the little start-ups, the small companies that bring ingenuity to the marketplace and challenge the existing large companies in the market and our high-tech industry, have survived and indeed prospered by using stock options. They are confident that this will damage them immensely.

Harvard professor William Sahlman has said, "If the advocates of expensing win their small point and the spotlight on corporate America fades away as a result, I fear that we will end up having done nothing at all to prevent unscrupulous executives from yet again stealing their investors' money."

It is absolutely critical that we not allow FASB to treat this as a technical issue. There is not yet an agreed-upon best or even good method for calculating the value of stock options. Expensing will not make our corporate expenditures more clear or bring greater clarity to investors. It solves nothing.

I urge my colleagues to oppose it because it will hurt start-ups and it will hurt high-tech companies.

Mr. KANJORSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services.

Mr. FRANK of Massachusetts. Mr. Chairman, I appreciate the leadership the ranking member of our subcommittee is showing here. I am somewhat torn on this bill because I do agree, it is certainly beyond question, that the granting of stock options in the high technology industry, especially for start-up companies, has been enormously beneficial, and I do not want to see it changed. I do not even want to take the strong risk of it being changed, so if I were in charge of the Financial Accounting Standards Board, I would defer this. But I am not, and I do not want to be.

We are in danger, I think, on this and on other issues of collapsing entirely the notion of a kind of respect for procedures. It is a mistake for this body always to legislate to get the specific outcome it wants on a particular issue without regard to the institutional frameworks. I think the institutional framework of a separate and independent and autonomous Financial Accounting Standards Board is a valuable asset. I do not want to impinge upon it.

Members of this body are well aware that we never do anything only once. Maybe you can eat one potato chip, but you cannot overrule a board once only. If we set the precedent today of dictating to the Financial Accounting Standards Board what the accounting standards ought to be, I believe we will live to regret it.

With regard to the options, here is the issue. I think they are a good thing in companies, particularly young start-ups. They ought to be able to give them. I guess if you are an old start-up, you ought to get out of the business. Young start-ups ought to be able to continue to give them.

Here is the argument, because nothing in what FASB says says you cannot do them. What we are talking about is this: If companies are mandated to change the way in which they do the accounting on this, no change in the reality, but they change the accounting, will this leave the investment community to abandon a whole class of investments? I do not think a large number of people are now misled because it is in the footnote. I would assume if you are going to invest, you read the footnotes. But neither do I think that people will abandon the whole class of investments because when the accounting changes and it goes in the footnote to an expense, some of these companies will have gone from having shown a profit in one form of accounting to showing a loss.

That is the argument. The argument is because nothing is being proposed. It would ban stock options from being done.

What we are being told by the high-tech community, and I understand their fears, they do not want to take this risk. They are arguing that the investment community is apparently pretty dense and as long as the options are put into a footnote and they show a profit, they will invest. But if we change the accounting, the reality has not changed one iota, they will walk away from the whole class of places.

Where is the gentleman from Texas, the former majority leader, Mr. Armey? Because he is the one who said, government is stupid and markets are smart. Would he please explain to them that markets are not stupid?

In this case, he may have been right, because this is the argument. The crux of the argument is that if you change the accounting and do not change the reality, you will collapse investor interest in this whole class of industry, and I think that is wrong.

Mr. BAKER. Mr. Chairman, I yield myself such time as I may consume.

I wish to speak to the issue of FASB's independence and their track record on matters of financial accounting standards. It was in the fall of 1998 when FASB issued a statement relative to concerns about earnings manipulations by registrants in a number of industries, specifically banks, in the treatment of what was called loan loss reserves.

□ 1230

The allegation was that executives were exacerbating the amount of reserves necessary in order to offset potential volatility in financial institutions' earnings. Suffice it to say, it is a technical issue, again beginning in fall of 1998. I reference testimony of Governor Lawrence Meyer, member of the Federal Reserve, speaking on behalf of the Federal Reserve and all finance regulators. Six years later a letter issued then by the FDIC indicated that institutions should continue to determine the appropriateness of all their loan loss reserves on the basis of existing guidance set forth in GAAP and in the agency's supervisory guidance. Translation: they should ignore what FASB started 6 years earlier as an ill-conceived modification of safety and soundness provisions.

The point of this historic analysis is to provide the Congress with the understanding that FASB does not always get it right. I join with many Members of Congress in that era in expressing concerns about the unintended consequences of the implementation of FASB's rule should it be implemented.

Let us talk about what FASB has done in the course of the consideration of the issue currently at hand. The board announced their positions before a single comment from the public was solicited. The board disinvited comments on key issues of the current matter. The board disregarded the overwhelming majority of comments solicited. The board created an option valuation group to discuss valuation.

After all was said and done, apparently FASB did not find the board's work to be of much use since it decided to revert to the same valuation models before appointing the board. FASB refuses to conduct road tests of actual valuation models, meaning it is not trying out to see what the real-world consequence is of its valuation methodology. It has refused to respond to industry presentations on the existing valuation methodologies. It has refused to respond to recommended alternatives and compromises.

What has the board done? I alert the Members who have not yet received it to an e-mail distributed by a representative of FASB's foundation, I assume an independent arm of an independent agency prescribed with the responsibility of engaging in political correspondence. What is a sad note about this particular e-mail, if one goes to the two phone numbers listed at the bottom of the e-mail, which is probably in all Members' offices, and they call those numbers, they can then refer themselves to directory assistance and ask for FASB's telephone numbers.

The two numbers cited in this independent political correspondence are numbers listed as FASB's official phone numbers. If one were to apply their own standards of financial transparency to their own e-mail, it should say FASB is now lobbying the Congress and using our phone numbers for ones to respond and make significant inquiry into the matter. It would appear although they find political interference a sullied and tawdry business, they have now engaged in such practice in attempting to influence the Congress on the direction of appropriate conduct.

What is an option, and what does it mean to our economic direction? Assume for the moment we are trying to gather a half dozen young bright people into a garage at someone's home to construct a new innovative product and we bring these people in without sufficient cash to pay them salary; but we offer them the opportunity, should their intellectual prowess be sufficient in building value to a company, to one day cash in on the options we are giving them as a piece of their investment. Assume for the moment the value of the options are $20. Things go awry. Things go poorly. Six months hence the stock price may be worth $10. The employees will not cash in their right to those options because they are called, in the terms of the industry, underwater. They are not worth what they were when they were granted. The employee may leave and go elsewhere. Without the passage of this bill, what would FASB require them to do? To expense that option at the time of granting even though it were later not exercised. The result: an underreporting of financial value of corporate value. That seems to me to be just as big a problem as what those opponents allege is some grand misrepresentation of current financial condition.

Options are reported today in the footnotes. One who persists can find out the dilutive effect on other shareholders. Translation: one can find out the facts about accurate financial condition if they choose to seek it out in currently published information.

It is quite clear that many have accused the current administration and others of finding ourselves in a jobless economic recovery. Were that to be the case, which I certainly dispute, there is no dispute that the granting of options to a broad base of employees has been and remains a very strong component of job creation within our economy. Does it make sense for those who criticize a jobless economic recovery to take away one of the proven tools that does create jobs when they are so badly needed? I think not.

So where are we to go? The identified problem was that a handful of executives were manipulating the granting of options for their personal financial gain. I, frankly, do not think the bill before us is a perfect remedy. I think it is a flawed remedy because the valuation of the option cannot be accurately predicted. But in response to the critics, we have said those top five must expense their options. Let us make them accountable for the reported wrongdoings of the past, but please do not affect adversely the broad-based stock option plans for the vast numbers of employees who have gained from their hard work, shared in the dynamic capital enhancement of corporations, and, yes, made money.

I am one of those staunch advocates in the Congress who believe that money is the cure to poverty. And by allowing employees to invest and work and believe in the great American Dream that one day they can have a part of it, stock options represent a magnificent tool of economic opportunity.

I urge this Congress to adopt H.R. 3574 as balanced; fair; transparent; and, most importantly, important for our economy.

Mr. Chairman, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Chairman, I yield 3½ minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I rise in opposition to the bill.

And let me talk to my good friend from Louisiana. I heard him say in his statement that this bill is a flawed remedy. That is what I heard him say. And I agree with him. The bill is flawed.

He mentions the footnotes. During the oversight hearings on Enron, we had the dean of the Dartmouth School of Business spend 3 weeks looking at the footnotes of Enron. He could not, he could not understand them, and he said nobody in their right mind could understand the footnotes. We could go from Enron across any of these corporations and see the lack of clarity in their corporate footnotes. WorldCom is another one, where Bernie Ebbers paid himself tens of millions of dollars in stock options, and they were never accounted for. People are not going to find them in the footnotes.

This legislation is attacking accounting standards, and he is criticizing FASB. Certainly one could criticize the Securities and Exchange Commission. Where were they during all this corporate corruption?

Options are immensely valuable to those who receive them, and we all agree options are good. That is not the debate. The debate is what this bill is about. Options are fully deductible against corporate income tax. A congressional mandate to ignore economic reality does not change economic reality.

If my colleagues are thinking of voting for this legislation, they should ask themselves why Congress should forbid that stock options be deducted from corporate income when reporting to investors but fully deductible against income when paying corporate taxes. It is a distinction that makes no sense.

Listening to the debate today, we know that this legislation is opposed by Allen Greenspan; Treasury Secretary John Snow; SEC Chairman Bill Donaldson, the chairman of the SEC. Warren Buffet has ridiculed this legislation, saying it is absolutely flawed, it makes no sense.

I know of no occasion in history in which the United States Congress by statute has written an accounting rule, and that is what we are doing today. Are Members so confident in this body in their knowledge of accounting and financial markets that they will disregard the unanimous advice of the President's leading economic indicators, advisers, and the most famous investor in history? He has had 62 years of investing. How many of us have done that? He has ridiculed and said this bill is flawed.

Obviously, we should make some change to FASB. I agree with that, and I believe we are missing an opportunity today because there is another way to approach the problem of accounting for options that would be less heavy handed and might improve the quality of information investors receive so when they go to the footnotes, they will be there and they can actually understand what the stock options are all about.

U.S. GAAP is very detail oriented. It needs to be changed. On that I agree with my colleague from Louisiana. We learned from our investigation of Enron and WorldCom that the very complexity of GAAP itself can be exploited by those who obscure rather than enlighten. The legislation we are considering today mandates a dictatorial rule grafted on to the current GAAP regime that needs change, that simply forbids expensing except for the top five executives. Why is that so sacrosanct that we take just the top five? What about six? What about seven? What about eight? What about four? What about three? No. Just the top five. And then so long as those executives can significantly undervalue their options. If my colleagues stand for a rigorous accounting, oppose this bill.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for his leadership and for yielding me this time.

I rise in opposition to this bill and in support of the amendments by the gentleman from California (Mr. SHERMAN) and the gentleman from Pennsylvania (Mr. KANJORSKI) and me. And in opposition to this bill, I am joined with comments from Arthur Levitt, John Bogle, Warren Buffet, Allen Greenspan, John Snow, SEC Chairman Donaldson, and many others. Their comments I will include for the RECORD.

Some of my colleagues today have said that it is necessary for companies to not show the cost of stock options to investors in order to encourage innovation. So my question is why is it necessary for companies to hide an expense to innovate? Why in the world is this good public policy? On the contrary, this accounting loophole encourages companies like Enron and WorldCom to artificially inflate the value of their stock, deceive investors, and evade corporate income taxes. Many large companies have employee stock options and expense them, including Home Depot, Microsoft, Netflix. We should continue and have one standard.

In understanding stock options and their use, there is probably no greater authority than the indicted Enron president and CEO, Jeffrey Skilling. This is what Jeffrey Skilling has to say about stock options when he testified before the Senate: "Because stock options are not required to be disclosed as an expense on public filings, corporations use them to hide expenses and inflate the balance sheet. You issue stock options to reduce compensation expense and therefore increase your profitability." He ought to know, and he is going to jail.

Hidden stock options encourage accounting fraud. End of story. I urge a "no" vote on the underlying bill.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COX), a respected Member on matters of financial reporting.

Mr. COX. Mr. Chairman, I thank the gentleman from Louisiana (Mr. BAKER) for bringing this bill to the floor.

It is vitally important because I agree with the last speaker, hidden stock options are a tool of fraud artists. What we are about to do at FASB is give corporate managers, the new Jeff Skillings, an opportunity to manipulate earnings because, by choosing whether or not to issue stock options, they will now be able to do what they cannot do today, and that is fudge the earnings figure. Currently, stock options are not run through the income statement. But if we make this change where we imagine a notional value for stock options, where nobody real knows really what they are worth, run them not through the balance sheet but through the income statement, we have now got a new tool to manage earnings. That is exactly what Enron taught us we should not do.

We should fully disclose stock options, and there is ample evidence that we can do much better in disclosing to investors stock option costs to the company, to the shareholders, and the place we do that is on the balance sheet.

□ 1245

The issuance of stock and the issuance of an option on stock is a dilution event. It is an adjustment to the capital accounts. It belongs on the balance sheet; it does not belong on the income statement.

The FASB chairman testified before the Committee on Energy and Commerce 2 weeks ago that FASB wants to make this change not because it is technically correct or professionally sound, but rather "because of the high level of public concern expressed by investors."

But during the most recent proxy season, shareholders across the country are rejecting proposals to expense stock options. Shareholders of Gillette where Warren Buffett, the champion of stock option expensing on the income statement, sits on the board and controls nearly 10 percent of the shares, voted against expensing on the income statement.

The people for whom FASB claims to be acting, the people with money at stake, are not only not convinced, but they recognize if FASB goes forward with this, it is going to be a new tool for manipulation.

Let us keep the earnings statement honest. Let us vote for the bill.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. Mr. Chairman, I spent a lot of my career as a lawyer representing small banks and small businesses and individuals that felt that they had been defrauded as a result of false financial statements that had been provided them in order to induce investment or induce credit.

Most folks who are watching this understand that they cannot file a false financial statement in order to get a credit card, that they cannot file a false financial statement in order to get a loan. They have got to comply to the letter with the information that is requested and provide that information, failing which they could end up in jail. That, I think, is largely what is going on here.

The question is whether or not we are going to defer to the Financial Accounting Standards Board, which historically has set the standard for providing the financial statements of a corporation, whether we are going to defer to that body so that that body can figure out what kind of information must be provided so that the financial statements of a corporation fairly reflect the condition of the corporation, or are we going to interfere and essentially enable start-up venture capital corporations to mislead those who are investing in those businesses.

Now, most investors are sophisticated enough they are going to read the footnotes and understand that there are stock options that have been granted, and that consequently the value of the corporation and its earnings have been affected as a result of that. But some are not.

We should leave it to the experts, independent experts that do not have a dog in this fight as far as money is concerned, to try to come up with the standards that are appropriate in order to assure that the best kind of financial reporting is available to those who are investors, to those who are shareholders.

It is no different really than seeking a credit card, wanting to get money from an investment company, wanting to get money from a bank, wanting to get money from somebody else, and having to fill out a financial statement. It is as simple as that. We ought not to be interfering.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), a staunch defender of free enterprise.

Mr. BOEHNER. Mr. Chairman, I rise before my colleagues today to urge support for the bill offered by the gentleman from Louisiana (Mr. BAKER).

In many respects, the use of broad-based stock options reflects what we have come to understand about our new economy, that is, that economic growth and opportunity are all about unleashing the talents, ideas and knowledge of workers who create constant improvements and constant innovation. The employers who have best answered this call and who have best generated the kinds of jobs that our workers need are those who have understood that these products and services come from bright, enterprising workers who will share their imagination and experience with their employers. That is why stock options have become such a fixture of economic growth, and it is important that we preserve the ability of employers to give their employees a stake in the success of their organization.

Regrettably, instead of recognizing stock option plans for what they are, incentive plans, FASB has deemed them a net cost to the company and supports requiring these firms to calculate and deduct those costs from corporate earnings. If companies do, the real losers in this will be American workers and the U.S. economy.

Who knows at what value companies will be required to charge their earnings? I think the point that was made by the gentleman from Louisiana (Mr. BAKER) and the gentleman from California (Mr. COX) that the ability of corporate managers to manipulate earnings based on the value of their stock options is in fact a real concern.

So, while we can get hung up on whether we should interfere with FASB or not, we are elected by the American people to represent their interests; and I believe when you look at the use of broad-based stock options in the American economy, it really is the incentive that is driving many companies and their employees to be creative, to be inventive and to continue to be the real leaders in the world economy.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Louisiana (Chairman BAKER) for his leadership on this issue, and I rise in strong support of H.R. 3574, the Stock Option Accounting Reform Act.

For years, companies in the U.S. have been using stock options to attract the most skilled applicants in the world. Because many new companies do not have the financial resources to attract the best qualified candidates, stock options provide a much-needed incentive for the brightest workers to work for them.

Not only do stock options hold the potential of additional income for employees, but they create a sense of ownership that helps workers recognize they have a stake in the company.

Now is not the time to bind the hands of America's technology companies by imposing additional layers of red tape on them. If U.S. companies are to continue to win the global competition for tech talent, they need to have the most flexibility to run their companies, including the flexibility to offer innovative compensation and benefits packages like stock options.

H.R. 3574, the Stock Option Accounting Reform Act, would allow companies to continue their practices of offering stock options to employees as a method of attracting the best and brightest workers without mandating that companies expense these stock options in annual reports.

There are also important safeguards in the Stock Option Accounting Reform Act to guard against corporate fraud. While companies would not have to expense the stock options given to rank-and-file employees, they would have to expense any stock option given to the chief executive officer and the next four most highly compensated executive officers of the company. In addition, this legislation requires companies to clearly disclose all information related to stock options in plain English in their financial statements.

H.R. 3574 protects an important tool that small businesses and start-up companies use to compete with others all over the world to bring the most skilled employees to work in the U.S. With companies in China and other competitors using stock option compensation packages to attract workers, we must ensure our government does not impede the ability of U.S. companies to compete in the highly-skilled labor market.

H.R. 3574 contains important safeguards against corporate fraud and ensures that American businesses have the tools they need to compete in the global marketplace.

Mr. Chairman, I urge each of my colleagues to support this important legislation.

Mr. BAKER. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota (Mr. KENNEDY), a member of the committee.

Mr. KENNEDY of Minnesota. Mr. Chairman, I too rise in support of the Stock Option Accounting Reform Act. This is about innovation that drives our economy. So many businesses have stock options as a primary tool to get the innovative juices of their employees going. It also really helps align the employees of the company with the interests of the company, moving it forward, helping it to be competitive.

This is a prime source of our innovation and success here in America. We do not need to limit it beyond the top five officers, as this does. If we went ahead with expensing stock options, the volatility and uncertainty, I think, would end the use of stock options and be detrimental to our economy.

So I do believe that we have to move forward to protect this innovative source of energy in our economy, keep our small businesses creating the new jobs of the future, keep America at the cutting edge, keep employees motivated and aligned with the interests of their enterprises, and this, in the end, will be good for America and good the American economy.

Mr. KANJORSKI. Mr. Chairman, I reserve the balance of my time.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I rise as a cosponsor and a strong supporter of H.R. 3574, the Stock Option Accounting Reform Act.

Stock options are extremely important to America's economic growth. They allow companies, particularly start-ups, to recruit and retain top-flight talent when the salaries they offer cannot compare with more established competitors. This is particularly important since the majority of the new jobs in the economy come from start-ups, and that issuance of stock options did not lead to corporate corruption.

The mandatory expensing of stock options as proposed by the Financial Accounting Standards Board will result in stock options being offered to only the most senior managers, if at all. Requiring the expenses of all stock options will make companies less inclined to offer such options to employees and thereby hamper the ability of companies that currently offer options to attract and retain talented employees.

Because options are used extensively by small innovative start-up companies, requiring expensing would have an adverse impact on innovation, economic growth and competitiveness.

It will confuse investors, because they cannot be accurately valued and do not reflect a cash cost. The expensing of stock options reflects a desire to reduce all potential liabilities to a single number in a company's earnings statement. However, GAAP earnings are only one measure to which investors should be looking.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus.

Mr. MENENDEZ. I thank the gentleman for yielding me time.

Mr. Chairman, I rise today in strong support of H.R. 3574, the Stock Option Accounting Reform Act. This bill I believe is proworker and corporate accountability. It is a true compromise that will protect broad-based stock options for rank-and-file workers, while ensuring accountability and transparency of the top corporate executives.

This bill requires stock option expensing of the top five corporate executives, which ensures public disclosure of executive compensation packages. So there is full disclosure and full transparency for corporate executives. At the same time, the bill protects the stock options that rank-and-file workers currently receive.

More than 14 million U.S. workers receive stock options and 15 percent of union workers receive stock options. That means that rank-and-file workers, not just corporate executives, are sharing in the benefit of stock options. These options are crucial to the global competitiveness of high-growth industries in this country. Companies such as the high-tech industry have to rely on stock options to recruit and retain high-skilled workers, very often keeping these good-paying jobs in the United States, rather than sending them overseas.

Stock options also give employees a stake in their company, creating incentives for every employee to work hard and ensure that the company succeeds. That gives U.S. companies an additional competitive advantage over their foreign competitors.

Some have argued that this bill just benefits fat-cat executives, but I believe nothing could be further from the truth. No one should be fooled into thinking that this bill lets corporate executives off the hook, because it does not. It actually requires the expensing and full accounting of the top executives' stock options.

It is naive to think if we require the expensing of all stock options, that suddenly executive compensation packages are going to be reduced or eliminated. That simply is not going to happen. What will happen if this bill is not passed, however, is that the stock options of 14 million rank-and-file workers will be in jeopardy. I encourage my colleagues to support the bill.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to comment briefly.

I want to make three points: One, WorldCom and Enron, some of the abusers that we have talked about here, did not have broad-based stock option programs. If you have listened carefully to the debate, no one has given an example of abuse from any broad-based company scheme. Indeed, the fact that they are broad-based makes it less likely that they will be abused.

□ 1300

Second, cash poor, innovative companies deserve this tool. This is how they can compete with the more mature companies that the Warren Buffetts of this world invest in, where cash is king.

Third, contrary to what some of my friends have asserted, if one talks to investors, employees in these companies, and executives, they all agree that the highly variable balance sheet values that will be produced by this scheme will have a very negative impact on the perceptions of these companies, making it much less likely that they will use this technique.

The consensus is clear, and I hope my colleagues will approve the legislation.

Mr. BAKER. Mr. Chairman, I yield to the gentleman from Michigan (Mr. SMITH) for the purpose of making a unanimous consent request.

Mr. SMITH of Michigan. Mr. Chairman, I rise to oppose the bill and ask that my "no" vote be submitted in the RECORD at this point because of the uniqueness of the intrusion of the Federal Government in demanding accounting principles.

I oppose H.R. 3574 for two reasons. First, it would set a precedent of Congress interfering in accounting minutia. According to CRS, Congress has never passed a law telling the private sector how to do accounting other than taxes. Second, if this bill were to become law, it would require different accounting standards for the United States and the rest of the world. It would, in effect, require two different accounting numbers for international companies, one with U.S. standards and one with international standards, as set by the International Accounting Standards Board (IASB). FASB, Federal Reserve Chairman Greenspan, SEC Chairman Donaldson, and many others have said that this type of rule change may harm the transparency of American accounting rules.

Mr. Chairman, I add to my "no" vote explanation, comments by some financial experts:

The Honorable Alan Greenspan, Chairman, Federal Reserve System, April 21, 2004

With respect to stock options, I think it would be a bad mistake for the Congress to impede FASB in this regard. And in this regard, as best I can judge the FASB changes in recommendations with respect to accounting procedures strike me as correct, and it's not clear to me what the purpose of Congress is in this particular procedure. I think the Congress would err in going forward and endeavoring to impede FASB in its particular activities:

William H. Donaldson, Chairman, United States Securities and Exchange Commission, May 3, 2004

For the policy reasons described above, recently underscored by the Sarbanes-Oxley Act, I strongly support an independent and open standard-setting process for establishing accounting principles for U.S. public companies. Accordingly, I believe that the process established by the FASB to consider the pending stock option proposal should be allowed to run its course:

The Honorable Paul A. Volcker, Chairman of the Trustees of the International Accounting Standards Committee Foundation, and

> former Chairman of the Federal Reserve System, April 20, 2004
>
> I suggest that, before acting, Senators and Congressmen ask themselves two simple questions: Do I really want to substitute my judgment on an important but highly technical accounting principle for the collective judgment of a body carefully constructed to assure professional integrity, relevant experience, and independence from parochial and political pressures? Have I taken into account the adverse impact of overruling FASB on the carefully constructed effort to meet the need, in a world of globalized finance, for a common set of international standards?
>
> Warren Buffett, Chairman and CEO, Berkshire Hathaway, May 1, 2004
>
> Write your congresspeople giving them your views on whether options should be expensed. . . . It was a disgrace 10 years ago when Congress bludgeoned the SEC and the [Financial] Accounting Standards Board to override FASB's decision to expense options. It accelerated the anything-goes mentality of the 1990s.
>
> The Honorable Richard C. Shelby, Chairman of the Committee on Banking, Housing, and Urban Affairs, United States Senate, June 30, 2003
>
> I don't think we should make those rules in the Banking Committee or even in Congress. . . . [FASB] understands the implications. There are economic implications here, but it also gets into corporate governance and honesty in financial statements.

In conclusion Mr. Chairman, options clearly have a value and failing to expense them, despite the difficulty of doing so, distorts financial statements and is misleading and unfair to the casual investor.

Mr. BAKER. Mr. Chairman, I yield reluctantly only 1 minute, because of time limitations, to the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Commerce.

Mr. BARTON of Texas. Mr. Chairman, I thank the distinguished subcommittee chairman, the gentleman from Louisiana (Mr. BAKER); and I want to commend the full committee chairman, the gentleman from Ohio (Mr. OXLEY), for bringing this bill to the floor.

There have been some issues about how to get it to the floor, and I am happy to report that we were able to work those out. The committee I chair was given a sequential referral, which we handled very expeditiously on Friday while we were not in session, so we were able to move on this bill.

I think the policies in the bill are a fair compromise between those who think all stock options should be expensed and those who think no stock options should be expensed. The gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) and others on the Committee on Financial Services have given us a compromise that sets a finite number of the most senior management team whose options should be expensed.

So I am happy to support the bill. I would encourage all Members to vote for the bill and hope that we can move it to the other body and hopefully get a positive vote on this piece of legislation in the other body.

So on behalf of the Committee on Energy and Commerce, we are happy to cooperate with our friends on the Committee on Financial Services to bring this bill to the floor.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I come here as a CPA to fight for the independence of the FASB, an independent board that has given us generally accepted accounting principles which this bill would change to generally political accounting principles. America has to fight in the world for capital.

In China, domestic companies just report pretty much whatever they want on their financial statements. America competes with tough, transparent, enforced, nonpolitical accounting standards. That image has been recently tarnished by recent scandals, and now we are being told to adopt generally political accounting principles that will further tarnish our image.

We are told that it is difficult to estimate the expense amount of stock options, that accountants cannot do it. Well, it is actually a lot easier than things accountants have been doing for centuries involving amortization, obsolescence, depreciation, and dozens of other estimates. We are talking here about executive compensation, some $40 billion a year.

Now, imagine if you gave a crumb to 999 people and a giant cake to one person. You could then come to the floor and talk about a broad-based distribution of carbohydrates. That is in effect what we have here.

When the academics came before our committee, they explained roughly 30 percent of all stock options are in the hands of the top five executives, and the remaining 70 percent is spread very narrowly among other top executives. We have crumbs for the rank-and-file, almost all the options in the hands of the top executives. That is why 80 percent of CEO compensation in this country is in the form of stock options.

Let us say, even though that phoney accounting was good, should we not do it for health care instead of executive compensation? Why not have an accounting principle that says companies can provide employee health care, and we are going to encourage them to do so, and they do not have to list it as an expense on their income statement? The users of accounting information do not want this bill. The Investment Company Institute representing the mutual funds, and Alan Greenspan, for example, have come out against it.

Finally, this bill is absurd politics. It will hurt America in the fight for capital around the world.

This bill, for the first time in history, would overrule the FASB. Let us vote it down.

Mr. BAKER. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING), a member of the committee and an outspoken advocate for the bill.

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from Louisiana (Chairman BAKER) and the gentleman from Ohio (Chairman OXLEY) for their work on this compromise legislation that is so important to our economy.

H.R. 3574 would prevent the proposed FASB rule from hurting start-ups and other small companies who very often rely on stock options as an incentive to hire and retain employees. If FASB is permitted to require these companies to report their options as an expense, the result will be a distorted view of earnings by investors and less confidence in our markets.

This bill will help improve the transparency and disclosure of stock options, while not negatively impacting the ability of businesses to provide this valuable incentive to their employees.

As our economy continues to improve and investor confidence rises, we must be careful not to place any excessive burdens on private business or act in any way that would reduce confidence in our markets.

If expensing options is mandated, I believe inaccurate and certainly misleading information will be produced, leaving investors with more questions than answers about a company's financial statements and economic conditions.

Also, Mr. Chairman, studies have shown that companies with broad-based option plans are generally more productive, and I urge my colleagues to support this legislation.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Chairman, I rise in strong support of the bipartisan Kanjorski-Castle substitute and oppose the underlying bill.

I find it ironic, on a day in which the Wall Street Journal reports in its lead story about the disparity in the economy between the top 1 percent who are benefiting from this economy and the middle class who are hitting a dry hole as it relates to income costs, college costs, savings and retirement, here we are on the floor debating a bill in which the bulk of the benefits go to the top 1 percent.

Eighty percent of the compensation for CEOs is in the form of stock options. This is the year in which we are supposed to debate a higher education reauthorization bill. We do not do it. This is the year in which 44 million Americans are without health insurance, 33 million who work full-time. We do not debate it. So what does this Congress do? Rather than do the things it is supposed to be involved in, it is involving itself in the things that we should not be involved in. I wonder why the American people are so cynical about what we do around here.

The fact is, let me give Warren Buffett's quote about expensing stock options, with all due respect to the intelligence and the wisdom of 435 Members when it comes to the private sector. Warren Buffett says, if options are not a form of compensation, what are they? And if compensation is not an expense, what is it? And if expenses should not go into the calculation of earnings, where in the world should they go?

That was Warren Buffett's analysis. That is why he believes this is the right thing for FASB to do.

The fact is, FASB was right to say that there should be expensing of options. What they need to continue to work on is how we come up with the issue of value and how we evaluate them. The work of FASB on this issue is not done, but they are right when it comes to the issue of expensing. It is time for Congress to return to the work of focusing on the middle-class families who are facing squeezes as it relates to their income that has been stagnated, college costs that have gone up by 26 percent, health care costs that have risen by 33 percent, 44 million Americans who are without health care, rather than get sidetracked into issues that do not relate to middle-class families and the forces of this economy on their living standards.

I support and ask Members to support the Kanjorski bill and not the underlying legislation.

Mr. BAKER. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, under the current FASB proposal, one would either use the binomial or the Black-Scholes methodology to determine the valuation of a stock option. During the intervening period, staff has calculated the remaining debate time available to me to close through both Black-Scholes and binomial, and the result has come out anywhere from zero to an hour and a half. Recognizing we have a commonsense limit of 1 minute, I shall proceed diligently.

The current proposal under H.R. 3574 would lead us to a transparent disclosure regime. It would continue a very important job-creation tool to our free enterprise system. It would allow employees to share in the free-enterprise dream of participating in the growth and ultimate financial profitability in the corporation for which they work.

Make no mistake: this bill nails those executives who have been held up as the abusive forces within our system by requiring the top five to expense their options granted.

The solution is not perfect; frankly, I would not require expensing at all. But it is a response to the critics who said executives have abused their privilege. For commonsense job creation and reform, I urge this body to support H.R. 3574.

Mr. UDALL of Colorado. Mr. Chairman, I rise in reluctant support of this bill.

I support what the bill attempts to preserve. Stock options have been an important way for companies to attract and retain talented workers. Many small, start-up companies—competing for employees with larger firms that can pay more—have been able to offset the advantage of these larger firms by offering stock options to their employees.

I am not opposed to companies electing to expense stock options voluntarily—in fact, I voted for Representative OXLEY's amendment today that clarifies the right of those companies to continue to do so. But with so many millions of our workers still depending on these options at a time when we need entrepreneurship and innovation more than ever, I believe that if we are going to require the expensing of options, we have to make sure it is done right.

I am not an accountant, so I don't claim to know what is the "right" way to value options. The Financial Accounting Standards Board (FASB)—not Congress—is the appropriate institution to be addressing that question.

I do know, however, that I have heard from constituents, business leaders, and small and large companies alike representing many industry sectors that they are concerned about how FASB's current proposal would value options. One business leader wrote to me that "the FASB rule in its current form is unworkable, complex, extremely hard for investors to understand—let alone management to certify—and costly to implement."

I also know that I have heard many concerns expressed about FASB's process in formulating the stock options expensing rule, and many calls for Congress to intervene to prevent FASB's current proposal from taking effect. Many expressing those concerns think that FASB strayed from its own mission to be objective in its decisionmaking.

Mr. Chairman, this has left me and some of my colleagues in a quandary. While requiring the expensing of stock options might be the right course, it is the wrong course if it is done the wrong way. And with FASB moving ahead on its rule, I believe it is important to support this bill to send the message that FASB needs to slow down and work to come up with a standard that has broader support.

So let me be clear that my support for this bill is based less on the bill's provisions than it is on what I believe are the inadequacies of the FASB proposal. A better bill would provide investors with the information they need, but without penalizing the entrepreneurial spirit and employee ownership that stock options make possible. The bill we are considering today does not include these improvements.

Mr. Chairman, I strongly support making financial statements more accurate and transparent. But I also strongly believe that companies in Colorado and throughout this country have been able to innovate and contribute to the growth of our economy in part because of the stock option plans they have been able to offer to their employees. We must find the right way to value these options so as not to put this country's workers, their employees, and the economy in jeopardy.

Mr. SMITH of Texas. Mr. Chairman, I support H.R. 3574, the Stock Option Accounting Reform Act, which preserves broad-based stock options. It is vital that we preserve these incentives to promote stock ownership for millions of workers as we try to fulfill President Bush's goal of creating an "ownership society."

In my home state of Texas, numerous high-tech companies offer stock options to attract the best and the brightest employees. Options have become a vital tool used to attract educated and highly-skilled employees to companies both in Texas and elsewhere.

Broad-based employee stock option plans give employees at all levels a chance to own a "piece of the rock." This in turn fuels innovation and the entrepreneurial spirit and increases productivity, because employees feel as though they have a vested interest in the success of the company.

However, the Financial Accounting Standards Board wants to change the rules in a way that would make it more difficult for companies to continue offering stock options to their rank-and-file employees.

Passage of H.R. 3574 is essential in our efforts to create more jobs and growth in the high tech sector of our economy. It would be a huge mistake to discourage companies from offering stock options. Many of our international competitors are increasing the use of stock options to gain competitive advantage. So they are a vital tool to recruit and retain high tech workers in America.

Mr. KIND. Mr. Chairman, I rise today in strong support of H.R. 3574, the Stock Option Accounting Reform Act. I believe it is extremely important to the nearly 15 million Americans who hold stock options that we pass this legislation.

As a member of the New Democrat Coalition, I have always supported protecting stock options. The promotion of stock options is an important tool for businesses seeking to recruit and keep employees. Innovative, creative companies have recognized that a key component to keeping the brightest and most talented workers is giving employees a stake in their company. The increasing accumulation of stock options by American workers has proved a financial success for employees and an important tool in helping the economy.

Another mark of the success of stock options is that employees at all ranks of companies hold them. Contrary to popular belief, it is not only corporate executives who hold stock options; rather, 85 percent of stock options are held by non-management workers. H.R. 3574 simply assures that these rank-and-file workers will have continued access to an important benefit. At a time when Americans are increasingly worried about losing jobs overseas and many small businesses are struggling, the protection of stock options is crucial to helping this country's economy.

Employee stock options are threatened, however, by a Financial Accounting Standards Board (FASB) proposed standard that would require companies to expense all employee stock options. This decision was made over the objection of numerous businesses and despite the likely negative economic consequences of the proposed standard. If Congress does not react, we run the risk of allowing millions of hard-working Americans to lose the financial benefit they have enjoyed from stock options as well as hurting small and large businesses throughout the country.

Cleary, there is a great need for the Stock Option Accounting Reform Act, which would require that stock options given to the top five executives of a company be expensed and require a study to review the possible implications of the FASB proposal on workers, businesses, and the American economy. The FASB ruling has the potential to do great harm to our country's economy and its workers. To prevent such harm, I urge my colleagues to support this bipartisan bill that is so important to American workers.

Mr. HONDA. Mr. Chairman, as a Member of the Silicon Valley Congressional Delegation, I fully support H.R. 3574, the Stock Option Accounting Reform Act.

This sensible and balanced legislation promotes corporate transparency while protecting broad-based employee stock option plans. Such plans are good for workers, good for business and good for our Nation!

I would caution my colleagues against believing that stock options are bestowed upon a privileged few. A 2002 study concluded that 13 percent of American workers held stock options. That equals 14.6 million Americans, 85 percent of whom are in non-management positions.

It is no wonder then that workers are some of the most vocal opponents to expensing of stock options.

Just consider the comments submitted to FASB by one San Jose employee, "I have never felt the same ownership as I do now because of stock options. I am not an executive in the company but a supervisor-level engineer. This sense of ownership is true even for the entry-level technicians who also receive options."

Another high tech employee rightly concludes, "Making stock options less available only hurts the little guys—your constituents."

I ask my colleagues to act in the best interests of their constituents. Rather than allow FASB's rules to take effect, Congress should encourage more companies to offer stock options, so that thousands more can enjoy the financial security realized by 13 percent of American workers that have taken advantage of stock option purchase plans.

Employee stock option plans set our country apart from others; they reward hard work, ingenuity and dedication—the very qualities that have helped make our Nation the success story that it is. This bill is critical to preserving this important tradition.

I urge my colleagues to support H.R. 3574.

Mr. DINGELL. Mr. Chairman, the House should be ashamed today.

Two years after Jeff Skilling of Enron testified before the Congress about how stock option accounting can be abused to overstate earnings, and two years after we passed the Sarbanes-Oxley Act to clean up corporate and accounting fraud, the House has come to this Floor to pass legislation sanctifying phony accounting. We told the Financial Accounting Standards board (FASB) to fix this problem—now we're telling them, and investors, that the political fix is in.

H.R. 3574 is a bad bill. Federal Reserve Board Chairman Alan Greenspan warned in Congress that "it would be a bad mistake for the Congress to impede FASB" because the proposed FASB changes to accounting for stock options "strike me as correct."

Famed investor Warren Buffett says the legislation is "nonsensical" based on "fuzzy math" and "Alice-in-Wonderland assumptions."

Why does he say that? Well the bill mandates that, when a company is calculating the expense of the options given to the five highest paid executives—the only ones allowed to be expensed—it must assume that the stock price has zero volatility, i.e., it never goes up or down. As Buffett notes, the only reason for making such an assumption is to "significantly understate" the value of the few options the bill allows to be accounted "to enable chief executives to lie about what they are truly being paid and to overstate the earnings of the companies they run."

The Chairman of the Securities and Exchange Commission (SEC) also opposes this legislation: it runs counter to the SEC's mandate to protect investors and to make sure that companies provide honest and transparent information.

The bill gets worse. Not content to sprinkle holy water on bad numbers, it goes on to prohibit the voluntary expensing of stock options by companies that want to present honest accounts. There are currently over 575 companies, including Ford, General Motors, Microsoft, and Citigroup, voluntarily expensing their options at fair value. If this bill were enacted in the form reported by the Committee on Financial Services, they would have to cease doing so and restate their financials at substantial cost and disruption to the market. Only after a hearing on the subject before the Committee on Energy and Commerce did the manager of the bill produce a Floor amendment to fix this flaw.

Finally, H.R. 3574 is opposed by FACTS (the Financial Accounting Coalition for Truthful Statements), a broad coalition of 30 pension funds, consumer groups, labor unions, and investors. Their July 19, 2004, statement to the House warns that "the proposed legislation is worse than current accounting practice."

I urge my colleagues to vote "yes" on the Kanjorski substitute, which affirms the independence of FASB and the importance of honest and credible accounting standards. If it fails, vote "no" on H.R. 3574.

The CHAIRMAN pro tempore (Mr. LAHOOD). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stock Option Accounting Reform Act".

SEC. 2. MANDATORY EXPENSING OF STOCK OPTIONS HELD BY HIGHLY COMPENSATED OFFICERS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

"(m) MANDATORY EXPENSING OF STOCK OPTIONS.—

"(1) NAMED EXECUTIVE OFFICER.—As used in this subsection, the term 'named executive officer' means—

"(A) all individuals serving as the chief executive officer of an issuer, or acting in a similar capacity, during the most recent fiscal year, regardless of compensation level; and

"(B) the 4 most highly compensated executive officers, other than an individual identified under subparagraph (A), that were serving as executive officers of an issuer at the end of the most recent fiscal year.

"(2) IN GENERAL.—Subject to paragraph (4), every issuer of a security registered pursuant to section 12 shall show as an expense in the annual report of such issuer filed under subsection (a)(2), the fair value of all options to purchase the stock of the issuer granted after December 31, 2004, to a named executive officer of the issuer.

"(3) FAIR VALUE.—

"(A) IN GENERAL.—The fair value of an option to purchase the stock of the issuer that is subject to paragraph (2) shall—

"(i) be equal to the value that would be agreed upon by a willing buyer and seller of such option, who are not under any compulsion to buy or sell such option; and

"(ii) take into account all of the characteristics and restrictions imposed upon the option.

"(B) PRICING MODEL.—To the extent that an option pricing model, such as the Black-Scholes method or a binomial model, is used to determine the fair value of an option, the assumed volatility of the underlying stock shall be zero.

"(4) EXEMPTIONS.—

"(A) SMALL BUSINESS ISSUERS.—This subsection shall not apply to an issuer, if—

"(i) the issuer has annual revenues of less than $25,000,000;

"(ii) the issuer is organized under the laws of the United States, Canada, or Mexico;

"(iii) the issuer is not an investment company (as such term is defined under section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3));

"(iv) the aggregate value of the outstanding voting and non-voting common equity securities of the issuer held by non-affiliated parties is less than $25,000,000; and

"(v) in the case of an issuer that meets the criteria in clauses (i) through (iv) and is a majority-owned subsidiary, the parent of the issuer meets the requirements of this paragraph.

"(B) DELAYED EFFECTIVENESS.—The requirements of this subsection shall not apply to an issuer before the end of the 3-year period beginning on the date of the completion of the initial public offering of the securities of the issuer, and shall only apply to an option to purchase the stock of an issuer granted after such date.".

SEC. 3. PROHIBITION ON EXPENSING AND ECONOMIC IMPACT STUDY.

(a) PROHIBITION.—Section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)) is amended by adding at the end the following:

"(3) PROHIBITION ON EXPENSING STANDARDS.—

"(A) IN GENERAL.—The Commission shall not recognize as 'generally accepted' any accounting principle relating to the expensing of stock options unless—

"(i) it complies with the requirements of subparagraph (B); and

"(ii) the economic impact study required under section 3(b) of the Stock Option Accounting Reform Act has been completed.

"(B) REQUIREMENTS.—A standard referred to in subparagraph (A) shall require that—

"(i) if an option to purchase the stock of an issuer that is subject to the requirements of section 13(m) of the Securities Exchange Act of 1934 is exercised—

"(I) any expense that had been reported under that section 13(m) with respect to such option shall be recomputed as of the date of exercise and shall be equal to the difference between the price of the underlying stock and the exercise price; and

"(II) to the extent the recomputed amount differs from the amount previously reported under section 13(m) with respect to such option, the difference shall be reported in the fiscal year in which the option is exercised as a reduction or increase, as the case may be, of the total expense required to be reported under that section 13(m) during that fiscal year;

"(ii) if an option to purchase the stock of an issuer that is subject to the requirements of section 13(m) of the Securities Exchange Act of 1934 is forfeited or expires unexercised, any expense that had been reported under that section 13(m) with respect to such option shall be reported in the fiscal year in which the option expires or is forfeited as a reduction of the total expense required to be reported under that section 13(m) during that fiscal year; and

"(iii) to the extent that any reduction required under clause (i) or (ii) exceeds total option expenses for any fiscal year, such excess shall be reported as income with respect to options to purchase the stock of the issuer.".

(b) ECONOMIC IMPACT STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Labor shall conduct and complete a joint study on the economic impact of the mandatory expensing of all employee stock options, including the impact upon—

(1) the use of broad-based stock option plans in expanding employee corporate ownership to workers at a wide range of income levels, with particular focus upon non-executive employees;

(2) the role of such plans in the recruitment and retention of skilled workers;

(3) the role of such plans in stimulating research and innovation;

(4) the effect of such plans in stimulating the economic growth of the United States; and

(5) the role of such plans in strengthening the international competitiveness of businesses organized under the laws of the United States.

SEC. 4. IMPROVED EMPLOYEE STOCK OPTION TRANSPARENCY AND REPORTING DISCLOSURES.

(a) ENHANCED DISCLOSURES REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Commission shall, by rule, require each issuer filing a periodic report under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) to include in such report more detailed information regarding stock option plans, stock purchase plans, and other arrangements involving an employee acquisition of an equity interest in the company. Such information shall include—

(1) a discussion, written in "plain English", in accordance with the Plain English Handbook published by the Office of Investor Education and Assistance of the Commission, of the dilutive effect of stock option plans, including tables or graphic illustrations of such dilutive effects;

(2) expanded disclosure of the dilutive effect of employee stock options on the issuer's earnings per share;

(3) prominent placement and increased comparability and uniformity of all stock option related information;

(4) the number of outstanding stock options;

(5) the weighted average exercise price of all outstanding stock options; and

(6) the estimated number of stock options outstanding that will vest in each year.

(b) DEFINITIONS.—As used in this section:

(1) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(2) ISSUER.—The term "issuer" has the meaning provided in section 2(a)(7) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)(7)).

(3) EQUITY INTEREST.—The term "equity interest" includes common stock, preferred stock, stock appreciation rights, phantom stock, and any other security that replicates the investment characteristics of such securities, and any right or option to acquire any such security.

SEC. 5. PRESERVATION OF AUTHORITY.

Nothing in this Act shall be construed to limit the authority over the setting of accounting principles by any accounting standard setting body whose principles are recognized by the Securities and Exchange Commission under section 19(b)(1) of the Securities Act of 1933 (15 U.S.C. 77s(b)(1)).

The CHAIRMAN pro tempore. No amendment to the committee amendment is in order except those printed in House Report 108–616. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, and shall not be subject to demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–616.

AMENDMENT NO. 1 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OXLEY:

At the end of subsection (m)(4)(B) of the matter proposed to be inserted by section 2 of the bill, strike the close quotation mark and following period and insert the following:

"(5) VOLUNTARY EXPENSING.—Notwithstanding the requirements of this subsection, issuers may elect to expense the fair value of all officer and employee stock options in the annual report of such issuer under subsection (a)(2), in accordance with the expensing alternative of Statement of Financial Accounting Standards Number 123, and any such issuer making such election in the annual report for a fiscal year shall not be subject to paragraphs (2) through (4) of this subsection for such fiscal year.".

At the end of paragraph (3)(B) of the matter proposed to be inserted by section 3 of the bill, strike the close quotation mark and following period and insert the following:

"(C) EXCEPTION FOR VOLUNTARY EXPENSING.—Nothing in this paragraph or in any other provision of the Stock Option Accounting Reform Act shall prevent the Commission from continuing to recognize the expensing alternative of Statement of Financial Accounting Standards Number 123 as part of generally accepted accounting principles for issuers that elect to expense the fair value of all officer and employee stock options in the annual report of such issuer pursuant to section 13(m)(5) of the Securities Exchange Act of 1934.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 725, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

The manager's amendment to H.R. 3574 makes an important clarification to the bill as reported by the Committee on Financial Services. The bill was never designed to prevent any company that either currently expenses its employee stock options or wishes to do so in the future from doing so. The manager's amendment makes it explicit that a company that wishes to voluntarily expense its employee stock options may do so based on the expensing rules that companies are using today to expense their stock options.

The bill's requirement that companies expense the employee stock options with the five top executives would not apply to any company that voluntarily expenses all of its employee stock options under current rules.

Mr. Chairman, this is an important distinction, because if companies feel it is important to expense these stock options, if they feel they may perhaps have a competitive advantage over competitors, they may choose to do so. It literally is a free country, and they have that obligation. This amendment simply clarifies that option that all companies, publicly traded companies, have; and I urge my colleagues to support the manager's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Chairman, we have no objection to the manager's amendment and support it.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in House Report 108–616.

AMENDMENT NO. 2 OFFERED BY MR. SHERMAN

Mr. SHERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SHERMAN:

In subsection (m) of the matter proposed to be inserted by section 2 of the bill, strike

"(3) FAIR VALUE.—

"(A) IN GENERAL.—The".

and insert

"(3) FAIR VALUE.—The".

In subsection (m)(3) of the matter proposed to be inserted by section 2 of the bill, strike subparagraph (B).

The CHAIRMAN pro tempore. Pursuant to House Resolution 725, the gentleman from California (Mr. SHERMAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this bill is packaged as a bill that requires the expensing of stock options that are issued to the top five executives of every company. This amendment allows the bill to achieve its stated purpose.

The bill, in fact, when one reads the fine print, says that in calculating the value of options given to the top five executives of the company, one does not use either of the two formulas that are established. One does not use the best estimate. But one instead assumes that the stock does not go up or down in price over time, an absurd assumption, an assumption that yields a zero valuation for the stock options given to many top executives in this country.

If we adopt this amendment, then the bill will at least achieve the purpose it sets, namely, that we will have a fair expense reported on the income statement for options given to the top five executives.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, as I say, we have debated this amendment in committee, and it was defeated on a vote of 13 ayes and 43 nays, precisely because while the gentleman's intentions I think are good, as debate in the committee clearly showed, this amendment, should it be adopted, would, frankly, confuse investors far more than it would educate them.

□ 1315

An options value is estimated by applying an options pricing model at the date the option is granted.

It was interesting that one national accounting firm, which incidentally supports expensing, wrote FASB last year to support zero volatility, something that the Sherman amendment would bring into question. "We believe that using zero as the expected volatility of the stock price would increase the reliability of option values."

So what we are trying to do with the underlying bill is not only provide the top five executives with the need to expense stock options, but also to give the investing public the kind of information they need so they can compare apples to apples in this regard; and unfortunately, the Sherman amendment does just quite the opposite.

So for those reasons, I would oppose the Sherman amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SHERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I rise in very, very strong support of the Sherman amendment. We need to understand there is $126 billion in stock options granted in any one year, there was in 2000 in the United States of America. We are talking about small potatoes here, and frankly, the underlying bill here, in my judgment, is completely wrong in terms of the direction that the country and the stockholders are going. Who is speaking here for the stockholders of America, for those who have their value diluted because of what happens with stock options without any expensing whatsoever?

I yield to the gentleman from California (Mr. SHERMAN) in terms of his knowledge about accounting, but what I know about volatility is that without volatility, you would not have anybody in the stock market whatsoever. Without volatility, you really have no value in terms of the stock options which are being granted. Without volatility, that means you basically are not really expensing the stock options so that the other stockholders and other potential investors can see what is happening out there.

For all these reasons, I believe absolutely we should pass this amendment in order to insert the measure of what these expenses are really worth by putting the volatility back into it. It is almost impossible to determine value if you do not do that.

And I might just add, while we are talking about this, that in the area of accounting, we can talk about Black-Scholes being imprecise and laugh about it, whatever it might be, and certainly it is imprecise, but so is sometimes the good will, depreciation and a whole series of other accounting measures that are used in determining the values of corporations. It is not all quite as black and white as everybody would like.

So for all these reasons, but mostly because it is the stockholders, the shareholders who are suffering, by far the largest bulk. It is not the CEOs running the companies. It is not even the employees of the companies. It is the stockholders of the companies who are, in my judgment, being faulted by the methodology which we use now.

For all these reasons, I would encourage everyone here to consider supporting the Sherman amendment.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I thank the chairman for yielding me this time and commend him and the subcommittee chairman for their work on this legislation, as well as my colleagues on the other side of the aisle.

But I wanted to continue this discussion that we have had in committee, that I have had with the gentleman from California about this issue.

See, I do not think that the best argument for having zero as our volatility number is actually a plausible argument, that valuing these options is inherently a very difficult task and assigning the appropriate volatility is very difficult.

I prefer the argument that we should not be expensing these at all. See, I think what some of my colleagues are confusing here is the difference between value and expense. Nobody is disputing that a stock option has value, but what I would dispute very vigorously is that issuing an option is equal to an expense on the part of the company issuing it.

Let us look at what happens. You grant an option to an employee. There is no cash outlay, and in fact, if that option expires worthless, there never will be a cash outlay. And, yet, if this amendment were to be adopted and became law, you would have to show an expense on an income statement in which no expense ever is incurred. And it is not just the options that expire worthless; in most cases, options that expire in the money are not bought out by the company. If they are, then current law requires that that cash event be represented on the income statement as it should be. But in fact, that expiration, most options that expire in the money are dealt with by a company issuing new shares. Again, there is no expense. There is no cash event. It never happens. There is a dilution in earnings, and that needs to be represented.

But what the gentleman is proposing in this amendment is to make a difficult situation worse.

I respect the compromise that is in this bill. If I could write it, I would write it differently, but I think it makes much more sense than what FASB is proposing and much more sense than what this amendment suggests, because this amendment suggests that we knowingly and systematically list an expense on an income statement even when it is not going to be incurred, and we never correct for that. So I would urge my colleagues to vote "no" on this amendment.

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

We are told by the gentleman from Pennsylvania that you should not list an item as expense on the income statement unless cash leaves the company. What if stock options were given to a health insurance company in return for providing health insurance to the employees? Everyone in this hall agrees that would be listed as an expense. What if a company issues stock in return for employee services or stock in return for supplies? Everyone agrees that would be listed as an expense.

Again and again, when a company is getting supplies, when it is rewarding its rank-and-file employees, when it is providing health care, everybody agrees you list that as an expense, even if no cash leaves the treasury of the company. And, yet, we are asked to make one exception, and that is for executive compensation.

Keep in mind the vast majority of these options are going to top executives. Thirty percent of the options are going to just the top five individuals. Now, there is a compromise that is set forward by the authors of this bill, and that is that at least the options going to the top five are going to be expensed. That is the compromise stated in the title of the bill.

And yet, when you look at the details, you see that roughly a quarter of the companies in this country expense stock options. Some use the binomial method. Some use Black-Scholes. No one uses the phony method, also known as the minimum-value method, under which you say you are expensing stock options, but assume zero volatility, a unique approach used only to conceal what the bill would accomplish.

Mr. Chairman, I yield back the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Let me say this debate raged in the committee. I think the committee made a wise choice in defeating that. It only got 14 votes and 33 against because of some of the arguments that were purported from members on both sides of the aisle regarding the innate confusion the gentleman's amendment would cause to the investing public.

Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I thank the gentleman for yielding.

I would just make one brief further point, and that is, I think what accounting is supposed to be all about is providing the most accurate information, and by "accurate," I think we mean information that either immediately or at least in time converges with economic reality. We do not want corporations to be showing income or expenses that never occur. That is common sense, but that is the reality we are dealing with here.

And what this amendment does is it moves us away from that convergence to economic reality, and I think the underlying bill does a better job of capturing that economic reality, which ultimately in the case of stock options, I believe, should be primarily captured by showing the dilution that occurs in the form of new stock that is issued.

Mr. OXLEY. Mr. Chairman, I yield as much time as he might consume to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Chairman, I want to speak in opposition to the amendment. I want to thank the gentleman from Louisiana (Mr. BAKER) for drafting this thoughtful and thorough legislation.

I believe the approval of H.R. 3574 is essential to the economic well-being of many businesses, most significantly, many small businesses. As for the gentleman's amendment, while H.R. 3574 only requires the expensing of stock options granted to the top five employees of a given company, it is still necessary to accurately determine a value for the option to be expensed. Determining this value has proven tedious at best and extremely inconsistent and inaccurate at worst.

One of the reasons for the unreliability of these valuations is the requirement to factor in the anticipated volatility of a company's future stock prices. The value has proven virtually impossible and actually difficult to determine and is highly susceptible to error and manipulation.

I urge my colleagues to reject this amendment.

Mr. Chairman, I want to speak in opposition to the gentleman's amendment.

Mr. Chairman, I want to thank my friend, Mr. BAKER, for drafting this thoughtful and thorough legislation. I believe that the approval of H.R. 3574 is essential to the economic wellbeing of many businesses, most significantly many small businesses.

As for the gentleman's amendment, while H.R. 3574 only requires the expensing of stock options granted to the top five employees of a given company, it is still necessary to accurately determine a value for the options to be expensed. Determining this value has proven tedious at best and extremely inconsistent and inaccurate at worst.

One of the reasons for the unreliability of these valuations is the requirement to factor in the anticipated volatility of a company's future stock price. This value has proven virtually impossible to accurately determine and is highly susceptible to error and manipulation. By setting the volatility to zero, we greatly reduce the possibility of manipulation. Some have incorrectly stated that setting volatility to zero will result in an expense value of zero. This is inaccurate. Other factors, including the underlying price of the stock, the exercise price of the option, and the life of the option will still be used to determine a value for the option.

I urge my colleagues to defeat the amendment.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from California (Mr. SHERMAN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SHERMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. SHERMAN) will be postponed.

AMENDMENT NO. 3 OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mrs. MALONEY:

At the end of the bill, insert the following:

SEC. 5. CONFIRMATION OF S.E.C. AUTHORITY.

Nothing in this Act shall be construed to impair or limit the authority of the Commission to establish accounting principles or standards on its own initiative as the Commission deems necessary in the public interest or for the protection of investors.

The CHAIRMAN pro tempore. Pursuant to House Resolution 725, the gentlewoman from New York (Mrs. MALONEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I yield myself such time as I may consume.

My amendment preserves the full power of the SEC to determine what companies report and how they report it. This power was given to the SEC in 1934 after the accounting scandals in the 1920s and 1930s. My amendment preserves the current authority to protect investors and the public interest.

Under present law, and I quote from the law, if "the SEC determines that the public interest or the protection of investors so requires," it can set an accounting standard even if it has to override another law to do so, but only to protect the public interest.

This underlying bill takes away the SEC's power to protect investors. It would prevent the SEC from adopting any accounting standard, except the one set in the underlying bill.

So I would urge my colleagues on both sides of the aisle to be very careful with their vote on this amendment. If you vote against this amendment, you will be walking away from accounting standards that are set on the principle of protecting the 84 million investors in our country and moving to a different standard, one that does not focus on protecting investors but gives a competitive advantage to a small number of companies.

This amendment protects investors. This amendment saves independent accounting standard setting, and this amendment prevents this body from making what Alan Greenspan called, "a bad mistake." And it is expressly supported by Arthur Levitt, Warren Buffett, John Bogle, the founder of the first mutual fund, and many other financial experts.

So I hope that this body will listen to the overwhelming views of financial experts and professionals and protect investors by supporting my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Let me first say, while I oppose the amendment, the gentlewoman from

New York has made an excellent contribution to the committee on a number of fronts, and we appreciate her efforts. We just happen to disagree on this particular amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding me this time.

This, of course, is an important amendment, and we should not forget for a moment that the lawmaking business is a very difficult course to follow. If one introduces a measure in the House of Representatives, it may be subject to numerous hearings and, of course, examination by many people over the course of many months, in some cases, years. It then must go to the United States Senate, where it goes through a similar process.

Assuming the House and Senate may disagree, there is an extensive conference committee process. Ultimately, if passed by both Houses as a conference committee report, it goes on to the President of the United States, either for his signature or for his veto.

What is contemplated by the gentlewoman's amendment is to dramatically alter the course of public policy consideration. If one were to take, for example, the 1934 Securities Act, considered after many, many months of deliberation and debate, I would point out that we start in the United States Congress or in the United States Senate.

Both Houses meet, deliberate, hear witnesses, stakeholders, public comment, lobbyists abound, even FASB running around through the halls, and ultimately we pass a bill out that makes its way to the White House, and the White House may or may not sign or choose to veto such a proposal.

The effect of the gentlewoman's amendment from New York would be to say after that lengthy process which, by the way, in the case of the stock option expensing debate has raged now for some time, after considerable hearings within the House Committee on Financial Services, even the cursory examination in the Committee on Energy and Commerce, now this public debate on the House floor.

And might I remind you we are now officially in an open public comment period by FASB, which we all of course know is closed, but for the sake of public discourse, we have an open public comment period. I would suggest the Congress is getting ready to comment on the matter.

What some are proposing with the Maloney amendment in the last circling at the end of the chart is that it would be the "oops" provision. The SEC could say, "Oops, the Congress got it wrong. The President got it wrong. We are simply going to disregard the actions of our public policymakers and decide we are going to do it differently."

□ 1330

Nowhere in the text of the public policy is there an arbitrary and capricious grant of authority for any bureaucratic enterprise to set aside the public policy determinations of the United States Congress. This, in fact, would be a first.

Now, I understand the dispute over the underlying reform proposal; but this, I suggest to Members of the House, is not an appropriate remedy for the concerns expressed by Members opposed to this H.R. 3574.

Should you be opposed to it, I suggest you vote against this measure and simply vote against the bill on final passage. However, I, for one, think it an extremely well-crafted remedy to the identified problem and urge my colleagues to support it on final passage.

Mrs. MALONEY. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I have a different solution than the gentleman from Louisiana (Mr. BAKER). I would suggest that we vote for the Maloney amendment and then against the underlying legislation, because the Maloney amendment would reinstate where all of this should be with the SEC. Have we not had enough corporate malfeasance in this country, say for the last decade?

We should let the SEC do the job that they are supposed to do. They are charged with the responsibility of dealing with this. It has the authority to establish financial reporting standards applicable to public companies since its inception. This bill would limit that authority for the first time ever, preventing the SEC from adopting an accounting standard for stock options even if it finds that it is needed to protect the interest of the public or the investors.

It prevents the SEC from performing one of its most important functions, establishing those accounting standards. It is that simple. That is where the expertise is.

I love the chart the gentleman from Louisiana (Mr. BAKER) had up there because eventually it showed that the regulators are the ones who are going to make the decisions. Perhaps they are better equipped to make these kinds of decisions. Perhaps people should sit down and talk to the FASB people and to the SEC people and understand that is where the decision should be made with respect to the expensing of stock options. Vote for the Maloney amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The time remaining is 1½ minutes on each side.

Mrs. MALONEY. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services.

The CHAIRMAN pro tempore. The gentleman is recognized for 90 seconds.

Mr. FRANK of Massachusetts. Mr. Chairman, I welcome the gentleman from Louisiana's (Mr. BAKER) concern for congressional prerogative and not excessive delegation. I just wish it extended to the war power and a few other trivial matters.

On this particular subject, the gentlewoman's amendment is quite sensible. We have had criticism of the FASB arguing that they are going to make a decision that has broader public policy implications on grounds that are too technical. The gentlewoman's amendment gets us out of that box. And I have some sympathy with that argument because I do not think the FASB ought to go ahead, but I do not want to set the precedent of overturning the regulators.

What her amendment does is to say, okay, it will not be up to the FASB, making a narrow technical accounting decision; it will be up to the Securities and Exchange Commission and specifically instructs them to take into account the public interest. In other words, it seems to me that this is what Members have been saying, that this decision obviously should not ignore accounting principles but that should be leavened by a concern for the public interest. So it is not simply a repeat of the whole bill. It does say it will not be up only to the FASB as current law would allow it, but it does say we will let the SEC make that decision.

As to the argument this would somehow let the SEC overrule Congress, we would be voting to say to the SEC, here, we think based on invested protection and the public interest, you should make that decision. It would not be setting any precedent of overruling us or giving away our authority at all.

I would love to have a consistent regard for congressional authority. I wish we could do it with regard to overtime rules and the war powers. This is not one of those problems.

Mr. OXLEY. Mr. Chairman, I yield 45 seconds to the gentlewoman from California (Ms. ESHOO), who has been enormously helpful throughout this process and, in fact, testified before the Committee on Financial Services on this legislation.

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me time.

Mr. Chairman, I oppose this amendment, and let me state very clearly why. Number one, this amendment allows the SEC to override what the Congress wants. I think that stands our process on its head. And I am not suggesting that our process is always perfect and tidy. I thought that when I came here that when the Congress legislates and the executive signs on to that and a bill becomes law that it is up to the executive branch of government to carry that out.

We have gotten nowhere with this accounting board. They do not want to sit down and hear the other side of this, which is economic. And so that is why I urge my colleagues to reject the amendment.

It essentially guts the bill. If you are opposed to stock options for rank-and-file employees, be opposed to that; but to do this the other way around, I think really begs the question.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mrs. MALONEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York (Mrs. MALONEY) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 108–616.

AMENDMENT NO. 4 OFFERED BY MR. KANJORSKI

Mr. KANJORSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. KANJORSKI:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accounting Standards Integrity Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Securities and Exchange Commission has broad authority to prescribe accounting standards applicable to issuers of publicly traded securities, and generally has relied on the Financial Accounting Standards Board to establish generally accepted accounting standards for private sector businesses.

(2) Objective accounting standards are essential to the efficient functioning of the economy and the capital markets, as investors, creditors, analysts, auditors, and others rely on credible, transparent, and comparable results of operations in making decisions regarding the allocation of capital.

(3) Congress recently acknowledged the importance of the accounting standard-setting process to our capital markets and strengthened the the Financial Accounting Standards Board's independence as part of the Sarbanes-Oxley Act of 2002, which passed the House of Representatives and the Senate by votes of 423–3 and 99–0, respectively.

(4) Congress, in the Sarbanes-Oxley Act of 2002, also recognized the importance of the convergence of United States and international accounting standards on high quality accounting standards.

(5) The United States capital markets enjoy a competitive advantage as a result of the high quality and integrity of our financial reporting system and the accounting standards that underlie it and would lose that advantage over foreign markets if our accounting standards and policies are considered less than objective.

(6) Investors benefit from independent and fair accounting standards that are free from undue political interference.

(7) The rulemaking authority and credibility of the Financial Accounting Standards Board may be irreparably damaged by legislation that preempts the existing public and fair deliberative process.

(8) The Securities and Exchange Commission of the United States has the ultimate authority over the content and process for setting standards for issuers of publicly traded securities.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of Congress that—

(1) preserving the integrity of the accounting standard-setting process and the independence of the Financial Accounting Standards Board is crucial to the functioning and transparency of the financial reporting systems and capital markets of the United States; and

(2) the Securities and Exchange Commission should be permitted to recognize or adopt new accounting standards without Congress or other parties intervening in the process before it is completed to override or delay recognition of those standards.

SEC. 4. SECURITIES AND EXCHANGE COMMISSION MANDATE.

Consistent with its established procedures, the Securities and Exchange Commission shall—

(1) oversee the process of accounting standard-setting to ensure a process that assures that all of the comments, concerns, and recommendations gathered during the comment period on any proposal regarding equity-based compensation are subject to appropriate review; and

(2) before a final standard is adopted, ensure that any modifications are made that are appropriate for the purposes of adopting the highest quality accounting standards that will best serve the purposes of our financial reporting system and the United States economy as a whole.

The CHAIRMAN pro tempore. Pursuant to House Resolution 725, the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from Ohio (Mr. OXLEY) each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Kanjorski-Castle-Dingell-Maloney-Emanuel substitute is simple in its structure and intent. In short, it would replace the current text of H.R. 3574 with language designed to preserve the independence of the Financial Accounting Standards Board in establishing accounting standards.

Specifically, the substitute incorporates a series of findings concerning SEC authority over standards setting and the importance of credible accounting standards to the economy and investors. It also puts forward a sense of Congress that preserving the integrity of the accounting standards setting process is crucial to the financial reporting systems and markets.

Finally, it provides direction to the SEC to oversee the process of setting standards for equity-based compensation to ensure that all comments, including those of the high-tech industry, are appropriately reviewed and that any modifications necessary to ensure the highest quality accounting standards are adopted.

Mr. Chairman, deciding what should be accounted for and how it should be accounted for is the job of the Financial Accounting Standards Board, not the Congress. As a Washington Post recently editorialized, "The accounting standards, like interest rates and determinations of drug safety, should not be set by Congress." They should be set by the experts at the Financial Accounting Standards Board.

Moreover, we should not start proceeding down a slippery slope of establishing accounting standards via political process. As the Financial Accounting Foundation has noted, "Once Congress starts setting accounting standards through its political process, the integrity of the United States accounting standards-setting and the credibility of the U.S. financial reporting will be dangerously compromised."

In short, we should ensure that the Congress does not become an appellate court for accounting standards. I hope my colleagues, therefore, would support our bipartisan substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding me time. I congratulate him on the role that he has played in getting us to this point.

I rise in strong opposition to this substitute because just as the amendment that was proposed by my friend, the gentlewoman from New York (Mrs. MALONEY), it basically guts the bill. I believe it is very important for us to recognize that the United States Congress has a very important role here. We all recognize the independence of the Financial Accounting Standards Board, the Securities and Exchange Commission, but the United States Congress has oversight responsibility. And we have important oversight responsibility, especially in light of the fact that we are looking at a provision which is so amorphous, because no one has been able to actually quantify exactly what the value of these options is. Whether it is Black-Scholes or binomial, virtually everyone has come to the conclusion that it is impossible, impossible for us to accurately do it no matter how hard we try to base it on a balance sheet.

But I think the important point that needs to be raised and why I am so strongly opposed to this substitute, which again would undermine the whole basis of what it is that we are trying to do with this legislation, is we are forgetting the fact that while the Financial Accounting Standards Board, the SEC, may not focus on the issues of economic growth, every single day we, as Members of Congress, have a responsibility to do what we can to make sure that we take steps to unleash the creative potential of the American worker. And that improves the quality of life, the standard of living for people here in the United States and around the world.

So I believe that it would be a real mistake for us to pass this substitute. We need to do everything we can to make sure that we as Members of the United States Congress encourage productivity, encourage innovation and make sure we have economic growth succeed.

Oppose this substitute and support final passage on the bill.

Mr. KANJORSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE), a co-sponsor of the substitute amendment.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me time.

I would like to paint a little bit of a different picture here. Let us assume instead of Members of Congress, these 435 seats were filled with stockholders of various companies in this country, and I said, look, we have $126 billion worth of expenses to the various corporations, but you will never see it because we will do it without any kind of an entry whatsoever.

That is what this is really all about. That is what we are dealing with.

We are really not expensing stock options at all. It is, in my judgment, ludicrous to suggest that the bill which is before us actually expenses stock options without any kind of a volatility standard in them. So we are just letting that go on as we did for some time.

But what is happening around the United States of America as we speak here today? What is happening is that a lot of people who are a heck of a lot more knowledgeable about corporations, equity and running of corporations than we are, are saying, hey, this is wrong; we need to expense stock options.

I have these names here; I cannot go through them all. I do not have time to do that in the 3 minutes I have, but we recognize a lot of them. Alan Greenspan, Paul Volcker, Warren Buffet, names such as that. A significant number of people who have looked at this very carefully have come to the conclusion that we absolutely must do something about it.

A number of stockholders, as well, have done the same thing. For the first time ever, public proxies opposed by corporations are actually passing in the United States of America, some 40 of them this year, because stockholders have actually spoken out and have actually made the statement that we are going to do something about this; we are going to start to expense stock options.

Then, in addition to that, many corporations have looked at this and they said, we really do not need to have stock options unexpensed. We can expense them. We can live with that. Or we can issue restricted stock. There is a whole variety of ways in which we can compensate our executives and our other employees in a fair manner but in a way that would be shown to everybody who has invested in the corporation or might want to invest in the corporation.

Then there are all those companies that are voluntarily expensing their stock options. Again, I do not have the time to go through all of them, but Amazon, American Express, AT&T, Capital One, Coca-Cola, Daimler Chrysler. You name it and they are all beginning to do it.

The proposal which we have before us allows a regulatory body, the SEC working through FASB, to be able to come up with the fairest methodology of doing this. They have issued a rule. They are now listening to whatever the suggestions are. They should perhaps listen to Congress. I will be the first to tell you that Black-Scholes and other methodologies are not necessarily precise, but at least we are showing the expense of stock options so that all of the investors in this world, well over 50 percent of Americans who have invested in either mutual funds or corporations, will actually know what the heck is happening with those corporations.

If we vote for this legislation, we are basically going to brush it right back under the rug, and that is not where it belongs. So I would encourage everybody to take a careful look at this substitute which I think makes a lot of sense in terms of giving FASB the right to continue to do what they are doing. I would encourage us to look at all the amendments which are outstanding at this point and to vote for them and to oppose the legislation when the final say comes for the stockholders and the people of America.

□ 1345

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the subcommittee.

Mr. BAKER. Mr. Chairman, I thank the chairman for yielding me time.

Since 1969, the current debate has been in some form or fashion engaged by FASB, 1969, 35 years. You would not think that that would be considered a new and innovative strategy to begin expensing or not expensing options.

In 1995, the current methodology was adopted as a compromise. Yes, you can expense, if you so choose, determined by your board, driven perhaps by your shareholders, but you may also disclose in the footnotes.

What are footnotes? They are notes in the annual report to shareholders. If you are a shareholder and you are worried about diluted effect, in other words, they are giving an option to someone, what does that do to my asset in the company, you can find that out with an examination of the annual report.

To suggest that this is a new tactic developed by some executive in a back room to cheat shareholders or Americans out of value gained in their corporate investment is simply not accurate. This has been a practice common in the business world for many, many years.

Now, at question is whether or not a handful of executives who are identified as abusing their privileges ought to be brought to some account. The answer with the passage of this bill is "yes." If you are one of the top five executives who, by some accounts, hold the majority of options granted, you will now be required to expense those options at the time they are granted to the employee. It does not, however, require the large number of employees who benefit from investment, showing up early, staying late, investing their intellectual and personal capital into the business, who ultimately benefit from the overall growth and value of that corporation by seeing their shares increase in value.

Forty-five percent of the venture capital in this country goes to the Silicon Valley, 45 percent, and the bulk of that goes to these new technology start-up companies. If my colleagues wish to see them in the future, please vote for H.R. 3574. It is rational reform headed in the right direction.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services.

Mr. FRANK of Massachusetts. Mr. Chairman, I am delighted to take up where the previous speaker left off.

No, I do not want to see an end to venture capital in the Silicon Valley, and my argument is that this is greatly overblown. Here is the argument; we have just heard it.

We have this very valuable resource in America, these high-tech start-ups. They are, on the whole, quite productive; they generate wealth, venture capitalists give them money, and we are being told that the venture capitalists in America are so stupid that a change in accounting, which represents no change in reality, will drive them away from this business.

Now, I agree with those who say that the options are a good thing. I do not think investors are misled. If you are going to invest in a company, read the footnotes, and if you did not read the footnotes when you invested, do not complain to me. I have got constituents with real problems.

On the other hand, the argument that if you change the accounting and the reality is not changed, remember this has not been the issue. Nothing about what FASB is proposing would stop the issuance of options. It simply changes the way they are accounted for literally.

The argument is that the most sophisticated investors in America will see a change in the accounting and they will say, Oh, my God, I had better stop investing in these companies; I did not know that they were doing this. Well, of course they know. Both sides know. No one is getting any new information out of this.

The question is, if the accounting takes them from a gain on paper to a loss on paper with no change in reality, will that dry up capital?

Now, I understand where if you are one company out of many and you did this and others did not, maybe you would be at a disadvantage, but are venture capitalists so dumb that they do not know what apparently everybody here does? I think they at least tie us in intelligence and understanding of economic processes. Are they going to say, Oh, now that the accounting is changed, now that this is expensed, even though the realities are the same, I will withdraw my investment? I am wholly skeptical of that argument.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Ohio for the time, and Mr. Chairman, I would like to point out a few things here about the substitute.

First of all, obviously I respect the gentleman from Pennsylvania, but I do not support the substitute, and let me tell my colleagues why.

There was a chart that was here on the floor a little earlier of companies that expense. I wish we had a chart on the floor that demonstrated that those companies that do do not offer stock options to their rank-and-file employees.

This debate is not about the venture capitalists. They are going to make their investments. They are going to pick and choose. But this is a magnet that attracts individuals to form new companies to allow them to grow and bring them up to profitability. We want to destroy this? Well, it is going to be in the hands of the Congress to do that. That is what this debate is about.

Those that have problems with executive compensation have problems with it. Talk to the board of directors that form those packages, but rank-and-file employees do not get to negotiate their compensation or those packages. That is why their stock options are so important.

This substitute does not address FASB's failure to develop accurate expensing formulas. They are unwilling to even road-test the standards that they are talking about.

Now, I think that that is really unfair. That is why, as a Member of Congress, I stepped in. I think we should, and I think it is appropriate because we do have a responsibility to answer to the American people about economics and economic impacts on our people.

That is why I urge my colleagues to reject and to vote against the Kanjorski substitute. It was rejected in the committee and it should be on the floor.

Mr. KANJORSKI. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for giving me an opportunity to talk about the Stock Option Accounting Reform Act.

This is Alice in Wonderland. The notion that the legislation could be labeled with such a title originates in a statement by Warren Buffett, CEO of Berkshire Hathaway.

Why does the second richest man in America oppose a bill that could conceivably make his company look more profitable? It is because the bill only makes the profit look better on paper, while the real bottom line does not change.

The bill perpetuates an accounting gimmick that has harmed far too many investors. Think Enron.

The bill's suggested method for valuing options could grossly underestimate their true value and provide an inflated view of a company's profits. That is misleading to investors who have a right to accurate information.

Take Intel as an example. If this bill were law, Intel would be able to overstate their profits by $991 million. If every company can overstate profits, as this bill allows, then no investor will have accurate information and our markets will be neither efficient nor truly free.

I ask my colleagues to vote against H.R. 3574. It is a misleading and irresponsible bill, and we ought to be here protecting small investors, and that ought to be a goal of the United States Congress.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I thank the chairman for the time.

I think that some speakers seem to distrust big business. Some do need it, but I would tell my colleagues, California was hit extensively with defense cuts. A lot of the jobs were lost, a lot of not just DOD but jobs in the high-tech industries, defense and so on.

We have replaced a lot of our businesses with bio-tech, and quite often the young entrepreneurial company does not have the capital to start up the business. So what did they do? They reach out to scientists and say, Hey, we cannot pay you the amount necessary to study a cure for AIDS or cancer, but we can give you a piece of the rock.

Some of my colleagues talked about creation of jobs. Well, we have gotten rid of the high-paying jobs and only have the low-service jobs.

These quite often are high-paying jobs. It is an investment in the future, not only of the company but for the workers on all levels of that company that do have stock options. For California, our job market is improving, primarily of those young entrepreneurial companies. There are some that want to tax those, put a tax on it, but we think that that is wrong. When we could create an environment that produces jobs on all levels of the scientists, all the way from the people that take out the trash, and that is good, and it means that the economy can recover; and in the State of California it helps us, and I rise in strong support of this bill.

Mr. KANJORSKI. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I thank the gentleman for yielding me time.

America has to fight to get capital. China lets its domestic companies put anything they want on their financial statements. We respond with independent, nonpolitical, generally accepted accounting principles written by the FASB, an independent board. Under this bill, we would have generally political accounting principles. Capital will go abroad.

No wonder perhaps the best group defending investors, Greenspan, Buffett, the mutual funds represented by the Investment Company Institute and the major pension plans representing public employees all oppose this bill.

We are told that options are broadly based. Thirty percent of the options goes to the top five executives; the other 70 percent are narrowly spread among top executives. That is why 80 percent of CEO compensation in this country comes in the form of stock options.

We are told that it is difficult to do the calculations to expense stock options, but accountants do much more difficult calculations already and have for generations.

We are told that we should adopt an absurd accounting standard, one where if you give an option to the number five person at a company, that is an expense, but the number six person at the company gets an option that is not an expense. Only a political body like Congress would decide that the weights and measures varied dependent upon whether you are dealing with the number five executive or the number six executive.

In sum, Mr. Chairman, imposing political standards in an effort to conceal executive compensation will tarnish

America's image for objective financial reporting and hurt our efforts to attract capital from around the world.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

This has been an excellent debate, and I have great respect for the two gentlemen who have offered this substitute, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Pennsylvania (Mr. KANJORSKI), but the issue here is whether duly elected public policymakers, that is, the Congress, have a responsibility to deal with issues that come into the realm of the economy, job creation, economic growth and the like, and I think clearly the answer is "yes."

How many arguments have we heard about outsourcing? How many arguments have we heard about the fact that we are falling behind in the technology gap with Asian countries? How many times have we heard the arguments about the number of engineers that are produced in other parts of the world compared to here or in science and the like? How many times have we heard about the competition out there for good quality people who have an idea, who want to bring that idea to fruition?

That is really what employee stock options do. It gives them an incentive. It incentivizes these folks to work harder and to come up with more innovations because they have a piece of the action. They own part of that company, and this is clearly what it is.

The fastest growing area for employee stock options is Asia, and among the Asian countries, the fastest growing country for creation of employee stock options is Communist China.

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When our American companies have to compete for talent with Japan and China and other countries in Asia, and at the same time we have politicians and pundits complaining about outsourcing and about our inability to be competitive, do we have to stand back as elected Members of Congress and say we are willing to allow those decisions to be made by unelected bureaucrats and the private sector? I say, no.

So this idea that the gentleman from Louisiana (Mr. BAKER) came up with, which deals with that 30 percent, the top five people in a corporation, this deals directly with that. It says we are going to have them report those stock options. That is precisely the point behind this.

If the argument is that somehow all of the business scandals resulted from the fact that people were abusing stock options, then this bill is the answer to that problem. I ask Members to oppose the substitute and for a strong bipartisan vote for final passage.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. KANJORSKI. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 2 offered by the gentleman from California (Mr. SHERMAN); amendment No. 3 offered by the gentlewoman from New York (Mrs. MALONEY); and amendment No. 4 offered by the gentleman from Pennsylvania (Mr. KANJORSKI).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. SHERMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. SHERMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 126, noes 296, not voting 11, as follows:

[Roll No. 394]

AYES—126

Abercrombie
Ackerman
Alexander
Andrews
Baldwin
Bass
Becerra
Bell
Bereuter
Berman
Berry
Bishop (NY)
Bono
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Cardin
Castle
Clay
Clyburn
Conyers
Costello
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Duncan
Ehlers
Emanuel
Evans
Fattah
Filner
Fossella
Frank (MA)
Gilchrest
Gillmor
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kleczka
Kucinich
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Maloney
Markey
Marshall
Matsui
McCollum
McDermott
McNulty
Meek (FL)
Michaud
Millender-McDonald
Miller, George
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Platts
Pomeroy
Rahall
Rangel
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (MI)
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Taylor (MS)
Thompson (MS)
Tierney
Udall (CO)
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler

NOES—296

Aderholt
Akin
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Dunn
Edwards
Emerson
English
Eshoo
Etheridge
Everett
Farr
Feeney
Flake
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin

Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Ballenger
Carson (IN)
Collins
Cooper
Engel
Ferguson
Hoeffel
Isakson
Majette
McCrery
Quinn

□ 1426

Mrs. WILSON of New Mexico, Ms. KILPATRICK, and Messrs. GUTKNECHT, WYNN, BRADLEY of New Hampshire, LANTOS and BISHOP of Georgia changed their vote from "aye" to "no."

Ms. CORRINE BROWN of Florida, Mr. DEUTSCH and Mr. DINGELL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MRS. MALONEY

The CHAIRMAN pro tempore (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Mrs. MALONEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 114, noes 308, not voting 11, as follows:

[Roll No. 395]

AYES—114

Abercrombie
Ackerman
Alexander
Andrews
Baldwin
Becerra
Bereuter
Berman
Berry
Bishop (NY)
Bono
Brady (PA)
Brown (OH)
Capps
Cardin
Castle
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doyle
Emanuel
Engel
Fattah
Fossella
Frank (MA)
Gilchrest
Gillmor
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Jones (NC)
Kanjorski
Kaptur
Kleczka
Kucinich
Leach
Lee
Levin
Lipinski
Lowey
Maloney
Markey
Marshall
Matsui
McCollum
McDermott
McNulty
Miller (NC)
Miller, George
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Pomeroy
Rahall
Rangel
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Serrano
Shays
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Taylor (MS)
Thompson (MS)
Tierney
Towns
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wu
Wynn

NOES—308

Aderholt
Akin
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Flake
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

NOT VOTING—11

Ballenger
Carson (IN)
Collins
Cooper
Ferguson
Hoeffel
Isakson
Majette
McCrery
Quinn
Smith (MI)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1435

Mr. WYNN and Mr. FOSSELLA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. KANJORSKI

The CHAIRMAN pro tempore (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 127, noes 293, not voting 13, as follows:

[Roll No. 396]

AYES—127

Abercrombie
Ackerman
Alexander
Andrews
Baldwin
Bass
Becerra
Bell
Bereuter
Berman
Berry
Bilirakis
Bishop (NY)
Bono
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Cardin
Castle
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dingell
Doyle
Emanuel
Engel

Evans
Fattah
Ford
Fossella
Frank (MA)
Gilchrest
Gillmor
Goode
Grijalva
Gutierrez
Hall
Hastings (FL)
Hinchey
Hoeffel
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kleczka
Kolbe
Kucinich
Leach
Lee
Levin
Lipinski
Lowey
Maloney
Markey
Marshall
Matsui
McCollum
McDermott
McInnis
McNulty
Miller, George
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Osborne
Owens
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Platts
Pomeroy
Rahall
Rangel
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Serrano
Shays
Sherman
Shimkus
Simmons
Slaughter
Smith (MI)
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Taylor (MS)
Thompson (MS)
Tierney
Towns
Van Hollen
Visclosky
Waters
Watt
Waxman
Weiner
Wexler

NOES—293

Aderholt
Akin
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Everett
Farr
Feeney
Filner
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McGovern
McHugh
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Ose
Otter
Oxley
Pallone
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—13

Ballenger
Berkley
Carson (IN)
Collins
Cooper
Ferguson
Greenwood
Isakson
Johnson (CT)
Majette
McCrery
Quinn
Thomas

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1442

Mr. CONYERS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MCINNIS. Mr. Chairman, during today's consideration of H.R. 3574, a bill introduced by Representative BAKER, I mistakenly voted "no" on one of the amendments to this legislation. Representative KANJORSKI introduced a substitute amendment to H.R. 3574, (rollcall No. 396). I voted in favor of Representative KANJORSKI's amendment. Please let the RECORD reflect that I intended to vote against that amendment.

The CHAIRMAN pro tempore. There being no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SWEENEY) having assumed the chair, Mr. LaHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes, pursuant to House Resolution 725, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 312, nays 111, not voting 10, as follows:

[Roll No. 397]

YEAS—312

Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Bell
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Clay
Coble
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Everett
Farr
Feeney
Filner
Flake
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda

Hooley (OR)
Hostettler
Houghton
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Hunter
Hyde
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Israel
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Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Ose
Otter
Owens
Oxley
Pallone
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—111

Abercrombie
Alexander
Baldwin
Bass
Bereuter
Berman
Berry
Bishop (NY)
Bono
Brady (PA)
Brown (OH)
Capps
Cardin
Castle
Clyburn
Cole
Conyers
Costello
Cummings
Davis (FL)
DeFazio
DeGette
DeLauro
Dingell
Doyle
Emanuel
Emerson
Evans
Fattah
Fossella
Frank (MA)
Gilchrest
Gillmor
Goode
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoeffel
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kleczka
Kolbe
Kucinich
LaHood
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Maloney
Markey
Marshall
Matsui
McDermott
McNulty
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Osborne
Pascrell
Pastor
Payne
Peterson (MN)
Petri
Platts
Pomeroy
Rahall
Rohrabacher
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Serrano
Shays
Sherman
Shimkus
Slaughter
Smith (MI)
Spratt
Stark
Stearns
Strickland
Stupak
Taylor (MS)
Terry
Thompson (MS)
Tierney
Towns
Van Hollen
Visclosky
Waters
Watt
Waxman
Weiner

NOT VOTING—10

Ballenger
Carson (IN)
Collins
Cooper
Ferguson
Gingrey
Isakson
Majette
McCrery
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1500

Mr. PAYNE changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GINGREY. Mr. Speaker, on rollcall No. 397 I was unavoidably detained. Had I been present, I would have voted "yea."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3574, STOCK OPTION ACCOUNTING REFORM ACT

Mr. BAKER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3574, the Clerk be authorized to correct section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CONFERENCE REPORT ON H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2004

Mr. YOUNG of Alaska submitted the following conference report and statement on the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–617)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2443), to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Coast Guard and Maritime Transportation Act of 2004".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Long-term leases.
Sec. 202. Nonappropriated fund instrumentalities.
Sec. 203. Term of enlistments.
Sec. 204. Enlisted member critical skill training bonus.
Sec. 205. Indemnity for disabling vessels liable to seizure or examination.
Sec. 206. Administrative, collection, and enforcement costs for certain fees and charges.
Sec. 207. Expansion of Coast Guard housing authorities.
Sec. 208. Requirement for constructive credit.
Sec. 209. Maximum ages for retention in an active status.
Sec. 210. Travel card management.
Sec. 211. Coast Guard fellows and detailees.
Sec. 212. Long-term lease of special use real property.
Sec. 213. National Coast Guard Museum.
Sec. 214. Limitation on number of commissioned officers.
Sec. 215. Redistricting notification requirement.
Sec. 216. Report on shock mitigation standards.
Sec. 217. Recommendations to Congress by Commandant of the Coast Guard.
Sec. 218. Coast Guard education loan repayment program.
Sec. 219. Contingent expenses.
Sec. 220. Reserve admirals.
Sec. 221. Confidential investigative expenses.
Sec. 222. Innovative construction alternatives.
Sec. 223. Delegation of port security authority.
Sec. 224. Fisheries enforcement plans and reporting.
Sec. 225. Use of Coast Guard and military child development centers.
Sec. 226. Treatment of property owned by auxiliary units and dedicated solely for auxiliary use.

TITLE III—NAVIGATION

Sec. 301. Marking of underwater wrecks.
Sec. 302. Use of electronic devices; cooperative agreements.
Sec. 303. Inland navigation rules promulgation authority.
Sec. 304. Saint Lawrence Seaway.

TITLE IV—SHIPPING

Sec. 401. Reports from charterers.
Sec. 402. Removal of mandatory revocation for proved drug convictions in suspension and revocation cases.
Sec. 403. Records of merchant mariners' documents.
Sec. 404. Exemption of unmanned barges from certain citizenship requirements.
Sec. 405. Compliance with International Safety Management Code.
Sec. 406. Penalties.
Sec. 407. Revision of temporary suspension criteria in document suspension and revocation cases.
Sec. 408. Revision of bases for document suspension and revocation cases.
Sec. 409. Hours of service on towing vessels.
Sec. 410. Electronic charts.
Sec. 411. Prevention of departure.
Sec. 412. Service of foreign nationals for maritime educational purposes.

Sec. 413. Classification societies.
Sec. 414. Drug testing reporting.
Sec. 415. Inspection of towing vessels.
Sec. 416. Potable water.
Sec. 417. Transportation of platform jackets.
Sec. 418. Renewal of advisory groups.

TITLE V—FEDERAL MARITIME COMMISSION

Sec. 501. Authorization of appropriations for Federal Maritime Commission.
Sec. 502. Report on ocean shipping information gathering efforts.

TITLE VI—MISCELLANEOUS

Sec. 601. Increase in civil penalties for violations of certain bridge statutes.
Sec. 602. Conveyance of decommissioned Coast Guard cutters.
Sec. 603. Tonnage measurement.
Sec. 604. Operation of vessel STAD AMSTERDAM.
Sec. 605. Great Lakes National Maritime Enhancement Institute.
Sec. 606. Koss Cove.
Sec. 607. Miscellaneous certificates of documentation.
Sec. 608. Requirements for coastwise endorsement.
Sec. 609. Correction of references to National Driver Register.
Sec. 610. Wateree River.
Sec. 611. Merchant mariners' documents pilot program.
Sec. 612. Conveyance.
Sec. 613. Bridge administration.
Sec. 614. Sense of Congress regarding carbon monoxide and watercraft.
Sec. 615. Mitigation of penalty due to avoidance of a certain condition.
Sec. 616. Certain vessels to be tour vessels.
Sec. 617. Sense of Congress regarding timely review and adjustment of Great Lakes pilotage rates.
Sec. 618. Westlake chemical barge documentation.
Sec. 619. Correction to definition.
Sec. 620. LORAN-C.
Sec. 621. Deepwater report.
Sec. 622. Judicial review of National Transportation Safety Board final orders.
Sec. 623. Interim authority for dry bulk cargo residue disposal.
Sec. 624. Small passenger vessel report.
Sec. 625. Conveyance of motor lifeboat.
Sec. 626. Study on routing measures.
Sec. 627. Conveyance of light stations.
Sec. 628. Waiver.
Sec. 629. Approval of modular accommodation units for living quarters.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

Sec. 701. Vessel response plans for nontank vessels over 400 gross tons.
Sec. 702. Requirements for tank level and pressure monitoring devices.
Sec. 703. Liability and cost recovery.
Sec. 704. Oil Spill Recovery Institute.
Sec. 705. Alternatives.
Sec. 706. Authority to settle.
Sec. 707. Report on implementation of the Oil Pollution Act of 1990.
Sec. 708. Loans for fishermen and aquaculture producers impacted by oil spills.

TITLE VIII—MARITIME TRANSPORTATION SECURITY

Sec. 801. Enforcement.
Sec. 802. In rem liability for civil penalties and costs.
Sec. 803. Maritime information.
Sec. 804. Maritime transportation security grants.
Sec. 805. Security assessment of waters under the jurisdiction of the United States.
Sec. 806. Membership of Area Maritime Security Advisory Committees.
Sec. 807. Joint operational centers for port security.
Sec. 808. Investigations.
Sec. 809. Vessel and intermodal security reports.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2005 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $5,404,300,000, of which $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,500,000,000, of which—

(A) $23,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990), to remain available until expended;

(B) $1,100,000,000 is authorized for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater System; and

(C) $161,000,000 shall be available for Rescue 21.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $24,200,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,085,460,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $19,650,000, of which—

(A) $17,150,000, to remain available until expended; and

(B) $2,500,000, to remain available until expended, which may be utilized for construction of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), $17,000,000, to remain available until expended.

(7) For maintenance and operation of facilities, supplies, equipments, and services necessary for the Coast Guard Reserve, as authorized by law, $117,000,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 for the years ending on September 30, 2004, and September 30, 2005.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2005, 2,500 student years.

(2) For flight training for fiscal year 2005, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2005, 350 student years.

(4) For officer acquisition for fiscal year 2005, 1,200 student years.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. LONG-TERM LEASES.

Section 93 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (a) through (x) in order as paragraphs (1) through (23);

(2) in paragraph (18) (as so redesignated) by striking the comma at the end and inserting a semicolon;

(3) by inserting "(a)" before "For the purpose"; and

(4) by adding at the end the following:

"(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

"(2) A lease referred to in paragraph (1) is a lease—

"(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or

"(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.".

SEC. 202. NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"§ 152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services

"The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services.".

SEC. 203. TERM OF ENLISTMENTS.

Section 351(a) of title 14, United States Code, is amended by striking "terms of full years not exceeding six years." and inserting "a period of at least two years but not more than six years.".

SEC. 204. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 373 the following:

"§ 374. Critical skill training bonus

"(a) The Secretary may provide a bonus, not to exceed $20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

"(b) If an enlisted member voluntarily or because of misconduct does not complete the member's term of obligated active service, the Secretary may require the member to repay the

United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting the following after the item relating to section 373:

"374. Critical skill training bonus.".

SEC. 205. INDEMNITY FOR DISABLING VESSELS LIABLE TO SEIZURE OR EXAMINATION.

(a) REPEAL OF REQUIREMENT TO FIRE WARNING SHOT.—Subsection (a) of section 637 of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "after a" and all that follows through "signal," and inserting "subject to paragraph (2),"; and

(3) by adding at the end the following:

"(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.".

(b) EXTENSION TO MILITARY AIRCRAFT OF COAST GUARD INTERDICTION AUTHORITY.—Subsection (c) of such section is amended—

(1) in paragraph (1) by inserting "or" after the semicolon; and

(2) in paragraph (2) by—

(A) inserting "or military aircraft" after "surface naval vessel": and

(B) striking "; or" and all that follows through paragraph (3) and inserting a period.

(c) REPEAL OF TERMINATION OF APPLICABILITY TO NAVAL AIRCRAFT.—Subsection (d) of such section is repealed.

(d) REPORT.—The Commandant of the Coast Guard shall transmit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives describing the location, vessels or aircraft, circumstances, and consequences of each incident in the 12-month period covered by the report in which the person in command or in charge of an authorized vessel or an authorized aircraft (as those terms are used in section 637 of title 14, United States Code) fired at or into a vessel without prior use of the warning signal as authorized by that section.

(e) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 637 of title 14, United States Code, is amended in the section heading by striking "**immunity**" and inserting "**indemnity**".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by striking the item relating to section 637 and inserting the following:

"637. Stopping vessels; indemnity for firing at or into vessel.".

SEC. 206. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.

Section 664 of title 14, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (f);

(2) by inserting after subsection (b) the following:

"(c) In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.

"(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.

"(2) A private enterprise or business employed by the Secretary to collect fees or charges—

"(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

"(B) shall provide appropriate accounting to the Secretary; and

"(C) may not institute litigation as part of that collection.

"(e) The Secretary shall account for the agency's costs of collecting a fee or charge as a reimbursable expense, subject to the availability of appropriations, and the costs shall be credited to the account from which expended."; and

(3) by adding at the end the following:

"(g) In this section the term 'costs of collecting a fee or charge' includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.".

SEC. 207. EXPANSION OF COAST GUARD HOUSING AUTHORITIES.

(a) ELIGIBLE ENTITY DEFINED.—Section 680 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) in order as paragraphs (4) and (5); and

(2) by inserting after paragraph (2) the following:

"(3) The term 'eligible entity' means any private person, corporation, firm, partnership, or company and any State or local government or housing authority of a State or local government.".

(b) DIRECT LOANS FOR PROVIDING HOUSING.—Section 682 of title 14, United States Code, is amended—

(1) in the section heading by striking "**Loan guarantees**" and inserting "**Direct loans and loan guarantees**";

(2) by redesignating subsections (a) and (b) as (b) and (c) respectively;

(3) by inserting before subsection (b) (as so redesignated) the following:

"(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.";

(4) in subsection (b) (as so redesignated) by striking "subsection (b)," and inserting "subsection (c),"; and

(5) in subsection (c) (as so redesignated)—

(A) in the heading by striking "GUARANTEE"; and

(B) by striking "Loan guarantees" and inserting "Direct loans and loan guarantees".

(c) LIMITED PARTNERSHIPS WITH ELIGIBLE ENTITIES.—Section 684 of title 14, United States Code, is amended—

(1) in the section heading by striking "**nongovernmental**" and inserting "**eligible**";

(2) in subsection (a) by striking "nongovernmental" and inserting "eligible";

(3) in subsection (b)(1) by striking "a nongovernmental" and inserting "an eligible";

(4) in subsection (b)(2) by striking "a nongovernmental" and inserting "an eligible"; and

(5) in subsection (c) by striking "nongovernmental" and inserting "eligible".

(d) HOUSING DEMONSTRATION PROJECTS IN ALASKA.—Section 687(g) of title 14, United Sates Code, is amended—

(1) in the heading by striking "PROJECT" and inserting "PROJECTS";

(2) in paragraph (1) by striking "a demonstration project" and inserting "demonstration projects";

(3) in paragraph (1) by striking "Kodiak, Alaska;" and inserting "Kodiak, Alaska, or any other Coast Guard installation in Alaska;";

(4) in paragraph (2) by striking "the demonstration project" and inserting "such a demonstration project"; and

(5) in paragraph (4) by striking "the demonstration project" and inserting "such demonstration projects".

(e) DIFFERENTIAL LEASE PAYMENTS.—Chapter 18 of title 14, United States Code, is amended by inserting after section 687 the following:

"§ 687a. Differential lease payments

"Pursuant to an agreement entered into by the Secretary and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount, in addition to the rental payments for the housing made by the members, as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 18 of title 14, United States Code, is amended—

(1) by striking the item related to section 682 and inserting the following:

"682. Direct loans and loan guarantees.";

(2) in the item related to section 684 by striking "nongovernmental" and inserting "eligible"; and

(3) by inserting after the item related to section 687 the following:

"687a. Differential lease payments.".

SEC. 208. REQUIREMENT FOR CONSTRUCTIVE CREDIT.

Section 727 of title 14, United States Code, is amended in the second sentence by striking "three years" and inserting "one year".

SEC. 209. MAXIMUM AGES FOR RETENTION IN AN ACTIVE STATUS.

Section 742 of title 14, United States Code, is amended to read as follows:

"§ 742. Maximum ages for retention in an active status

"(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Reserve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

"(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

"(c) Notwithstanding subsection (a)and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

"(d) For purposes of this section, 'active duty' does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.".

SEC. 210. TRAVEL CARD MANAGEMENT.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

"§517. Travel card management

"(a) IN GENERAL.—The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

"(b) WITHHOLDING OF NONDISPUTED OBLIGATIONS.—The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the card was issued and does not dispute the amount of the delinquency.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 516 the following:

"517. Travel card management".

SEC. 211. COAST GUARD FELLOWS AND DETAILEES.

The Secretary of the department in which the Coast Guard is operating, in consultation with the Attorney General, shall by not later than 6 months after the date of the enactment of this Act—

(1) review the Coast Guard Commandant Instruction 5730.3, regarding congressional detailees (COMDTINST 5370.3), dated April 18, 2003, and compare the standards set forth in the instruction to the standards applied by other executive agencies to congressional detailees;

(2) determine if any changes to such instruction are necessary to protect against conflicts of interest and preserve the doctrine of separation of powers; and

(3) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the findings and conclusions of the review.

SEC. 212. LONG-TERM LEASE OF SPECIAL USE REAL PROPERTY.

(a) IN GENERAL.—Section 672 of title 14, United States Code, is amended by—

(1) striking the heading and inserting the following:

"§672. Long-term lease of special purpose facilities";

(2) in subsection (a), inserting "special purpose facilities, including," after "automatic renewal clauses, for" ; and

(3) striking "(b) The" and inserting:

"(b) For purposes of this section, the term 'special purpose facilities' means any facilities used to carry out Coast Guard aviation, maritime, or navigation missions other than general purpose office and storage space facilities.

"(c) In the case of ATON, VTS, or NDS sites, the".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by striking the item relating to section 672 and inserting the following:

"672. Long-term lease of special purpose facilities.".

SEC. 213. NATIONAL COAST GUARD MUSEUM.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§98. National Coast Guard Museum

"(a) ESTABLISHMENT.—The Commandant may establish a National Coast Guard Museum, on lands which will be federally owned and administered by the Coast Guard, and are located in New London, Connecticut, at, or in close proximity to, the Coast Guard Academy.

"(b) LIMITATION ON EXPENDITURES.—(1) Except as provided in paragraph (2), the Secretary shall not expend any appropriated Federal funds for the engineering, design, or construction of any museum established under this section.

"(2) The Secretary shall fund the operation and maintenance of the National Coast Guard Museum with nonappropriated and non-Federal funds to the maximum extent practicable. The priority use of Federal operation and maintenance funds should be to preserve and protect historic Coast Guard artifacts.

"(c) FUNDING PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating, and maintaining such a museum, including—

"(1) estimated planning, engineering, design, construction, operation, and maintenance costs;

"(2) the extent to which appropriated, nonappropriated, and non-Federal funds will be used for such purposes, including the extent to which there is any shortfall in funding for engineering, design, or construction; and

"(3) a certification by the Inspector General of the department in which the Coast Guard is operating that the estimates provided pursuant to paragraphs (1) and (2) are reasonable and realistic.

"(d) AUTHORITY.—The Commandant may not establish a Coast Guard museum except as set forth in this section.".

(b) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"98. National Coast Guard Museum.".

SEC. 214. LIMITATION ON NUMBER OF COMMISSIONED OFFICERS.

Section 42 of title 14, United States Code, is amended—

(1) in subsection (a), by striking "6,200" and inserting "6,700 in each fiscal year 2004, 2005, and 2006"; and

(2) in subsection (b), by striking "commander 12.0; lieutenant commander 18.0" and inserting "commander 15.0; lieutenant commander 22.0".

SEC. 215. REDISTRICTING NOTIFICATION REQUIREMENT.

The Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 180 days before—

(1) implementing any plan to reduce the number of, change the location of, or change the geographic area covered by any existing Coast Guard Districts; or

(2) permanently transferring more than 10 percent of the personnel or equipment from a district office where such personnel or equipment is based.

SEC. 216. REPORT ON SHOCK MITIGATION STANDARDS.

(a) REPORT REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall issue a report on the necessity of, and possible standards for, decking materials for Coast Guard vessels to mitigate the adverse effects on crew members from shock and vibration.

(b) RECOMMENDED STANDARDS.—The standards recommended in the report may—

(1) incorporate appropriate industry or manufacturing standards; and

(2) consider the weight and durability of decking material, the effects of repeated use and varying weather conditions, and the capability of decking material to lessen impact.

SEC. 217. RECOMMENDATIONS TO CONGRESS BY COMMANDANT OF THE COAST GUARD.

Section 93 of title 14, United States Code, is amended—

(1) in paragraph (w) by striking "and" after the semicolon at the end;

(2) in paragraph (x) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(y) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate.".

SEC. 218. COAST GUARD EDUCATION LOAN REPAYMENT PROGRAM.

(a) PROGRAM AUTHORIZED.—Chapter 13 of title 14, United States Code, is amended by inserting after section 471 the following:

"§472. Education loan repayment program

"(a)(1) Subject to the provisions of this section, the Secretary may repay—

"(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

"(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

"(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

"(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed on active duty as an enlisted member of the Coast Guard in a specialty specified by the Secretary.

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.

"(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

"(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(e) The Secretary shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 471 the following:

"472. Education loan repayment program.".

SEC. 219. CONTINGENT EXPENSES.

Section 476 of title 14, United States Code, is amended—

(1) by striking "$7,500" and inserting "$50,000"; and

(2) by striking the second sentence.

SEC. 220. RESERVE ADMIRALS.

(a) PRECEDENCE.—Section 725 of title 14, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding any other law, a Reserve officer shall not lose precedence by reason of promotion to the grade of rear admiral or rear admiral (lower half), if the promotion is determined in accordance with a running mate system.

"(e) The Secretary shall adjust the date of rank of a Reserve officer so that no changes of precedence occur.".

(b) PROMOTION.—Section 736(b) of title 14, United States Code, is amend to read as follows:

"(b) Notwithstanding any other provision of law and subject to subsection (c), if promotion of an inactive duty promotion list officer to the grade of rear admiral or rear admiral (lower half) is determined in accordance with a running mate system, a reserve officer, if acceptable to the President and the Senate, shall be promoted to the next higher grade no later than the date the officer's running mate is promoted.".

(c) DATE OF APPOINTMENT.—Section 736(c) of title 14, United States Code, is amend by striking "of subsection (a)".

(d) MAXIMUM SERVICE.—Section 743 of title 14, United States Code, is amended to read as follows:

"§743. Rear admiral and rear admiral (lower half); maximum service in grade

"(a) Unless retained in or removed from an active status under any other law, a reserve rear admiral or rear admiral (lower half) shall be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes 4 years of service after the appointment of the officer to rear admiral (lower half).

"(b) Notwithstanding any other provision of law, if promotion of inactive duty promotion list officers to the grade of rear admiral is not determined in accordance with a running mate system, a Reserve officer serving in an active status in the grade of rear admiral (lower half) shall be promoted to the grade of rear admiral, if acceptable to the President and the Senate, on the date the officer has served 2 years in an active status in grade of rear admiral (lower half), or in the case of a vacancy occurring prior to having served 2 years in an active status, on the date the vacancy occurs, if the officer served at least 1 year in an active status in the grade of rear admiral (lower half).".

SEC. 221. CONFIDENTIAL INVESTIGATIVE EXPENSES.

Section 658 of title 14, United States Code, is amended by striking "$15,000 per annum" and inserting "$45,000 each fiscal year".

SEC. 222. INNOVATIVE CONSTRUCTION ALTERNATIVES.

The Commandant of the Coast Guard may consult with the Office of Naval Research and other Federal agencies with research and development programs that may provide innovative construction alternatives for the Integrated Deepwater System.

SEC. 223. DELEGATION OF PORT SECURITY AUTHORITY.

The undesignated text following paragraph (b) of the second unnumbered paragraph of section 1 of title II of the Act of June 15, 1917 (chapter 30; 40 Stat. 220; 50 U.S.C. 191) is amended by adding at the beginning the following: "The President may delegate the authority to issue such rules and regulations to the Secretary of the department in which the Coast Guard is operating.".

SEC. 224. FISHERIES ENFORCEMENT PLANS AND REPORTING.

(a) FISHERIES ENFORCEMENT PLANS.—In preparing the Coast Guard's annual fisheries enforcement plan, the Commandant of the Coast Guard shall consult with the Under Secretary of Commerce for Oceans and Atmosphere and with State and local enforcement authorities.

(b) FISHERY PATROLS.—Prior to undertaking fisheries patrols, the Commandant of the Coast Guard shall notify the Under Secretary of Commerce for Oceans and Atmosphere and appropriate State and local enforcement authorities of the projected dates for such patrols.

(c) ANNUAL SUMMARY.—The Commandant of the Coast Guard shall prepare and make available to the Under Secretary of Commerce for Oceans and Atmosphere, State and local enforcement entities, and other relevant stakeholders, an annual summary report of fisheries enforcement activities for the preceding year, including a summary of the number of patrols, law enforcement actions taken, and resource hours expended.

SEC. 225. USE OF COAST GUARD AND MILITARY CHILD DEVELOPMENT CENTERS.

The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, when operating other than as a service in the Navy, may agree to provide child care services to members of the armed forces, with reimbursement, in Coast Guard and military child development centers supported in whole or in part with appropriated funds. For purposes of military child development centers operated under the authority of subchapter II of chapter 88 of title 10, United States Code, the child of a member of the Coast Guard shall be considered the same as the child of a member of any of the other armed forces.

SEC. 226. TREATMENT OF PROPERTY OWNED BY AUXILIARY UNITS AND DEDICATED SOLELY FOR AUXILIARY USE.

Section 821 of title 14, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

"(2) The Secretary may treat personal property of the auxiliary as property of the United States—

"(A) for the purposes of—

"(i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and

"(ii) section 641 of this title; and

"(B) as otherwise provided in this chapter.

"(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

"(4) In this subsection, the term 'personal property of the Auxiliary' means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.".

TITLE III—NAVIGATION

SEC. 301. MARKING OF UNDERWATER WRECKS.

Section 15 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 409) is amended—

(1) by striking "day and a lighted lantern" in the second sentence inserting "day and, unless otherwise granted a waiver by the Commandant of the Coast Guard, a light"; and

(2) by adding at the end "The Commandant of the Coast Guard may waive the requirement to mark a wrecked vessel, raft, or other craft with a light at night if the Commandant determines that placing a light would be impractical and granting such a waiver would not create an undue hazard to navigation.".

SEC. 302. USE OF ELECTRONIC DEVICES; COOPERATIVE AGREEMENTS.

Section 4(a) of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1223(a)) is amended by—

(1)(A) striking "and" after the semicolon at the end of paragraph (4);

(B) striking the period at the end of paragraph (5) and inserting "; and"; and

(C) adding at the end the following:

"(6) may prohibit the use on vessels of electronic or other devices that interfere with communication and navigation equipment, except that such authority shall not apply to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz."; and

(2) adding at the end the following:

"(e) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

"(2) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

"(3) As used in this paragraph, the term 'inherently governmental function' means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.".

SEC. 303. INLAND NAVIGATION RULES PROMULGATION AUTHORITY.

(a) REPEAL OF INLAND RULES.—Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–38) is repealed.

(b) AUTHORITY TO ISSUE REGULATIONS.—Section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001) is amended to read as follows:

"SEC. 3. INLAND NAVIGATION RULES.

"The Secretary of the Department in which the Coast Guard is operating may issue inland navigation regulations applicable to all vessels upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.".

(c) EFFECTIVE DATE.—Subsection (a) is effective on the effective date of final regulations prescribed by the Secretary of the Department in which the Coast Guard is operating under section 3 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2001), as amended by this Act.

SEC. 304. SAINT LAWRENCE SEAWAY.

Section 3(2) of the Ports and Waterways Safety Act (33 U.S.C. 1222(2)) is amended by inserting ", except that 'Secretary' means the Secretary of Transportation with respect to the application of this Act to the Saint Lawrence Seaway" after "in which the Coast Guard is operating".

TITLE IV—SHIPPING

SEC. 401. REPORTS FROM CHARTERERS.

Section 12120 of title 46, United States Code, is amended by striking "owners and masters" and inserting "owners, masters, and charterers".

SEC. 402. REMOVAL OF MANDATORY REVOCATION FOR PROVED DRUG CONVICTIONS IN SUSPENSION AND REVOCATION CASES.

Section 7704(b) of title 46, United States Code, is amended by inserting "suspended or" after "shall be".

SEC. 403. RECORDS OF MERCHANT MARINERS' DOCUMENTS.

Section 7319 of title 46, United States Code, is amended by striking the second sentence.

SEC. 404. EXEMPTION OF UNMANNED BARGES FROM CERTAIN CITIZENSHIP REQUIREMENTS.

(a) LIMITATION ON COMMAND.—Section 12110(d) of title 46, United States Code, is amended by inserting "or an unmanned barge operating outside of the territorial waters of the United States," after "recreational endorsement,".

(b) PENALTY.—Section 12122(b)(6) of title 46, United States Code, is amended by inserting "or an unmanned barge operating outside of the territorial waters of the United States," after "recreational endorsement,".

SEC. 405. COMPLIANCE WITH INTERNATIONAL SAFETY MANAGEMENT CODE.

(a) APPLICATION OF EXISTING LAW.—Section 3202(a) of title 46, United States Code, is amended to read as follows:

"(a) MANDATORY APPLICATION.—This chapter applies to a vessel that—

"(1)(A) is transporting more than 12 passengers described in section 2101(21)(A) of this title; or

"(B) is of at least 500 gross tons as measured under section 14302 of this title and is a tanker, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and

"(2)(A) is engaged on a foreign voyage; or

"(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.".

(b) COMPLIANCE OF REGULATIONS WITH INTERNATIONAL SAFETY MANAGEMENT CODE.—Section 3203(b) of title 46, United States Code, is amended by striking "vessels engaged on a foreign voyage." and inserting "vessels to which this chapter applies under section 3202(a) of this title.".

SEC. 406. PENALTIES.

Section 4311(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) A person violating section 4307(a)of this title is liable to the United States Government for a civil penalty of not more than $5,000, except that the maximum civil penalty may be not more than $250,000 for a related series of violations.

"(2) If the Secretary decides under section 4310(f) that a recreational vessel or associated equipment contains a defect related to safety or fails to comply with an applicable regulation and directs the manufacturer to provide the notifications specified in this chapter, any person, including a director, officer or executive employee of a corporation, who knowingly and willfully fails to comply with that order, may be fined not more than $10,000, imprisoned for not more than one year, or both.

"(3) When a corporation violates section 4307(a), or fails to comply with the Secretary's decision under section 4310(f), any director, officer, or executive employee of the corporation who knowingly and willfully ordered, or knowingly and willfully authorized, a violation is individually liable to the Government for a penalty under paragraphs (1) or (2) in addition to the corporation. However, the director, officer, or executive employee is not liable individually under this subsection if the director, officer, or executive employee can demonstrate by a preponderance of the evidence that—

"(A) the order or authorization was issued on the basis of a decision, in exercising reasonable and prudent judgment, that the defect or the nonconformity with standards and regulations constituting the violation would not cause or constitute a substantial risk of personal injury to the public; and

"(B) at the time of the order or authorization, the director, officer, or executive employee advised the Secretary in writing of acting under this subparagraph and subparagraph (A).".

SEC. 407. REVISION OF TEMPORARY SUSPENSION CRITERIA IN DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7702(d) of title 46, United States Code, is amended—

(1) in paragraph (1) by striking "if, when acting under the authority of that license, certificate, or document—" and inserting "if—";

(2) in paragraph (1)(B)(i), by inserting ", while acting under the authority of that license, certificate, or document," after "has";

(3) by striking "or" after the semicolon at the end of paragraph (1)(B)(ii);

(4) by striking the period at the end of paragraph (1)(B)(iii) and inserting "; or"; and

(5) by adding at the end of paragraph (1)(B) the following:

"(iv) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.".

SEC. 408. REVISION OF BASES FOR DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7703 of title 46, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by striking "incompetence,"; and

(B) by striking the comma after "misconduct";

(2) by striking "or" after the semicolon at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(4) by adding at the end the following:

"(4) has committed an act of incompetence relating to the operation of a vessel; or

"(5) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.".

SEC. 409. HOURS OF SERVICE ON TOWING VESSELS.

(a) REGULATIONS.—Section 8904 of title 46, United States Code, is amended by adding at the end of the following:

"(c) The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and recordkeeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).".

(b) DEMONSTRATION PROJECT.—Prior to prescribing regulations under this section the Secretary shall conduct and report to the Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on towing vessels. The report shall include a description of the public and private sector resources needed to enable implementation of Crew Endurance Management Systems on all United States-flag towing vessels.

SEC. 410. ELECTRONIC CHARTS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by inserting after section 4 the following:

"SEC. 4A. ELECTRONIC CHARTS.

"(a) SYSTEM REQUIREMENTS.—

"(1) REQUIREMENTS.—Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate electronic charts under regulations prescribed by the Secretary of the department in which the Coast Guard is operating:

"(A) A self-propelled commercial vessel of at least 65 feet overall length.

"(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

"(C) A towing vessel of more than 26 feet in overall length and 600 horsepower.

"(D) Any other vessel for which the Secretary decides that electronic charts are necessary for the safe navigation of the vessel.

"(2) EXEMPTIONS AND WAIVERS.—The Secretary may—

"(A) exempt a vessel from paragraph (1), if the Secretary finds that electronic charts are not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

"(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary, if the Secretary finds that electronic charts are not needed for safe navigation on those waters.

"(b) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall prescribe regulations implementing subsection (a) before January 1, 2007, including requirements for the operation and maintenance of the electronic charts required under subsection (a).".

SEC. 411. PREVENTION OF DEPARTURE.

(a) IN GENERAL.—Section 3505 of title 46, United States Code, is amended to read as follows:

"§ 3505. Prevention of departure

"Notwithstanding section 3303 of this title, a foreign vessel carrying a citizen of the United States as a passenger or embarking passengers from a United States port may not depart from a United States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.".

(b) CONFORMING AMENDMENT.—Section 3303 of title 46, United States Code, is amended by inserting "and section 3505" after "chapter 37".

SEC. 412. SERVICE OF FOREIGN NATIONALS FOR MARITIME EDUCATIONAL PURPOSES.

Section 8103(b)(1)(A) of title 46, United State Code, is amended to read as follows:

"(A) each unlicensed seaman must be—

"(i) a citizen of the United States;

"(ii) an alien lawfully admitted to the United States for permanent residence; or

"(iii) a foreign national who is enrolled in the United States Merchant Marine Academy.".

SEC. 413. CLASSIFICATION SOCIETIES.

(a) IN GENERAL.—Section 3316 of title 46, United States Code, is amended by adding at the end the following:

"(c)(1) A classification society (including an employee or agent of that society) may not review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States unless—

"(A) the society has applied for approval under this subsection and the Secretary has reviewed and approved that society with respect to the conduct of that society under paragraph (2); or

"(B) the society is a full member of the International Association of Classification Societies.

"(2) The Secretary may approve a person for purposes of paragraph (1) only if the Secretary determines that—

"(A) the vessels surveyed by the person while acting as a classification society have an adequate safety record; and

"(B) the person has an adequate program to—

"(i) develop and implement safety standards for vessels surveyed by the person;

"(ii) make the safety records of the person available to the Secretary in an electronic format;

"(iii) provide the safety records of a vessel surveyed by the person to any other classification society that requests those records for the purpose of conducting a survey of the vessel; and

"(iv) request the safety records of a vessel the person will survey from any classification society that previously surveyed the vessel.".

(b) APPLICATION.—Section 3316(c)(1) of title 46, United States Code, shall apply with respect to operation as a classification society on or after January 1, 2005.

SEC. 414. DRUG TESTING REPORTING.

(a) IN GENERAL.—Chapter 77 of title 46, United States Code, is amended by adding at the end:

"§ 7706. Drug testing reporting

"(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—Not later than 2 weeks after receiving from a Medical Review Officer a report of a verified positive drug test or verified test violation by a civilian employee of a Federal agency, an officer in the Public Health Services, *or an officer in the National Oceanic and Atmospheric Administration Commissioned Officer Corps, who is employed in any capacity on board a vessel operated by the agency, the head of the agency shall release to the Commandant of the Coast Guard the report.*

"(b) STANDARDS, PROCEDURES, AND REGULATIONS.—The head of a Federal agency shall carry out a release under subsection (a) in accordance with the standards, procedures, and regulations applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

"(c) WAIVER.—Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note), the report of a drug test of an employee may be released under this section without the prior written consent of the employee.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 77 of title 46, United States Code, is amended by adding at the end the following:

"7706. Drug testing reporting.".

SEC. 415. INSPECTION OF TOWING VESSELS.

(a) VESSELS SUBJECT TO INSPECTION.—Section 3301 of title 46, United States Code, is amended by adding at the end the following:

"(15) towing vessels.".

(b) SAFETY MANAGEMENT SYSTEM.—Section 3306 of chapter 33 of title 46, United States Code, is amended by adding at the end the following:

"(j) The Secretary may establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.".

SEC. 416. POTABLE WATER.

(a) IN GENERAL.—Section 3305(a) of title 46, United States Code, is amended—

(1) by redesignating paragraphs (4) and (5) in order as paragraphs (5) and (6); and

(2) by inserting after paragraph (3) the following:

"(4) has an adequate supply of potable water for drinking and washing by passengers and crew;".

(b) ADEQUACY DETERMINATION.—Section 3305(a) of title 46, United States Code, as amended by subsection (a), is further amended—

(1) by inserting "(1)" after "(a)";

(2) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively; and

(3) by adding at the end the following:

"(2) In determining the adequacy of the supply of potable water under paragraph (1)(D), the Secretary shall consider—

"(A) the size and type of vessel;

"(B) the number of passengers or crew on board;

"(C) the duration and routing of voyages; and

"(D) guidelines for potable water recommended by the Centers for Disease Control and Prevention and the Public Health Service.".

SEC. 417. TRANSPORTATION OF PLATFORM JACKETS.

The thirteenth proviso (pertaining to transportation by launch barge) of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended to read as follows: "Provided further, That the transportation of any platform jacket in or on a non-coastwise qualified launch barge, that was built before December 31, 2000, and has a launch capacity of 12,000 long tons or more, between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), shall not be deemed transportation subject to this section if the Secretary of Transportation makes a determination, in accordance with procedures established pursuant to this proviso that a suitable coastwise-qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket and; that the Secretary of Transportation shall adopt procedures implementing this proviso that are reasonably designed to provide timely information so as to maximize the use of coastwise qualified-vessels, which procedures shall, among other things, establish that for purposes of this proviso, a coastwise-qualified vessel shall be deemed to be not available only (1) if upon application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section, which application shall include all relevant information, including engineering details and timing requirements, the Secretary promptly publishes a notice in the Federal Register describing the project and the platform jacket involved, advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties upon request, and requesting that information on the availability of coastwise-qualified vessels be submitted within 30 days after publication of that notice; and (2) if either (A) no information is submitted to the Secretary within that 30 day period, or (B) although the owner or operator of a coastwise-qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise-qualified vessel available for this transportation, the Secretary, within 90 days of the date on which the notice is first published determines that the coastwise-qualified vessel is not suitable or reasonably available for the transportation; and that, for the purposes of this proviso, the term 'coastwise-qualified vessel' means a vessel that has been issued a certificate of documentation with a coastwise endorsement under section 12106 of title 46, United States Code, and the term 'platform jacket' refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including platform jackets, tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure), hull (including vertical legs and connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as 'topsides').".

SEC. 418. RENEWAL OF ADVISORY GROUPS.

(a) COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ADVISORY COMMITTEE.—Section 4508(e)(1) of title 46, United States Code, is amended by striking "of September 30, 2005" and inserting "on September 30, 2010".

(b) HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.—Section 18 of the Coast Guard Authorization Act of 1991 (Public Law 102–241; 105 Stat. 2213) is amended—

(1) in subsection (b) by striking "eighteen" and inserting "19";

(2) by adding at the end of subsection (b) the following:

"(12) One member representing recreational boating interests."; and

(3) in subsection (h) by striking "September 30, 2005" and inserting "September 30, 2010".

(c) LOWER MISSISSIPPI RIVER WATERWAY SAFETY ADVISORY COMMITTEE.—Section 19(g) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking "September 30, 2005" and inserting "September 30, 2010".

(d) GREAT LAKES PILOTAGE ADVISORY COMMITTEE.—Section 9307(f)(1) of title 46, United States Code, is amended by striking "September 30, 2005" and inserting "September 30, 2010".

(e) NAVIGATION SAFETY ADVISORY COUNCIL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(d)) is amended by striking "September 30, 2005" and inserting "September 30, 2010".

(f) NATIONAL BOATING SAFETY ADVISORY COUNCIL.—Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 2005" and inserting "September 30, 2010".

(g) TOWING SAFETY ADVISORY COMMITTEE.—Public Law 96–380 (33 U.S.C. 1231a) is amended in subsection (e) by striking "September 30, 2005" and inserting "September 30, 2010".

TITLE V—FEDERAL MARITIME COMMISSION

SEC. 501. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL MARITIME COMMISSION.

There are authorized to be appropriated to the Federal Maritime Commission—

(1) for fiscal year 2005, $19,500,000;

(2)•for fiscal year 2006, $20,750,000;

(3) for fiscal year 2007, $21,500,000; and

(4) for fiscal year 2008, $22,575,000.

SEC. 502. REPORT ON OCEAN SHIPPING INFORMATION GATHERING EFFORTS.

The Federal Maritime Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report within 90 days after the date of the enactment of this Act on the status of any agreements, or ongoing discussions with, other Federal, State, or local government agencies concerning the sharing of ocean shipping information for the purpose of assisting law enforcement or anti-terrorism efforts. The Commission shall include in the report recommendations on how the Commission's ocean shipping information could be better utilized by it and other Federal agencies to improve port security.

TITLE VI—MISCELLANEOUS

SEC. 601. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN BRIDGE STATUTES.

(a) GENERAL BRIDGE ACT OF 1906.—Section 5(b) of Act of March 23, 1906 (chapter 1130; 33 U.S.C. 495), popularly known as the General Bridge Act, is amended by striking "$1,000" and inserting "$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter".

(b) DRAWBRIDGES.—Section 5(c) of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 18, 1894 (33 U.S.C. 499(c)), is amended by striking "$1,000" and inserting "$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter".

(c) ALTERATION, REMOVAL, OR REPAIR OF BRIDGES.—Section 18(c) of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 3, 1899 (33 U.S.C. 502(c)) is amended by striking "$1,000" and inserting "$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter".

(d) GENERAL BRIDGE ACT OF 1946.—Section 510(b) of the General Bridge Act of 1946 (33 U.S.C. 533(b)) is amended by striking "$1,000" and inserting "$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for

a violation occurring in 2008 and any year thereafter''.

SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTERS.

(a) IN GENERAL.—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to a vessel described in subsection (b) to the person designated in subsection (b) with respect to the vessel (in this section referred to as the ''recipient''), without consideration, if the person complies with the conditions under subsection (c).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The Coast Guard Cutter BRAMBLE, to be conveyed to the Port Huron Museum of Arts and History (a nonprofit corporation under the laws of the State of Michigan), located in Port Huron, Michigan.

(2) The Coast Guard Cutter PLANETREE, to be conveyed to Jewish Life (a nonprofit corporation under the laws of the State of California), located in Sherman Oaks, California.

(3) The Coast Guard Cutter SUNDEW, to be conveyed to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota), located in Duluth, Minnesota.

(c) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient—

(1) to agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) to have funds available that will be committed to operate and maintain the vessel conveyed in good working condition—

(A) in the form of cash, liquid assets, or a written loan commitment; and

(B) in an amount of at least $700,000; and

(3) to agree to any other conditions the Commandant considers appropriate.

(d) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of a vessel under this section, the Commandant may, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 603. TONNAGE MEASUREMENT.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may apply section 8104(o)(2) of title 46, United States Code, to the vessels described in subsection (b) without regard to the tonnage of those vessels.

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The M/V BLUEFIN (United States official number 620431).

(2) The M/V COASTAL MERCHANT (United States official number 1038382).

(c) APPLICATION.—Subsection (a) shall not apply to a vessel described in subsection (b)—

(1) until the Secretary determines that the application of subsection (a) will not compromise safety; and

(2) on or after any date on which the Secretary determines that the vessel has undergone any major modification.

SEC. 604. OPERATION OF VESSEL STAD AMSTERDAM.

(a) IN GENERAL.—Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and the ruling by the Acting Director of the International Trade Compliance Division of the Customs Service on May 17, 2002 (Customs Bulletins and Decisions, Vol. 36, No. 23, June 5, 2002), the vessel STAD AMSTERDAM (International Maritime Organization number 9185554) shall be authorized to carry within United States waters and between ports or places in the United States individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

(b) LIMITATION.—This section does not authorize the vessel STAD AMSTERDAM—

(1) to be used to carry individuals for a fare or to be chartered on a for hire basis in the coastwise trade; or

(2) to carry individuals described in subsection (a) within United States waters and between ports or places in the United States for more than 45 calendar days in any calendar year.

(c) REVOCATION.—The Secretary of the department in which the Coast Guard is operating shall revoke the authorization provided by subsection (a) if the Secretary determines that the STAD AMSTERDAM has been operated in violation of the limitations imposed by subsection (b).

SEC. 605. GREAT LAKES NATIONAL MARITIME ENHANCEMENT INSTITUTE.

(a) AUTHORITY TO DESIGNATE INSTITUTE.—The Secretary of Transportation may designate a National Maritime Enhancement Institute for the Great Lakes region under section 8 of the Act of October 13, 1989 (103 Stat. 694; 46 U.S.C. App. 1121–2). In making any decision on the designation of such an institute, the Secretary shall consider the unique characteristics of Great Lakes maritime industry and trade.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Secretary of Transportation shall conduct a study that—

(A) evaluates short sea shipping market opportunities on the Great Lakes, including the expanded use of freight ferries, improved mobility, and regional supply chain efficiency;

(B) evaluates markets for foreign trade between ports on the Great Lakes and draft-limited ports in Europe and Africa;

(C) evaluates the environmental benefits of waterborne transportation in the Great Lakes region;

(D) analyzes the effect on Great Lakes shipping of the tax imposed by section 4461(a) of the Internal Revenue Code of 1986;

(E) evaluates the state of shipbuilding and ship repair bases on the Great Lakes;

(F) evaluates opportunities for passenger vessel services on the Great Lakes;

(G) analyzes the origin-to-destination flow of freight cargo in the Great Lakes region that may be transported on vessels to relieve congestion in other modes of transportation;

(H) evaluates the economic viability of establishing transshipment facilities for oceangoing cargoes on the Great Lakes;

(I) evaluates the adequacy of the infrastructure in Great Lakes ports to meet the needs of marine commerce; and

(J) evaluates new vessel designs for domestic and international shipping on the Great Lakes.

(2) USE OF NATIONAL MARITIME ENHANCEMENT INSTITUTES.—In conducting the study required by paragraph (1), the Secretary may utilize the services of any recognized National Maritime Enhancement Institute.

(3) REPORTS.—The Secretary shall submit an annual report on the findings and conclusions of the study under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) by not later than 1 year after the date of the enactment of this Act; and

(B) by not later than 1 year after the date of submission of the report under subparagraph (A).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $1,500,000 for each of fiscal years 2005 and 2006 to carry out paragraph (1).

SEC. 606. KOSS COVE.

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as ''Koss Cove'', in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINIER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) ¾ mile across the mouth;

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

SEC. 607. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) OCEAN LEADER (United States official number 679511).

(2) REVELATION (United States official number 1137565).

(3) W. N. RAGLAND (Washington State registration number WN5506NE).

(4) M/T MISS LINDA (United States official number 1140552).

SEC. 608. REQUIREMENTS FOR COASTWISE ENDORSEMENT.

(a) IN GENERAL.—Section 12106 of title 46, United States Code, is amended—

(1) by striking subsection (e)(1)(B) and inserting the following:

''(B) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (f);''; and

(2) by adding at the end the following:

''(f) OWNERSHIP CERTIFICATION REQUIREMENT.—

''(1) IN GENERAL.—A person meets the requirements of this subsection if that person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

“(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

“(A) is a leasing company, bank, or financial institution;

“(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

“(C) does not operate any vessel for hire and is not an affiliate of any person who operates any vessel for hire; and

“(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person who has the right, directly or indirectly, to control or direct the movement or use of the vessel.

“(3) CERTAIN TANK VESSELS.—

“(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

“(i) the aggregate book value of the vessels owned by such person and United States affiliates of such person does not exceed 10 percent of the aggregate book value of all assets owned by such person and its United States affiliates;

“(ii) not more than 10 percent of the aggregate revenues of such person and its United States affiliates is derived from the ownership, operation, or management of vessels;

“(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by such person and its United States affiliates and documented under this section is qualified proprietary cargo;

“(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by such person and its United States affiliates and documented under this section consists of oil, petroleum products, petrochemicals, or liquified natural gas;

“(v) no vessel owned by such person or any of its United States affiliates and documented under this section carries molten sulphur; and

“(vi) such person owned 1 or more vessels documented under subsection (e) of this section as of the date of enactment of the Coast Guard and Maritime Transportation Act of 2004.

“(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

“(i) a tank vessel having a tonnage of not less than 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

“(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where the 2 vessels function as a single self-propelled vessel.

“(4) DEFINITIONS.—In this subsection:

“(A) AFFILIATE.—The term ‘affiliate’ means, with respect to any person, any other person that is—

“(i) directly or indirectly controlled by, under common control with, or controlling such person; or

“(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

“(B) CARGO.—The term ‘cargo’ does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of paragraph (3).

“(C) OIL.—The term ‘oil’ has the meaning given that term in section 2101(20) of this title.

“(D) PASSIVE INVESTMENT.—The term ‘passive investment’ means an investment in which neither the investor nor any affiliate of such investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

“(E) QUALIFIED PROPRIETARY CARGO.—The term ‘qualified proprietary cargo’ means—

“(i) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person who submits to the Secretary an application or annual certification under paragraph (3), or by an affiliate of such person, immediately before, during, or immediately after such cargo is carried in coastwise trade on a vessel owned by such person;

“(ii) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person who submits to the Secretary an application or an annual certification under paragraph (3), or by an affiliate of such person, but that is carried in coastwise trade by a vessel owned by such person and which is part of an arrangement in which vessels owned by such person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by such person, or an affiliate of such person, is carried in coastwise trade on 1 or more other vessels, not owned by such person, or an affiliate of such person, if such other vessel or vessels are also part of the same arrangement;

“(iii) in the case of a towing vessel associated with a non-self-propelled tank vessel where the 2 vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person who owns both such towing vessel and the non-self-propelled tank vessel, or any United States affiliate of such person, immediately before, during, or immediately after such cargo is carried in coastwise trade on either of the 2 vessels; or

“(iv) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

“(I) was delivered by the builder of such vessel to the owner of such vessel after December 31, 1999; and

“(II) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on such vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of such vessel, or an affiliate of such owner, from Alaska to the continental United States.

“(F) UNITED STATES AFFILIATE.—The term ‘United States affiliate’ means, with respect to any person, an affiliate the principal place of business of which is located in the United States.”.

(b) TREATMENT OF OWNER OF CERTAIN VESSELS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a person shall be treated as a citizen of the United States under section 12102(a) of title 46, United States Code, section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), for purposes of issuance of a coastwise endorsement under section 12106(e) of title 46, United States Code (as that section was in effect on the day before the date of enactment of this Act), for a vessel owned by the person on the date of enactment of this Act, or any replacement vessel of a similar size and function, if the person—

(A) owned a vessel before January 1, 2001, that had a coastwise endorsement under section 12106(e) of title 46, United States Code; and

(B) as of the date of the enactment of this Act, derives substantially all of its revenue from leasing vessels engaged in the transportation or distribution of petroleum products and other cargo in Alaska.

(2) LIMITATION ON COASTWISE TRADE.—A vessel owned by a person described in paragraph (1) for which a coastwise endorsement is issued under section 12106(e) of title 46, United States Code, may be employed in the coastwise trade only within Alaska and in the coastwise trade to and from Alaska.

(3) TERMINATION.—The application of this subsection to a person described in paragraph (1) shall terminate if all of that person's vessels described in paragraph (1) are sold to a person eligible to document vessels under section 12106(a) of title 46, United States Code.

(c) APPLICATION TO CERTAIN CERTIFICATES.—

(1) IN GENERAL.—The amendments made by this section, and any regulations published after February 4, 2004, with respect to coastwise endorsements, shall not apply to a certificate of documentation, or renewal thereof, endorsed with a coastwise endorsement for a vessel under section 12106(e) of title 46, United States Code, or a replacement vessel of a similar size and function, that was issued prior to the date of enactment of this Act as long as the vessel is owned by the person named therein, or by a subsidiary or affiliate of that person, and the controlling interest in such owner has not been transferred to a person that was not an affiliate of such owner as of the date of enactment of this Act. Notwithstanding the preceding sentence, however, the amendments made by this section shall apply, beginning 3 years after the date of enactment of this Act, with respect to offshore supply vessels (as defined in section 2101(19) of title 46, United States Code, as that section was in effect on the date of enactment of this Act) with a certificate of documentation endorsed with a coastwise endorsement as of the date of enactment of this Act, and the Secretary of the Department in which the Coast Guard is operating shall revoke any such certificate if the vessel does not by then meet the requirements of section 12106(e) of title 46, United States Code, as amended by this section.

(2) REPLACEMENT VESSEL.—For the purposes of this subsection, “replacement vessel” means—

(A) a temporary replacement vessel for a period of not to exceed 180 days if the vessel described in paragraph (1) is unavailable due to an act of God or a marine casualty; or

(B) a permanent replacement vessel if—

(i) the vessel described in paragraph (1) is unavailable for more than 180 days due to an act of God or a marine casualty; or

(ii) a contract to purchase or construct such replacement vessel is executed not later than December 31, 2004.

(d) WAIVER.—The Secretary of Transportation shall waive or reduce the qualified proprietary cargo requirement of section 12106(f)(3)(A)(iii) of title 46, United States Code, for a vessel if the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) notifies the Secretary that circumstances beyond the direct control of such person or its affiliates prevent, or reasonably threaten to prevent, such person from satisfying such requirement, and the Secretary does not, with good cause, determine otherwise. The waiver or reduction shall apply during the period of time that such circumstances exist.

(e) REGULATIONS.—No later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall prescribe final regulations to carry out this section, including amendments made by this section to section 12106 of title 46, United States Code.

SEC. 609. CORRECTION OF REFERENCES TO NATIONAL DRIVER REGISTER.

Title 46, United States Code, is amended—

(1) in section 7302—

(A) by striking “section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401

note)" and inserting "30305(b)(5) of title 49"; and

(B) by striking "section 205(a)(3)(A) or (B) of that Act" and inserting "30304(a)(3)(A) or (B) of title 49";

(2) in section 7702(d)(1)(B)(iii) by striking "section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982" and inserting "section 30304(a)(3)(A) or (B) of title 49"; and

(3) in section 7703(3) by striking "section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982" and inserting "section 30304(a)(3)(A) or (B) of title 49".

SEC. 610. WATEREE RIVER.

For purposes of bridge administration, the portion of the Wateree River in the State of South Carolina, from a point 100 feet upstream of the railroad bridge located at approximately mile marker 10.0 to a point 100 feet downstream of such bridge, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 611. MERCHANT MARINERS' DOCUMENTS PILOT PROGRAM.

The Secretary of the department in which the Coast Guard is operating may conduct a pilot program to demonstrate methods to improve processes and procedures for issuing merchant mariners' documents.

SEC. 612. CONVEYANCE.

(a) Authority To Convey.—

(1) In general.—Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to Sentinel Island, Alaska, to the entity to which the Sentinel Island Light Station is conveyed under section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w-7(b)).

(2) Identification of property.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) Limitation.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on property conveyed under this section at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) General Terms and Conditions.—

(1) In general.—Any conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) Reversionary interest.—In addition to any term or condition established under this section, any conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property, at the option of the Secretary shall revert to the United States and be placed under the administrative control of the Secretary, if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other similar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this section; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

(3) Maintenance of navigation functions.—Any conveyance of property under this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed that are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant of the Coast Guard;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining, and inspecting aids to navigation and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) Maintenance of property.—

(A) In general.—Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(B) Limitation.—The owner of a property conveyed under this section is not required to maintain any active aids to navigation on the property, except private aids to navigation authorized under section 83 of title 14, United States Code.

(c) Definitions.—In this section, the following definitions apply:

(1) Aids to navigation.—The term "aids to navigation" means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment that are operated or maintained by the United States.

(2) Owner.—The term "owner" means, for property conveyed under this section, the person to which property is conveyed under subsection (a)(1), and any successor or assign of that person.

SEC. 613. BRIDGE ADMINISTRATION.

Section 325(b) of the Department of Transportation and Related Agencies Appropriations Act, 1983 (Pub. L. 97-369; 96 Stat. 1765) is amended by striking "provides at least thirty feet of vertical clearance Columbia River datum and at least eighty feet of horizontal clearance, as" and inserting "is so".

SEC. 614. SENSE OF CONGRESS REGARDING CARBON MONOXIDE AND WATERCRAFT.

It is the sense of the Congress that the Coast Guard should continue—

(1) to place a high priority on addressing the safety risks posed to boaters by elevated levels of carbon monoxide that are unique to watercraft; and

(2) to work with vessel and engine manufacturers, the American Boat & Yacht Council, other Federal agencies, and the entire boating community in order to determine the best ways to adequately address this public safety issue and minimize the number of tragic carbon monoxide-related boating deaths that occur each year.

SEC. 615. MITIGATION OF PENALTY DUE TO AVOIDANCE OF A CERTAIN CONDITION.

(a) Treatment of Violation.—For purposes of any administrative proceeding to consider mitigation of any civil penalty for a violation described in subsection (b), such violation is deemed to have been committed by reason of a safety concern.

(b) Violation Described.—A violation referred to in subsection (a) is any violation of the Act of June 19, 1886 (chapter 421; 46 App. U.S.C. 289), occurring before April 1, 2003, and consisting of operation of a passenger vessel in transporting passengers between the Port of New Orleans and another port on the Gulf of Mexico at a time when the master of the vessel determined that the vertical clearance on the Mississippi River at Chalmette, Louisiana, was insufficient to allow the safe return transport of passengers on that vessel to the Port of New Orleans.

(c) Related Penalty Amount.—Any civil penalty assessed for a violation of that Act by a vessel described in subsection (b), that was committed when that vessel was repositioning to the Port of New Orleans in July 2003, shall be mitigated to an amount not to exceed $100 per passenger.

SEC. 616. CERTAIN VESSELS TO BE TOUR VESSELS.

(a) Vessels Deemed Tour Vessels.—Notwithstanding any other law, a passenger vessel that is not less than 100 gross tons and not greater than 300 gross tons is deemed to be a tour vessel for the purpose of permit allocation regulations under section 3(h) of Public Law 91-383 (16 U.S.C. 1a-2(h)) and section 3 of the Act of August 25, 1916 (16 U.S.C. 3), with respect to vessel operations in Glacier Bay National Park and Preserve, Alaska (in this section referred to as "Glacier Bay"), if the Secretary of the department in which the Coast Guard is operating determines that the vessel—

(1) has equipment installed that permits all graywater and blackwater to be stored on board for at least 24 hours;

(2) has a draft of not greater than 15 feet;

(3) has propulsion equipment of not greater than 5,000 horsepower; and

(4) is documented under the laws of the United States.

(b) Reallocation of Permits.—

(1) Reallocation required.—Subject to paragraph (2), the Secretary of the Interior, upon application by the operator of a passenger vessel deemed to be a tour vessel under subsection (a), shall reallocate to that vessel any available tour vessel concession permit not used by another vessel, if at the time of application that permit is not sought by a tour vessel of less than 100 gross tons.

(2) Limitations.—No more than three passenger vessels that are deemed to be a tour vessel under subsection (a) may hold a tour vessel concession permit at any given time, and no more than one such vessel may enter Glacier Bay on any particular date.

(c) Compliance With Vessel Requirements.—

(1) Requirement to comply.—Except as otherwise provided in this section, a vessel reallocated a tour vessel concession permit under this section shall comply with all regulations and requirements for Glacier Bay applicable to vessels of at least 100 gross tons.

(2) Revocation of permit.—The Secretary of the Interior may revoke a tour vessel concession permit reallocated to a vessel under this section if that vessel—

(A) discharges graywater or blackwater in Glacier Bay; or

(B) violates a vessel operating requirement for Glacier Bay that applies to vessels that are at least 100 gross tons, including restrictions pertaining to speed, route, and closed waters.

(d) TREATMENT OF ENTRIES INTO GLACIER BAY.—An entry into Glacier Bay by a vessel reallocated a tour vessel concession permit under this section shall count against the daily vessel quota and seasonal-use days applicable to entries by tour vessels and shall not count against the daily vessel quota or seasonal-use days of any other class of vessel.

SEC. 617. SENSE OF CONGRESS REGARDING TIMELY REVIEW AND ADJUSTMENT OF GREAT LAKES PILOTAGE RATES.

It is the sense of the Congress that the Secretary of the department in which the Coast Guard is operating should, on a timely basis, review and adjust the rates payable under part 401 of title 46, Code of Federal Regulations, for services performed by United States registered pilots on the Great Lakes.

SEC. 618. WESTLAKE CHEMICAL BARGE DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for each of the following vessels:

(1) Barge WCAO–101 (United States official number 506677).

(2) Barge WCAO–102 (United States official number 506851).

(3) Barge WCAO–103 (United States official number 506852).

(4) Barge WCAO–104 (United States official number 507172).

(5) Barge WCAO–105 (United States official number 507173).

(6) Barge WCAO–106 (United States official number 620514).

(7) Barge WCAO–107 (United States official number 620515).

(8) Barge WCAO–108 (United States official number 620516).

(9) Barge WCAO–3002 (United States official number 295147).

(10) Barge WCAO–3004 (United States official number 517396).

SEC. 619. CORRECTION TO DEFINITION.

Paragraph (4) of section 2 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) is amended by striking subparagraph (G) and inserting the following:

"(G) The Coast Guard.".

SEC. 620. LORAN-C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN-C system, for capital expenses related to LORAN-C navigation infrastructure, $25,000,000 for fiscal year 2005. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 621. DEEPWATER REPORT.

(a) REPORT.—No later than 180 days after enactment of this Act, the Coast Guard shall provide a written report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives with respect to performance under the first term of the Integrated Deepwater System contract.

(b) CONTENTS.—The report shall include the following:

(1) An analysis of how well the prime contractor has met the two key performance goals of operational effectiveness and minimizing total ownership costs.

(2) A description of the measures implemented by the prime contractor to meet these goals and how these measures have been or will be applied for subcontracts awarded during the 5-year term of the contract, as well as criteria used by the Coast Guard to assess the contractor's performance against these goals.

(3) To the extent available, performance and cost comparisons of alternatives examined in implementing the contract.

(4) A detailed description of the measures that the Coast Guard has taken to implement the recommendations of the General Accounting Office's March 2004 report on the Deepwater program (including the development of measurable award fee criteria, improvements to integrated product teams, and a plan for ensuring competition of subcontracts).

(5) A description of any anticipated changes to the mix of legacy and replacement assets over the life of the program, including Coast Guard infrastructure and human capital needs for integrating such assets, and a timetable and estimated costs for maintaining each legacy asset and introducing each replacement asset over the life of the contract, including a comparison to any previous estimates of such costs on an asset-specific basis.

SEC. 622. JUDICIAL REVIEW OF NATIONAL TRANSPORTATION SAFETY BOARD FINAL ORDERS.

Section 1153 of title 49, United States Code, is amended by adding at the end the following:

"(d) COMMANDANT SEEKING JUDICIAL REVIEW OF MARITIME MATTERS.—If the Commandant of the Coast Guard decides that an order of the Board issued pursuant to a review of a Coast Guard action under section 1133 of this title will have an adverse impact on maritime safety or security, the Commandant may obtain judicial review of the order under subsection (a). The Commandant, in the official capacity of the Commandant, shall be a party to the judicial review proceedings.".

SEC. 623. INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.

(a) EXTENSION OF INTERIM AUTHORITY.—The Secretary of the Department in which the Coast Guard is operating shall continue to implement and enforce United States Coast Guard 1997 Enforcement Policy for Cargo Residues on the Great Lakes (hereinafter in this section referred to as the "Policy") or revisions thereto, in accordance with that policy, for the purpose of regulating incidental discharges from vessels of residues of dry bulk cargo into the waters of the Great Lakes under the jurisdiction of the United States, until the earlier of—

(1) the date regulations are promulgated under subsection (b) for the regulation of incidental discharges from vessels of dry bulk cargo residue into the waters of the Great Lakes under the jurisdiction of the United States; or

(2) September 30, 2008.

(b) PERMANENT AUTHORITY.—Notwithstanding any other law, the Commandant of the Coast Guard may promulgate regulations governing the discharge of dry bulk cargo residue on the Great Lakes.

(c) ENVIRONMENTAL ASSESSMENT.—No later than 90 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall commence the environmental assessment necessary to promulgate the regulations under subsection (b).

SEC. 624. SMALL PASSENGER VESSEL REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall study and report to the Congress regarding measures that should be taken to increase the likelihood of survival of passengers on small passenger vessels who may be in the water resulting from the capsizing of, sinking of, or other marine casualty involving the small passenger vessel. The study shall include a review of the adequacy of existing measures—

(1) to keep the passengers out of the water, including inflatable life rafts and other out-of-the-water survival crafts;

(2) to protect individuals from hypothermia and cold shock in water having a temperature of less than 68 degrees Fahrenheit;

(3) for safe egress of passengers wearing personal flotation devices; and

(4) for the enforcement efforts and degree of compliance regarding the 1996 amendments to the Small Passenger Vessel Regulations (part 185 of title 46, Code of Federal Regulations) requiring the master of a small passenger vessel to require passengers to wear personal flotation devices when possible hazardous conditions exist including—

(A) when transiting hazardous bars or inlets;

(B) during severe weather;

(C) in the event of flooding, fire, or other events that may call for evacuation; and

(D) when the vessel is being towed, except during the towing of a non-self-propelled vessel under normal operating conditions.

(b) CONTENTS.—The report under this section shall include—

(1) a section regarding the efforts the Coast Guard has undertaken to enforce the regulations described in subsection (a)(4);

(2) a section detailing compliance with these regulations, to include the number of vessels and masters cited for violations of those regulations for fiscal years 1998 through 2003;

(3) a section detailing the number and types of marine casualties that occurred in fiscal years 1998 through 2003 that included violations of those regulations; and

(4) a section providing recommendation on improving compliance with, and possible modifications to, those regulations.

SEC. 625. CONVEYANCE OF MOTOR LIFEBOAT.

(a) IN GENERAL.—The Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to the Coast Guard 44-foot Motor Lifeboat Vessel #44345 formerly assigned to the Group Grand Haven Command, to the city of Ludington, Michigan, without consideration, if the recipient complies with the conditions under subsection (b).

(b) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient to—

(1) agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) have funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment; and

(3) agree to any other conditions the Commandant considers appropriate.

(c) MAINTENANCE AND DELIVERY OF VESSEL.—Before conveying a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the

time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94-469 (15 U.S.C. 2605(e)).

(d) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 626. STUDY ON ROUTING MEASURES.

The Secretary of the department in which the Coast Guard is operating—

(1) shall cooperate with the Administrator of the National Oceanic and Atmospheric Administration in analyzing potential vessel routing measures for reducing vessel strikes of North Atlantic Right Whales, as described in the notice published at pages 30857 through 30861 of volume 69 of the Federal Register; and

(2) within 18 months after the date of the enactment of this Act, shall provide a final report of its analysis to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 627. CONVEYANCE OF LIGHT STATIONS.

Section 308(c) of the National Historic Preservation Act (16 U.S.C. 470w-7(c)) is amended by adding at the end the following:

"(4) LIGHT STATIONS ORIGINALLY CONVEYED UNDER OTHER AUTHORITY.—Upon receiving notice of an executed or intended conveyance by an owner who—

"(A) received from the Federal Government under authority other than this Act an historic light station in which the United States retains a reversionary or other interest; and

"(B) is conveying it to another person by sale, gift, or any other manner,

the Secretary shall review the terms of the executed or proposed conveyance to ensure that any new owner is capable of or is complying with any and all conditions of the original conveyance. The Secretary may require the parties to the conveyance and relevant Federal agencies to provide such information as is necessary to complete this review. If the Secretary determines that the new owner has not or is unable to comply with those conditions, the Secretary shall immediately advise the Administrator, who shall invoke any reversionary interest or take such other action as may be necessary to protect the interests of the United States.".

SEC. 628. WAIVER.

The Secretary of the department in which the Coast Guard is operating may waive the application of section 2101(21) of title 46, United States Code, with respect to one of two adult chaperones who do not meet the requirements of subparagraph (A)(i), (ii), or (iii) of such section on board each vessel owned or chartered by the Florida National High Adventure Sea Base program of the Boy Scouts of America, if the Secretary determines that such a waiver will not compromise safety.

SEC. 629. APPROVAL OF MODULAR ACCOMMODATION UNITS FOR LIVING QUARTERS.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall approve the use of a modular accommodation unit on a floating offshore facility to provide accommodations for up to 12 individuals, if—

(1) the unit is approximately 12 feet in length and 40 feet in width;

(2) before March 31, 2002—

(A) the Secretary approved use of the unit to provide accommodations on such a facility; and

(B) the unit was used to provide such accommodations; and

(3) the Secretary determines that use of the unit under the approval will not compromise safety.

(b) APPLICATION.—The approval by the Secretary under this section shall apply for the 5-year period beginning on the date of the enactment of this Act.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

SEC. 701. VESSEL RESPONSE PLANS FOR NONTANK VESSELS OVER 400 GROSS TONS.

(a) NONTANK VESSEL DEFINED.—Section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) by striking "and" after the semicolon in paragraph (24)(B);

(2) by striking "threat." in paragraph (25) and inserting "threat; and"; and

(3) by adding at the end the following:

"(26) 'nontank vessel' means a self-propelled vessel of 400 gross tons as measured under section 14302 of title 46, United States Code, or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that—

"(A) is a vessel of the United States; or

"(B) operates on the navigable waters of the United States.".

(b) AMENDMENTS TO REQUIRE RESPONSE PLANS.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) in paragraph (5) in the heading by inserting ", NONTANK VESSEL," after "VESSEL";

(2) in paragraph (5)(A)—

(A) by inserting: "(i)" after "(A)"; and

(B) by adding at the end the following:

"(ii) The President shall also issue regulations which require an owner or operator of a nontank vessel to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil.";

(3) in paragraph (5)(B), in the matter preceding clause (i), by inserting ", nontank vessels," after "vessels";

(4) in paragraph (5)(B), by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following:

"(ii) A nontank vessel.";

(5) in paragraph (5)(D)—

(A) by inserting ", nontank vessel," after "vessel";

(B) by striking "and" after the semicolon at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting "; and"; and

(D) by adding after clause (iv) the following:

"(v) in the case of a plan for a nontank vessel, consider any applicable State-mandated response plan in effect on the date of the enactment of the Coast Guard and Maritime Transportation Act of 2004 and ensure consistency to the extent practicable.";

(6) by inserting "non-tank vessel," in paragraph (5)(E) after "vessel," each place it appears;

(7) in paragraph (5)(F)—

(A) by inserting "non-tank vessel," after "vessel,";

(B) by striking "vessel or" and inserting "vessel, non-tank vessel, or".

(8) in paragraph (5)(G) by inserting "nontank vessel," after "vessel,";

(9) in paragraph (5)(H) by inserting "and nontank vessel" after "each tank vessel;

(10) in paragraph (6) in the matter preceding subparagraph (A) by striking "Not later than 2 years after the date of enactment of this section, the President shall require—" and inserting "The President may require—";

(11) in paragraph (6)(B) by inserting ", and nontank vessels carrying oil of any kind as fuel for main propulsion," after "cargo"; and

(12) in paragraph (7) by inserting ", nontank vessel," after "vessel".

(c) IMPLEMENTATION DATE.—No later than one year after the date of enactment of this Act, the owner or operator of a nontank vessel (as defined section 311(j)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(9), as amended by this section) shall prepare and submit a vessel response plan for such vessel.

(d) ADDITION OF NOXIOUS LIQUID SUBSTANCES TO THE LIST OF HAZARDOUS SUBSTANCES FOR WHICH THE COAST GUARD MAY REQUIRE A RESPONSE PLAN.—Section 311(j)(5) of the Federal Water Pollution Control Act (33 U.S.C.1321(j)(5)) is further amended—

(1) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively;

(2) by inserting after subparagraph (A) the following:

"(B) The Secretary of the Department in which the Coast Guard is operating may issue regulations which require an owner or operator of a tank vessel, a non-tank vessel, or a facility described in subparagraph (C) that transfers noxious liquid substances in bulk to or from a vessel to prepare and submit to the Secretary a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a noxious liquid substance that is not designated as a hazardous substance or regulated as oil in any other law or regulation. For purposes of this paragraph, the term 'noxious liquid substance' has the same meaning when that term is used in the MARPOL Protocol described in section 2(a)(3) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).";

(3) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraph (C)";

(4) by striking "subparagraph (A)" in subparagraph (C), as redesignated, and inserting "subparagraphs (A) and (B)"; and

(5) by striking "subparagraph (D)," in clause (i) of subparagraph (F), as redesignated, and inserting "subparagraph (E),".

SEC. 702. REQUIREMENTS FOR TANK LEVEL AND PRESSURE MONITORING DEVICES.

(a) REQUIREMENTS.—Section 4110 of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(1) in subsection (a), by striking "Not later than 1 year after the date of the enactment of this Act, the Secretary shall" and inserting "The Secretary may"; and

(2) in subsection (b)—

(A) by striking "Not later than 1 year after the date of the enactment of this Act, the Secretary shall" and inserting "No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may"; and

(B) by striking "the standards" and inserting "any standards".

(b) STUDY.—

(1) STUDY REQUIREMENT.—The Secretary of the department in which the Coast Guard is operating shall conduct a study analyzing the costs and benefits of methods other than those described in subsections (a) and (b) of section 4110 of the Oil Pollution Act of 1990 for effectively detecting the loss of oil from oil cargo tanks. The study may include technologies, monitoring procedures, and other methods.

(2) INPUT.—In conducting the study, the Secretary may seek input from Federal agencies, industry, and other entities.

(3) REPORT.—The Secretary shall submit a report on the findings and conclusions of the

study to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives by not later than 180 days after the date of the enactment of this Act.

SEC. 703. LIABILITY AND COST RECOVERY.

(a) Definition of Owner or Operator.—Section 1001(26) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(26)) is amended to read as follows:

"(26) 'owner or operator'—

"(A) means—

"(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

"(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

"(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

"(v) notwithstanding subparagraph (B)(i), and in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including for purposes of liability under section 1002, any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through—

"(I) seizure or otherwise in connection with law enforcement activity;

"(II) bankruptcy;

"(III) tax delinquency;

"(IV) abandonment; or

"(V) other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

"(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

"(I) exercises decision making control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for oil handling or disposal practices related to the vessel or facility; or

"(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

"(aa) for the overall management of the vessel or facility encompassing day-to-day decision making with respect to environmental compliance; or

"(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

"(B) does not include—

"(i) A unit of state or local government that acquired ownership or control of a vessel or facility involuntarily through—

"(I) seizure or otherwise in connection with law enforcement activity;

"(II) bankruptcy;

"(III) tax delinquency;

"(IV) abandonment; or

"(V) other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

"(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility; or

"(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

"(I) forecloses on the vessel or facility; and

"(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a removal action under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements;".

(b) Other Definitions.—Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701) is amended by striking "and" after the semicolon at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting a semicolon, and by adding at the end the following:

"(38) 'participate in management'—

"(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

"(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

"(B) does not include—

"(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

"(ii) holding a security interest or abandoning or releasing a security interest;

"(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

"(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

"(v) monitoring or undertaking one or more inspections of the vessel or facility;

"(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

"(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

"(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

"(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

"(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan,

if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

"(39) 'extension of credit' has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

"(40) 'financial or administrative function' has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

"(41) 'foreclosure' and 'foreclose' each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

"(42) 'lender' has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));

"(43) 'operational function' has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and

"(44) 'security interest' has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).".

(c) Definition of Contractual Relationship.—Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C. 2703) is amended by adding at the end the following:

"(d) Definition of Contractual Relationship.—

"(1) In general.—For purposes of subsection (a)(3) the term 'contractual relationship' includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—

"(A) the real property on which the facility concerned is located was acquired by the responsible party after the placement of the oil on, in, or at the real property on which the facility concerned is located;

"(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and

"(C) the responsible party complies with paragraph (3).

"(2) Required circumstance.—The circumstances referred to in paragraph (1)(B) are the following:

"(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was located on, in, or at the facility.

"(B) The responsible party is a government entity that acquired the facility—

"(i) by escheat;

"(ii) through any other involuntary transfer or acquisition; or

"(iii) through the exercise of eminent domain authority by purchase or condemnation.

"(C) The responsible party acquired the facility by inheritance or bequest.

"(3) Additional requirements.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—

"(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);

"(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;

"(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

"(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

"(4) REASON TO KNOW.—

"(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate to a court that—

"(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

"(ii) the responsible party took reasonable steps to—

"(I) stop any continuing discharge;

"(II) prevent any substantial threat of discharge; and

"(III) prevent or limit any human, environmental, or natural resource exposure to any previously discharged oil.

"(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

"(C) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards and practices provisions regarding each of the following:

"(i) The results of an inquiry by an environmental professional.

"(ii) Interviews with past and present owners, operators, and occupants of the facility and the real property on which the facility is located for the purpose of gathering information regarding the potential for oil at the facility and on the real property on which the facility is located.

"(iii) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

"(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

"(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and waste handling, generation, treatment, disposal, and spill records, concerning oil at or near the facility and on the real property on which the facility is located.

"(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

"(vii) Specialized knowledge or experience on the part of the responsible party.

"(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property.

"(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

"(x) The degree of obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located, and the ability to detect the oil by appropriate investigation.

"(D) INTERIM STANDARDS AND PRACTICES.—

"(i) REAL PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court shall take into account—

"(I) any specialized knowledge or experience on the part of the responsible party;

"(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if the oil was not at the facility or on the real property;

"(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

"(IV) the obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located; and

"(V) the ability of the responsible party to detect oil by appropriate inspection.

"(ii) REAL PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process', shall satisfy the requirements in subparagraph (A).

"(E) SITE INSPECTION AND TITLE SEARCH.—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph.

"(5) PREVIOUS OWNER OR OPERATOR.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.

"(6) LIMITATION ON DEFENSE.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.".

SEC. 704. OIL SPILL RECOVERY INSTITUTE.

Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended—

(1) in the first subsection (c), as added by section 1102(b)(4) of Public Law 104–324 (110 Stat. 3965), by striking "with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1996," and inserting "October 1, 2012"; and

(2) by redesignating the second subsection (c) as subsection (d).

SEC. 705. ALTERNATIVES.

Section 4115(e)(3) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) is amended to read as follows:

"(3) No later than one year after the date of enactment of the Coast Guard and Maritime Transportation Act of 2004, the Secretary shall, taking into account the recommendations contained in the report by the Marine Board of the National Research Council entitled 'Environmental Performance of Tanker Design in Collision and Grounding' and dated 2001, establish and publish an environmental equivalency evaluation index (including the methodology to develop that index) to assess overall outflow performance due to collisions and groundings for double hull tank vessels and alternative hull designs.".

SEC. 706. AUTHORITY TO SETTLE.

Section 1015 of the Oil Pollution Act of 1990 (33 U.S.C. 2715) is amended by adding at the end the following:

"(d) AUTHORITY TO SETTLE.—The head of any department or agency responsible for recovering amounts for which a person is liable under this title may consider, compromise, and settle a claim for such amounts, including such costs paid from the Fund, if the claim has not been referred to the Attorney General. In any case in which the total amount to be recovered may exceed $500,000 (excluding interest), a claim may be compromised and settled under the preceding sentence only with the prior written approval of the Attorney General.".

SEC. 707. REPORT ON IMPLEMENTATION OF THE OIL POLLUTION ACT OF 1990.

No later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall provide a written report to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that shall include the following:

(1) The status of the levels of funds currently in the Oil Spill Liability Trust Fund and projections for levels of funds over the next 5 years, including a detailed accounting of expenditures of funds from the Oil Spill Liability Trust Fund for each of fiscal years 2000 through 2004 by all agencies that receive such funds.

(2) The domestic and international implications of changing the phase-out date for single hull vessels pursuant to section 3703a of title 46, United States Code, from 2015 to 2010.

(3) The costs and benefits of requiring vessel monitoring systems on tank vessels used to transport oil or other hazardous cargo, and of using additional aids to navigation, such as RACONs.

(4) A summary of the extent to which the response costs and damages for oil spill incidents have exceeded the liability limits established in section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704), and a description of the steps that the Coast Guard has taken or plans to take to implement subsection (d)(4) of that section.

(5) A summary of manning, inspection, and other safety issues for tank barges and towing vessels used in connection with them, including—

(A) a description of applicable Federal regulations, guidelines, and other policies;

(B) a record of infractions of applicable requirements described in subparagraph (A) over the past 10 years;

(C) an analysis of oil spill data over the past 10 years, comparing the number and size of oil spills from tank barges with those from tanker vessels of a similar size; and

(D) recommendations on areas of possible improvements to existing regulations, guidelines and policies with respect to tank barges and towing vessels.

SEC. 708. LOANS FOR FISHERMEN AND AQUACULTURE PRODUCERS IMPACTED BY OIL SPILLS.

(a) INTEREST; PARTIAL PAYMENT OF CLAIMS.—Section 1013 of the Oil Pollution Act of 1990 (33 U.S.C. 2713) is amended by adding at the end the following:

"(f) LOAN PROGRAM.—

"(1) IN GENERAL.—The President shall establish a loan program under the Fund to provide interim assistance to fishermen and aquaculture producer claimants during the claims procedure.

"(2) ELIGIBILITY FOR LOAN.—A loan may be made under paragraph (1) only to a fisherman or aquaculture producer that—

"(A) has incurred damages for which claims are authorized under section 1002;

"(B) has made a claim pursuant to this section that is pending; and

"(C) has not received an interim payment under section 1005(a) for the amount of the claim, or part thereof, that is pending.

"(3) TERMS AND CONDITIONS OF LOANS.—A loan awarded under paragraph (1)—

"(A) shall have flexible terms, as determined by the President;

"(B) shall be for a period ending on the later of—

"(i) the date that is 5 years after the date on which the loan is made; or

"(ii) the date on which the fisherman or aquaculture producer receives payment for the claim to which the loan relates under the procedure established by subsections (a) through (e) of this section; and

"(C) shall be at a low interest rate, as determined by the President.".

(b) USES OF THE FUND.—Section 1012(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)) is amended—

(1) by striking "Act." in paragraph (5)(C) and inserting "Act; and"; and

(2) by adding at the end the following:

"(6) the making of loans pursuant to the program established under section 1013(f).".

(c) STUDY.—Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Congress a study that contains—

(1) an assessment of the effectiveness of the claims procedures and emergency response programs under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) concerning claims filed by, and emergency responses carried out to protect the interests of, fishermen and aquaculture producers; and

(2) any legislative or other recommendations to improve the procedures and programs referred to in paragraph (1).

TITLE VIII—MARITIME TRANSPORTATION SECURITY

SEC. 801. ENFORCEMENT.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

"§ 70118. Firearms, arrests, and seizure of property

"Subject to guidelines approved by the Secretary, members of the Coast Guard may, in the performance of official duties—

"(1) carry a firearm; and

"(2) while at a facility—

"(A) make an arrest without warrant for any offense against the United States committed in their presence; and

"(B) seize property as otherwise provided by law.

"§ 70119. Enforcement by State and local officers

"(a) IN GENERAL.—Any State or local government law enforcement officer who has authority to enforce State criminal laws may make an arrest for violation of a security zone regulation prescribed under section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security or safety zone regulation under section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) or a safety zone regulation prescribed under section 10(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(d)) by a Coast Guard official authorized by law to prescribe such regulations, if—

"(1) such violation is a felony; and

"(2) the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

"(b) OTHER POWERS NOT AFFECTED.—The provisions of this section are in addition to any power conferred by law to such officers. This section shall not be construed as a limitation of any power conferred by law to such officers, or any other officer of the United States or any State. This section does not grant to such officers any powers not authorized by the law of the State in which those officers are employed.".

(b) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 701 of title 46, United States Code, is amended by adding at the end the following:

"70118. Enforcement.
"70119. Enforcement by State and local officers.".

SEC. 802. IN REM LIABILITY FOR CIVIL PENALTIES AND COSTS.

(a) AMENDMENTS TO TITLE 46, UNITED STATES CODE.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating section 70117 as 70119; and

(2) by inserting after section 70116 the following:

"§ 70117. In rem liability for civil penalties and certain costs

"(a) CIVIL PENALTIES.—Any vessel operated in violation of this chapter or any regulations prescribed under this chapter shall be liable in rem for any civil penalty assessed pursuant to section 70120 for such violation, and may be proceeded against for such liability in the United States district court for any district in which the vessel may be found.

"(b) REIMBURSABLE COSTS OF SERVICE PROVIDERS.—A vessel shall be liable in rem for the reimbursable costs incurred by any service provider related to implementation and enforcement of this chapter and arising from a violation by the operator of the vessel of this chapter or any regulations prescribed under this chapter, and may be proceeded against for such liability in the United States district court for any district in which such vessel may be found.

"(c) DEFINITIONS.—In this subsection—

"(1) the term 'reimbursable costs' means costs incurred by any service provider acting in conformity with a lawful order of the Federal government or in conformity with the instructions of the vessel operator; and

"(2) the term 'service provider' means any port authority, facility or terminal operator, shipping agent, Federal, State, or local government agency, or other person to whom the management of the vessel at the port of supply is entrusted, for—

"(A) services rendered to or in relation to vessel crew on board the vessel, or in transit to or from the vessel, including accommodation, detention, transportation, and medical expenses; and

"(B) required handling of cargo or other items on board the vessel.

"§ 70118. Withholding of clearance

"(a) REFUSAL OR REVOCATION OF CLEARANCE.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70120, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(b) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.".

(b) ACT OF JUNE 15, 1917.—Section 2 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 192), is amended—

(1) in subsection (c) by striking "Act" each place it appears and inserting "title"; and

(2) by adding at the end the following:

"(d) IN REM LIABILITY.—Any vessel that is used in violation of this title, or of any regulation issued under this title, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(e) WITHHOLDING OF CLEARANCE.—

"(1) IN GENERAL.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under this section, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.".

(c) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 701 of title 46, United States Code, is amended by striking the last item and inserting the following:

"70117. In rem liability for civil penalties and certain costs.
"70118. Enforcement by injunction or withholding of clearance.
"70119. Civil penalty".

SEC. 803. MARITIME INFORMATION.

(a) MARITIME INTELLIGENCE.—Section 70113(a) of title 46, United States Code, is amended by adding at the end the following: "The system may include a vessel risk profiling component that assigns incoming vessels a terrorism risk rating.".

(b) VESSEL TRACKING SYSTEM.—Section 70115 of title 46, United States Code, is amended in the first sentence by striking "may" and inserting "shall, consistent with international treaties, conventions, and agreements to which the United States is a party,".

(c) MARITIME INFORMATION.—Within 90 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing a plan for the implementation of section 70113 of title 46, United States Code. The plan shall—

(1) identify Federal agencies with maritime information relating to vessels, crew, passengers, cargo, and cargo shippers, those agencies' maritime information collection and analysis activities, and the resources devoted to those activities;

(2) establish a lead agency within the Department of Homeland Security to coordinate the efforts of other Department agencies in the collection of maritime information and to identify and avoid unwanted redundancy in those efforts;

(3) identify redundancy in the collection and analysis of maritime information by agencies within the department in which the Coast Guard is operating;

(4) establish a timeline for coordinating the collection of maritime information among agencies within the department in which the Coast Guard is operating;

(5) include recommendations on co-locating agency personnel in order to maximize expertise,

minimize costs, and avoid redundancy in both the collection and analysis of maritime information;

(6) establish a timeline for the incorporation of information on vessel movements derived through the implementation of sections 70114 and 70115 of title 46, United States Code, into the system for collecting and analyzing maritime information;

(7) include recommendations on educating Federal officials on the identification of security risks posed through commercial maritime transportation operations;

(8) include an assessment of the availability and expertise of private sector maritime information resources;

(9) include recommendations on how private sector maritime information resources could be utilized to analyze maritime security risks;

(10) include recommendations on how to disseminate information collected and analyzed through Federal maritime security coordinators, including the manner and extent to which State, local, and private security personnel should be utilized, which should be developed after consideration by the Secretary of the need for nondisclosure of sensitive security information; and

(11) include recommendations on the need for and how the department could help support a maritime information sharing and analysis center for the purpose of collecting and disseminating real-time or near real-time information to and from public and private entities, along with recommendations on the appropriate levels of funding to help disseminate maritime security information to the private sector.

(d) LIMITATION ON ESTABLISHMENT OF LEAD AGENCY.—The Secretary may not establish a lead agency within the Department of Homeland Security to coordinate the efforts of other Department agencies in the collection of maritime information, until at least 90 days after the plan under subsection (c) is submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 804. MARITIME TRANSPORTATION SECURITY GRANTS.

(a) GRANT PROGRAM.—Section 70107(a) of title 46, United States Code, is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and facility security plans among port authorities, facility operators, and State and local government agencies required to provide port security services. Before awarding a grant under the program, the Secretary shall provide for review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administrator. In administering the grant program, the Secretary shall take into account national economic and strategic defense concerns.".

(b) SECRETARY ADMINISTERING.—Section 70107 of title 46, United States Code, is amended—

(1) by striking "Secretary of Transportation" each place it appears and inserting "Secretary";

(2) by striking "Department of Transportation" each place it appears and inserting "department in which the Coast Guard is operating".

(c) EFFECTIVE DATE.—Subsections (a) and (b)—

(1) shall take effect October 1, 2004; and

(2) shall not affect any grant made before that date.

(d) REPORT ON DESIGN OF MARITIME TRANSPORTATION SECURITY GRANT PROGRAM.—Within 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of House of Representatives on the design of the maritime transportation security grant program established under section 70107(a) of title 46, United States Code. In the report, the Secretary shall include recommendations on—

(1) whether the grant program should be discretionary or formula-based and the reasons for the recommendation;

(2) requirements for ensuring that Federal funds will not be substituted for grantee funds;

(3) targeting requirements to ensure that funding is directed in a manner that considers—

(A) national economic and strategic defense concerns; and

(B) the fiscal capacity of the recipients to fund facility security plan requirements without grant funds; and

(4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds provided under the program.

SEC. 805. SECURITY ASSESSMENT OF WATERS UNDER THE JURISDICTION OF THE UNITED STATES.

Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall—

(1) conduct a vulnerability assessment under section 70102(b) of title 46, United States Code, of the waters under the jurisdiction of the United States that are adjacent to nuclear facilities that may be damaged by a transportation security incident as defined in section 70101 (6) of title 46, United States Code;

(2) coordinate with the appropriate Federal agencies in preparing the vulnerability assessment required under paragraph (1); and

(3) submit the vulnerability assessments required under paragraph (1) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 806. MEMBERSHIP OF AREA MARITIME SECURITY ADVISORY COMMITTEES.

Section 70112(b) of title 46, United States Code, is amended by adding at the end to following:

"(5) The membership of an Area Maritime Security Advisory Committee shall include representatives of the port industry, terminal operators, port labor organizations, and other users of the port areas.".

SEC. 807. JOINT OPERATIONAL CENTERS FOR PORT SECURITY.

The Commandant of the Coast Guard shall report to the Congress, within 180 days after the date of the enactment of this Act, on the implementation and use of joint operational centers for port security at certain United States seaports. The report shall—

(1) compare and contrast the composition and operational characteristics of existing joint operational centers for port security, including those in Norfolk, Virginia, Charleston, South Carolina, and San Diego, California;

(2) examine the use of such centers to implement—

(A) the plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of title 46, United States Code;

(C) short and long range vessel tracking under sections 70114 and 70115 of title 46, United States Code; and

(D) secure transportation systems under section 70116 of title 46, United States Code; and

(3) estimate the number, location and costs of such centers necessary to implement the activities authorized under sections 70103, 701113, 70114, 70115, and 70116 of title 46, United States Code.

SEC. 808. INVESTIGATIONS.

(a) IN GENERAL.—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) INVESTIGATIONS.—

"(1) IN GENERAL.—The Secretary shall conduct investigations, fund pilot programs, and award grants, to examine or develop—

"(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

"(B) equipment to detect accurately explosives, chemical, or biological agents that could be used in a transportation security incident against the United States;

"(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

"(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including sensors that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

"(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential transportation security incidents that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

"(F) tools to mitigate the consequences of a transportation security incident on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a transportation security incident;

"(G) applications to apply existing technologies from other areas or industries to increase overall port security;

"(H) improved container design, including blast-resistant containers; and

"(I) methods to improve security and sustainability of port facilities in the event of a maritime transportation security incident, including specialized inspection facilities.

"(2) IMPLEMENTATION OF TECHNOLOGY.—

"(A) IN GENERAL.—In conjunction with ongoing efforts to improve security at United States ports, the Secretary may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

"(i) testing of new detection and screening technologies;

"(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

"(iii) tools for responding to a transportation security incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $35,000,000 for each of fiscal years 2005 through 2009 to carry out this subsection.

"(3) NATIONAL PORT SECURITY CENTERS.—

"(A) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements with eligible nonprofit institutions of higher learning to conduct investigations in collaboration with ports and the maritime transportation industry focused on enhancing security of the Nation's

ports in accordance with this subsection through National Port Security Centers.

"(B) APPLICATIONS.—To be eligible to receive a grant under this paragraph, a nonprofit institution of higher learning, or a consortium of such institutions, shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

"(C) COMPETITIVE SELECTION PROCESS.—The Secretary shall select grant recipients under this paragraph through a competitive process on the basis of the following criteria:

"(i) Whether the applicant can demonstrate that personnel, laboratory, and organizational resources will be available to the applicant to carry out the investigations authorized in this paragraph.

"(ii) The applicant's capability to provide leadership in making national and regional contributions to the solution of immediate and long-range port and maritime transportation security and risk mitigation problems.

"(iii) Whether the applicant can demonstrate that is has an established, nationally recognized program in disciplines that contribute directly to maritime transportation safety and education.

"(iv) Whether the applicant's investigations will involve major United States ports on the East Coast, the Gulf Coast, and the West Coast, and Federal agencies and other entities with expertise in port and maritime transportation.

"(v) Whether the applicant has a strategic plan for carrying out the proposed investigations under the grant.

"(4) ADMINISTRATIVE PROVISIONS.—

"(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary shall coordinate with other Federal agencies to ensure the grant will not duplicate work already being conducted with Federal funding.

"(B) ACCOUNTING.—The Secretary shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

"(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the department in which the Coast Guard is operating and the Secretary for audit and examination.

"(5) ANNUAL REVIEW AND REPORT.—The Inspector General of the department in which the Coast Guard is operating shall annually review the programs established under this subsection to ensure that the expenditures and obligations of funds are consistent with the purposes for which they are provided, and report the findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 809. VESSEL AND INTERMODAL SECURITY REPORTS.

(a) IN GENERAL.—Within 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit the reports and plan required under subsections (b), (c), (e), (f), and (j) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) REPORT REGARDING SECURITY INSPECTION OF VESSELS AND VESSEL-BORNE CARGO CONTAINERS ENTERING THE UNITED STATES.—

(1) REQUIREMENT.—The Secretary shall prepare a report regarding the numbers and types of vessels and vessel-borne cargo containers that enter the United States in a year.

(2) CONTENTS.—The report shall include the following:

(A) A section regarding security inspection of vessels that includes the following:

(i) A complete breakdown of the numbers and types of vessels that entered the United States in the most recent 1-year period for which information is available.

(ii) The cost incurred by the Federal Government in inspecting such vessels in such 1-year period, including specification and comparison of such cost for each type of vessel.

(iii) An estimate of the per-vessel cost that would be incurred by the Federal Government in inspecting each type of vessel that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(iv) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting all vessels that enter the United States each year, including costs for personnel, vessels, equipment, and funds.

(B) A section regarding security inspection of containers that includes the following:

(i) A complete breakdown of the numbers and types of vessel-borne cargo containers that entered the United States in the most recent 1-year period for which information is available, including specification of the number of 1 TEU containers and the number of 2 TEU containers.

(ii) The cost incurred by the Federal Government in inspecting such containers in such 1-year period, including specification and comparison of such cost for a 1 TEU container and for a 2 TEU container, and the number of each inspected.

(iii) An estimate of the per-container cost that would be incurred by the Federal Government in inspecting each type of vessel-borne container that enters the United States each year, including costs for personnel, vessels, and equipment.

(iv) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting, and where allowed by international agreement, inspecting in a foreign port, all vessel-borne containers that enter the United States each year, including costs for personnel, vessels, and equipment.

(c) PLAN FOR IMPLEMENTING SECURE SYSTEMS OF TRANSPORTATION.—The Secretary shall prepare a plan for the implementation of section 70116 of title 46, United States Code. The plan shall—

(1) include a timeline for establishing standards and procedures pursuant to section 70116(b) of title 46, United States Code;

(2) provide a preliminary assessment of resources necessary to evaluate and certify secure systems of transportation, and the resources necessary to validate that the secure systems of transportation are operating in compliance with the certification requirements;

(3) contain an analysis of whether establishing a voluntary user fee to fund the certification of private secure systems of transportation, paid for by the person applying for certification, would enhance cargo security;

(4) contain an analysis of the need for and feasibility of establishing a system to inspect, monitor, and track intermodal shipping containers within the United States; and

(5) contain an analysis of the need for and feasibility of developing international standards for secure systems of transportation, including recommendations, that includes an examination of working with appropriate international organizations to develop standards to enhance the physical security of shipping containers consistent with section 70116 of title 46, United States Code.

(d) INSPECTOR GENERAL IMPLEMENTATION REPORT.—One year after the date on which the plan under subsection (c) is submitted to the Congress, the Inspector General of the department in which the Coast Guard is operating shall transmit a report evaluating the progress made by the department in implementing the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(e) REPORT ON RADIATION DETECTORS.—The Secretary shall prepare a report on progress in the installation of a system of radiation detection at all major United States seaports, and a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation or efficacy of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

(f) REPORT ON NONINTRUSIVE INSPECTION AT FOREIGN PORTS.—The Secretary shall prepare a report—

(1) on whether and to what extent foreign seaports have been willing to utilize nonintrusive screening equipment at their ports to screen cargo, including the number of cargo containers that have been screened at foreign seaports, and the ports where they were screened;

(2) indicating which foreign ports may be willing to utilize nonintrusive screening equipment for cargo exported for import into the United States; and

(3) indicating ways to increase the effectiveness of the United States Government's targeting and screening activities outside the United States and to what extent additional resources and program changes will be necessary to maximize scrutiny of cargo in foreign seaports that is destined for the United States.

(g) EVALUATION OF CARGO INSPECTION TARGETING SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CONTAINERS.—Within 180 days after the date of the enactment of this Act and annually thereafter, the Inspector General of the department in which the Coast Guard is operating shall prepare a report that includes an assessment of—

(1) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

(2) the sources of information, and the quality of the information at the time of reporting, used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

(3) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

(4) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

(5) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

(h) ACTION REPORT.—If the Inspector General of the department in which the Coast Guard is operating determines in any of the reports prepared under subsection (g) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then the Secretary of the department in which the Coast Guard is operating shall, within 90 days, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure House of Representatives on what actions will be taken to correct deficiencies identified in the Inspector General Report.

(i) COMPLIANCE WITH SECURITY STANDARDS ESTABLISHED PURSUANT TO MARITIME TRANSPORTATION SECURITY PLANS.—Within 180 days

after the date of the enactment of this Act and annually thereafter, the Secretary of the department in which the Coast Guard is operating shall prepare a report on compliance and steps taken to ensure compliance by ports, terminals, vessel operators, and shippers with security standards established pursuant to section 70103 of title 46, United States Code. The reports shall also include a summary of security standards established pursuant to such section during the previous year. The Secretary shall submit the reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(j) Empty Containers.—The Secretary of the department in which the Coast Guard is operating shall prepare a report on the practice and policies in place at United States ports to secure shipment of empty containers and trailers. The Secretary shall include in the report recommendations with respect to whether additional Federal actions are necessary to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers and trailers.

(k) Report and Plan Formats.—The Secretary and the Inspector General of the department in which the Coast Guard is operating may submit any plan or report required by this section in both classified and redacted formats, if the Secretary determines that it is appropriate or necessary.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill, insert the following: "An Act to authorize appropriations for the Coast Guard for fiscal year 2005, to amend various laws administered by the Coast Guard, and for other purposes.".

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

Don Young,
Howard Coble,
John J. Duncan, Jr.,
Pete Hoekstra,
Frank LoBiondo,
Rob Simmons,
Mario Diaz-Balart,
James L. Oberstar,
Bob Filner,
Timothy Bishop,
Nick Lampson,

For consideration of the House bill and Senate amendments, and modifications committed to conference:

Chris Cox,
Bennie G. Thompson,
Managers on the Part of the House.

John McCain,
Ted Stevens,
Trent Lott,
Kay Bailey Hutchison,
Olympia Snowe,
Fritz Hollings,
Daniel K. Inouye,
John Breaux,
Ron Wyden,

From the Committee on Environment and Public Works:

Jim Inhofe,
Jim Jeffords,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R 2443), to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Section 1. Short Title.

Section 1 of the House bill states that the Act may be referred to as the "Coast Guard and Maritime Transportation Act of 2003."

Section 1 of the Senate amendment states the Act may be cited as the "Coast Guard Authorization Act of 2004."

The Conference substitute adopts the House bill with an amendment.

Section 1 of the conference agreement states the Act may be cited as the "Coast Guard and Maritime Transportation Act of 2004."

TITLE I—AUTHORIZATION

Section 101. Authorization of Appropriations

Section 101 of the House bill authorizes funds for the Coast Guard in fiscal year 2004.

Section 101 of the Senate amendment is similar to the House provision except that the Senate provision authorizes funds for fiscal years 2004 and 2005 and contains different authorization levels than those that are included in the House bill.

The Conference substitute authorizes the following amounts for fiscal year 2005:

Operating Expenses	$5,404,000,000
Research, Development Testing and Evaluation	24,200,000
Retired Pay	1,085,000,000
Environmental Compliance And Restoration	17,000,000
Alterations to Bridges	19,650,000
Acquisition, Construction And Improvement	1,500,000,000
Rescue 21	161,000,000
Integrated Deepwater System	1,100,000,000
Coast Guard Reserve	117,000,000

The conference included $5,404,300,000 for the Coast Guard's operating expenses. This represents an increase of fourteen percent over FY 2004 levels. This includes over $300 million in authorizations for port security over the FY 2005 budget request, including an additional $40 million for expedited implementation of the Automatic Identification Systems requirements. It also includes over $100 million to cover the increases in operating tempo that the Coast Guard has experienced over the past few years, so that the traditional core missions of the Coast Guard, such as search and rescue of mariners in distress and protection of our living marine resources, are not compromised.

Currently, the only Coast Guard HITRON squadron is based in Jacksonville, Florida. Since the program's inception in 1999, HITRON helicopters have successfully interdicted cocaine that had a value of more than $4 billion. The Interagency Assessment of Cocaine Movement estimated that 544 Metric Tons of Cocaine departed South America for the United States in 2002. Of this total, 46% (250 Metric Tons) was estimated to flow through the Eastern Pacific. The Conferees believes that leasing additional squadron of HITRON helicopters and deploying these helicopters to the West Coast will help stem the flow of cocaine and other illegal shipments into the West Coast of the United States and provide RT-MSST anti-terrorist protection. Therefore the conferees recommend that the Coast Guard establish a West Coast HITRON squadron. The authorization levels provided in H.R. 2443 provide sufficient funds in the operating expense account to lease these additional assets.

The conferees authorize a significant increase for Acquisition, Construction and Improvements over the Administration request, and the Fiscal Year 2004 appropriated level. The conferees recommend that an amount of this increase go toward reducing the current $54,000,000 Fiscal Year 2005 unfunded shore facilities requirements list.

Section 102. Authorized Levels of Military Strength and Training

Section 102 of the House bill authorizes a Coast Guard end-of-year strength of 45,500 active duty military personnel for Fiscal Year 2004. This level includes the increases proposed by the Administration. At the end of Fiscal Year 2003, 37,000 active duty personnel were serving in the Coast Guard. This section also authorizes average military training student loads for Fiscal Year 2004 as follows:

Training	*Student years*
Recruit/Special	2,500
Flight	125
Professional	350
Officer Acquisition	1,200

Section 102 of the Senate amendment is identical to the House bill.

The conference substitute adopts the House provision, as amended to include 2005 levels.

TITLE II—COAST GUARD MANAGEMENT

Section 201. Long-Term Leases

Section 201 of the House bill allows the Commandant to enter into leases of up to 20 years for Coast Guard property with (1) the Coast Guard Academy Alumni Association to construct an Alumni visitor facility at the Coast Guard Academy; and (2) non-Federal entities to carry out cooperative agreements under Section 4 (e) of the Ports and Waterways Safety Act. Current law limits such leases to no more than five years.

Paragraph (3) of Section 302 of the Senate amendment is similar to the House provision, but would allow 20-year leases between the Coast Guard and non-Federal entities.

The conference substitute adopts the House provision.

Section 202. Nonappropriated Fund Instrumentalities

Section 202 of the House bill provides authority for Coast Guard exchanges and morale, welfare, and recreation systems (MWR) to enter into contracts or other agreements with another department, agency, or instrumentality of the Coast Guard or another Federal agency to provide goods and services beneficial to the efficient management and operation of the exchange and MWR systems.

Section 209 of the Senate amendment is similar to the House provision.

The conference substitute adopts the House provision.

This section provides Coast Guard Exchanges parity with Department of Defense non-appropriated fund instrumentalities (10 U.S.C. 2482a).

Section 203. Term of Enlistments

Section 203 of the House bill authorizes the Commandant of the Coast Guard to accept original enlistments for other than full years, and reenlistments for any term of years and months from two years to six years.

Section 207 of the Senate amendment is similar to the House provision.

The conference substitute adopts the Senate amendment.

This will make Coast Guard enlistments consistent with Department of Defense enlistments. The Coast Guard will gain greater billet alignment between commands and assignments during transfer seasons, and greater flexibility in maintaining force readiness.

Section 204. Enlisted Member Critical Skill Training Bonus

Section 204 of the House bill authorizes the Coast Guard to offer an incentive bonus to encourage enlisted members to enter certain critical skill specialties.

Section 201 of the Senate amendment is similar to the House provision.

The conference substitute adopts the House provision.

The Coast Guard currently has authority to offer enlistment bonuses (37 U.S.C. 309) and retention bonuses (37 U.S.C. 323), but does not have authority to offer a bonus to a member who voluntarily enters a specialty school to gain training in a critical skill. This proposal authorizes such a bonus to enlisted members who complete training in a skill designated as critical, provided at least four years of obligated active service remain on the member's enlistment at the time the training is completed. The Coast Guard has shortages of enlisted members on active duty in certain critical skills, such as Electricians Mate, Electronics Technician, Food Service Specialist, Machinery Technician, Storekeeper, and Telecommunications Specialist. Most of these skills result in assignments to ships, where being a junior enlisted Coast Guardsman is often very difficult due to working conditions and time spent at sea. Therefore, the Coast Guard has difficulty in encouraging junior enlisted personnel to seek out these specialties. The authority to provide an incentive bonus to enlisted members will assist in curtailing the shortages in certain critical skills.

Sec. 205 Indemnity for Disabling Vessels Liable to Seizure or Examination

Section 205 of the House bill eliminates the requirement to fire a warning shot as a condition precedent to indemnification under 14 U.S.C. 637, when use of a warning shot is not practical.

Section 312 of the Senate amendment is similar to the House bill and includes a report mandating the submission of information regarding the location, circumstances and consequences surrounding the use of any disabling firing.

The conference substitution adopts the House provision amended by the addition of the report included in the Senate amendment.

Under 14 U.S.C. 89, the Coast Guard is authorized to board, examine, and search vessels to detect violations of U.S. law. It may use "all necessary force to compel compliance", including the use of disabling fire to stop a vessel that refuses to comply with a lawful order to stop. 14 U.S.C. 637 indemnifies government personnel operating from Coast Guard vessels or aircraft and Naval vessels with Coast Guard members assigned from damages resulting from the use of disabling fire. Under current law the indemnity applies only if a warning shot is given prior to the use of disabling fire. In some instances, it may be dangerous or impracticable to fire warning shots. Warning shots are generally fired near, but not at, a noncompliant vessel, so they may pose a risk to others if used in congested waters or near shore. Disabling fire is specifically targeted at a particular vessel so it does not present a risk to others.

Section 206. Administrative, Collection, and Enforcement Costs for Certain Fees and Charges

Section 206 of the House bill amends section 664 of title 14 to better coordinate the statutory provisions governing fees and charges currently levied by the Coast Guard for services furnished under subtitle H of title 46 and under title 14, United States Code.

The Senate amendment does not contain a comparable provision.

The conference substitute adopts the House provision.

Under current law, there are three statutes pursuant to which the Coast Guard collects user fees for its services. The Independent Offices Appropriations Act of 1951, 31 U.S.C. 9701, applies general user fee authority to the entire Federal Government, including the Coast Guard. Also, under 46 U.S.C. 2110, the Secretary is required to establish user fees for services provided under subtitle 11 of title 46, United States Code (primarily marine safety activities, e.g., inspection of certain vessels; licensing, certification, and documentation of personnel, etc.). Finally, section 664 of title 14, United States Code, provides authority for the Coast Guard to establish user fees for goods and services it provides. This proposal does not establish a new user fee or seek to authorize the collection of any amounts in excess of the full (direct and indirect) costs of providing a given service for which the fee is being charged.

Currently, the Secretary is authorized to recover appropriate collection and enforcement costs associated with delinquent payments of the fees and charges associated with services provided under subtitle II of title 46, but not under section 664 of title 14. This section will make parallel the provisions applicable to title 46 and title 14 user fees collection. This section authorizes the Secretary to recover appropriate collection and enforcement costs associated with delinquent payments of fees and charges authorized under title 14, and allows other Federal, State, local, or private entities to collect such a fee or charge. These authorities already exist for title 46 fees and charges.

Finally, this section amends title 14, to define what constitutes the costs of collecting a fee or charge, so that it explicitly includes reasonable administrative, personnel, contract, equipment, supply, training, and travel expenses related to administration, management, and oversight of user fees authorized by law. Importantly, this will include the compilation and analysis of cost and user data. In recent years, both Congress and the Executive Branch have sought to obtain such data from Federal agencies on a recurring basis.

Section 207. Expansion of Coast Guard Housing Authorities

Section 207 of the House bill provides the Coast Guard with the same direct loan authority for the acquisition and construction of housing currently available to the Department of Defense, allows the Commandant to make differential lease payments, if necessary, to encourage private construction of Coast Guard housing, and allows for multiple demonstration projects to be conducted at any Coast Guard installation in Alaska.

Section 203 of the Senate amendment is similar to the House provisions except that it does not include language that would grant the Secretary of the department in which the Coast Guard is operating to enter into limited partnerships with eligible entities, establish additional demonstration projects in Alaska, or the ability to make differential lease payments.

The conference substitute adopts the House provision.

In 1996, Congress enacted a broad set of authorities for the Department of Defense to use in its Military Housing Privatization Initiative. The existing Coast Guard housing authorities are more limited. Section 687(g) of title 14 authorizes a demonstration project in Kodiak, Alaska to acquire or construct military family or unaccompanied housing through contracts with Alaska-based small business concerns qualified under the Small Business Administration's section 8(a) program. Section 207 allows for more than one demonstration project, and allows the projects to be conducted at any Coast Guard installation in Alaska.

Section 208. Requirement for Constructive Credit

Section 208 of the House bill reduces the amount of mandatory constructive credit granted to a Reserve Law Specialist upon designation or assignment to one year from the current level of three years. This section will allow the Coast Guard to consider the officer's education and experience, potential career opportunities, and service needs to determine appropriate credit.

Section 208 of the Senate amendment is substantively the same as the House provision.

The Conference substitute adopts the Senate amendment.

Section 209. Maximum Ages for Retention in an Active Status

Section 209 of the House bill changes the mandatory age at which a Reserve officer is transferred to the Retired Reserve from sixty-two years of age to sixty years of age and would change the mandatory age at which a Reserve officer (other than those eligible for retirement or a Reserve rear admiral or rear admiral (lower half)) shall be discharged from sixty-two years of age to sixty years of age. It aligns Coast Guard Reserve officers' maximum retention age with that of other armed services Reserve officers, and also codifies the longstanding Coast Guard policy to remove Reserve officers from active status at age sixty.

Section 206 of the Senate amendment is substantively the same as the House provision.

The Conference substitute adopts the House provision.

Section 210. Travel Card Management

Sec. 210 of the House bill authorizes the Coast Guard to use pay offsets to recover delinquent amounts owed by military members and civilian employees who hold Federal contractor-issued travel charge cards.

Sec. 210 of the Senate amendment is a substantively similar provision.

The Conference substitute adopts the Senate amendment.

This section would authorize the Coast Guard to disburse travel reimbursement directly to the issuer of a contractor-issued travel charge card and would allow the Coast Guard to withhold pay from Coast Guard personnel who have delinquent travel charge cards accounts. This provision is similar to authority granted to the Department of Defense in 1999.

Section 211. Coast Guard Fellows and Detailees

Sec. 211 of the House Bill provides statutory authority for a Coast Guard Congressional Fellowship Program, adopts the restrictions contained in the House Ethics Manual and prohibits all Coast Guard Fellows from engaging in duties that will result in any direct or indirect benefit to the Coast Guard, other than broadening the fellow's knowledge.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires the Coast Guard, in consultation with the Attorney General, to report on its existing standards with regards to Congressional detailees and compare those standards to other Federal agency detailees and to make any recommendations, if necessary, to ensure against conflicts of interest and issues of separation of powers.

Section 212. Long-Term Lease of Special Use Real Property

Section 212 of the House bill allows the Coast Guard to enter into a lease of up to 20 years for a new facility constructed by Muskegon County that meets criteria established by the Commandant.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that authorizes the Secretary to enter into long-term leases for up to 20 years for special use real property for the purposes of carrying out Coast Guard aviation, maritime and navigation missions other than general purpose office and storage space.

Currently, the Coast Guard's general leasing authority is limited to the current fiscal year. This proposal would provide the Coast Guard with the authority to lease special use real property, including unimproved or vacant land, for terms not to exceed 20 years. This 20-year limitation is consistent with the Coast Guard's current authority to lease real property for navigation and consistent with the Coast Guard's current authority to lease real property for navigation and communications systems sites. The Coast Guard would use this expanded leasing authority to acquire leasehold interests in non-Federally-owned lands in those instances when the landowner is unwilling or unable (e.g. in the case of a municipality limited by state law or local ordinance) to convey the property's title to the United States. Such leasehold interests would be acquired for direct support of Coast Guard missions, such as sites for small boat stations, air search and rescue stations, or helicopter landing pads. Opportunities for the Coast Guard to enter into long-term leases have arisen at a variety of facilities over the past several years, such as Muskegon County, Michigan, which has been discussing the possible lease of a facility constructed by the County at Muskegon County Airport as an air search and rescue station; station buildings in Carquinez and Morro Bay, California; a pier and cutter support team building in Cordova, Alaska; and other facilities throughout the country.

The Conferees expect the Coast Guard to use this new authority judiciously and in the best interest of the United States. Additionally, the Conferees direct the Coast Guard to report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives 30 days prior to entering into any long-term lease utilizing this authority detailing the circumstances of the lease and the Coast Guard's requirements leading to this lease.

Section 213. National Coast Guard Museum

Section 213 of the House bill allows the Coast Guard to establish a National Coast Guard Museum to be located in New London, Connecticut. The House provision also prohibits the spending of Federal funds for planning, engineering, design, construction, operation or maintenance of the Museum, and mandates the submission of an operation and maintenance plan to Congress before the Museum is established.

Section 409 of the Senate amendment allows for the establishment of a National Coast Guard Museum to be located in New London, Connecticut or a location of comparable historic connection to the Coast Guard. The Senate provision contains no prohibition of Federal funds for Museum construction and activities and mandates the submission of an operation and maintenance plan to Congress before the Museum is established.

The Conference substitute adopts a provision that authorizes the Commandant of the Coast Guard to establish a National Coast Guard Museum to be located in New London, Connecticut at, or in close proximity to, the Coast Guard Academy. The provision restricts the Coast Guard from expending federally appropriated funds for engineering, design or construction costs. The provision also requires that the Museum be supported with nonappropriated, nonfederal funds to the greatest extent possible, and establishes the preservation and protection of historic artifacts as the priority use for Federal funds. Before the establishment of any museum under this section, the Commandant is required to submit to Congress a plan for constructing, operating and maintaining such a museum. Such plan is to include a discussion of any shortfall of funds for engineering, design or construction. The provision prohibits the Commandant from establishing a national Coast Guard museum other than under this section.

The Conferees do not consider the conduct of academic programs relating to the curriculum of the Coast Guard Academy, the Coast Guard leadership Program or other Coast Guard programs that utilize the collections, artifacts and facilities of the Museum to be operation and maintenance activities of the Museum. Therefore, such programs are not subject to the limitation on operation and maintenance funding.

Section 214. Limitation on Number of Commissioned Officers

Section 214 of the House bill provides a temporary increase in the authorized cap on Coast Guard officers to 6,700 for fiscal year 2004.

Section 202 of the Senate amendment would permanently increase the authorized cap on Coast Guard officers to 7,100 and authorizes an increase in the percentage of Commanders and Lieutenant Commanders to 15 and 22 percent, respectively.

The Conference substitute adopts a provision that will temporarily increase the authorized cap on Coast Guard officers to 6,700 officers for the fiscal years 2004, 2005 and 2006 and authorizes an increase in the percentage of Commanders and Lieutenant Commanders to 15 and 22 percent, respectively.

Currently, the overall number of officers cannot exceed 6,200. Increased homeland security requirements, however, are expected to drive up the officer needs of the Coast Guard by 17 percent. With a current officer corps of approximately 5,600 officers, an additional 900 officers for homeland security missions will require a change to the officer ceiling in section 42 of title 14, United States Code. The Coast Guard budget proposes to convert 78 billets from military to civilian positions in each of fiscal years 2003 and 2004. Conferees urge the Coast Guard to accelerate the conversion of those jobs that are not required for military purposes to civilian positions. This conversion will provide for increased continuity in positions and decrease the need for additional officer billets in the future.

This section will meet the short-term needs of the Coast Guard in addressing changes necessitated by increased responsibilities related to homeland security missions. The Coast Guard has assured the Conferees that the Service does not intend to increase the officer Corps beyond the authorized level before the end of Fiscal Year 2006.

Section 215. Redistricting Notification Requirement

Section 215 of the House bill requires the Commandant to notify the Committee at least 180 days before implementing a plan to change the boundaries of Coast Guard districts, or before shifting more than 10 percent of the personnel or equipment from the station where they are based.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision amended by adding the Committee on Commerce, Science, and Transportation of the Senate as a committee to be notified before such redistricting action occurs and by amending the language to define an action requiring notification under this section as a permanent transfer of a percentage of personnel or equipment away from a District Office to which they were previously assigned.

The conferees understand the Department of Homeland Security is undertaking efforts to comply with Section 706 of the Homeland Security Act and create a plan for the consolidation and co-location of agency regional offices. The conferees remain concerned of the impact this will have on the Cost Guard's mission-based district organization.

The conferees note that Coast Guard districts are currently organized to take into account the interrelated nature of specific riverine, estuarine, and other marine systems. The districts are arranged to address predominate missions and threats which confront specific marine systems. In addition, the service has built an extensive system of secure communications at these offices from which they control the wide range of Coast Guard operations. Arbitrarily dividing up the current district structure to comport with the conveniences of other Department of Homeland Security agencies could severely undermine the Coast Guard's mission effectiveness.

Section 216. Report on Shock Mitigation Standards

Section 217 of the House bill requires the Secretary to establish shock mitigation standards for boat decking material on Coast Guard vessels.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision which requires the Commandant of the Coast Guard to report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the necessity of and possible standards for decking material in order to mitigate adverse effects of shock and vibration of Coast Guard vessels on crew members.

Section 217. Recommendations to Congress by Commandant of the Coast Guard

Section 219 of the House bill authorizes the Commandant of the Coast Guard to make recommendations to the Congress without the direction and guidance of the Administration.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 218. Coast Guard Education Loan Repayment Program

Section 221 of the House Bill allows the Secretary to repay certain loans incurred by active enlisted members of the Coast Guard for purposes of higher education.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

This section would allow the Secretary to repay a portion of certain higher education loans incurred by active enlisted members of the Coast Guard. The amount of repayment is limited to 33⅓% of the loan or $1,500 per year of service by the enlisted member.

Section 219. Contingent Expenses

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that increases the funding level authorized for Coast Guard contingent expenses to an amount of $50,000 per fiscal year.

These funds are used by the Service for representational and reception purposes. The current authorized level is $7,500 and has not been increased since being established in 1949.

Section 220. Reserve Admirals

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that clarifies language that outlines the maximum term of service in active status for reserve rear admirals of the Coast Guard to ensure that reserve officers may serve a full four-year term at that position.

Section 221. Confidential Investigative Expenses

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that increases the funding level authorized for Coast Guard confidential investigative expenses to an amount of $45,000 per fiscal year.

The current authorized amount is $15,000 and has not been increased since being established in 1974.

Section 222. Innovative Construction Alternatives

The House bill does not contain a comparable provision.

Section 407 of the Senate amendment authorizes the Commandant of the Coast Guard to consult with the Office of Naval Research and other Federal agencies with research and development programs that may provide innovative construction alternatives for the Integrated Deepwater System.

The Conference substitute adopts the Senate provision.

Section 223. Delegation of Port Security Authority

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that authorizes the President to delegate the authority to issue rules and regulations under 50 U.S.C. 191 to the Secretary of the department in which the Coast Guard is operating. 50 U.S.C. 191 allows for the emergency regulation of vessels in time of national emergency.

Section 224. Fisheries Enforcement Plans and Reporting

The House bill does not contain a comparable provision.

Section 321 of the Senate amendment would require the Coast Guard and National Oceanic and Atmospheric Administration to improve their consultations with each other and with State and local authorities in setting priorities for and coordinating the enforcement of fisheries laws and regulations.

The Conference substitute adopts the Senate provision, as amended.

Section 225. Use of Coast Guard and Military Child Development Centers

The House bill does not contain a comparable provision.

Section 211 of the Senate amendment would allow the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating to agree to provide day care services without requiring reimbursement. It also would provide children of Coast Guard members the same access as children of DOD members to DOD child care facilities.

The Conference substitute adopts the Senate provision as amended, to require mutual reimbursement for use of each other's centers.

Section 226. Property Owned by Auxiliary Units and Dedicated Solely for Auxiliary Use

The House bill does not contain a comparable provision.

Section 204 of the Senate amendment allows for the treatment of real and personal property owned by a unit of the Coast Guard Auxiliary to be considered as Federal property for purposes of liability.

The Conference substitute adopts the Senate provision with an amendment.

This section would state that real and personal property owned by a unit of the Coast Guard Auxiliary shall be considered Federal property for liability purposes at all times unless the property is being used outside the scope of the Auxiliary mission. This section also allows the Secretary of the department in which the Coast Guard is operating to reimburse the Auxiliary for operation, maintenance, repair, or replacement of Auxiliary property when it is being used exclusively for Auxiliary business.

TITLE III—NAVIGATION

Section 301. Marking of Underwater Wrecks

Section 301 of the House bill gives the Commandant of the Coast Guard discretion in the manner in which a sunken vessel is to be marked for purposes of navigation.

Section 301 of the Senate amendment is a similar provision.

The Conference substitute adopts the Senate amendment that grants the Commandant of the Coast Guard discretion to permit a sunken wreck to be marked without using a lighted buoy if the Commandant determines that placing a light would be impractical and granting such a waiver would not create an undue hazard to navigation.

Under current law, the owner or operator of a vessel wrecked and sunk in a navigable channel must immediately mark it with a "buoy or beacon during the day and a lighted lantern at night", and maintain the marker until the wreck is removed. In navigable channels on the Western Rivers, use of a lighted aid to mark a wreck is generally not practicable due to the fast current and floating debris common in those rivers. Lighted aids, which are larger and heavier than unlighted markers, tend to submerge in the fast current, and are pushed off station by the force of the current on debris snagged by the aid. It is largely for this reason that of the over 10,000 buoys positioned by the Coast Guard to mark navigable channels on the Western Rivers, only 12 are seasonal lighted buoys, and those are limited to pooled waters behind dams where current is not a factor. Mariners operating vessels on these rivers are accustomed to navigating with unlighted buoys. Due to the failure of owners/operators to mark their wrecked vessels, the Coast Guard currently performs much of this type of marking. The Coast Guard generally uses unlighted buoys for this purpose.

Section 302. Use of Electronic Devices; Cooperative Agreements

Section 302 of the House bill amends the Ports and Waterways Safety Act (33 U.S.C. 1223) (PWSA) to authorize the Secretary to prohibit the use on the bridge of vessels of certain electric and electronic devices that interfere with communications or navigation equipment. This section also amends the PWSA to authorize the Commandant to enter into cooperative agreements with non-Federal entities to carry out Ports and Waterways Safety Act vessel operating requirements, including vessel traffic services.

Section 302 of the Senate amendment would authorize the Secretary to prohibit the use of certain electronic devices that could interfere with shipboard navigation or communications systems. It also would authorize the Secretary to enter into partnerships and cooperative ventures with non-Federal entities to carry out Ports and Waterways Safety Act vessel operating requirements, including vessel traffic services, and would allow longer-term, 20-year leases between the Coast Guard and such partners. The Senate provision also exempts from the prohibition electronic or other devices that use a certain portion of the spectrum currently owned by a private entity.

The Conference substitute adopts the House provision with a slight clarification that the use of electronic or other devices that interfere with a vessel's communication or navigation equipment is prohibited aboard vessels, but restricts the Secretary from using this authority with respect to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz.

With the increased reliance on Geographic Positioning Systems (GPS), interference to GPS receivers could become a significant problem, especially when GPS is integrated with automatic heading control and dynamic positioning systems that control the navigation and movement of the vessel. Interference has been known to cause GPS systems to generate false positions. A slight position "error" may cause enough of a heading change to run a ship aground.

Section 303. Inland Navigation Rules Promulgation Authority

Section 303 of the House bill proposes to remove the Inland Navigation Rules from 33 U.S.C. 2001 if the Secretary promulgates Inland Navigation Rules through a regulatory proceeding. The statutory rules remain in effect until such regulations become effective.

Section 314 of the Senate amendment contains a similar provision.

The Conference substitute adopts the House provision.

This change allows for future changes to the Inland Navigation Rules through the regulatory process without the need for statutory changes.

Section 304. Saint Lawrence Seaway

The House bill contains no similar provision.

The Senate bill contains no similar provision.

The conference substitute maintains the role of the Secretary of Transportation in carrying out the Ports and Waterways Safety Act as it relates to the Saint Lawrence Seaway.

TITLE IV—SHIPPING

Section 401. Reports From Charterers

Section 401 of the House bill gives the Secretary the authority to require reports from vessel charterers to ensure compliance with laws governing vessels engaged in coastwise trade and fisheries. Under current law, the Secretary may require reports from vessel owners and masters.

Section 303 of the Senate amendment includes an identical provision.

The Conference substitute adopts the House provision.

Section 402. Removal of Mandatory Revocation for Proved Drug Convictions in Suspension and Revocation Cases

Section 402 of the House bill would remove the automatic requirement to suspend a merchant mariner's credentials in every document suspension and revocation case involving a drug conviction, thereby giving the Coast Guard Administrative Law Judge additional discretion in appropriate cases involving minor offenses.

Section 306 of the Senate amendment contains an identical provision under a different heading.

The Conference substitute adopts the Senate provision.

Under current law, a merchant mariner's credential (MMC) must be revoked if the credential holder is convicted of violating a State or Federal drug law, or found to use, or be addicted to, a dangerous drug. However, if evidence of proof of cure is provided, the credential 15 of a drug user or addict need not be revoked. No option other than revocation is provided for a drug offense conviction.

In 1994, the Coast Guard began using Settlement Agreements to resolve suspension and revocation cases without a hearing. These have been particularly successful in cases involving drug use where the Administrative Law Judge (ALJ) need not revoke credentials if the holder provides satisfactory proof of cure. The Coast Guard seeks the discretion to suspend a mariner's credentials in dangerous drug law conviction cases. Use of that discretion will allow the use of Settlement Agreements to resolve cases involving minor drug convictions. The Coast Guard believes that granting ALJ's discretion to approve settlement agreements will improve the administration of the MMC program by removing the requirement for a hearing and revocation in every case involving a drug conviction. This will allow minor cases to be settled quickly leaving resources available to focus on more serious cases.

Section 403. Records of Merchant Mariner Documents

Section 403 of the House bill strikes the prohibition on "general or public inspection" of merchant mariners' documents (MMDs).

Section 307 of the Senate amendment contains a substantively similar provision.

The Conference substitute adopts the Senate provision.

Striking this prohibition will bring merchant mariners' documents (MMDs) under the record protection and release policies of the Privacy Act, 5 U.S.C. 552a, and Freedom of Information Act (FOIA), 5 U.S.C. 552. Since no similar prohibition exists for merchant mariners' licenses, or certificates, this change provides equal treatment for all merchant mariners' credentials. With this change, release of information regarding all credentials will be governed by the Privacy Act and FOIA.

The prohibition against "general or public inspection" of MMDs was enacted decades before the Privacy Act and FOIA. The prohibition denies access to MMDs even to individuals with legitimate reasons for accessing that information. Even a request to verify a mariner's qualifications is refused by the National Maritime Center (NMC). NMC cannot confirm to an employer that a mariner is documented. The prohibition prevents family members and historians seeking information about deceased mariners, even upon presentation of a valid death certificate, from receiving information.

Section 404. Exemption of Unmanned Barges From Certain Citizenship Requirements

Section 404 of the House bill exempts unmanned barges from the requirement that all documented vessels be under the command of a citizen of the United States unless those vessels are engaged in a coastwise voyage.

Section 308 of the Senate amendment is a similar provision.

The Conference substitute adopts the Senate provision.

When an unmanned U.S. barge is in service with a tug or other vessel not under the operational control of a U.S. citizen, the current requirement places an administrative burden on the barge operator that results in no practical benefit.

To comply with the U.S. citizen-in-command requirement, a U.S. citizen deckhand is sometimes designated as the "barge master" on the towing vessel, so that the unmanned barge will be "under the command of" a U.S. citizen. This solution is an artificial one that lends no real value, since the "barge master" is not in command as a practical matter, having no control over the tug. Rather, it is the master of the tug who has control of both the tug and the barge, and makes the decisions concerning navigation, crew hiring and firing, discipline, and compliance with laws and regulations. Designating a U.S. citizen "barge master" on board the tug does not confer decision making authority on that citizen, but it could burden that person with the consequences of the tug operator's actions.

Under current law, an unmanned barge not under command of a U.S. citizen is subject to seizure and forfeiture. Strict enforcement of this requirement would effectively prohibit owners of U.S. documented barges from bareboat chartering their vessels to foreign interests. To comply with existing law, a U.S. citizen would have to be aboard any foreign tug that tows a bareboat chartered U.S. barge and be designated as in command of that barge. Lighter Aboard Ship (LASH) barges discharged in foreign ports cannot comply with this requirement unless the vessel carrying the LASH barges also carries at least one U.S. citizen who would leave the LASH carrier to accompany the barges when discharged.

Section 405. Compliance With International Safety Management Code

Section 405 of the House bill requires foreign flag vessels departing and returning to the same U.S. port, or returning to another port under the jurisdiction of the United States, to comply with the International Safety Management (ISM) Code when any part of the voyage occurs on the high seas.

Section 316 of the Senate amendment contains a similar provision.

The Conference substitute adopts the House provision.

This section would require foreign flagged vessels on "voyages to nowhere" to comply with the ISM Code. It would amend section 3201 of title 46 to require foreign flagged vessels departing and returning to the same U.S. port, or returning to another port under the jurisdiction of the U.S., to comply with the ISM Code when any part of the voyage occurs on the high seas.

Section 406. Penalties

Section 406 of the House bill increases the maximum civil administrative penalty for violations of Federal recreational boat safety regulations from $2,000 to a maximum of $5,000, and increases the maximum for a related series of violations from $100,000 to $250,000. Current law applies these penalties for wrongful manufacture or sale. This section also applies the penalties to wrongful labeling and failure to notify of a recall.

Section 310 of the Senate amendment follows the House provision in increasing civil penalties. The Senate provision also adds a criminal penalty provision for knowing and willful violations of section 4307(a).

The Conference substitute adopts the civil penalties provision and establishes criminal penalties for willful and knowing violation of section 4310 (f). Section 4310 (f) allows the Secretary to require a recall of a recreational vessel or associated equipment.

Section 407. Revision of Temporary Suspension Criteria in Document Suspension and Revocation Cases

Section 407 of the House bill corrects a drafting error, and allows the Coast Guard to temporarily suspend or revoke a merchant mariner's credentials (MMCs) if the mariner has been convicted of certain National Driver Register Act (NDRA) offenses.

Section 304 of the Senate amendment contains a similar provision.

The Conference substitute largely adopts the Senate provision and further describes conditions that would allow the Secretary to temporarily suspend an MMC.

Under current law, an MMC could only be suspended or revoked for an NDRA conviction if the mariner was acting under the authority of the credential when the NDRA violation occurred. Since there are no reasonable scenarios under which a mariner will commit a motor vehicle-related offense while on board ship, this section restores the intent of the provision to allow suspension or revocation after a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance, or a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

Current law allows for longer-term suspension or revocation of the MMC as a result of an NDRA suspension after a suspension and revocation hearing. The provision amended by this section only deals with temporary suspensions or revocations of no more than 45 days prior to a hearing. This section also provides authority to temporarily suspend an MMC if the holder threatens the security of a vessel or the port.

Section 408. Revision of Bases for Document Suspension and Revocation Cases

Section 408 of the House bill allows the Coast Guard to suspend or revoke a merchant mariner's credentials (MMC) if the mariner commits an act of incompetence whether or not the mariner is acting under the authority of the MMC at the time the act occurs.

Section 305 of the Senate amendment contains a similar provision.

The Conference substitute adopts the Senate provision, and further defines circumstances under which the Secretary of the department in which the Coast Guard is operating may suspend or revoke merchant mariner's credentials.

Under current law, the Coast Guard can only undertake suspension and revocation proceedings if the mariner commits an act of incompetence while acting under the authority of the MMC. The section allows an MMC to be revoked whenever the mariner commits an act of incompetence related to the operation of a vessel. The section also adds security threat as a basis for which the Secretary may suspend or revoke an MMC.

Section 409. Hours of Service on Towing Vessels

Section 409 of the House bill grants the Secretary of the department in which the Coast Guard is operating the authority to prescribe maximum hours of service for individuals engaged on a towing vessel that is required to have a licensed operator under section 8904 of title 46, United States Code. However, before prescribing those regulations, the Secretary is required to conduct and report to Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on these vessels.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

In September 2001, a towing vessel struck a bridge at South Padre Island, TX. The bridge collapsed, and 5 people died when their cars or trucks went into the water. On May 26, 2002, a towing vessel struck the I–40 highway bridge over the Arkansas River at Webber Falls, OK. The bridge collapsed, and 14 people died when their cars or trucks went into the Arkansas River.

As a result of these accidents, the Coast Guard and the American Waterways Operators established a Joint Working Group to examine the statistics of bridge allisions and measures that could be taken to help prevent these types of casualties. The study used a database of 2,692 bridge allision cases between 1992–2001. One of the recommendations of the working group's May, 2003 report is to "require the implementation of Crew Endurance Management Systems (CEMS) throughout the towing industry as a means of improving decision making fitness. In addition, on June 1, 1999, the National Transportation Safety Board issued Recommendation M–99–1 to the Coast Guard that stated the Coast Guard should "Establish within 2 years scientifically based hours-of-service regulations that set limits on hours of service, provide 19 predictable work and rest schedules, and consider circadian rhythms and human sleep and rest requirements.". This section would give the Coast Guard the legal authority to implement these recommendations.

The Conferees expect that the Secretary will carefully evaluate the results of the demonstration project prior to determining the need to establish maximum hours of service regulations as permitted under subsection (a). Prior to promulgating any such regulations, the Conferees also expect that the Secretary will evaluate the costs and benefits of establishing maximum hours of service requirements on towing vessels. This evaluation should include a review of Coast Guard casualty data to determine whether there is statistical evidence to support the need for new hours of service regulations.

Section 410. Electronic Charts

Section 410 of the House bill requires shipboard automatic identification systems to include electronic charts and related display.

Section 324 of the Senate amendment would require the Coast Guard, in consultation with NOAA, to report on the costs of completing Electronic Navigation Charts for the existing suite of NOAA charts, the costs and benefits of requiring electronic navigation systems on vessels, and a description of international standards in this area.

The conference substitute requires certain vessels to be equipped with and be able to operate electronic charts.

The section applies to self propelled commercial vessels of at least 65 feet in length, vessels carrying more passengers than an amount prescribed by the Secretary, a towing vessel of more than 26 feet in length and 600 horsepower, and any other vessel for which the Secretary decides that electronic charts are necessary for the safe navigation of the vessel. On September 22, 1993, at about 2:45 a.m. the towing vessel *Mauvilla* and its barges became lost in the fog and struck and displaced the Big Bayou Canot railroad bridge near Mobile, Alabama. Later that night the Amtrak train, Sunset Limited, derailed as it went over the bridge and fell into the water killing 42 passengers and 5 crewmembers. The Conferees believe that electronic charts tied to a Global Positioning Satellite receiver will help prevent accidents such as this in the future. The conferees recognize that vector electronic charts may not be available for all of the navigable waters of the United States. However, the Secretary may allow a vessel operator to use raster electronic charts until vector charts become available for those waters.

This section also allows the Secretary to waive the requirement for a vessel to be equipped with an electronic chart system if the Secretary finds that an electronic chart and related display is not necessary for the safe operation of a vessel or class of vessels on the waters on which those vessels operate. If the vessel is also required to have an Automatic identification system (AIS) on board the vessel under section 70114 of title 46, United States Code, the Conferees believe that the Secretary should require the AIS system information to be integrated with the electronic chart display.

Section 411. Prevention of Departure

Section 411 of the House bill allows the Coast Guard to conduct examinations to ensure that a passenger vessel calling on a U.S. port complies with the International Convention for the Safety of Life at Sea (SOLAS) so long as a U.S. citizen passenger is aboard.

Section 315 of the Senate amendment contains a similar provision.

The Conference substitute adopts the Senate provision with a clarifying amendment.

Current law authorizes the Secretary to prevent a foreign passenger vessel from departing a U.S. port, with passengers who are embarked at that port, if the Secretary finds that the vessel does not comply with the standards stated in (SOLAS). However, the statute does not provide a similar authority to the Secretary regarding control of a foreign passenger vessel that may have embarked passengers from a nearby foreign port and is conducting a voyage to a U.S. port. The result of this distinction is that a foreign vessel embarking U.S. passengers from a neighboring country such as Canada or a Caribbean country and calling on U.S. ports would not be subject to the same detailed examination as a foreign passenger vessel embarking passengers from a U.S. port conducting a similar voyage. Without the ability to conduct such an examination, it is difficult for the Coast Guard to assure that such vessels are in compliance with SOLAS regulations.

Section 412. Service of Foreign Nationals for Maritime Educational Purposes

Section 412 of the House bill would allow foreign nationals enrolled at the United States Merchant Marine Academy to operate aboard a vessel as an unlicensed seaman for purposes of fulfilling educational requirements for graduation from the Academy.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 413. Classification Societies

Section 413 of the House bill prohibits a classification society from operating in interstate or foreign commerce without the review of the society's activities and subsequent approval of the Secretary of the department in which the Coast Guard is operating. The section also outlines criteria which must be met in the determination of the Secretary before a society receives the Secretary's approval.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that prohibits a classification society from reviewing or certifying the construction, repair, or alteration of a vessel while in the United States unless the society has applied for and received approval from the Secretary of the department in which the Coast Guard is operating or the society is a full member of the International Association of Classification Societies. The provision also outlines criteria which must be met in the determination of the Secretary before a society receives the Secretary's approval.

Section 414. Drug Testing Reporting

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that requires Federal agencies to submit results of positive drug tests and verified test violations from civilian and certain uniformed personnel employed aboard Federally-operated vessels to the Coast Guard.

Section 415. Inspection of Towing Vessels

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adds towing vessels, as defined in section 2101 of title 46, United States Code, as a class of vessels that are subject to safety inspections under chapter 33 of that title. Section 3306 of title 46 details the items that are to be regulated under the chapter to secure the safety of individuals and property on board the vessel. This includes design, construction, alteration and repair of the superstructures, hulls, fittings, equipment appliances, propulsion equipment, machinery, lifesaving equipment, firefighting equipment, and vessel stores and other supplies of a dangerous nature.

The Coast Guard may prescribe different standards for towing vessels than for other types of inspected vessels. Similarly, the Coast Guard can prescribe different standards for the various types of towing vessels based on size, horsepower, type of operation, area of operation. For example, the Coast Guard can prescribe different standards with regard to propulsion machinery and hulls for a towing vessel pushing barges down the Mississippi River than for vessels that provide towing assistance for recreational vessels.

New section 3306(j) of title 46, United States Code, authorizes the Secretary of the department in which the Coast Guard is operating to establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels. Safety management systems allow the Coast Guard to oversee the maintenance and repair of vessel equipment and ship systems subject to inspection through an approved safety management plan that includes maintenance schedules and system tests. The Coast Guard may enforce the plan through audits of the vessel's logs and vessel operator's records rather than having to directly oversee the repair or maintenance work conducted on a particular piece of equipment or ship system.

Section 416. Potable Water

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that requires vessels subject to inspection by the Coast Guard to have an adequate supply of potable water for drinking and washing.

Section 417. Transportation of Platform Jackets

The House bill does not contain a comparable provision.

Section 406 of the Senate amendment would make a technical clarification to a provision under the MTSA that allows the use of foreign launch barges in certain offshore construction.

The Conference substitute amends the thirteenth proviso (pertaining to transportation by launch barge) to allow previously non-qualified launch barges built before December 31, 2000 and has a launch capacity of at least 12,000 gross tons to participate in the coastwise trade under certain conditions.

Section 418. Renewal of Advisory Groups

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision, which reauthorizes several safety advisory committees through September 30, 2010.

TITLE V—FEDERAL MARITIME COMMISSION

Section 501. Authorization of Appropriations for Federal Maritime Commission

Section 501 of the House bill authorizes appropriations for the Federal Maritime Commission for Fiscal Year 2004.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that authorizes appropriations for the Federal Maritime Commission for each of the Fiscal Years 2005 through 2008.

Section 502. Report on Ocean Shipping Information Gathering Efforts

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that requires the Chairman of the Federal Maritime Commission to submit a report to Congress regarding the sharing of ocean shipping information with Federal, State, and local government agencies to assist law enforcement and anti-terrorism efforts.

TITLE VI—MISCELLANEOUS

Section 601. Increase in Civil Penalties for Violations of Certain Bridge Statutes

Section 601 of the House bill increases the civil penalties for bridge violations under the Rivers and Harbors Appropriations Act of August 18, 1894; the Rivers and Harbors Appropriations Act of March 3, 1899; the Bridge Act of 1906; and the General Bridge Act of 1946 to a maximum of $25,000 per-day per-violation. This section phases in that increase over 5 years.

Section 309 of the Senate amendment also increases the civil penalties for bridge violations to a maximum of $25,000 per-day, perviolation upon enactment of the Act.

The Conference substitute adopts the House provision.

Bridges constructed across the navigable waters of the United States are considered obstructions to navigation and must provide for the reasonable needs of navigation. Civil penalties for 20 potential bridge statute violations range in amounts from $220 to $1,100 per day and involve matters such as failure to install and keep bridge lights and other signals in working order; unreasonable delay in operating a draw opening after signal; and failure to give timely notice of construction or modification events affecting navigation. Vessel owners and operators are also subject to penalties—for example, for signaling a drawbridge to open for a nonstructural vessel appurtenance unessential to navigation or easily lowered.

The Coast Guard maintains that current civil penalties for violations of bridge laws and regulations are insufficient to effectively discourage violations. Current law sets the civil penalty at a maximum $1,000 per-day per-violation with each day a violation continued constituting a separate offense. With the minor adjustments allowed under the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, the maximum civil penalty is now $1,100 per-day per violation.

Section 602. Conveyance of Decommissioned Coast Guard Cutters

Section 602 of the House bill directs the Commandant of the Coast Guard to convey three decommissioned Coast Guard vessels for historical display purposes to nonprofit corporations in Port Huron, Michigan, Sherman Oaks, California, and Duluth, Minnesota, respectively.

Section 403 of the Senate amendment contains a similar provision, but makes the transfer of the vessels discretionary.

The Conference substitute adopts the Senate provision.

As a condition of conveyance, the recipients must agree that the vessel (1) will be used for education and historical display purposes; (2) must not be used for commercial transportation; and (3) will be made available to the United States Government if needed in time of war or national emergency. The recipient must also agree to hold the government harmless for claims arising from exposure to hazardous materials.

Section 603. Tonnage Measurement

Section 603 of the House bill deems the motor vessel *Bluefin* to be 488 gross tons and the motor vessel *Coastal Merchant* to be 493 gross tons, as measured under regulations prescribed under section 14502 of title 46, United States Code, for purposes of applying the optional regulatory measurement under section 14305 of title 46, United States Code.

The Senate amendment does not contain a comparable provision.

The Conference substitute authorizes the Secretary of the department in which the Coast Guard to apply section 8104(o) of title 46, United States Code, to the vessels M/V *Bluefin* and M/V *Coastal Merchant* unless such application would compromise safety.

Section 604. Operation of Vessel "Stad Amsterdam"

Section 604 of the House bill authorizes the vessel *Stad Amsterdam* to carry non-paying guests within U.S. waters and between ports and places in the U.S. These are individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision similar to the House provision, but limits the authorization to 45 calendar days per year and requires the Secretary to revoke the authorization if the terms of the authorization are not adhered to.

This section does not authorize the vessel to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade. In fact, this section prohibits *Stad Amsterdam* from being "used to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade." This means that the owners may not solicit or accept payment for the carriage of friends, guests, and employees in U.S. domestic waters.

Existing law requires that vessels carrying passengers for hire in the coastwise trade be U.S. built, U.S. manned, U.S. owned, and U.S. documented. Prior to 2002, the U.S. Customs Service ruled that non-paying guests of the owner or operator were not considered passengers. Therefore, vessels carrying non-paying guests in U.S. coastal waters did not have to meet domestic build, crew, ownership, and documentation requirements. In June 2002, Customs ruled that individuals be "considered passengers unless they are directly and substantially connected with the operation, navigation, ownership, or business of the vessel." This section applies the earlier Customs ruling to non-paying guests on the *Stad Amsterdam*.

Section 605. Great Lakes Regional National Maritime Enhancement Institute

Section 605 of the House bill authorizes $5 million to be appropriated to the Secretary of Transportation in each of the Fiscal Years 2004 through 2008 to study cargo transportation on the Great Lakes.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that authorizes the Secretary of Transportation to designate a National Maritime Enhancement Institute in the Great Lakes region. The provision also requires the Secretary to conduct a study a number of issues related to marine cargo transportation in the Great Lakes and to report the result on this study to Congress. The study is to be completed within two years of the enactment of the Act and $1.5 million is authorized to be appropriated to the Secretary of Transportation for each of fiscal years 2005 and 2006.

Section 606. Koss Cove

Section 607 of the House bill designates a cove lying off the southern coast of Erlington Island in Alaska as "Koss Cove", in honor of the late Able Bodied Seaman Eric Steiner Koss. Seaman Koss served aboard the National Oceanic and Atmospheric Administration vessel *Rainier*, and died in the performance of a nautical charting mission in this cove.

Section 404 of the Senate amendment contains a similar provision.

The Conference substitute adopts the House provision.

Section 607. Miscellaneous Certificates of Inspection

Section 608 of the House bill section provides coastwise trade endorsements for two U.S.-flag, U.S. owned, and U.S. built vessels, the *Ocean Leader* and the *Revelation*.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision with an amendment that provides coastwise trade endorsements for two additional vessels, the *Miss Linda*, and the *Ragland*.

Section 608. Requirements for Coastwise Endorsement

Section 609 of the House bill requires the Secretary of the department in which the Coast Guard is operating to implement final regulations to carry out section 12106(e) of title 46, United States Code, regarding lease financing by foreign entities of vessels intended to be used in the coastwise trade.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires that foreign owners of U.S.-built vessels engaged in the coastwise trade annually certify that the owner is a financial institution without any active interest in the operation of the vessel or any affiliation with a parent company, subsidiary or other affiliate that operates vessels for hire or has the ability to directly or indirectly control or direct the use of any vessel.

The substitute exempts certain vessels that carry predominantly proprietary cargo (defined as petroleum-derived products) and vessels owned by one entity engaged in the transportation and distribution of petroleum products in Alaska from these requirements.

The substitute allows vessels that had been procured by lease financing under the Coast Guard's pre-February 4, 2004 policy to maintain their coastwise endorsements for the life of the vessel. Replacement vessels for such vessels may receive a coastwise endorsement if replacement is due to an act of God or a marine casualty, or if a contract to build such a replacement vessel is entered into prior to December, 31, 2004. Offshore supply vessels procured by lease financing under the Coast Guard's pre-February 4, 2004 policy may maintain their coastwise endorsement for 3 years after the date of enactment of this Act.

Section 609. Correction of References to National Driver Register

Section 614 of the House bill makes technical corrections to the National Driver Register Act of 1982 (23 U.S.C. 401 note).

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 610. Wateree River

Section 615 of the House bill designates a portion of the Wateree River in the state of South Carolina stretching from 100 feet upstream of the railroad bridge located at approximately mile marker 10.0 to a point 100 feet downstream of the bridge to be non-navigable waters for purposes of bridge administration.

Section 405 of the Senate amendment contains a similar provision.

The Conference substitute adopts the House provision.

Section 611. Merchant Mariners' Documents Demonstration Program

Section 616 of the House bill authorizes the Secretary of the department in which the Coast Guard is operating to establish a pilot program in the 17th Coast Guard District to improve processing and procedures for issuing merchant mariners' documents. The provision directs the Secretary to consult with the Secretary of the Air Force so that any such demonstration program will implement some of the measures currently in place in the Air Force program.

The Senate amendment does not contain a comparable provision.

The Conference substitute authorizes the Secretary to establish a merchant mariner documents technology demonstration program.

In carrying out any pilot project under this section, the Conferees expect the Secretary to give particular consideration to the distances that must be traveled between areas in which mariners work and processing offices. The Conferees also expect the Secretary to consider the seasonal nature of work done in those areas. Clearly the greatest benefits to be derived from automated documents processing would come in areas where the distance to and from work sites is the greatest, and the duration of the work the shortest. Any pilot project should demonstrate methods to improve processing and procedures for issuing merchant mariners' documents. The Conferees encourage the Secretary to consult with the Secretary of the Air Force regarding the efficiency and effectiveness of the content management technology and information management tools that are currently used by the Department of the Air Force in the Air Force Publishing Directorate.

Section 612. Conveyance

Section 617 of the House bill conveys the light station built on Sentinel Island, Alaska and the surrounding land to the Gastineau Channel Historical Society, of Juneau, Alaska. Under terms of the conveyance all navigational aids on the island and all property must be maintained in working condition by the Society.

The Senate amendment does not contain a comparable provision.

The Conference substitute directs the Secretary of the department in which the Coast Guard is operating to convey Sentinel Island to the entity that receives ownership of the light station through the competitive process outlined by the National Historic Lighthouse Preservation Act (16 U.S.C. 470w-7). The provision retains the terms of conveyance that were included in the original House provision.

Section 613. Bridge Administration

Section 619 of the House bill repeals section 325 of Public Law 97–369 (96 Stat. 1785) which prohibits approval of any project or action which would interfere with the reasonable needs of navigation on the Columbia Slough, Oregon.

Section 408 of the Senate amendment is a substantively similar provision which removes the prohibition of approval of any such project by amending the statute rather than repealing it.

The Conference substitute adopts the Senate provision.

Section 614. Sense of the Congress Regarding Carbon Monoxide and Watercraft

Section 620 of the House bill expresses the sense of the Congress that the Coast Guard should continue to place a high priority on addressing the safety risks posed to boaters by elevated levels of carbon monoxide unique to watercraft, and work with vessel and engine manufacturers, the American Boat & Yacht Council, other Federal agencies, and the entire boating community in order to determine the best ways to minimize the number of carbon monoxide-related boating deaths occurring each year.

The Senate amendment does not contain a comparable amendment.

The Conference substitute adopts the House provision.

Section 615. Mitigation of Penalty Due to Avoidance of a Certain Condition

Section 624 of the House bill deems for penalty mitigation purposes a certain violation of Federal law owing to avoidance of a specified hazardous condition involving power lines across the Mississippi River at Chalmette, Louisiana, to have been committed by reason of a safety concern.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that deems for penalty mitigation purposes a certain violation of Federal law owing to avoidance of a specified condition involving the lack of vertical clearance due to water height on the Mississippi River at Chalmette, Louisiana, to have been committed by reason of a safety concern. The provision also mitigates the penalty assessed for a violation incurred while the vessel in question was repositioned to the Port of New Orleans, Louisiana to an amount not more than $100 per passenger.

Section 616. Certain Vessels to be Tour Vessels

Section 625 of the House bill deems the passenger vessel *Empress of the North* as a tour vessel for purposes of certain regulations with respect to vessel operations in Glacier Bay National Park and Preserve, Alaska.

The Senate amendment does not contain a comparable provision.

The Conference substitute allows for a vessel over 100 gross tons, but no larger than 300 gross tons, to be deemed a tour vessel, solely for purposes of permit allocations, if it meets certain criteria. Such vessels would only be eligible for existing permits for operating in Glacier Bay, and only if a vessel under 100 gross tons is not seeking the permit. Up to three vessels that meet these criteria are eligible for such permits, but only one such vessel can enter Glacier Bay on a given day. Finally, the provision makes it clear that all other regulations that apply to vessels of at least 100 gross tons still apply to these vessels, including restrictions pertaining to speed, route and closed waters.

Section 617. Sense of Congress Regarding Timely Review and Adjustment of Great Lakes Pilotage Fees

Section 626 of the House bill expresses the sense of the Congress that the CG Secretary should, on a timely basis, review, and adjust the pilotage rates payable for services performed by U.S. registered pilots on the Great Lakes.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision. The conferees urge the Coast Guard to review and adjust (if appropriate) these rates on an annual basis as provided in the Coast Guard regulations.

Section 618. Westlake Chemical Barge Documentation

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute authorizes U.S. built, U.S. manned, U.S. owned barges to operate in the coastwise trade.

Section 619. Correction to Definition

The House bill does not contain a comparable provision.

Section 311 of the Senate amendment makes a technical correction to the reference to the Coast Guard in a list of defined federal law enforcement agencies included in Pubic Law 107-173.

The Conference substitute adopts the Senate provision.

Section 620. LORAN-C

The House bill does not contain a comparable provision.

Section 402 of the Senate amendment authorizes DOT to transfer $25 million in FY 2004 from the FAA to the Coast Guard for recapitalization of the LORAN-C radio navigation system.

The Conference substitute adopts the Senate provision, as amended to provide an authorization for 2005.

Section 621. Deepwater Report

The House bill does not contain a comparable provision.

Section 322 of the Senate amendment would require the CG to provide a report on the performance of the prime contractor under the first five-year term of the contract for the Integrated Deepwater Program.

The Conference substitute adopts the Senate provision, as amended to require additional information to be included in the report, such as any anticipated changes in the mix of legacy and replacement assets over the life of the program, and projected costs. As part of this report, the Conferees understand that the Coast Guard will provide a revised Integrated Deepwater Systems Program plan, including any planned changes related to the replacement of legacy assets with new assets and associated costs. The Conferees also expect the report to discuss the Coast Guard's intentions with respect to replacement of the engines on its HU-25 aircraft, and expect the Coast Guard to notify the Committee on Commerce, Science and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House at least 30 days prior to expending any funds to replace the engines on its HU-25 aircraft, or develop plans to replace such engines.

Section 622. Judicial Review of National Transportation Safety Board Final Orders

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute allows the Commandant of the Coast Guard to seek a judicial review of an order of the Board issued pursuant to a review of a Coast Guard action if it will have an adverse impact on maritime safety or security.

Section 623. Interim Authority for Dry Bulk Cargo Residue Disposal

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute extends the interim authority of the Coast Guard to issue regulations regarding dry bulk cargo residue through not later than September 30, 2008.

The current program was developed with the input of a broad range of stakeholders, including experts from the maritime industry, government, and the scientific community. A recent study for the Coast Guard has recommended that the current policy be continued in part because that policy is specific, limiting cargo sweepings to certain areas of the Great Lakes while prohibiting discharges in environmentally sensitive areas such as fish spawning areas. Most important, the current program limits cargo sweepings to small amounts of non-toxic, non hazardous materials. In administering the program, the Coast Guard has considered and balanced the needs of environmental protection and maritime commerce.

On January 13, 2004 the Coast Guard announced its intention to conduct an environmental assessment of the current policy and then proceed to a permanent regulatory program. [69 Fed Reg 1994] The substitute directs that the current policy serve as the basis for an environmental assessment that will begin within 90 days of enactment, authorizes any necessary regulatory proceeding, and sets the foundation for the establishment of a permanent system. It is expected that the current program will be made permanent or replaced with an alternative regime that appropriately balances the needs of maritime commerce and environmental protection by no later than September 30, 2008.

Section 624. Small Passenger Vessel Safety

The House bill does not contain a comparable provision.

Section 323 of the Senate amendment would require the Coast Guard to provide a report on compliance with small passenger vessel regulations, including recommendations for improvement.

The Conference substitute adopts the Senate provision with minor amendments.

Section 625. Conveyance of Motor Lifeboat

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that allows the Coast Guard to transfer a 44′ motor lifeboat to the city of Ludington, Michigan for historical purposes.

Section 626. Study of Routing Measures

The House bill does not contain a comparable provision.

Section 325 of the Senate amendment would require the Coast Guard to carry out studies of routing measures to reduce ship strikes of North Atlantic Right Whales.

The Conference substitute adopts a provision that is similar to the Senate provision. It directs the Coast Guard to cooperate with NOAA in carrying out analyses of routing measures to reduce ship strikes of North Atlantic Right Whales. The Coast Guard has an important role to play in such analyses, due to its mandates and expertise with respect to such studies. The bill requires that the Coast Guard provide a report with its final analysis to Congress no later than 18 months following enactment of this Act.

Section 627. Conveyance of Lighthouses

The House bill does not contain a comparable provision.

Section 401 of the Senate amendment would require the Secretary of the Interior to monitor any already executed or proposed lighthouse conveyance, and take any steps necessary to protect the United States' reversionary interest.

The Conference substitute adopts a similar provision to the Senate provision, which was amended to make technical changes.

Section 628. Waiver

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute authorizes the Secretary to waive the application of the definition of "passenger" for one of two adult chaperones aboard vessels owned or chartered by the Boy Scouts of America at its Florida National High Adventure Sea base program provided that the Secretary determines that such a waiver does not compromise safety.

Section 629. Approval of Modular Accommodation Units for Living Quarters

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires the Secretary of the department in which the Coast Guard is operating to approve for a period of five years modular accommodation units on floating offshore facilities that had previously been approved using incorrect criteria, provided that the use of these units will not compromise safety.

TITLE VII—AMENDMENTS RELATING TO THE OIL POLLUTION ACT OF 1990

Section 701. Vessel Response Plans

Section 701 of the House bill would require any vessel over 400 gross tons that carries oil, including as bunkers, to submit a pollution response plan.

Section 317 of the Senate amendment is a similar provision.

The Conference substitute adopts the House provision, as amended to make technical changes.

Section 702. Tank Level and Pressure Monitors

Section 702 of the House bill would amend the Oil Pollution Act of 1990 to make issuance of regulations concerning tank level and pressure monitoring (TLPM) devices discretionary vice mandatory.

Section 318 of the Senate amendment is a similar provision, which includes a report on alternative technologies.

The Conference substitute adopts the Senate provision.

Section 703. Liability and Cost Recovery

Section 703 of the House bill clarifies the liability waiver provisions for certain innocent parties. First, state and local governments are not considered liable as owners or operators if they acquired ownership of the property involuntarily and have not caused or contributed to a discharge or a substantial threat of a discharge of oil. Second, financial institutions are not owners or operators either if they hold indicia of ownership primarily to protect their security interest and do not participate in management of the property, or if they did not participate in management of the property prior to foreclosure and seek to divest the property at the earliest practicable, commercially reasonable time. Finally, subsequent innocent purchasers are not liable if they acquired the property after the placement of the oil on, in or at the real property, and either are a government entity that acquired the property through the exercise of eminent domain authority or through an involuntary transfer or acquisition, acquired the property by inheritance or bequest, or did not know or have reason to know about the oil after having conducted all appropriate inquiries.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision as amended to make technical changes.

The purpose of this section is to provide to innocent purchasers, municipalities and lenders the same protection against liability from oil discharges under the Oil Pollution Act of 1990 as are provided for such entities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. To the extent that differences in the language exist, these are either technical in nature or were necessary to fit with the terminology used in the Oil Pollution Act.

Section 704. Oil Spill Recovery Institute

Section 704 of the House bill authorizes funding to the Oil Spill Recovery Institute (currently authorized through 2012) until one year after it is determined that oil and gas exploration, development, and production in Alaska have ceased.

The Senate amendment does not contain a comparable provision.

The Conference substitute makes technical corrections to the Oil Spill Recovery Institute's current authorization.

Section 705. Alternatives

Section 705 of the House bill would require within 1 year of the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish and publish an environmental equivalency evaluation index to assess outflow performance due to collisions and groundings for double hull tank vessels and alternative hull designs. The Secretary shall take into account the recommendations in the NRC Marine Board report entitled 'Environmental Performance of Tanker Design in Collision and Grounding' dated 2001.

The Senate amendment does not contain a comparable provision.

The Conference Substitute adopts the House provision.

Section 706. Authority to Settle

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision which authorizes the head of any department or agency responsible for recovering amounts for which a person is liable under this title may consider, compromise, and settle a claim for such amounts from the Oil Spill Liability Trust Fund, if the claim has not been referred to the Attorney General and does not exceed $500,000.

Section 707. Report on Implementation of the Oil Pollution Act of 1990

The House bill does not contain a comparable provision.

Section 319 of the Senate amendment would require the Coast Guard to provide a report to Congress with respect to a number of recent issues arising from implementation of the Oil Pollution Act (OPA) of 1990.

The Conference Substitute adopts the Senate provision, as amended to make technical changes.

Section 708. Loans for Fishermen and Aquaculture Producers Impacted by Oil Spills

The House amendment does not contain a comparable provision.

Section 320 of the Senate amendment would allow the use of the Oil Spill Liability Trust Fund to provide loans to qualified fishermen and aquaculture producers who have been impacted by an oil spill, until such time as adequate interim payments are made under the Act, or in the event that no interim payments are made.

The Conference substitute adopts the Senate provision.

TITLE VIII

Section 801. Enforcement

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute adds a new section to Chapter 701 of title 46, United States Code, to provide express authority to carry a firearm, to seize property, and to make an arrest while at a maritime facility under guidelines to be approved by the Secretary and the Attorney General. The provision would also allow State and local law enforcement personnel to make warrantless arrests for felony violations of duly promulgated Coast Guard security zone regulations.

The conferees understand the need to clarify the Coast Guard's law enforcement authority while conducting onshore port security operations and have authorized members of the Coast Guard to make arrests and seize property while conducting port security operations at facilities defined under section 70101 of title 46. The conferees do not intend this section to authorize members of the Coast Guard to use this authority while in transit to or from such facilities. The conferees fully expect that before this authority is used, the Coast Guard will properly train all service members who could use this authority in the execution of their duties.

Section 802. In Rem Liability for Civil Penalties

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference establishes in rem liability for any vessel used to violate regulations issued under the authorization of the Maritime Transportation Security Act in order to recover financial penalties assessed following such violations, and certain costs related to compliance with lawfully issued orders. The substitute authorizes the Captain of the Port to withhold clearance of any vessel if the owner or operators are suspected to be subject to a financial penalty resulting from violations of port security violations. The substitute also allows clearance to be granted upon the filing of a surety bond.

Section 803. Maritime Information

Section 618 of the House bill authorizes funds to the Secretary of the department in which the Coast Guard is operating to implement a system to collect, integrate, and analyze information regarding vessels operating on or inbound to U.S. waters and to implement a long range automatic vessel tracking system for all vessels operating in U.S. waters.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires the Secretary to develop a long-range vessel tracking system consistent with international treaties, conventions, and agreements to which the United States is a party, and allows the Secretary to acquire vessel risk profiling data from the private sector. It also requires the Secretary to develop a plan to improve the collection, collaboration, coordination, dissemination and use of maritime information by Federal agencies. The Secretary is required to submit this plan to Congressional committees.

In considering its recommendations under subsection (b), the conferees encourage the Department to be aware of the important role played by existing non-profit maritime associations in the collection and dissemination of maritime information and encourage the Department to work with maritime exchanges to build upon and improve communications with the private sector.

Section 804. Maritime Security Transportation Grants

Section 622 of the House bill transfers authority for the port security grant program from the Secretary of Transportation, acting through the Maritime Administration, to the Secretary of the Department of Homeland Security, acting through the Commandant of the Coast Guard. Section 627 of the House bill directs the Secretary of Transportation, in making grants for implementation of security plans, to give priority to otherwise eligible projects concerning implementation of security plans with respect to public transportation systems.

The Senate amendment does not contain a comparable section.

The Conference substitute adopts, in lieu of sections 622 and 627 of the House bill, a provision that directs the Secretary to establish a grant program for implementation of the Area Maritime Transportation Security Plans and Facility Security Plans that will be reviewed by the Federal Maritime Security Coordinator and the Maritime Administration prior to a grant being awarded. In addition, the Secretary is required to transmit a report and provide recommendations for the grant process.

Section 805. Security Assessments of Waters under the Jurisdiction of the United States

Section 623 of the House bill directs the Secretary of the department in which the Coast Guard is operating to conduct a vulnerability assessment of the navigable waters adjacent to Indian Point Energy Center in Westchester County, New York and to report on that assessment to specified congressional committees.

The Senate amendment does not contain a comparable provision.

The Conference substitute directs the Secretary to conduct vulnerability assessments of waters adjacent to nuclear facilities in the United States. The conferees do not intend this section to require the Coast Guard to conduct vulnerability assessments of nuclear facilities. The conferees understand the Federal agencies with oversight of such facilities are conducting such assessments.

Section 806. Membership of Area Maritime Security Advisory Committees

Section 414 of the House bill requires Area Maritime Security Advisory Committees to include members from the port industry, terminal operators, port labor organizations, and other users of port areas.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 807. Joint Operations Center for Port Security

The House bill does not contain a comparable provision.

The Senate amendment does not contain a comparable provision.

The Conference substitute requires the Secretary to submit a report to Congressional committees of jurisdiction regarding the establishment of joint operational centers for port security, and an estimate of the number, location and costs of such centers that would be necessary to implement port security measures outlined in the Marine Transportation Security Act of 2002.

Section 808. Investigations

Section 606 of the House bill authorizes the Secretary of Transportation to carry out an Agile Port and Intelligent Border Security National Demonstration Project under agreement with the Center for the Commercial Deployment of Transportation Technologies.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that directs the Secretary of the department in which the Coast Guard is operating to conduct certain investigations and pilot projects to enhance the security at American ports. The section authorizes an amount of $35 million for each of the next four fiscal years to award grants and to fund programs that would investigate or demonstrate methods of improving port security. The provision also authorizes the Secretary to establish National Port Security Centers at colleges and universities to conduct these investigations and requires the Secretary to submit to Congress a report annually to ensure that funds authorized under this section are used to support investigations and pilot programs outlined in this section. In awarding grants and funding pilot programs, the Committee encourages the Secretary to focus funding authorized to implement this section on research and development of technologies that maximize security while minimizing the disruption of maritime transportation and commerce.

Section 809. Vessel and Intermodal Security Reports

Section 610 of the House bill requires the Secretary of the department in which the Coast 39 Guard is operating to provide Congress with a report that will provide a complete breakdown of the number and types of cargo containers and vessels that enter the United States each year, and the cost incurred to conduct security inspections on those containers and vessels.

The Senate amendment does not contain a similar provision.

The Conference substitute adopts the House provision with an amendment that requires the Secretary and the Inspector General of the department in which the Coast Guard is operating to submit a number of reports, plans, evaluations, and take actions regarding the security of marine intermodal transportation, specifically the security of cargo containers.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

DON YOUNG,
HOWARD COBLE,
JOHN J. DUNCAN, Jr.,
PETE HOEKSTRA,
FRANK L. BIONDO,
ROB SIMMONS,
MARIO DIAZ-BALART,
JAMES L. OBERSTAR,
BOB FILNER,
TIMOTHY BISHOP,
NICK LAMPSON.

For consideration of the House bill and Senate amendments, and modifications committed to conference:

CHRIS COX,
BENNIE G. THOMPSON,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
OLYMPIA SNOWE,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
JOHN BREAUX,
RON WYDEN,
JIM INHOFE,
JIM JEFFORDS,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4613, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight, July 20, 2004, to file a conference report on the bill (H.R. 4613) making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. FRELINGHUYSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4850, and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

☐ 1500

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore (Mr. SWEENEY). Pursuant to House Resolution 724 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4850.

☐ 1500

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, with Mr. BASS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to present the fiscal year 2005 District of Columbia appropriations bill. This bill passed out of full committee on July 14.

The bill before us totals $560 million in Federal funds and $8.2 billion in local funds. Within this total, the District expects to receive approximately $1.9 billion in Federal grant funds.

The bill is the product of hard work by every member of the Subcommittee on the District of Columbia. I personally want to thank each of them for their input into the bill. I especially want to thank my ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for his advice, counsel, and support in the development of this bill. I enjoyed working with him on behalf of the city of Washington.

The subcommittee held hearings and visited many local sites, including the District of Columbia public schools and charter schools, and police and fire department facilities, to name just a few. We developed this bill with the input from members of the subcommittee, other House Members, the Mayor and city council, and interested citizens.

I believe that this bill continues Congress's commitment to our Nation's Capital. As with every piece of legislation, there are many deserving projects that could not be accommodated within our funding allocation, but this is a balanced and equitable bill, a bill that everyone can and should support.

I am pleased to note that the District of Columbia continues to make significant progress in improving both its financial and program management. This is the seventh balanced budget the District has submitted to Congress for review; and, once again, the District received a clean audit from the city's independent auditors. The city also had a recent upgrading in its bond rating by Moody's Investors Service to an A rating, and this is the first time the city has received an A rating from all three of the major rating agencies. It should be remembered that it was not long ago that the city's credit rating was the lowest of the low. Mayor Williams and the city council should be commended for their actions.

After detailed review of the budget, the bill continues the Federal commitment began in 1997 for funding the District of Columbia courts as well as the Defender Services and the Court Services and the Defender Supervision Agency and the Public Defender Service. The bill also provides $118.9 million for other high-priority District and congressional programs projects.

Among these: $25.6 million for the recently authorized and very successful resident tuition support program; $15 million for emergency planning and security costs; $10 million for the District of Columbia Water and Sewer Authority to continue the combined sewer overflow project; $3 million for continued work on the Anacostia Waterfront Initiative; as well as $7 million for the capital development in the District to complete construction of a multi-agency unified communications center, which benefits police, fire, EMS, and other city agencies; $6 million for a new public library learning center initiative; and $5 million for foster care improvement.

At the city's request, the bill also changes the city's reserve requirement from 7 to 6 percent. This change frees up additional resources, provides the city with more flexibility in balancing its budget, and does so without impacting the city's favorable bond rating.

As I noted earlier, the District has accomplished much, but still more needs to be done. We are particularly troubled by some of the more intractable problems facing the District that seem to revolve around its children. If this bill has a theme, it is to continue to make sure to help the children of the District of Columbia. To help address this issue, this bill also includes $5 million for the recently established foster care improvement program, additional money for family literacy, and $6 million for the new library/learning center initiative subject to a 1-to-1 match by the District.

Over the past year, we visited many of the city's schools, and I can tell my colleagues from personal observation there is a real need to improve student and teacher performance. In these visits, I was struck by the very poor physical condition of some of the District's schools and by the lack of resources available to students, especially in their school libraries. This is a new initiative, and it is designed to enhance and restore District of Columbia elementary school libraries as fully functioning learning centers and, in doing so, bring together local, Federal, and potentially private resources. This initiative, when implemented, will enhance our ability to provide critical educational resources the city's children deserve in order to receive a quality education.

This bill also fully funds the school improvement program authorized last year. This bill maintains the three-pronged commitment made last year to both the District schools, the District of Columbia charter schools, and $14 million for opportunity scholarships for students in underachieving schools. This three-pronged approach is designed to improve academic performance, while promoting school choice and more potential parent involvement.

Mr. Chairman, this bill also retains the general provisions from last year's bill, which are the same as the President's request.

Mr. Chairman, I believe it is important to move this bill through the appropriations process as quickly as possible so as to allow the District to spend its own funds to operate the programs and projects in the bill at the beginning of the fiscal year in October.

Let me personally thank the gentlewoman from the District of Columbia (Ms. NORTON) for her comments earlier in the day during the debate on the D.C. rule. She is an incredible leader of this city, and it has been a pleasure to work with her. I do appreciate her cooperation by not offering an amendment, because I know in her heart she continues to be a principal advocate on behalf of the city, and I am grateful for her support and her action in that regard.

To summarize, Mr. Chairman, the bill we have before us is a fiscally responsible, balanced bill that deserves bipartisan support. It was not done alone. The gentleman from Pennsylvania (Mr. FATTAH) and I count on some key people. I would like to thank them for helping to put this bill together. The subcommittee led by our clerk, Joel Kaplan, Martha Foley, and Clelia Alvarado for their professional work on the bill. I also want to thank Nancy Fox from my staff and Michelle Anderson-Lee from the gentleman from Pennsylvania's (Mr. FATTAH) staff for their hard work.

At this point I will include for the RECORD a table detailing the various accounts included in the bill.

District of Columbia Appropriations Bill - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I					
FEDERAL FUNDS					
Federal payment for Resident Tuition Support	16,900	17,000	25,600	+8,700	+8,600
Federal payment for Emergency Planning and Security Costs in the District of Columbia	10,935	15,000	15,000	+4,065	---
Federal payment to the District of Columbia Courts	166,775	228,069	202,110	+35,335	-25,959
Defender Services in District of Columbia Courts	31,811	41,500	41,500	+9,689	---
Federal payment to the Court Services and Offender Supervision Agency for the District of Columbia	167,441	187,490	183,490	+16,049	-4,000
Federal payment to the District of Columbia Water and Sewer Authority	29,823	10,000	10,000	-19,823	---
Federal payment for Hospital Bioterrorism Preparedness in the District of Columbia	7,456	---	---	-7,456	---
Federal payment for the Anacostia Waterfront Initiative /1	4,971	3,000	3,000	-1,971	---
Federal payment to the Criminal Justice Coordinating Council	1,292	1,300	1,300	+8	---
Federal payment for the Unified Communications Center	---	7,000	---	---	-7,000
Federal payment for the D.C. Fire and Emergency Medical Services Department	---	10,000	---	---	-10,000
Federal payment for Capital Development in the District of Columbia /2	8,102	---	7,000	-1,102	+7,000
Federal payment for Public School Facilities	4,473	---	---	-4,473	---
Federal payment for Public School Libraries	---	---	6,000	+6,000	+6,000
Federal payment for the Family Literacy Program	1,988	---	1,000	-988	+1,000
Federal payment for Transportation Assistance	3,479	---	---	-3,479	---
Federal payment for Foster Care Improvements in the District of Columbia	13,917	---	5,000	-8,917	+5,000
Federal Payment to the Office of the Chief Financial Officer of the District of Columbia	32,159	---	19,000	-13,159	+19,000
Federal Payment for emergency personnel cross training	497	---	---	-497	---
Federal payment for School Improvement	39,764	40,000	40,000	+236	---
Total, Federal funds to the District of Columbia	541,783	560,359	560,000	+18,217	-359
DISTRICT OF COLUMBIA FUNDS					
Operating Expenses					
Governmental direction and support	(284,415)	(416,069)	(416,069)	(+131,654)	---
Economic development and regulation	(276,647)	(334,745)	(334,745)	(+58,098)	---
Public safety and justice	(745,958)	(797,423)	(797,423)	(+51,465)	---
Public education system	(1,157,841)	(1,223,424)	(1,223,424)	(+65,583)	---
Human support services	(2,360,067)	(2,533,825)	(2,533,825)	(+173,758)	---
Public Works	(327,046)	(331,936)	(331,936)	(+4,890)	---
Reserve	---	---	---	---	---
Cash Reserve	(50,000)	(50,000)	(50,000)	---	---
Repayment of Loans and Interest	(311,504)	(347,700)	(347,700)	(+36,196)	---
Repayment of General Fund Recovery Debt	---	---	---	---	---
Payment of Interest on Short-Term Borrowing	(3,000)	(4,000)	(4,000)	(+1,000)	---
Certificates of Participation	(4,911)	(11,252)	(11,252)	(+6,341)	---
Settlements and Judgments	(22,522)	(20,270)	(20,270)	(-2,252)	---
Wilson Building	(3,704)	(3,633)	(3,633)	(-71)	---
Workforce Investments	(22,308)	(38,114)	(38,114)	(+15,806)	---
Non-Departmental Agency	(19,639)	(13,946)	(13,946)	(-5,693)	---
Equipment Lease Operating	---	(23,109)	(23,109)	(+23,109)	---
Pay-As-You-Go Capital	(11,267)	(6,531)	(6,531)	(-4,736)	---
Pay-As-You-Go Capital Contingency	---	(43,137)	(43,137)	(+43,137)	---
Tax Increment Financing Program	(1,940)	---	---	(-1,940)	---
Medicaid Disallowance	(57,000)	---	---	(-57,000)	---
Emergency Planning and Security Costs	---	---	---	---	---

1/ Funds are for the Anacostia Riverwalk and Trail construction.

2/ Funds are for the Unified Communications Center construction

District of Columbia Appropriations Bill - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
Total, operating expenses, general fund	(5,659,769)	(6,199,114)	(6,199,114)	(+539,345)	---
Enterprise and Other Funds					
Water and Sewer Authority	(259,095)	(275,289)	(275,289)	(+16,194)	---
Washington Aqueduct	(55,553)	(47,972)	(47,972)	(-7,581)	---
Stormwater Permit Compliance enterprise fund	(3,501)	(3,792)	(3,792)	(+291)	---
Lottery and Charitable Games enterprise fund	(242,755)	(247,000)	(247,000)	(+4,245)	---
Sports and Entertainment Commission	(13,979)	(7,322)	(7,322)	(-6,657)	---
District of Columbia Retirement Board	(13,895)	(15,277)	(15,277)	(+1,382)	---
Washington Convention Center enterprise fund	(69,742)	(77,176)	(77,176)	(+7,434)	---
National Capital Revitalization Corporation	(7,849)	(7,849)	(7,849)	---	---
University of the District of Columbia	---	(85,102)	(85,102)	(+85,102)	---
D.C. Personal Trust Fund	---	(953)	(953)	(+953)	---
D.C. Public Library Trust Fund	---	(17)	(17)	(+17)	---
Unemployment Compensation Fund	---	(180,000)	(180,000)	(+180,000)	---
Total, Enterprise Funds	(666,369)	(947,749)	(947,749)	(+281,380)	---
Total, operating expenses	(6,326,138)	(7,146,863)	(7,146,863)	(+820,725)	---
Capital Outlay					
General fund	(904,913)	(725,886)	(725,886)	(-179,027)	---
Water and Sewer Fund	(229,807)	(371,040)	(371,040)	(+141,233)	---
Total, Capital Outlay	(1,134,720)	(1,096,926)	(1,096,926)	(-37,794)	---
Total, District of Columbia funds	(7,460,858)	(8,243,789)	(8,243,789)	(+782,931)	---
Grand total:					
Federal Funds to the District of Columbia	541,783	560,359	560,000	+18,217	-359
District of Columbia funds	(7,460,858)	(8,243,789)	(8,243,789)	(+782,931)	---

District of Columbia Appropriations Bill - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	Bill	Bill vs. Enacted	Bill vs. Request
CONGRESSIONAL BUDGET RECAP					
Across-the-board reduction (P.L 108-199)	---	---	---	---	---
Scorekeeping adjustments:					
TBD	---	---	---	---	---
Total, adjustments	---	---	---	---	---
Total (including adjustments)	541,783	560,359	560,000	+18,217	-359
Amounts in this bill	(541,783)	(560,359)	(560,000)	(+18,217)	(-359)
Scorekeeping adjustments	---	---	---	---	---
Prior year outlays	---	---	---	---	---
RECAP BY FUNCTION					
Mandatory	---	---	---	---	---
General purpose discretionary	541,783	560,359	560,000	+18,217	-359
Prior year outlays	---	---	---	---	---
Total, discretionary	541,783	560,359	560,000	+18,217	-359
DISCRETIONARY 302(b) ALLOCATION					
General purpose discretionary	541,783	560,359	560,000	+18,217	-359
General purpose 302(b) allocation	---	560,000	560,000	+560,000	---
Over/under allocation	---	---	---	---	---

Mr. Chairman, I reserve the balance of my time.

Mr. FATTAH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the chairman of the subcommittee, who has done a yeoman's job in working and providing leadership to the Congress on the critical issues facing the District. A great Nation indeed requires us to have a capital that is responsive in both substance and symbol to the Nation and to the world, and the chairman has worked long and hard with his staff on this bill. I would accept his comments as my own opening comments on the bill, because I think it puts into perspective the approach that he has taken, which is that we have worked in a bipartisan fashion; and I think we have a product that is worthy of unanimous support here in the House as we move this bill through the process.

I join with him again, although I will not name them all, in complimenting the staff who have really done a great job. This would not have been possible without the help and advice and counsel of the delegate, the person elected by the residents here in the District to represent their interests; and the gentlewoman from the District of Columbia (Ms. NORTON) has been invaluable to both the chairman and me as we have worked through this process.

Mr. Chairman, I reserve the remainder of my time.

Mr. FRELINGHUYSEN. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. TOM DAVIS), the distinguished chairman of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I thank my friend for yielding me this time.

Over the past decade, the District of Columbia, which previously had faced a fiscal crisis of Shakespearean proportions, has embarked on an impressive road to financial recovery. With the help of the now-dormant Control Board and the 1997 Revitalization Act, the District has taken care of its financial house. It has balanced its budget for 7 consecutive years without tricks or gimmicks, and it has a cash reserve that is the envy of almost every municipality in the Nation.

The Federal assistance provided in our annual appropriation bills promotes and advances the rebirth of our Nation's Capital.

This year's bill funds a wide range of programs that will enhance the quality of life for D.C. residents and those who visit and work in the Nation's Capital. The increase in funding for emergency planning and security will help ensure that we are ready for the worst. I am pleased to see that the Child and Family Services Agency will continue to receive adequate funding to help protect the District's most vulnerable residents and that the D.C. court will have additional funds to continue its much-needed renovation project.

I am particularly pleased the D.C. College Access Program will receive enhanced funding. The increase reflects the program's indisputable positive impact on the District. The College Access Program has been a key component of the District's revitalization efforts, and I am heartened that the gentleman from New Jersey (Chairman FRELINGHUYSEN) agrees that Congress needs to continue its partnership with the District in providing access to higher education, resources, and opportunities.

Since the inception of this legislation, the number of high school seniors in the District going on to college has increased by 28 percent. That is a remarkable achievement. The impact is undeniable. The national average over the same period, while it was 28 percent in the District of Columbia, was 5 percent nationally.

Finally, I want to thank the gentleman from New Jersey (Chairman FRELINGHUYSEN) for fully funding the D.C. School Choice initiative. The bill before us maintains the careful balance that was struck last year. Of the $40 million for education, there is $13 million for the District's public schools for teacher training, recruitment, and improving student achievement. These funds are in addition to the large increases already guaranteed to D.C. public schools through Federal programs. There is another $13 million for D.C. charter schools to support and expand their capacity, and there is $13 million for the School Choice Scholarship program, along with an additional $1 million for administrative expenses.

The fact is, the District of Columbia is one of the most troubled public school systems in the United States; and working with the local government, working with the school system, working with the Mayor, we are trying to reverse that.

Again, I want to thank the gentleman from New Jersey (Chairman FRELINGHUYSEN) for the time and the energy he and his staff have devoted in reviewing the D.C. budget and bringing this bill to the floor. I also thank the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for his work and, of course, my colleague, the gentlewoman from the District of Columbia (Ms. NORTON), for our continued partnership.

Mr. FATTAH. Mr. Chairman, consuming whatever time I may, just to make a few brief remarks before I yield to the delegate, the District operates unlike any other city in our country, because it has the responsibility to be the home of the Nation's Federal Government. There are no problems that exist in the District that have been solved elsewhere in the country. Whatever problems exist in this city exist other places. But the District has, in a unique way, been able to tackle its fiscal problems far better than any other city in the country: a 7-year balanced budget, bond ratings that have been elevated by all three of the rating agencies, and a cash reserve, I say to the gentleman from Florida (Mr. YOUNG), that any city would be the envy of. The city's leaders, I would say, deserve all of the credit; that is, the Mayor, the city council, and the civic leadership here have worked so very hard.

The gentleman from Virginia (Mr. TOM DAVIS) and I and others, like our chairman, have been involved in important ways, whether it is the financial relief bill or the college access program, the chairman's initiative on libraries that he has allowed me to join with him on; but it is really his initiative to make sure that in our elementary schools here in the District that there is real access to material that will help inspire reading as a lifelong activity of the young people here.

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All of that is important, but the District has had to operate without the benefit of a State government. It has had to operate with the increased cost of being the home of the Nation's Capital, and again, its own leadership has brought it to this moment when I think we can have a bill come to the floor without controversy and move through, because it is out of respect for their hard work.

Mr. Chairman, I yield 7 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. FATTAH) for yielding me this time.

We are not going to tarry long this time, and that is itself an extraordinary victory and feat of leadership. Members should know that I have seen this. The smallest appropriation often take the longest period of time to get through this House, much to the consternation of Members.

I spoke during the Committee on Rules about the extraordinary leadership of the gentleman from Florida (Chairman YOUNG) and the gentleman from Wisconsin (Mr. OBEY), who have always been wonderful captains of the ship, pressing to get this appropriation out, understanding what a waste of time it would be for Members to involve themselves deeply in this matter, often going to extraordinary lengths to clear this bill. They have been just where they always were.

The gentleman from Virginia (Chairman TOM DAVIS) deserves a lot of credit for his invaluable assistance to the Committee on Appropriations and to me with this bill, and I have already given my thanks to the Committee on Rules, who gave us the cleanest bill under the circumstances.

But the real applause belongs to the gentleman from New Jersey (Chairman FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH). I can say to both of them that I do not believe we have gotten this bill through in as short a period of time since I have been in Congress. This is my seventh term.

I want to thank them for the exceptionally smooth and efficient way they have handled the D.C. appropriation now for 2 years. It has affected the operations of the District of Columbia, not only the efficiency of this House.

I want to thank them for their regard for self-government in the District of Columbia. I want to thank them for their respect for the efficiency of the House of Representatives itself and the processes. There are very few Members that care beans about this. That is no insult to you, Members. I don't care beans about your districts either. That is your job.

And finally, I want to thank both the chairman and the ranking member for their keen understanding of the need to move the bill to get the city's own money to the bill, and that has been what has been most important about the way in which they have handled this bill. We cannot spend a red cent of our own money until the House says so, and almost all of this bill consists of our own money.

The District has always deserved self-respect for running its own affairs. That is the way we believe in this country, but I must say, Mr. Chairman, that the city today, and most of the Members of the House agree, has really earned congressional respect. I think a real tribute is due to Mayor Tony Williams, Chair of the Council Linda Cropp and the entire D.C. Council for the way they have improved the city, I mean in every important way, from the city operations, the day-to-day operations, to its bond rating.

They have taken this city from fiscal crisis, now to more than a balanced budget, to a better financial position than our far-richer surrounding States, not because they have managed to raise significant revenue, but because of the very conservative prudence with which they have run the D.C. government.

I mean, they still have a structural deficit, which means that we have high taxes and high debt because of the structural relationship with the Federal Government, and I appreciate that this entire region and the gentleman from Pennsylvania (Mr. FATTAH) have gone on to a bill to help us correct the structural deficit.

So to be prudent, even though you are carrying a federally imposed structural deficit is to deserve high praise. In Virginia, they have just gone through a terribly long period, and they finally had to raise taxes in order to assure their financial standing and keep their bond rating. Maryland, they are still struggling with gambling, something we are not going to have in the District of Columbia in order to pull it out of crisis.

The D.C. economy is run so well that people are moving in, not moving out. The city has become so attractive, that you cannot find a scrap of land on which to build any longer. We are building all through the inner city, the poorest wards of the city, because of the way in which the city is now being run.

Finally, to let me give you a sense of the District's financial prudence, I appreciate that the committee is going to allow the District to save for its emergency and contingency fund not 7 percent of it budget but 6 percent. Now, that is interesting, because going down from 7 percent to 6 percent is not going to affect its bond rating, because it is still the strictest conditions for an emergency and contingency fund in the United States, or pretty close to it.

The District is going to have 2 years instead of 1 year to repay any funds it happens to withdraw, does not withdraw from this bond, 2 years instead of 1 year to repay the fund, and that still makes these conditions among the strictest in the country. Forty-five States with similar emergency contingency funds have no replenishment requirement; and yet, the District must pay it back if it uses it within 2 years.

And among the six States which do require you to replenish any money you take out of the contingency fund, no State requires you to pay back as readily as our fund does.

But, Mr. Chairman, perhaps what I am most proud of is that the District has the highest rating. You have alluded to that in its history, an A rating. This is a city that 8 years ago was in virtual bankruptcy, and I would like to read what Moody's, one of the three investment houses that has given the District an A rating, has said. "The upgrade reflects the sustained improvement in the District's economy and property tax base, as well as the District's multiyear record of improved financial management, controls and results. In addition, the District's elected leadership has demonstrated a commitment to maintaining this balance," that enviable language from investment houses.

The District has done this with the assistance of Congress. It has done it with the structural deficit. It is not because it struck it rich. It is because of conservative budgeting and financial management. We have taken the lead as a city, but we have done it with a partnership, with a Congress, that is now paying off.

I am proud to represent the city. I believe that the city has made us proud of our Capital, and I am particularly grateful to the Chair and to the ranking member for their contribution to what the District has achieved.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a distinguished member of the committee, who is vice chairman of the committee and has served on the committee for 10 years.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding me this time, and I would like to thank the ranking member, the gentlewoman from the District of Columbia (Ms. NORTON) and the chairman. And sometimes my colleagues may think this is a free vote to vote "no" on. After all, it is the D.C. bill.

A lot of times, if you ask Members of Congress to serve on the Committee on Appropriations, Subcommittee on the District of Columbia, you have to pull them out from under the bed. They will not do it. But I want to tell you, if you want a rewarding job, take something like D.C. that had so many problems. I mean, instead of a sterling city like San Diego that does not need much upgrade, if you take D.C., that is where you can make the most and have the most benefit, and I think we have done that, a lot of it.

A very controversial name with the Democrats is Newt Gingrich, but Newt Gingrich set a path to upgrade this city's Capital and to move it forward for the first time in decades, and I would like to remind my people that if you are thinking about voting "no," think where we have come on this bill.

I have seen this bill take 3 or 4 hours on the House floor. We passed it in about four minutes. Does it mean everything we agreed on? No. But we came together as Republican and Democrat Representatives, and we have done a lot.

I remember when the schools could not open because the fire department had to control the schools. They were unsafe. They would not open. And that has been fixed by the folks mentioned.

Summer school, we did not have a summer school, and we opened it up for the first time. We had 12,000 children volunteer for summer school, not because they had to, because they wanted to learn. That is why this opportunity scholarship program, I think, is important; and also the program of the gentleman from Virginia (Mr. TOM DAVIS) and the chairman and ranking member put forward on college scholarships and college access.

I happen to believe as a conservative that there should be no child that qualifies for college that should not have that opportunity, because it is either pay-me-now or pay-me-a-lot-later by not giving education. And those are going to be the people that are the rich that we give tax breaks to from the other side, I think, some day because they have got a college education.

But I look at the waterfront and the Anacostia River. One of the things that is a challenge to this committee and to this body, every time it rains in Washington, D.C., the Anacostia River is flooded from the sewage system at Washington, D.C. It has the highest fecal count of any river almost in the world. The pollutants are terrible. Fish die because the bacteria is so high, it eats all the oxygen. The waterfront has been fixed. They used to give 1-year leases, and who is going to invest in a waterfront.

This waterfront is going to be like San Diego or San Francisco. It is going to be revenue-producing for the city instead of drawing money. It is already starting to do that, and that is because of this committee and Mayor Williams.

I especially want to give attention to Mayor Williams and the job he has done.

Mr. SHAYS. Mr. Chairman, I rise today in support of H.R. 4850, the D.C. Appropriations Bill.

I am particularly pleased the legislation included $14 million for school vouchers because I believe too many children in our Nation's Capital are not getting the education they need and deserve.

The D.C. School Choice Incentive Act provides scholarships of up to $7,500 to students in D.C. schools identified for improvement, corrective action, or restructuring. It targets resources to students and families lacking the financial resources to take advantage of available educational options.

The scholarships cover costs of tuition, fees, and transportation expenses.

There is little doubt that D.C. public schools are in serious crisis, but it is not a crisis caused by a lack of resources. In fact, D.C. public schools spend more per pupil than surrounding school districts in Virginia and Maryland.

Clearly, alternatives to increased funding should be tested.

I oppose directly spending Federal tax dollars on private schools. But just as I support providing Pell grants to college students for use at the university of their choice, public or private, including religious schools, I also support school choice programs that provide parents with similar choices for their elementary and secondary school children.

Opponents of school choice argue such a proposal could drain public schools of money and students. These scholarships are assistance to the students, not the schools. And because all funding for the scholarship program comes from new funds, no public, private or charter school will be drained of its funding. They will just have fewer students to educate.

By promoting a competitive model, all schools are forced to improve academically, provide better quality services, and create an administrative structure that operates efficiently.

For these reasons I support this legislation, and I urge my colleagues to do so as well.

Mr. NUSSLE. Mr. Chairman, I rise today to speak on H.R. 4850, the District of Columbia Appropriations Act for Fiscal Year 2005.

Under authority granted in Article I of the United States Constitution (section 8, clause 17), this bill appropriates Federal payments to the District to fund certain activities, and also approves the District of Columbia's entire budget, including the expenditure of local funds ($8.2 billion in local funds for fiscal year 2005). Although a vast majority of the funds discussed in this bill are local funds originating from the District of Columbia, I speak today only about the $560 million in Federal funds appropriated in this bill.

This is the ninth bill we are considering pursuant to the 302(b) allocation adopted by the Appropriations Committee on June 9. I am pleased to report that it is consistent with the levels established the conference report to S. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2005, which the House adopted as its fiscal blueprint on May 19.

H.R. 4850 provides $560 million in new discretionary BA, which is equal to the 302(b) allocation to the Subcommittee on the District of Columbia; outlays are 416 million below the allocation. The bill contains no emergency-designated new budget authority, nor does it include rescissions of previously enacted appropriations.

Accordingly, the bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

Nonetheless, because House-passed appropriations bills to date have exceeded their allocations by a total of $114 million, it is possible that conference agreements on appropriations bills will cause a breach in the BA ceiling unless corrective action is taken by the Appropriations Committee.

With that reservation, I express my support for H.R. 4850.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the base bill considered today, the District of Columbia Appropriations Act for Fiscal Year 2005. I thank Chairman FRELINGHUYSEN and Ranking Member FATTAH for their hard work in crafting this legislation. Furthermore, I congratulate my colleague on the House Select Committee on Homeland Security from the District of Columbia herself, Mr. NORTON on the achievements that she has made through this bill in the areas of public education, public works, and in the HIV/AIDS initiative.

With the work of Ranking Member FATTAH and Ms. NORTON, an amendment was offered to use four million unused dollars from last year's vouchers bill for the District's public schools but was withdrawn without a vote. Nevertheless, the base bill will give $14 million to fund private school vouchers.

Other educational initiatives funded in this bill include $13 million for public schools; $13 million for charter schools; and a 50 percent increase in funding for Ms. NORTON's D.C. College Access Act, H.R. 4012—one of her major priorities. The $8 million increase allocated for tuition assistance, $25.6 million up from $17 million in 2004 not only will help the city retain taxpayers but will also continue the strength of the college Access Act in expanding college education. H.R. 4012 would reauthorize the tuition grant program for five years.

Already, over 6,500 students have benefited form the grant program, which allows District residents to attend any public college or university in the country at lower in-state tuition rates. Furthermore, this program provides $2,500 annually for students to attend private colleges and universities in the region or private Historically Black Colleges and Universities throughout the country.

At this time, I also commend Ms. NORTON on introducing H.R. 4269, the District of Columbia Fair Federal Compensation Act of 2004. The bill outlines the unique situation of the District of Columbia as a federal city. It proposes an annual federal payment of $800 million with provisions to adjust the amount in the future. The $800 million would be made available to address important structural needs of the city, which the District Government cannot fully fund from its current budget: transportation and street maintenance, information technology and DCPS capital improvements. These items are essential to the running of the city.

In addition, this bill will include other funding that my colleague, Congresswoman ELEANOR HOLMES NORTON, has been working diligently on, including $3 million for the Anacostia Waterfront Initiative and $10 million to continue the Combined Sewer Overflow Long Term Plan. This plan will update and repair the District of Columbia's antiquated sewer system. By acting on this now, we avoid any catastrophic costs that would occur if we wait for further damage or contamination to the District's drinking water supply system. This initiative is of particular interest to elderly residents who live in older or sub-standard homes.

I join my colleague from the District in expressing disappointment in the continued placement of riders on the budget to ban the needle exchange program. We should not condition funding on the ceased participation in a program that aims to reduce the spread of HIV/AIDS and save lives.

Mr. Chairman, again, I support the base bill for the benefits that it will bring to our Nation's capital; however, I share disappointment in the prohibition on the needle exchange program contained in its provisions.

Mr. FATTAH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FRELINGHUYSEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 4850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $25,600,000, to remain available until expended: *Provided,* That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education: *Provided further,* That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: *Provided further,* That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: *Provided further,* That the account shall be under the control of the District of Columbia Chief Financial Officer, who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: *Provided further,* That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: *Provided further,* That not more than 7 percent of the total amount appropriated for this program may be used for administrative expenses.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: *Provided,* That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, $202,110,000, to be allocated as follows: for the District of Columbia Court of Appeals, $8,952,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $84,948,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $40,699,000, of which not to exceed $1,500 is for official reception and representation expenses; and $67,511,000, to remain available until September 30, 2006, for capital improvements for District of Columbia courthouse facilities: *Provided,* That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: *Provided further,* That the solicitation and contract shall contain the clause "availability of Funds" found at 48 CFR 52.232–18: *Provided further,* That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: *Provided further,* That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: *Provided further,* That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than $1,000,000 of the funds provided under this heading among the items and entities funded under this heading for operations, and not more than 4 percent of the funds provided under this heading for facilities.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance and such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under chapter 3 of title 16, D.C. Code, and payments for counsel authorized under section 21–2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $41,500,000, to remain available until expended: *Provided,* That the funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $67,511,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: *Provided further,* That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $67,511,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: *Provided further,* That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided futher,* That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia and the Public Defender Service for the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, $183,490,000, of which not to exceed $2,000 is for official receptions and representation expenses related to Community Supervision and Pretrial Services Agency programs; of which not to exceed $25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002; of which $115,343,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which $39,314,000 shall be available to the Pretrial Services Agency; and of which $28,833,000 shall be transferred to the Public Defender Service for the District of Columbia: *Provided,* That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further,* That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: *Provided further,* That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: *Provided further,* That the Court Services and Offender Supervision Agency Director is authorized to accept and use reimbursement from the D.C. Government for space and services provided on a cost reimbursable basis: *Provided further,* That the Public Defender Service is authorized to charge fees to cover costs of materials distributed to attendees of educational events, including conferences, sponsored by the Public Defender Service, and notwithstanding section 3302 of title 31, United States Code, said fees shall be credited to the Public Defender Service account to be available for use without further appropriation.

Federal Payment to the District of Columbia Water and Sewer Authority

For a Federal payment to the District of Columbia Water and Sewer Authority, $10,000,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan: *Provided*, That the District of Columbia Water and Sewer Authority provides a 100 percent match for this payment.

Federal Payment for the Anacostia Waterfront Initiative

For a Federal payment to the District of Columbia Department of Transportation, $3,000,000, to remain available until September 30, 2006, for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland.

Federal Payment to the Criminal Justice Coordinating Council

For a Federal payment to the Criminal Justice Coordinating Council, $1,300,000, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

Federal Payment for Capital Development in the District of Columbia

For a Federal payment to the District of Columbia for capital development, $7,000,000, to remain available until expended, for the Unified Communications Center.

Federal Payment for Public School Libraries

For a Federal payment to the District of Columbia Public Schools, $6,000,000, to remain available until expended, for a public school library enhancement program: *Provided*, That the District of Columbia Public Schools provides a 100 percent match for this payment: *Provided further*, That the Federal portion is for the acquisition of library resources: *Provided further*, That the matching portion is for any necessary facilities upgrades.

Federal Payment for the Family Literacy Program

For a Federal payment to the District of Columbia, $1,000,000, for a Family Literacy Program to address the needs of literacy-challenged parents while endowing their children with an appreciation for literacy and strengthening familial ties: *Provided*, That the District of Columbia shall provide a 100 percent match with local funds as a condition of receiving this payment.

Federal Payment for Foster Care Improvements in the District of Columbia

For the Federal payment to the District of Columbia for foster care improvements, $5,000,000: *Provided*, That $3,000,000 shall be for the Child and Family Services Agency, of which $2,000,000 shall be to continue an early intervention program to provide intensive and immediate services for foster children; of which $1,000,000 shall be for the emergency support fund to purchase items necessary to allow children to remain in the care of an approved and licensed family member: *Provided further*, That $1,500,000 shall be for the Department of Mental Health to provide all court-ordered or agency-required mental health screenings, assessments and treatments for children under the supervision of the Child and Family Services Agency: *Provided further*, That $500,000 shall be for the Washington Metropolitan Council of Governments, to continue a program in conjunction with the Foster and Adoptive Parents Advocacy Center, to provide respite care and recruitment of foster parents: *Provided further*, That these Federal funds shall supplement and not supplant local funds.

Federal Payment to the Office of the Chief Financial Officer of the District of Columbia

For a Federal payment to the Office of the Chief Financial Officer of the District of Columbia, $19,000,000: *Provided*, That these funds shall be available for the projects and in the amounts specified in the Statement of the Managers on the conference report accompanying this Act: *Provided further*, That each entity that receives funding under this heading shall submit to the Office of the Chief Financial Officer of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate a report on the activities to be carried out with such funds no later than March 15, 2005.

Federal Payment for School Improvement

For Federal payment for a school improvement program in the District of Columbia, $40,000,000, to be allocated as follows: for the District of Columbia Public Schools, $13,000,000 to improve public school education in the District of Columbia; for the State Education Office, $13,000,000 to expand quality charter schools in the District of Columbia; for the Secretary of the Department of Education, $14,000,000 to provide opportunity scholarships for students in the District of Columbia in accordance with division C title III of the District of Columbia Appropriations Act, 2004 (Public Law 108–199, 118 Stat. 126), of which up to $1,000,000 may be used to administer and fund assessments for the opportunity scholarship program: *Provided*, That the District of Columbia Public Schools shall submit a plan for the use of funds provided under this heading for public school education to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Education and the Workforce and the Committee on Government Reform of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate: *Provided further*, That the funds provided under this heading for public school education shall not be made available until 30 calendar days after the submission of a spending plan by the District of Columbia Public Schools to the Committees on Appropriations of the House of Representatives and Senate.

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

Division of Expenses

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided*, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a) and provisions of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2005 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $6,199,114,000 (of which $4,165,485,000 shall be from local funds, $1,687,554,000 shall be from Federal grant funds, $332,761,000 shall be from other funds, and $13,314,000 shall be from private funds), in addition, $98,900,000 from funds previously appropriated in this Act as Federal payments: *Provided further*, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: *Provided further*, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act as amended by this Act: *Provided further*, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2005, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

Governmental Direction and Support

Governmental direction and support, $416,069,000 (including $261,068,000 from local funds, $100,256,000 from Federal grant funds, and $54,745,000 from other funds), in addition, $19,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Chief Financial Officer of the District of Columbia", and $500,000 from funds previously appropriated in this Act under the heading "Federal Payment for Foster Care Improvements in the District of Columbia" shall be available to the Metropolitan Washington Council of Governments: *Provided*, That not to exceed $9,300 for the Mayor, $9,300 for the Chairman of the Council of the District of Columbia, $9,300 for the City Administrator, and $9,300 for the Office of the Chief Financial Officer shall be available from this appropriation for official reception and representation expenses: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be $500,000: *Provided further*, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000.

Economic Development and Regulation

Economic development and regulation, $334,745,000 (including $55,764,000 from local funds, $93,050,000 from Federal grant funds, $185,806,000 from other funds, and $125,000 from private funds), of which $13,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11-134; D.C. Official Code, sec. 2–1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12–26; D.C. Official Code, sec. 2–1215.15 et seq.): *Provided*, That such funds are available for acquiring services provided by the General Services Administration: *Provided further*, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia: *Provided further*, That local funds in the amount of $1,200,000 shall be appropriated for the Excel Institute.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $797,423,000 (including $760,849,000 from local funds, $6,599,000 from Federal grant funds, $29,966,000 from other funds, and $9,000 from private funds), in addition, $1,300,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Criminal Justice Coordinating Council": *Provided*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

Public education system, including the development of national defense education programs, $1,223,424,000 (including $1,058,709,000 from local funds, $151,978,000 from Federal grant funds, $8,957,000 from other funds, $3,780,000 from private funds) in addition, $25,600,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support", $6,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Public School Libaries", and $26,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" to be allocated as follows:

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—$888,944,000 (including $760,494,000 from local funds, $117,450,000 from Federal grant funds, $7,330,000 from other funds, $3,670,000 from private funds), in addition, $6,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Public School Libraries" shall be available for District of Columbia Public Schools and $13,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" shall be available for District of Columbia Public Schools: *Provided*, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2005 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): *Provided further*; That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2006: *Provided further*, That not to exceed $9,300 for the Superintendent of Schools shall be available from this appropriation for official reception and representation expenses.

(2) TEACHERS' RETIREMENT FUND.—$9,200,000 from local funds shall be available for the Teacher's Retirement Fund.

(3) STATE EDUCATION OFFICE.—$43,104,000 (including $10,015,000 from local funds, $32,913,000 from Federal grant funds, and $176,000 from other funds), in addition, $25,600,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" shall be available for the State Education Office and $13,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" shall be available for the State Education Office: *Provided*, That of the amounts provided to the State Education Office, $500,000 from local funds shall remain available until June 30, 2006 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(4) DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOLS.—$196,802,000 from local funds shall be available for District of Columbia public charter schools: *Provided*, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: *Provided further*, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall remain available for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(2)): *Provided further*, That of the amounts made available to District of Columbia public charter schools, $100,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(5) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(5)): *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2005, an amount equal to 25 percent of the total amount of the local funds appropriations request provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2006.

(5) UNIVERSITY OF THE DISTRICT OF COLUMBIA SUBSIDY.—$49,602,000 from local funds shall be available for the University of the District of Columbia subsidy: *Provided*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2006: *Provided further*, That not to exceed $9,300 for the President of the University of the District of Columbia shall be available from this appropriation for official reception and representation expenses.

(6) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—$30,831,000 (including $28,978,000 from local funds, $1,093,000 from Federal grant funds, $651,000 from other funds, and $110,000 from private funds) shall be available for the District of Columbia Public Libraries: *Provided*, That not to exceed $7,500 for the Public Librarian shall be available from this appropriation for official reception and representation expenses.

(7) COMMISSION ON THE ARTS AND HUMANITIES.—$4,941,000 (including $3,618,000 from local funds, $523,000 from Federal grant funds, and $800,000 from other funds) shall be available for the Commission on the Arts and Humanities.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

Human support services, $2,533,825,000 (including $1,165,314,000 from local funds, $1,331,670,000 from Federal grant funds, $27,441,000 from other funds, $9,400,000 from private funds), in addition, $4,500,000 from funds previously appropriated in this Act under the heading "Federal Payment to Foster Care Improvements in the District of Columbia": *Provided*, That $29,600,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That no less than $8,498,720, to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000, effective July 8, 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3004), to be used exclusively for the purpose of the Choice in Drug Treatment program, established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3003), of which $7,500,000 shall be provided from local funds: *Provided further*, That none of the $8,498,720 for the Choice in Drug Treatment program shall be used by the Department of Health's Addiction Prevention and Recovery Administration to provide youth residential treatment services or youth outpatient treatment services: *Provided further*, That no less than $2,000,000 shall be available to the Department of Health's Addiction Prevention and

Recovery Administration exclusively for the purpose of providing youth residential treatment services: *Provided further*, That no less than $1,575,416 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth outpatient treatment services, of which $750,000 shall be made available exclusively to provide intensive outpatient treatment slots, outpatient treatment slots, and other program costs for youth in the care of the Youth Services Administration: *Provided further*, That no less than $1,400,000 shall be used by the Department of Health's Addiction Prevention and Recovery Administration to fund a Child and Family Services Agency pilot project entitled Family Treatment Court: *Provided further*, That $1,200,000 of local funds, to remain available until expended, shall be deposited in the Adoption Voucher Fund, established pursuant to section 3805(a) of the Adoption Voucher Fund Act of 2000, effective October 19, 2000 (D.C. Law 13–172; D.C. Official Code, sec. 4–344(a)), to be used exclusively for the purposes set forth in section 3805(b) of the Adoption Voucher Fund Act (D.C. Official Code, sec. 4–344(b)): *Provided further*, That no less than $300,000 shall be used by the Department of Health's Environmental Health Administration to operate the Total Maximum Daily Load program: *Provided further*, That no less than $1,268,500 shall be used by the Department of Health's Environmental Health Administration to operate its air quality programs, of which no less than $242,000 shall be used to fund 4 full-time air quality employees: *Provided further*, That the Department of Human Services, Youth Services Administration shall not expend any appropriated fiscal year 2005 funds until the Mayor has submitted to the Council by September 30, 2004, a plan, including time lines, to close the Oak Hill Youth Center at the earliest feasible date. All of the above proviso amounts in this heading relate back to and are a subset of the first-referenced appropriation amount of $2,533,825,000.

Public Works

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $331,936,000 (including $312,035,000 from local funds, $4,000,000 from Federal grant funds, and $15,901,000 from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

Cash Reserve

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (D.C. Official Code, sec. 47–392.02(j)(2)), $50,000,000 from local funds.

Repayment of Loans and Interest

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1–204.62, 1–204.75, and 1–204.90), $347,700,000 from local funds.

Payment of Interest on Short-Term Borrowing

For payment of interest on short-term borrowing, $4,000,000 from local funds.

Certificates of Participation

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the building located at One Judiciary Square, $11,252,000 from local funds.

Settlements and Judgments

For making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, $20,270,000 from local funds: *Provided*, That this appropriation shall not be construed as modifying or affecting the provisions of section 103 of this Act.

Wilson Building

For expenses associated with the John A. Wilson building, $3,633,000 from local funds.

Workforce Investments

For workforce investments, $38,114,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable: *Provided*, That of this amount $3,548,000 shall remain available until expended to meet the requirements of the Compensation Agreement Between the District of Columbia Government Units 1 and 2 Approval Resolution of 2004, effective February 17, 2004 (Res. 15–459; 51 DCR 2325).

Non-Departmental Agency

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, $13,946,000 (including $4,000,000 from local funds and $9,946,000 from other funds) to be transferred by the Mayor of the District of Columbia within the various appropriations headings in this Act: *Provided*, That $4,000,000 from local funds shall be for anticipated costs associated with the No Child Left Behind Act.

Emergency Planning and Security Fund

For Emergency Planning and Security Fund, $15,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia".

Tax Increment Financing Program

For a Tax Increment Financing Program, such amounts as are necessary to meet the Tax Increment Financing requirements, not to exceed $9,710,000 from the District's general fund balance.

Equipment Lease Operating

For Equipment Lease Operating $23,109,000 from local funds: *Provided*, That for equipment leases, the Mayor may finance $19,453,000 of equipment cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years.

Emergency and Contingency Reserve Funds

For the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act (Public Law 98–198, as amended; D.C. Official Code, sec. 1–204.50a), such additional amounts from the District's general fund balance as are necessary to meet the balance requirements for such funds under section 450A.

Family Literacy

From funds previously appropriated in this Act under the heading "Federal Payment for the Family Literacy Program", $1,000,000.

Pay-As-You-Go Capital

For Pay-As-You-Go Capital funds in lieu of capital financing, $6,531,000 from local funds, to be transferred to the Capital Fund.

Pay-As-You-Go Contingency

For Pay-As-You-Go Contingency Fund, $43,137,000, subject to the Criteria for Spending Pay-As-You-Go Funding Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Title I of Bill 15–768), there are authorized to be transferred from the contingency fund to certain other headings of this Act as necessary to carry out the purposes of this Act. Expenditures from the Pay-As-You-Go Contingency Fund shall be subject to the approval of the Council by resolution.

Revised Revenue Estimate Contingency Priority

If the Chief Financial Officer for the District of Columbia certifies through a revised revenue estimate that funds are available from local funds, such available funds shall be expended as provided in the Contingency for Recordation and Transfer Tax Reduction and the Office of Property Management and Library Expenditures Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Bill 15–768), including up to $2,000,000 to the Office of Property Management, and up to $1,200,000 to the District of Columbia Public Library.

ENTERPRISE AND OTHER FUNDS

Water and Sewer Authority

For operation of the Water and Sewer Authority, $275,289,000 from other funds, of which $15,180,402 shall be apportioned for repayment of loans and interest incurred for capital improvement projects and payable to the District's debt service fund. For construction projects, $371,040,000, to be distributed as follows: $181,656,000 for the Blue Plains Wastewater Treatment Plant, $43,800,000 for the sewer program, $9,118,000 for the stormwater program, $122,627,000 for the water program, and $13,839,000 for the capital equipment program; in addition, $10,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the District of Columbia Water and Sewer Authority": *Provided*, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation account shall apply to projects approved under this appropriation account.

Washington Aqueduct

For operation of the Washington Aqueduct, $47,972,000 from other funds.

Stormwater Permit Compliance Enterprise Fund

For operation of the Stormwater Permit Compliance Enterprise Fund, $3,792,000 from other funds.

Lottery and Charitable Games Enterprise Fund

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3–172; D.C. Official Code, sec. 3–1301 et seq. and sec. 22–1716 et seq.), $247,000,000 from other funds: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board: *Provided further*, That the Lottery and Charitable Games Enterprise Fund is hereby authorized to make transfers to the general fund of the District of Columbia, in excess of this appropriation, if such funds are available for transfer.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, $7,322,000 from other funds: *Provided*, That the paragraph under the heading "Sports and Entertainment Commission" in Public Law 108–199 (118 Stat. 125) is amended by striking the term "local funds" and inserting the term "other funds" in its place.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1–711), $15,277,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $77,176,000 from other funds.

NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, $7,850,000 from other funds.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

For the University of the District of Columbia, $85,102,000 (including, $49,603,000 from local funds previously appropriated in this Act under the heading "Public Education Systems", $15,192,000 from Federal funds, $19,434,000 from other funds, and $873,000 from private funds): *Provided*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

UNEMPLOYMENT INSURANCE TRUST FUND

For the Unemployment Insurance Trust Fund, $180,000,000 from other funds.

OTHER POST EMPLOYEE BENEFITS TRUST FUND

For the Other Post Employee Benefits Trust Fund, $953,000 from other funds.

DC PUBLIC LIBRARY TRUST FUND

For the DC Public Library Trust Fund, $17,000 from other funds: *Provided*, That $7,000 shall be for the Theodore W. Noyes Trust Fund: *Provided further*, That $10,000 shall be for the Peabody Trust Fund.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $1,087,649,000, of which $839,898,000 shall be from local funds, $38,542,000 from Highway Trust funds, $37,000,000 from the Rights-of-way funds, $172,209,000 from Federal grant funds, and a rescission of $361,763,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of $725,886,000, to remain available until expended; in addition, $7,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Capital Development in the District of Columbia" and $3,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for the Anacostia Waterfront Initiative": *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That the Office of the Chief Technology Officer of the District of Columbia shall implement the following information technology projects on behalf of the District of Columbia Public Schools: Student Information System (project number T2240), Student Information System PCS (project number T2241), Enterprise Resource Planning (project number T2242), E-Rate (project number T2243), and SETS Expansion PCS (project number T2244).

TITLE III—GENERAL PROVISIONS

SEC. 101. Whenever in this Act, an amount is specified within an appropriation for a particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 102. Appropriations in this act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor, or, in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 103. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government.

SEC. 104. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly provided herein.

SEC. 105. (a) Except as provided in subsection (b), no part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(b) The District of Columbia may use local funds provided in this Act to carry out lobbying activities on any matter other than—

(1) the promotion or support of any boycott; or

(2) statehood for the District of Columbia or voting representation in Congress for the District of Columbia.

(c) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any of the issues referred to in subsection (b).

SEC. 106. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditures for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of $1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center,

unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the reprogramming.

(b) None the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds in excess of $1,000,000 from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriations.

SEC. 107. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 108. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–139; D.C. Official Code, sec. 1–601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–2041.22(3)), shall apply with respect to the compensation of District of Columbia employees. For pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 109. No later than 30 days after the end of the first quarter of fiscal year 2005, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2005 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2006. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 110. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, sec. 2–303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 111. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

SEC. 112. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 113. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 114. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b)(1) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(B) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(2) For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A).

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia may adjust the budget for Federal, private, and other grants received by the District government reflected in the amounts appropriated in this Act, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

(e) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 115. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Fire Chief;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2005, an inventory, as of September 30, 2004, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 116. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2005 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2–302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 117. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 118. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 119. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 120. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 121. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a "conscience clause" which provides exceptions for religious beliefs and moral convictions.

SEC. 122. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway houses escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 123. (a) No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.42), for all agencies of the District of Columbia government for fiscal year 2004 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

(b) This section shall apply only to an agency where the Chief Financial Officer of the District of Columbia certifies that a reallocation is required to address unanticipated changes in program requirements.

SEC. 124. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93–030–(PA) and 93–031–(PA).

SEC. 125. None of the Federal funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 126. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts under section 10(b)(1) and (2) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(1) and (2)). The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(3)).

SEC. 127. None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends an action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of $4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

SEC. 128. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia. As part of the certification, the Chief Financial Officer of the District of Columbia shall require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification. The Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA. The Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 129. The amount appropriated by this Act may be increased by no more than $15,000,000 from funds identified in the comprehensive annual financial report as the District's fiscal year 2004 unexpended general fund surplus. The District may obligate and expend these amounts only in accordance with the following conditions:

(1) The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District's long-term financial, fiscal, and economic vitality.

(2) The District of Columbia may only use these funds for the following expenditures:

(A) Unanticipated one-time expenditures.

(B) Expenditures to avoid deficit spending.

(C) Debt Reduction.

(D) Unanticipated program needs.

(E) Expenditures to avoid revenue shortfalls.

(3) The amounts shall be obligated and expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

(5) The amounts may be obligated and expended only if approved by the Committees on Appropriations of the House of Representatives and Senate in advance of any obligation or expenditure.

SEC. 130. (a) Section 450A(a) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) IN GENERAL.—There is established an emergency cash reserve fund ("emergency reserve fund") as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall make a deposit in cash each fiscal year of such an amount as may be required to maintain a balance in the fund of at least 2 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (a)(7).".

(2) Paragraph (2) is amended to read as follows:

"(2) OPERATING EXPENSES.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Repsort for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.".

(3) Paragraph (7) is amended to read as follows:

"(7) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the current fiscal year and 100 percent of the amount allocated or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.".

(b) Section 450A(b) of such Act (sec. 1–204.50a(b), D.C. Official Code) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) IN GENERAL.—There is established a contingency cash reserve fund ("contingency reserve fund") as an interest-bearing account, separate from other accounts in the general fund, into which the Mayor shall make a deposit in cash each fiscal year of such amount as may be required to maintain a balance in the fund of at least 4 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (b)(6).".

(2) Paragraph (2) is amended to read as follows:

"(2) OPERATING EXPENSES.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Report for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.".

(3) Paragraph (6) is amended to read as follows:

"(6) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the current fiscal year and 100 percent of the amount allocated or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.".

SEC. 131. For fiscal year 2005, the Chief Financial Officer shall re-calculate the emergency and contingency cash reserve funds amount established by section 450A of the District of Columbia Home Rule Act (D.C.

Official Code, sec. 1-204.50a), as amended by this Act, and is authorized to transfer funds between the emergency and contingency cash reserve funds to reach the required percentages, and may transfer funds from the emergency and contingency cash reserve funds to the general fund of the District of Columbia to the extent that such funds are not necessary to meet the requirements established for each fund, except that the Chief Financial Officer may not transfer funds from the emergency or the contingency reserve funds to the extent that such a transfer would lower the fiscal year 2005 total percentage below 7 percent.

SEC. 132. (a) Section 6 of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 (sec. 5–732, D.C. Official Code) is amended by striking the period at the end of the first sentence and inserting the following: ", and for the administrative costs associated with making such benefit payments.".

(b) The amendment made by subsection (a) shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 133. (a) CONTINUING AVAILABILITY OF AMOUNTS IN CHARTER SCHOOL FUND.—Section 2403(b)(1) of the District of Columbia School Reform Act of 1995 (sec. 38–1804.03(b)(1), D.C. Official Code) is amended by adding at the end the following new sentence: "Amounts in the Charter School Fund shall remain available until expended, and any amounts in the Fund remaining unobligated or unexpended at the end of a fiscal year shall not revert to the General Fund of the District of Columbia.".

(b) AVAILABILITY OF ADDITIONAL LOCAL FUNDS FOR CHARTER SCHOOL FUND.—Section 2403(b)(2)(A) of such Act (sec. 38–1804.03(b)(2)(A), D.C. Official Code) is amended by inserting after "District of Columbia," the following: "together with any other local funds that the Chief Financial Officer of the District of Columbia certifies are necessary to carry out the purposes of the Fund during the fiscal year,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 134. (a) CONTINUATION OF CERTAIN AUTHORITY OF CHIEF FINANCIAL OFFICER.—Section 2302 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 593), is amended by striking "September 30, 2004" and inserting "September 30, 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Emergency Wartime Supplemental Appropriations Act, 2003.

SEC. 135. (a) Section 106(b) of the District of Columbia Public Works Act of 1954 (sec. 34–2401.25(b), D.C. Official Code) is amended by striking paragraph (5).

(b) Section 212(b) of such Act (sec. 34–2112(b), D.C. Official Code) is amended by striking paragraph (5).

(c) The amendments made by this section shall apply with respect to quarters occurring during fiscal year 2005 and each succeeding fiscal year.

SEC. 136. (a) APPROVAL OF BONDS BY JOINT COMMITTEE ON JUDICIAL ADMINISTRATION.—Section 11–1701(b), District of Columbia Official Code, is amended by striking paragraph (5).

(b) EXECUTIVE OFFICER.—

(1) IN GENERAL.—Section 11–1704, District of Columbia Official Code, is amended to read as follows:

"§ 11–1704. Oath of Executive Officer

"The Executive Officer shall take an oath or affirmation for the faithful and impartial discharge of the duties of that office.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 17 of title 11, District of Columbia Official Code, is amended by amending the item relating to section 11–1704 to read as follows:

"11–1704. Oath of Executive Officer.".

(c) FISCAL OFFICER.—Section 11–1723, District of Columbia Official Code, is amended—

(1) by striking "(a)(1)" and inserting "(a)";

(2) by striking subsection (b); and

(3) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c).

(d) AUDITOR-MASTER.—Section 11–1724, District of Columbia Official Code, is amended by striking the second and third sentences.

(e) REGISTER OF WILLS.—

(1) IN GENERAL.—Section 11–2102, District of Columbia Official Code, is amended—

(A) in the heading, by striking "bond;";

(B) in subsection (a)(2), by striking "give bond," and all that follows through "seasonably to record" and inserting "seasonably record"; and

(C) by striking the third sentence of subsection (a).

(2) CLERICAL AMENDMENT.—The item relating to section 11–2102 in the table of sections for chapter 21 of title 11, District of Columbia Official Code, is amended by striking "bond;".

SEC. 137. Section 11–1728, District of Columbia Official Code, is amended to read as follows:

"§ 11–1728. Recruitment and training of personnel; travel

"(a) The Executive Officer shall be responsible for recruiting such qualified personnel as may be necessary for the District of Columbia courts and for providing in-service training for court personnel.

"(b) Travel under Federal supply schedules is authorized for the travel of court personnel on official business. The Joint Committee shall prescribe such requirements, conditions, and restrictions for such travel as it considers appropriate, and shall include policies and procedures for preventing abuses of that travel authority.".

(b) The table of sections for subchapter II of chapter 17 of title 11, District of Columbia Official Code, is amended by amending the item relating to section 11–1728 to read as follows:

"11–1728. Recruitment and training of personnel; travel.".

SEC. 138. (a) Notwithstanding any other provision of this Act, the amount of local funds made available under this Act for the Office of the Inspector General shall be the amount provided in the annual estimate of the Inspector General of the expenditures and appropriations necessary for the operation of the Office for fiscal year 2005, as prepared by the Inspector General and submitted to the Mayor of the District of Columbia under section 208(a)(2)(A) of the District of Columbia Procurement Practices Act of 1985 (sec. 2–302.08(a)(2)(A), D.C. Official Code).

(b) The Chief Financial Officer of the District of Columbia shall take such steps as are necessary to carry out this section.

Mr. FRELINGHUYSEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 65, line 5, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. TANCREDO. Mr. Chairman, I move to strike the last word to engage in a colloquy with the gentleman from New Jersey (Mr. FRELINGHUYSEN), the distinguished chairman of the Committee on Appropriations, Subcommittee on the District of Columbia, regarding a move by certain District of Columbia Council members to enact a bill that would give noncitizens the right to vote in local elections.

Mr. Chairman, passage of such a measure would eliminate one of the few remaining distinctions between noncitizens and citizens, and I firmly believe that it is not too much to ask that American citizenship be a prerequisite for voting in an American election. Therefore, I am opposed to the adoption of such a measure.

Mr. Chairman, it was my intention to offer an amendment that would prohibit implementation of such a measure. However, after receiving assurances from the gentleman from Virginia (Chairman TOM DAVIS) of the Committee on Government Reform that that measure would be overturned by Congress before it becomes law, I am satisfied that the amendment will no longer be necessary.

□ 1530

Mr. Chairman, is that your understanding of the situation?

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. TANCREDO. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Yes, it is. I wanted to thank my distinguished colleague for bringing this issue to my attention. Let me say from the onset that I am very sympathetic to the gentleman's position on the issue. It is my understanding that the Committee on Government Reform has a 30-day review period in which to approve or disapprove all legislative provisions enacted by the city council.

Mr. TANCREDO. I thank the chairman for working with me on the issue. I will not offer my amendment.

AMENDMENT NO. 2 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. HEFLEY:

At the end of the bill (before the short title), insert the following:

SEC. 139. Total Federal appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $5,600,000.

Mr. HEFLEY. Mr. Chairman, I rise again to offer an amendment to cut the level of funding in this appropriations bill by 1 percent. This equals about $5.6

million. This is not the biggest bill that we deal with. However, the increase in the bill is over 3 percent over last year. I do not mean this at all as a slap against D.C., our Nation's Capital, certainly not a slap against the committee, because as most Members are aware, I have offered a series of these amendments on the appropriations bills because I think we have to start drawing the line somewhere and some time.

The budget we have for next year is too large, and we can do something about the deficit now if we would start doing it. I would really be remiss, however, Mr. Chairman, if I did not commend the chairman and ranking member on a very difficult job that they have had to do; and, obviously, they have done a very excellent job of it as evidenced by the fact that we are not spending half a day on the D.C. bill down here, that they have worked out the problems beforehand.

So I commend them on a tremendous job that both of them and the committee have done. And it is many times a thankless job because most of the folks back home do not care what happens in the D.C. bill, and so it does not get them any great acclaim back home for the good job they are doing. But I would like to put in the record that they have done a good job.

Still, I do not think a cut of 1 cent on a dollar is too much to ask for or is unreasonable, given our current budget situation.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment.

Let me say, Mr. Chairman, I have watched the gentleman from Colorado (Mr. HEFLEY) stand on an appropriations bill, and I know his heart is in the right place; and, reluctantly, I do rise in opposition to his amendment.

The entire Federal portion of the bill is only $560 million. Within this total, the committee had to make some hard funding choices. It reduced a number of things that are key priorities to the Members of Congress and to the city's leadership. An additional 1 percent reduction in this bill would, I think, seriously hinder the District's ability to effectively manage its program at a time when the District government is sincerely making major improvements to its financial and program management.

I will not go through any examples, but I do rise in opposition. I understand where his heart is.

Mr. Chairman, I yield back the balance of my time.

Mr. FATTAH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wanted to say that I would like to commend the gentleman from Colorado (Mr. HEFLEY) for his great service to the House as chairman of the Committee on Standards of Official Conduct. I served with him for many years on the committee. I cannot find a way to support his amendment today; but if he were to offer, for instance, to reduce by even a greater percent the reconstruction dollars of 20 billion we sent to Iraq, I would be prepared to vote to cut those dollars. But here in the Nation's Capital I believe that there are too many needs to be met.

I still have great respect for my colleague. Colorado has a warm place in my heart. My wife is from Colorado; but I would oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 113, noes 309, not voting 11, as follows:

[Roll No. 398]

AYES—113

Akin
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Boehlert
Boozman
Bradley (NH)
Brady (TX)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Cannon
Carter
Chabot
Chocola
Coble
Cox
Crane
Cubin
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeMint
Diaz-Balart, M.
Doggett
Duncan
Everett
Feeney
Flake
Forbes
Fossella
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Goode
Goodlatte
Goss
Graves
Green (WI)
Gutknecht
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Jenkins
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Lewis (KY)
Linder
Manzullo
McCotter
McHugh
McInnis
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Norwood
Otter
Oxley
Paul
Pence
Petri
Pickering
Pitts
Platts
Ramstad
Rehberg
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Schrock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (WA)
Stearns
Stenholm
Strickland
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Toomey
Upton
Vitter
Wamp
Wilson (SC)

NOES—309

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Ballenger
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burr
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Cole
Conyers
Costello
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Granger
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stupak
Sweeney
Tauscher
Tauzin
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Buyer
Carson (IN)
Collins
Cooper
Ferguson
Harris
Isakson
Majette
Marshall
Matheson
Quinn

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1559

Ms. WATSON and Mr. LYNCH changed their vote from "aye" to "no."

Messrs. CHABOT, COX, BOOZMAN and BOEHLERT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. HARRIS. Mr. Chairman, on rollcall No. 398, I was unavoidably detained. Had I been present, I would have voted "no."

The CHAIRMAN. Are there any other amendments to the bill?

If not, the Clerk will read the last two lines.

The Clerk read as follows:

This Act may be cited as the "District of Columbia Appropriations Act, 2005".

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KLINE) having assumed the chair, Mr. BASS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, pursuant to House Resolution 724, reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 371, nays 54, not voting 8, as follows:

[Roll No. 399]

YEAS—371

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Farr
Fattah
Feeney
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—54

Bartlett (MD)
Berry
Biggert
Boehlert
Boswell
Coble
Cubin
Davis, Jo Ann
Deal (GA)
Deutsch
Duncan
Etheridge
Evans
Everett
Flake
Fossella
Franks (AZ)
Goode
Goodlatte
Goss
Graves
Gutknecht
Hayworth
Hefley
Hensarling
Herger
Hostettler
Jones (NC)
King (IA)
Manzullo
McDermott
McHugh
Michaud
Miller (FL)
Miller, George
Neugebauer
Norwood
Otter
Paul
Peterson (MN)
Petri
Rahall
Ramstad
Royce
Sensenbrenner
Simmons
Smith (MI)
Stearns
Stenholm
Taylor (MS)
Taylor (NC)
Tierney
Toomey
Wexler

NOT VOTING—8

Carson (IN)
Collins
Dunn
Ferguson
Isakson
Majette
Matheson
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KLINE) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

☐ 1618

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 857 AND H.R. 1078

Mr. SULLIVAN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 857 and H.R. 1078.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

RECOGNIZING 35TH ANNIVERSARY OF APOLLO 11 LUNAR LANDING

Mr. HALL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 723) recognizing the 35th anniversary of the *Apollo 11* lunar landing, and for other purposes.

The Clerk read as follows:

H. RES. 723

Whereas President John F. Kennedy set a goal of landing Americans on the moon and returning them safely to Earth;

Whereas the National Aeronautics and Space Administration (NASA) created the Apollo space program to fulfill the goal set by President Kennedy;

Whereas on July 16, 1969, the Apollo 11 mission launched into space to attempt the first manned lunar landing;

Whereas on July 20, 1969, at 10:56 p.m. eastern daylight time, astronaut Neil A. Armstrong ushered in a new era in space exploration when he stepped onto the lunar surface and declared, "That's one small step for man, one giant leap for mankind.";

Whereas Neil Armstrong, the mission commander, and fellow astronauts Michael Collins, the command module pilot, and Edwin E. "Buzz" Aldrin, Jr., the lunar module pilot, exemplified bravery and determination in successfully completing the mission;

Whereas the Apollo 11 mission demonstrated the technological abilities of the United States and established the United States as a leader in space exploration;

Whereas the Apollo 11 mission inspired further exploration of the universe and led to more than three decades of continued voyage and discovery; and

Whereas the Apollo 11 mission continues to inspire exploration as NASA envisions returning to the moon and eventually landing a person on Mars: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the 35th anniversary of the Apollo 11 lunar landing;

(2) commends the astronauts and other men and women of the National Aeronautics and Space Administration (NASA) whose efforts assured the success of the Apollo 11 mission; and

(3) supports the continued leadership of the United States in the exploration of space.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. HALL) and the gentleman from Texas (Mr. LAMPSON) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. HALL).

Mr. HALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on this day 35 years ago, two Americans stepped onto the surface of the Moon and ushered in a new era in space exploration. The astronauts of *Apollo 11*, Neil Armstrong, Buzz Aldrin, and Michael Collins, not only made history, they also fulfilled an American dream. Their successful Moon landing was the culmination of years of preparation by hundreds of thousands of people in government, in industry, and universities. And they became heroes to all Americans in the process.

In 1961, President John F. Kennedy laid out a goal of landing an American on the Moon and returning him safely to Earth. On July 16, 1969, NASA launched the *Apollo 11* spacecraft into orbit to fulfill this quest. The successful mission demonstrated the United States' technological and economic power, and it established our Nation as the leader in space exploration from that moment to the present.

During their walk on the Moon, Neil Armstrong and Buzz Aldrin took pictures, planted an American flag, and gathered rocks, tangible items to take back to Earth for posterity. They also gave the world a sense of wonder and awe and an enthusiasm about future space travel. Astronaut Neil Armstrong's first step on the lunar surface was indeed a "giant leap for mankind," but it was also a first step toward a new era of discovery and innovation.

The next three decades witnessed enormous strides in space exploration and research. Experiments conducted on the Space Shuttle and International Space Station expanded health research into our most threatening diseases. Microgravity experiments helped scientists fight infections, produce medicines to treat patients who have suffered from strokes, and combat osteoporosis. From the development of MRI technology to microchips, the scientific partnerships between NASA and American universities and companies continue to ensure our Nation's viability, increase our Nation's competitiveness, and help drive our economy.

As Buzz Aldrin said before Congress, the footprints on the Moon "belong to the American people, and since we came in peace for all mankind, those footprints belong also to all people of the world." Michael Collins told Congress, "Man has always gone where he has been able to go. It is that simple. He will continue pushing back his frontier, no matter how far it may carry him from his homeland. Someday, in the not too distant future, when I listen to an earthling step out onto the surface of Mars or some other planet, I hope to hear him say: 'I come from the United States of America.'"

We are the keepers of this dream. As we celebrate today's anniversary, we can also rekindle this vision. Venturing to the Moon, Mars and beyond is challenging, but our citizens have never shied away from a challenge. As a democratic people who look to the future for inspiration and solutions, we have a destiny to continue to lead in space travel. In a world marred by conflict, we can once again usher in an era of peaceful exploration.

Mr. Speaker, I reserve the balance of my time.

Mr. LAMPSON. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H. Res. 723.

It was 35 years ago that humans first walked on the Moon. It was a magnificent achievement and it is fitting that we in the House of Representatives pause to commemorate it today. The landing of Eagle at Tranquility Base was the culmination of a national effort that began in 1961 when a young, energetic President, John F. Kennedy, challenged America to achieve great things in space. America rose to that challenge and barely 8 years after President Kennedy said that we would go to the Moon by the end of the decade, we did.

Neil Armstrong and Buzz Aldrin took those historic first steps on July 20, 1969, while Mike Collins orbited overhead and all the world's population held its collective breath. Clearly Neil, Buzz and Mike had the "right stuff," as did the other Mercury, Gemini and Apollo astronauts and as do the astronauts who are serving in our Nation's space program today.

Yet it was not just the heroism and steel nerves of the astronauts that made Apollo a success. It was the efforts of tens of thousands of unsung heroes from government, industry and academia, namely the scientists, engineers, program managers, technicians and others who individually and collectively made it possible for 12 Americans to land on and explore the surface of the Moon between 1969 and 1972.

I was teaching physical science in a middle school during that time. The children in my classes, their eyes would light up when we would watch on television and discuss what was going on. The interest that developed from them was unimaginable. I know that it is what inspired so many of those young people to want to become the astronauts of today.

Neil Armstrong spoke his first words from the Moon to Mission Control in the Ninth District of Texas, where we have neighbors who worked on the Apollo program and some who participate in the space exploration efforts of today. That is where those kids that I taught went to work.

Last July, Glynn and Marilyn Lunney from my district brought their two grandchildren to my office to take a tour of this Capitol. In passing the statue of *Apollo 13* astronaut Jack Swigert downstairs, Mrs. Lunney said, "There's Jack." They knew who Jack was because Mr. Lunney had been a flight director on Apollo missions, including *Apollo 11*. The Lunneys are just a few of the many individuals in Texas' Ninth Congressional District whom I salute today.

The Lunneys' son started a company that took one of those spin-offs from the space exploration efforts to create a vagus nerve stimulator which saves the lives of people who are suffering from epilepsy and seizures today. So many wonderful things have come from that program.

Just beyond the fences of Johnson Space Center are reminders of the living legacy of NASA's pioneer programs in our community. The names of sports teams, local businesses, and even the streets that we drive display the impact of manned space flight. Today, I salute all southeast Texans involved in manned space flight, including Johnson

Space Center's civil service and contractor workforce of over 16,000 in Houston's bay area.

I am pleased to be an original cosponsor of this congressional resolution commemorating a shining achievement that is an inspiration to all they do. Yet I have to confess that I look forward to the day when we will not just be commemorating the past but will also be celebrating new accomplishments in space exploration.

The last Americans, indeed the last human beings, to venture out beyond low Earth orbit visited the Moon 32 years ago. It is time for Americans to get back to the Moon. And it is time for Americans to set out on voyages of exploration to all of the interesting places in our solar system. Robotic explorers have already blazed a scientifically productive trail, and they will continue to do so in the years to come, but I have no doubt that humans will, and should, follow.

I want America to lead that exploration effort, and I intend to work with the White House and my colleagues in Congress to craft an exploration program that all America will embrace. However, that is work for another day. Today is a day for commemorating the achievement of the Apollo team. I urge my colleagues to support this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science.

Mr. BOEHLERT. Mr. Speaker, I rise in support of this resolution, which I was proud to cosponsor with the gentleman from Texas (Mr. HALL). At this time of fiscal constraint and international discord, it is good to remember that brief moment in history when the entire world, together, collectively held its breath and watched as human beings stepped for the first time onto the surface of the Moon.

One sign of the success of the Apollo mission is that it is hard to conjure now just how strange and wondrous and awe-inspiring that moment was. Neil Armstrong's and Buzz Aldrin's steps were the culmination of millennia of human dreams and aspirations. Whatever else the Apollo program did, it fundamentally changed the human sense of the possible. It changed our sense of what was in reach.

I would point out that the Apollo program also changed our own sense of the planet. Those pictures of Earth as a blue dot revolving through empty space, those pictures of Earthrise, those pictures of an Earth whose air pollution could be picked up from miles into the heavens, with those pictures the Apollo program also brought home the preciousness of our own planet and its and our own fragility.

So I want to join with my colleagues today in trying to recapture that sense of excitement and wonder and awe that space travel evoked. I want to join in reminding Americans of the unique and courageous accomplishments of the Apollo astronauts and the scientists and engineers who worked behind the scenes. And I want to encourage us all to think through all the lessons of the Apollo program.

America must continue its ventures in space, manned and robotic. And we need to think about how to ensure that those ventures will enrich our culture, our scientific understanding, our sense of what it means to be human, and our ability to survive on our own planet.

The Apollo program has left us a remarkable legacy that we can respect best by continuing to debate its meaning.

Mr. LAMPSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, the name Buzz Aldrin is legendary in America's manned space flight program, but the name Buzz Lightyear may be better known today. "To infinity and beyond," Buzz Lightyear calls out in the movie "Toy Story" and everyone smiled. Buzz Aldrin actually did it.

Thirty-five years ago today, Buzz Aldrin commanded the lunar module during man's first landing on the Moon. Buzz Aldrin followed Neil Armstrong onto the lunar surface. It was a defining moment in world history and the entire world stopped what it was doing to watch. If you were alive on that day, you know where you were, what you were doing, and how good it felt to be an American.

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We were proud. The world was proud of us. For a few moments at least, the world was united. How we could use that today.

In part that is why this resolution is so important. It honors President John F. Kennedy for his vision and his leadership. JFK, not Captain Kirk, was the first to challenge us to go where no one had gone before. Kennedy inspired us to believe that we could do what was almost certainly impossible, and we did it.

This resolution honors the men and women of NASA. It honors Buzz Aldrin and every astronaut for their courage, sacrifice, and extraordinary service to this country and to humanity. I hope this resolution rekindles the spirit, enthusiasm, and hope embodied in a great moment for America and the world.

The world-renowned writer Arthur C. Clarke said, "The only way to discover the limits of the possible is to go beyond them into the impossible." In other words, to infinity and beyond.

Mr. HALL. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER), chairman of Space and Aeronautics Subcommittee.

Mr. ROHRABACHER. Mr. Speaker, on July 20, 1969, all humankind witnessed the greatest technological achievement in history: men setting foot on the Moon and then successfully returning to Earth. The tremendous accomplishment of those three men and, yes, of the United States of America, is remembered to this day. Neil Armstrong, Buzz Aldrin, Mike Collins stand as shining examples of courage and technological genius, along with those many people in NASA that helped them and were on that trip with them, every second of the journey. We honor the people of NASA who were responsible for this great achievement, and we honor these three brave astronauts for their heroism in taking that one giant leap for mankind 35 years ago.

On reflection, that day in history represented more than man's mastery of science and engineering. Rather, NASA's success in this endeavor has given us a sense of unlimited potential for our Nation and the world. Buzz Aldrin said it best when he observed, "The significance of what we did was not embodied in the few rocks that we brought back or what we saw . . . But the significance really was the impact we had on millions of people around the world." And, yes, millions of people in the United States.

Now we have the opportunity today to repeat history with President Bush's vision for space exploration. I believe there are young people who will be just as inspired by this great quest as those were by the first Moon landing.

Thus, the occasion that we celebrate today also forces us to look forward. As President Bush pointed out last year following the tragic loss of the Space Shuttle *Columbia*, "This cause of exploration and discovery is not an option we choose. It is a desire written in the human heart. We are that part of creation which seeks to understand all of creation. We find the best among us, send them forth into unmapped darkness, and pray they will return. They go in peace for all mankind, and all mankind is in their debt." That was President Bush.

Today we look back and honor this great achievement of 35 years ago and commend the astronauts and the others who were responsible for this great achievement. But also today we are looking forward to a path ahead and a recommitment ourselves to America's leadership in the exploration of space and America's leading humankind to conquer this new frontier.

Mr. LAMPSON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to thank the distinguished gentleman from Texas, who has the pleasure of representing Johnson's Space Center, for his great leadership. There has not been a moment that he has not been committed to the progress and future of that great center along with so many others.

What does one say about the gentleman from Texas (Mr. HALL), who has led us in science for so many years? I am delighted to join him in this resolution.

And might I say the proud fact is that this resolution is a bipartisan resolution. It recognizes that space is bipartisan. And might I just emphasize now 35 years later the great debt of gratitude that we owe to Neil Armstrong and Buzz Aldrin and Michael Collins because I do not know if we understand that they were, in fact, are the very first humans to step on a planet outside of Earth's atmosphere. They were the very first humans, and in essence we can call them the true explorers who went into another atmosphere, another planet. The many things that we look at on television, science fiction, these individuals actually did do it.

But I think these words are so very important and prominent as they laid this plaque after 2 hours and 11 minutes: "Here men from Planet Earth first set foot upon the Moon July 1969 AD. We came in peace for all mankind." These words should be forever prominent in our mind: they came in peace for all mankind.

That is why I rise today to join in celebration of H. Res. 723. I believe that Buzz and all of them, Neil and Michael, would be very proud that since they landed, women have gone into space, African Americans, Hispanics, people from foreign lands have all gone together in peace. That is what it represents.

It is interesting that this young man, this young man who defined Camelot in 1961, John F. Kennedy, a Democrat, spoke to the world and the Nation; and he did not raise up a partisan flag about space. He joined all of us as Americans. That is why we rise today because this is, in fact, an American Dream, an American cause.

I too salute all of those who work for NASA all over the Nation in the space centers all around the country, whether it is in Huntsville, whether it is in Mississippi or California or Florida, and particularly those at the Johnson Space Center, some 16,000 employees strong. I salute them. And the reason I do that is because they do not wear a partisan hat. They realize that space is important.

Let me say, however, Mr. Speaker, that as we take risks and we recognize risks are important, let us be cognizant of the importance of safety. And I realize that those who were willing to take risks in those early days also valued their intellect, their courage, what they valued, the men and women on the ground who were on the cutting edge of making sure that it was as safe as it could be in that time frame. It is now our obligation to likewise look to the future, the President's new proposal, and ensure that not only do we move forward on Mars exploration, that we do it in a safe manner, that we make sure that the international space station is safe, we make sure that the human space flight is safe, because that is what this whole effort is about.

1969 was the ending of a troubling time in America. In 1968 we saw the assassination of Robert Kennedy. We saw the assassination of Martin Luther King. Yet this country could still dream. We came together, all of us from all parts of this Nation. No matter whether we lived in the South or the North, no matter whether we were still crying and still feeling the pain of the assassinations of those great Americans, we came together when we saw those young men go off into space because it was an American cause. That is the dream and the hope that I hope we will implement as we move forward in the Mars exploration.

I would caution those in business and my colleagues to not make the Mars program a partisan issue. Do not make it where they are leaving out those of us who are supporters of space and space exploration who happen to be Democrats. Space, Mars, the Moon, and celebration of all of us goes beyond political grandstanding. And I would hope no matter what administration will be in after November that we will have the opportunity as Americans to watch us join hands together to be able to celebrate the excitement of space. I am gratified that the Internet, that new research dealing with health care all came about through space, communications all came about through our space exploration. We can do this, and we can do it together.

Might I also suggest that we owe a debt of gratitude to the *Challenger* families and to *Columbia 7*. And might I, in respect of *Columbia 7*, say to my colleagues that the families of those who were lost in *Columbia 7* stood up and said that the space program must go on. Is that not what America is all about? I would simply say on their tribute and testimony, I hope we will not leave this session without honoring them by the resolution that we have offered, many sponsors that have offered to provide a gold medal for the *Columbia 7*, 300 sponsors and many on the Senate side. That is how we honor all of those who have served, doing it unified in a nonpartisan way. We do it as Americans.

My hat is off to *Apollo 11*. May the blessings be upon them. They are great Americans. God bless them and God bless the United States.

Thirty-five years ago a revolution was started. Neil Armstrong and Buzz Aldrin—backed by Mike Collins, and a huge team of engineers and scientists from NASA and academia and industry—walked on the moon. It was a spectacular achievement by the crew of Apollo 11, that capped off an equally impressive eight years of research, development, and innovation. But when I say they started a revolution, I am not just talking about what they accomplished in space. I am thinking about the impact they made here on Earth.

The Apollo mission inspired a generation of intellectual pioneers and dreamers like nothing else could. Children, and young adults not afraid to think like children, sat awe-struck watching these guys bounding around on the moon, and then ran off to join science programs, and math programs, and engineering programs. They wanted to be part of something noble and great. The vast majority of those people did not end up in space, but veered off to go into other branches of physics or scientific research, or high-tech industries.

I have met with so many researchers from the great medical research labs at the Texas Medical Center in Houston, or CEOs in biotech or communications or internet companies, who have told me that it was the success of the Apollo mission that drove them to reach the heights they have reached. Many have theorized that indeed it was NASA and the Apollo mission that made possible the U.S. domination in science and industry, that changed America and the world in the 80s and 90s.

It was a bold investment, and we are still reaping the rewards.

But it could have gone much differently. Space travel is inherently dangerous. The team at NASA overcame tremendous obstacles of all sorts, and turned science fiction into science in under a decade. It truly shows the power of the American spirit, when appropriately applied.

Mr. Speaker I commend my colleague form Texas, Mr. HALL and the Chairman of the Science Committee on which I serve, as well as Ranking Member LAMPSON of the Space Subcommittee, for their leadership in giving space exploration the attention it deserves today. I hope that this resolution, and all of the celebrations of this exciting anniversary, will help re-kindle the American passion for the NASA manned-space mission. This week, as the Appropriations Committee is considering the future of the NASA budget, I hope we can all remember the tremendous dividends that our investment in NASA makes.

NASA and Johnson Space Center have touched the people of Houston in so many ways. I will continue to be a strong supporter of NASA even as I work with my colleagues in the Science Committee to make NASA missions safer. I will continue to push for my bill H.R. 525, which would honor the fallen crew of the Shuttle Columbia with the Congressional Gold Medal. With over 300 co-sponsors, it would be sad to see this Congress adjourn without showing our appreciation for those astronauts, who made the ultimate sacrifice to advance this nation. Working together, we can keep NASA moving forward into space, for the good of the American people, and the world.

We humans are truly at our best when we are working together toward peaceful and noble goals. The Apollo lunar landing 35 years ago truly was the epitome of such peaceful and noble pursuits. My hat is off to the Apollo team, and their surviving families, and to the entire NASA community, for their spectacular contribution to our today, and to our future.

Mr. HALL. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FEENEY), another member of the Space and Aeronautics Subcommittee.

Mr. FEENEY. Mr. Speaker, I thank the gentleman from Texas (Mr. FEENEY) for his great leadership over many years of space.

Mr. Speaker, today's Florida Today editorial started out by saying this: "On July 20, 1969, humanity changed forever. The moment the boot of astronaut Neil Armstrong touched the surface of the Moon, the future of humanity no longer was tethered to Planet Earth." And, indeed, 35 years ago a mesmerized Nation and a mesmerized world watched as Americans landed on the moon. Today we celebrate that accomplishment.

Looking back at the history of the Cape, the human space flight program began in June, 1959, when a Mercury boilerplate capsule was brought down for a test flight called Big Joe, when NASA needed tools at that time, they went to Sears Roebuck in Orlando. They used a flatbed truck, a wooden cradle, and mattresses to transport the Mercury capsule to the launch pad. Just a few years later, Saturn V rockets, the largest rocket ever built, were assembled in the Vehicle Assembly Building, the second largest building in the world, and transported 3 miles by the Crawler Transporter, then the largest tracked vehicle in the world.

Thousands of men and women viewed Apollo as a calling and not just a career. They overcame the tragedy of *Apollo 1*, guided *Apollo 11* through some frightening moments during descent to the lunar surface and shortly after landing, and brought home a crippled Apollo 13 safely.

Inspired by what they witnessed on television, hundreds of thousands of children dedicated themselves to math and to science, thereby giving birth to many of today's science and engineering leaders.

Unfortunately, *Apollo* was not designed to sustain itself forever. By the end of 1972, mankind retreated to spaceflight around the Earth.

America now possesses a great vision for space exploration under which we will become a spacefaring people once again. We will undertake a paced, sustainable, and affordable journey that breaks free from merely orbiting the Earth. We will not be fixated on a destination and a timetable, but rather pursue an evolving program of exploration and science.

Along the way we, like all explorers, will be surprised by our discoveries. We will unleash the imaginations and talents of thousands of aerospace professionals, reminding all of them why they chose their calling.

Earlier this year, Americans watched in awe as the pictures from Mars came back from the Mars Rovers. In a few months, thousands will line the banks of the Indian and Banana rivers to watch the Shuttle once again return to space. We are a restless, inquisitive, pioneering people. We yearn to go.

Mr. Speaker, I include the full editorial from Florida Today for the RECORD.

[From Florida Today, July 9, 2004]

READY FOR NEW GOALS

On July 20, 1969, humanity changed forever.

The moment the boot of astronaut Neil Armstrong touched the surface of the moon, the future of humanity no longer was tethered to planet Earth.

Thirty-five years ago today, as millions worldwide watched televised images transported more than 250,000 miles through space, a silent but mighty shift roiled the river of history.

Humankind had become residents of the solar system.

The question now is, will America return to that path of manned exploration and discovery? Or be satisfied to rest on great deeds of the past, reported on the yellowing pages of crumbling newspaper?

For those who remember, that magnificent day and the four fantastic years that followed made up an odyssey that dwarfed all other human efforts.

Historians called the human exploration of the lunar surface mankind's greatest technological achievement.

That claim would get no argument from those lucky enough to have lived in Brevard County in those breathtaking times.

The vigorous, patriotic and enthusiastic space workers who poured into this county through the 1960s helped turn Brevard from a backwater into the single spot on the globe from which man has journeyed to another celestial body.

They came in response to a challenge by an equally vigorous president, John F. Kennedy, who in 1961 declared it was "time for this nation to take a clearly leading role in space achievement, which in many ways, may hold the key to our future on earth."

The goal was clear: The United States must, "before this decade is out," land a man on the moon and return him safely to the Earth.

Those words triggered a serendipitous combination of the leader, the people and the times, to launch a technology that altered our world.

From communications and telemetry to computers, what came to be known as the Apollo project generated knowledge that sent the national economy on a long road of technological innovation that reverberates today.

Not surprisingly, Brevard in those years averaged among the highest of any U.S. county in levels of educational achievement, creating a legacy of interest that's reflected today in Brevard schools' strong performance in science and math.

Locally and nationally, the benefits of the Apollo remain immeasurable.

That's why it's incredible that for more than 30 years, the moon's cold surface has not felt another human step.

What might science have discovered, 35 years after Armstrong and fellow astronaut Buzz Aldrin made those giant lunar leaps, if the nation had continued that dazzling trajectory of human exploration, instead of letting the banner fall?

Such a softening of national purpose must not—must never—be the story of the American future.

Mr. LAMPSON. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman for yielding me this time.

I join my colleagues in congratulating the gentleman from Texas (Mr. HALL) and the gentleman from Texas (Mr. LAMPSON) for bringing this important resolution to the floor.

As we have heard, 35 years ago today, the Apollo 11 mission landed on the Moon, and in that short 8-day mission we accomplished miraculous goals, and that mission has stood to inspire us for many years since.

I am also reminded that on the same date in the 1970s, the Viking Mars Lander, the first time we reached Mars, also in penetrating our solar system, July 20, holds a special significance for us.

As many of my colleagues have mentioned here, we have an opportunity now to rekindle that spirit, and that is certainly the intent, I think, of this resolution, as I look at my good friends from Texas. And I know that Buzz Aldrin and Michael Collins and Neil Armstrong together would say it is on our shoulders to reinvigorate and lead NASA into this new century. And I look forward, as I stand here today, to working with a bipartisan group in the House with the gentleman from New York (Chairman BOEHLERT) and the gentleman from Tennessee (Mr. GORDON), ranking member, with the NASA leadership, with the private sector, and with the public that has shown great interest to ratify a new vision for this century and to put the energy and the resources in place to implement that new vision.

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That new vision can, like President Kennedy's challenge in 1961, begin a new age of space exploration, inspire our Nation's youth to pursue math, science and engineering and stimulate our U.S. aerospace industry and underline the fact that we are a great Nation that has shown leadership in many, many sectors, including this important area.

So again I want to join my colleagues in endorsing this very important resolution to honor the men and women who so gallantly have gone into outer space

Mr. HALL. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. ADERHOLT), a member of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations, which oversees the Space Station, and one of the major leaders in the space thrust.

Mr. ADERHOLT. Mr. Speaker, I thank the gentleman from Texas for his leadership on this issue and for his leadership here in the Congress on this issue of space exploration for many years.

Today, it has already been mentioned that we celebrate the accomplishments of NASA's Apollo 11 mission. Of course, it was back in 1961 that President Kennedy challenged NASA to meet the goals of sending people to the Moon and back. It was an exciting day only 8 years later when Neil Armstrong, Buzz Aldrin and Michael Collins represented all Americans when the first human steps were taken on the Moon.

President Bush has issued a new challenge for NASA, the vision for space exploration. I wholeheartedly support NASA in this endeavor, and I encourage my colleagues to do the same. NASA is important to this country's economic well-being, and it inspires our children to dream of distant worlds that they may actually see in their lifetime. It may be one of our children or one of our grandchildren who take the first steps on Mars.

Although achieving the President's new vision may be some years in the future, we should all be aware of the many benefits and the spin-offs from NASA that reach all citizens of the United States, including those in each of our districts every day.

NASA-inspired communications satellites connect the world. Other NASA-launched satellites enable weather forecasters to track hurricanes, wildfires, volcanoes, and also assist emergency workers in those areas to prepare ahead in time of events that could have devastating impacts. The NASA power source used to separate the solid rocket boosters from the Space Shuttle is used in Lifeshears, a rescue tool which quickly cuts debris to free victims when they have been in accidents.

NASA has also made tremendous contributions to the medical field. NASA, technology first used to monitor the health of astronauts in space, has enabled health workers in today's hospitals to monitor many patients. One NASA researcher realized that his work study in small particles suspended in liquids could possibly help to detect cataracts, a condition that his father had suffered from. Now the instrument he designed is being adapted to identify other eye diseases, diabetes, and possibly even Alzheimer's.

Another NASA researcher, driven by his own hearing problem, used expertise that he had gained as an electronics instrumentation engineer at NASA's Kennedy Space Center to develop the Cochlear Implant. This device has restored hearing for thousands and allowed others born deaf to hear for the very first time.

A silicone chip originally developed for the Hubble Space Telescope makes breast cancer screening less painful, less expensive, and results in less scarring than the traditional biopsy.

If that is not enough for you to support NASA's budget, consider their dedication to the youth of this Nation. NASA-sponsored or cosponsored programs such as the Student Launch Initiative, the Annual Moonbuggy Race and the Team America Rocketry Challenge reach out directly to our young people and inspire them to look within themselves to invent, create, dream and strive for accomplishments.

NASA's Explorer Schools Programs have touched hundreds of minority and poverty-stricken communities to help educators in those systems with grants, materials, teaching guides and support for their math and science programs. NASA continues to benefit students even after they reach the college and university level through numerous grants, fellowships and programs.

Through these and other programs, NASA and Vision for Space Exploration will inspire this Nation's youth, motivating future generations to study math, science and engineering. The work these young people will aspire to assists them to reach dreams beyond their imagination. What better memorial could there be for the noble astronauts who have given their lives in pursuit of space and exploration than to create a brand-new generation of explorers and visionaries?

As I have detailed here, all citizens of the United States of America benefit in some way from NASA, whether from the thousands of jobs that were created in support of the programs, the commercial spin-offs from the research and technology developed, or by the impact of our young people through NASA's education initiative.

I hope my colleagues this afternoon will join me as we look forward to supporting NASA's budget for fiscal year 2005 and as we celebrate the 35th anniversary of the *Apollo* mission.

Mr. LAMPSON. Mr. Speaker, I yield 5 minutes to my friend the gentlewoman from Dallas, Texas (Ms. EDDIE BERNICE JOHNSON), another active member of the Committee on Science.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, allow me to thank the gentleman from Texas (Mr. LAMPSON) and the gentleman from Texas (Mr. HALL) for getting us to this point.

I rise in support of their resolution, H. Res. 1723, recognizing the 35th anniversary of the *Apollo 11* lunar landing. I am proud to be a cosponsor.

Apollo 11 was the first mission in which humans walked on the lunar surface and returned to Earth. On July 20, 1969, two astronauts, *Apollo 11* Commander Neil Armstrong, whom I saw on television this morning, and LM pilot Edwin E. "Buzz" Aldrin, Jr., landed in the Mare Tranquilitatis, the Sea of Tranquility, on the Moon in lunar module, while the Command and Service Module continued in lunar orbit.

During their stay on the Moon, the astronauts set up scientific experiments, took photographs and collected lunar samples. The lunar module took off from the Moon on July 21, and the astronauts returned to Earth on July 24.

The performance of the spacecraft was excellent throughout the mission. The primary mission goal of landing astronauts on the Moon and returning them to Earth was achieved.

The space exploration research program has been one of the most successful research programs in the history of this country. The space program has yielded many life-saving medical tests, accessibility advances for the physically challenged and products that make our lives more safe and enjoyable.

Specific technological advances made possible by space research include arteriosclerosis detection, ultrasound scanners, automatic insulin pumps, portable x-ray devices, invisible braces, dental arch wire, palate surgery technology, clean room apparel, the implantable heart aid, MRI, bone analyzer, and cataract surgery tools, to name some of them.

I also know that over 40 years ago, the foresight of persons that came along before us caused us to get into this type of research. We also owe those leaders some homage for their foresight, and I am hoping we will then have the foresight to continue this type of research.

Mr. HALL. Mr. Speaker, I yield the balance of my time to the gentleman from Florida (Mr. WELDON). Cape Canaveral is in his district. He is a longtime member of the Committee on Science and Subcommittee on Space, and is now a member of the Committee on Appropriations.

Mr. LAMPSON. Mr. Speaker, I yield 1 minute to the gentleman from Florida.

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Florida (Mr. WELDON) is recognized for 4 minutes.

Mr. WELDON of Florida. Mr. Speaker, I am honored that the gentleman from Texas (Mr. HALL) would allow me the balance of the time, and thank the gentleman from Texas (Mr. LAMPSON) for yielding as well.

Today, July 20, marks the 35th anniversary of the historic *Apollo 11* lunar landing. President Kennedy set us on a race against the Soviet Union to land a man on the Moon and return them safely to Earth. America obviously rose to this challenge and succeeded beyond our expectations.

All Apollo missions were comprised of a crew of three men. *Apollo 11* had Mission Commander Neil Armstrong, Lunar Module Pilot Buzz Aldrin and Command Module Pilot Michael Collins. All three carried the hopes and prayers of a Nation on the greatest mission of exploration since the dawn of mankind.

The Apollo lunar mission comprised of three main components: the massive

Saturn 5 booster, the command module and the lunar module. The Saturn 5 was and still is the most powerful rocket ever built. At lift-off, it contained 5.6 million pounds of propellant. At 363 feet tall, the mighty Saturn 5 stood 60 feet taller than the Statue of Liberty. One of the Saturn 5's main engines was more powerful than 30 diesel locomotives. Take that, Superman.

On the morning of July 16, the *Apollo 11* Saturn 5 lifted off from Launch Complex 39A at the Kennedy Space Center with a total of 7.5 million pounds of thrust. Twelve minutes, later Armstrong, Aldrin and Collins were in Earth orbit and well on their way to the Moon.

After 1½ orbits, they broke away from Earth's gravity and Command Module *Columbia* and went off with the Lunar Lander Eagle on their great mission of exploration.

President Nixon at the time heralded the mission as the most historic week since creation. Apollo not only enabled manned exploration of the Moon, but enabled the construction and operation ultimately of America's first space station, Skylab.

The name of the command module was, of course, Columbia, the same name as our first Space Shuttle. In February of 2001 we lost *Columbia* and her brave crew. One of the findings of the Columbia Accident Review Board was that NASA needed a new overarching mission, much like it had during Apollo.

President Bush has agreed, and we now have a vision for NASA that calls for picking up the mantle of Apollo and returning Americans to the Moon. First, we will return the Space Shuttle to flight, complete the International Space Station, and once again break away from low Earth orbit and return to the Moon.

Today, with this resolution, we honor that great work of the past, and I am honored to be able to rise and speak in support of this legislation.

Mr. Speaker, I just want to share one additional thing. I practiced medicine for 15 years before I was elected to this position representing Florida's Space Coast, and one of the greatest honors and pleasures was to have the working people who made the Apollo program a success coming in to see me and the sense of tremendous pride they had in having been a part of that process.

So we here today are not just honoring Aldrin and Armstrong and Collins, but all the people at Johnson Space Center and Marshall Space Flight Center, the rank-and-file people.

I remember a great story. Once, I think it was President Johnson, asked a custodian at Johnson Space Center what he did, and he said, "I am putting a man on the Moon." We are acknowledging that great anniversary today.

Mr. LAMPSON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to thank the gentleman from Texas (Mr. HALL) for sponsoring this bill and for allowing me to join him and all of those who spoke.

The gentleman from Florida (Mr. WELDON) is so very right about the people who made this happen. When we sat here on Earth, I guess I can put it in the context of what is happening today.

When I come to this floor of the House of Representatives, it is such a magnificent thrill to me. I cannot imagine the thrill that it must have been to Neil, Buzz and Mike and all those other folks who went up there. When they were standing on the Moon, they took with them the hopes, the dreams, the breath of millions of Americans; not just the thousands who helped them get there, because it took a tremendous team to make it happen, but a little bit of piece of each one of us went up there with them.

We thank them for those feelings, we thank them for the magnificent advances to humankind that they gave to us. What a wonderful way to commemorate them.

Mr. Speaker, I urge passage of H.R. 723.

Mr. Speaker, I yield back the balance of my time.

Mr. DELAY. Mr. Speaker, at 10:56 p.m., Eastern Daylight Time, 35 years ago tonight, the United States achieved the greatest single feat of ingenuity in human history when Neil Armstrong stepped onto the surface of the moon.

In the three and a half decades that have passed since that awesome night, an entire generation of humanity has been born never knowing a time before the *Apolo 11* mission.

And while this is the necessary and proper way to human progress, those of us who remember staying up that night, glued to the living room television—our muscles tired from tension and fear and anticipation—we know what our children have missed.

In the last 35 years, space travel has been made—because of the brilliance and courage of NASA—into something seemingly almost routine. but those of us who were there 35 years ago know it is not—and never was—routine. Space exploration, then and now, represents the apex of humanity's quest for knowledge and of every obstacle standing between us and the unknown.

For thousands of years, mankind dreamed of what it would be like to fly birds, and then in less than 70, the people of Earth got from Kitty Hawk to the moon. "One giant leap" indeed.

Thirty-five years ago, the world stopped to watch and listen—to learn—as two men walked into history. Neil Armstrong, Buzz Aldrin, and Michael Collins command as much respect today as they did when they left their footprints on the lunar surface, and it is for us—we who remember—to not let those who do not, every forget.

A generation of Americans have been inspired by what they saw 35 years ago. What will our children remember of us 35 years from now? Will we have sought our great challenges, sought to take the next "giant leap for mankind"? Will we have dared mighty deeds to leave our own footprints on history?

There can be only one truly American answer to that question, and it was answered for all times by the men of *Apollo 11*.

Mr. CRAMER. Mr. Speaker, as we celebrate the 35th Anniversary of the *Apollo 11* mission this week, I rise to pay tribute to the achievements of the past, and to urge my colleagues to set our sights on the potential of the future.

The historic steps taken by Neil Armstrong and Buzz Aldrin 35 years ago will be remembered by future generations as one of the greatest accomplishments of the 20th Century. While these steps were taken on another world, they were born right here on Earth. That was an exciting time in my district in North Alabama, which is the home of NASA's Marshall Space Flight Center, and the von Braun rocket team. Wernher von Braun, Marshall's first Director, led the development of the roadmap for putting humans on the Moon. Through bold thinking, ingenious engineering, and a lot of good old-fashioned hard work, NASA's engineers and scientists built the colossal Saturn V—a rocket powerful enough to take our astronauts out of the tight grasps of Earth's gravity.

Apollo 11 established the U.S. as the world's leader in space and boosted our economy with technology and innovation. But the most important benefit realized from the *Apollo 11* moon landing may have been the effect it had on the children of that era—it inspired them—us—to dream—to reach for the starts. Like generations before, those who come after us have an inherent desire to explore the unknown.

It is appropriate during this special week for us to give consideration to the future of space exploration, which has been put before us in NASA's new space exploration vision. It begins with the return to flight of the Space Shuttle, and the completion of the ISS as a unique scientific laboratory. It includes the robotic exploration of our solar system and the universe beyond. And it includes the extending of human exploration beyond Earth's orbit—first to the Moon, and then ultimately onto Mars.

To be sure, realizing such a vision will require advances in space transportation systems. But advances in transportation have always opened new frontiers for our civilization. Examples include the first ocean-crossing ships of the New World explorers, the stage coaches and trails of the Great American West, the first transcontinental steam locomotives, the first automobiles off the assembly line, the flight of the Wright Brothers, and the historic escape of the Earth's gravity by the Apollo program. During the era, each of these advances required valuable resources and an unusually high degree of risk-taking, but the return on investment, unpredictable at the time, turned out to be tremendous. Each of these advances would ultimately change the very fabric of our society.

Mr. Speaker, I would also like to take a few seconds to highlight some results from a Gallup poll on Space Exploration that was just released yesterday.

According to this Gallup poll, over two-thirds of the respondents are interested in America's space program, and only 11% were not interested at all. A majority of the adults surveyed—68%—agree that it is important for the Nation to have a space program that uses both human and robotic exploration. Almost two-thirds of the adults surveyed believe that space exploration should be funded at or above the current level. And 68% of the public supports the space exploration vision, at the funding level of 1% of the Federal budget.

So you see that while we stand here today to honor the epic accomplishments of the past, Americans look forward to realizing the great achievements of the future. Mr. Speaker, I close by extending my congratulations to the many people across our Nation who had a hand in that historic mission 35 years ago.

Today, as Americans, we remember *Apollo's* race to the Moon with pride, wonder, and awe. And we look forward to many more missions of extraordinary achievement and discovery from our Nation's space program.

Mr. OXLEY. Mr. Speaker, I rise today to remember the *Apollo 11* mission and honor a native of the 4th district of Ohio, Neil Armstrong. As mission commander, Armstrong was first to step on the lunar surface at 10:56 p.m., EDT on July 20, 1969. His immortal words—"That is one small step for man, one giant leap for mankind"—will resonate in our hearts and minds forever.

Neil Alden Armstrong took his first steps in Wapakoneta, Ohio. Born to Stephen and Viola Armstrong, Neil developed an early interest in flying. At age six, he took his first airplane ride in Warren, Ohio in a Ford Tri-Motor plane nicknamed the "Tin Goose". He began taking flying lessons at the age of fifteen and had his student pilot's license before graduating from Blume High School in 1947.

While in college at Purdue University, he was called up for active duty in the Navy and was sent to Korea as an aviator. During the war, he flew seventy-eight combat missions from the aircraft carrier USS Essex. Following the war, Armstrong joined the National Advisory Committee for Aeronautics and was sent to the Lewis Research Center near Cleveland, Ohio (today the Glenn Research Center) where he was an engineer and test pilot. At Lewis and later at NASA's Flight Research Center in Edwards, California, Armstrong flew over 200 different models of aircraft while pursuing a master of science degree in aerospace engineering from the University of Southern California.

In 1962, Armstrong was transferred to astronaut status and moved to El Lago, Texas, where he underwent four years of training for the Apollo program. He commanded his first space mission as pilot for *Gemini VII*, but his most famous mission came when *Apollo 11* launched on July 16, 1969. Armstrong and the two other astronauts, "Buzz" Aldrin and Michael Collins, spent eight days in space and 2½ hours on the Moon's surface.

For his work as an astronaut, Armstrong received the Medal of Freedom, the NASA Distinguished Service Medal, the NASA Exceptional Service Medal, and the Congressional Space Medal of Honor. Neil Armstrong went where no one had gone before and helped our Nation become the leader in space exploration. This man from rural Ohio paved the way for generations to continue to explore and dream of the far reaches of our universe. As our Nation embarks on future space travels, we need to take time to honor those explorers who carved out a new path for us to follow.

☐ 1700

The SPEAKER pro tempore (Mr. KLINE). The question is on the motion offered by the gentleman from Texas (Mr. HALL) that the House suspend the rules and agree to the resolution, H. Res. 723.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 723, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2443, COAST GUARD MARITIME TRANSPORTATION ACT FOR 2004

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–618) on the resolution (H. Res. 730) waiving points of order against the conference report to accompany the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY ACT

Mr. PLATTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4259) to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

The Clerk read as follows:

H.R. 4259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Department of Homeland Security Financial Accountability Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Influential financial management leadership is of vital importance to the mission success of the Department of Homeland Security. For this reason, the Chief Financial Officer of the Department must be a key figure in the Department's management.

(2) To provide a sound financial leadership structure, the provisions of law enacted by the Chief Financial Officers Act of 1990 (Public Law 101–576) provide that the Chief Financial Officer of each of the Federal executive departments is to be a Presidential appointee who reports directly to the Secretary of that department on financial management matters. Because the Department of Homeland Security was only recently created, the provisions enacted by that Act must be amended to include the Department within these provisions.

(3) The Department of Homeland Security was created by consolidation of 22 separate Federal agencies, each with its own accounting and financial management system. None of these systems was developed with a view to executing the mission of the Department of Homeland Security to prevent terrorist attacks within the United States, reduce the Nation's vulnerability to terrorism, and minimize the damage and assist in the recovery from terrorist attacks. For these reasons, a strong Chief Financial Officer is needed within the Department both to consolidate financial management operations, and to insure that management control systems are comprehensively designed to achieve the mission and execute the strategy of the Department.

(4) The provisions of law enacted by the Chief Financial Officers Act of 1990 require agency Chief Financial Officers to improve the financial information available to agency managers and the Congress. Those provisions also specify that agency financial management systems must provide for the systematic measurement of performance. In the case of the Department of Homeland Security, therefore, it is vitally important that management control systems be designed with a clear view of a homeland security strategy, including the priorities of the Department in addressing those risks of terrorism deemed most significant based upon a comprehensive assessment of potential threats, vulnerabilities, criticality, and consequences. For this reason, Federal law should be amended to clearly state the responsibilities of the Chief Financial Officer of the Department of Homeland Security to provide management control information, for the benefit of managers within the Department and to help inform the Congress, that permits an assessment of the Department's performance in executing a homeland security strategy.

SEC. 3. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

"(G) The Department of Homeland Security.".

(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a

Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—An individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the enactment of this Act, or another person who is appointed to replace such an individual in an acting capacity after the enactment of this Act, may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

(d) CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesignating subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

"(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code."; and

(B) in section 702 (6 U.S.C. 342) by striking "shall report" and all that follows through the period and inserting "shall perform functions as specified in chapter 9 of title 31, United States Code, and, with respect to all such functions and other responsibilities that may be assigned to the Chief Financial Officer from time to time, shall also report to the Under Secretary for Management.".

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (C) through (H) in order as subparagraphs (B) through (G).

SEC. 4. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) PERFORMANCE AND ACCOUNTABILITY REPORTS.—Section 3516 of title 31, United States Code, is amended by adding at the end the following:

"(f) The Secretary of Homeland Security—

"(1) shall for each fiscal year submit a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security;

"(2) shall include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting; and

"(3) shall design and implement Department-wide management controls that—

"(A) reflect the most recent homeland security strategy developed pursuant to section 874(b)(2) of the Homeland Security Act of 2002; and

"(B) permit assessment, by the Congress and by managers within the Department, of the Department's performance in executing such strategy.".

(b) IMPLEMENTATION OF AUDIT OPINION REQUIREMENT.—The Secretary of Homeland Security shall include audit opinions in performance and accountability reports under section 3516(f) of title 31, United States Code, as amended by subsection (a), only for fiscal years after fiscal year 2005.

(c) ASSERTION OF INTERNAL CONTROLS.—The Secretary of Homeland Security shall include in the performance and accountability report for fiscal year 2005 submitted by the Secretary under section 3516(f) of title 31, United States Code, an assertion of the internal controls that apply to financial reporting by the Department of Homeland Security.

(d) AUDIT OPINIONS OF INTERNAL CONTROLS OVER FINANCIAL REPORTING BY CHIEF FINANCIAL OFFICER AGENCIES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Chief Financial Officers Council and the President's Council on Integrity and Efficiency established by Executive Order 12805 of May 11, 1992, shall jointly conduct a study of the potential costs and benefits of requiring the agencies listed in section 901(b) of title 31, United States Code, to obtain audit opinions of their internal controls over their financial reporting.

(2) REPORT.—Upon completion of the study under paragraph (1), the Chief Financial Officers Council and the President's Council on Integrity and Efficiency shall promptly submit a report on the results of the study to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Comptroller General of the United States.

(3) GENERAL ACCOUNTING OFFICE ANALYSIS.—Not later than 90 days after receiving the report under paragraph (2), the Comptroller General shall perform an analysis of the information provided in the report and report the findings of the analysis to the committees referred to in paragraph (2).

SEC. 5. FUTURE YEARS HOMELAND SECURITY PROGRAM AND HOMELAND SECURITY STRATEGY.

Section 874 of the Homeland Security Act of 2002 (6 U.S.C. 112) is amended by striking subsection (b) and inserting the following:

"(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall—

"(1) include the same type of information, organizational structure, and level of detail as the future years defense program submitted to Congress by the Secretary of Defense under section 221 of title 10, United States Code;

"(2) set forth the homeland security strategy of the Department, which shall be developed and updated as appropriate annually by the Secretary, that was used to develop program planning guidance for the Future Years Homeland Security Program; and

"(3) include an explanation of how the resource allocations included in the Future Years Homeland Security Program correlate to the homeland security strategy set forth under paragraph (2).".

SEC. 6. ESTABLISHMENT OF OFFICE OF PROGRAM ANALYSIS AND EVALUATION.

Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is amended by—

(1) inserting "(a) In General.—" before the first sentence; and

(2) adding at the end the following:

"(b) PROGRAM ANALYSIS AND EVALUATION FUNCTION.—

"(1) ESTABLISHMENT OF OFFICE OF PROGRAM ANALYSIS AND EVALUATION.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish an Office of Program Analysis and Evaluation within the Department (in this section referred to as the 'Office').

"(2) RESPONSIBILITIES.—The Office shall perform the following functions:

"(A) Analyze and evaluate plans, programs, and budgets of the Department in relation to United States homeland security objectives, projected threats, vulnerability assessments, estimated costs, resource constraints, and the most recent homeland security strategy developed pursuant to section 874(b)(2).

"(B) Develop and perform analyses and evaluations of alternative plans, programs, personnel levels, and budget submissions for the Department in relation to United States homeland security objectives, projected threats, vulnerability assessments, estimated costs, resource constraints, and the most recent homeland security strategy developed pursuant to section 874(b)(2).

"(C) Establish policies for, and oversee the integration of, the planning, programming, and budgeting system of the Department.

"(D) Review and ensure that the Department meets performance-based budget requirements established by the Office of Management and Budget.

"(E) Provide guidance for, and oversee the development of, the Future Years Homeland Security Program of the Department, as specified under section 874.

"(F) Ensure that the costs of Department programs, including classified programs, are presented accurately and completely.

"(G) Oversee the preparation of the annual performance plan for the Department and the program and performance section of the annual report on program performance for the Department, consistent with sections 1115 and 1116, respectively, of title 31, United States Code.

"(H) Provide leadership in developing and promoting improved analytical tools and methods for analyzing homeland security planning and the allocation of resources.

"(I) Any other responsibilities delegated by the Secretary consistent with an effective program analysis and evaluation function.

"(3) DIRECTOR OF PROGRAM ANALYSIS AND EVALUATION.—There shall be a Director of Program Analysis and Evaluation, who—

"(A) shall be a principal staff assistant to the Chief Financial Officer of the Department for program analysis and evaluation; and

"(B) shall report to an official no lower than the Chief Financial Officer.

"(4) REORGANIZATION.—

"(A) IN GENERAL.—The Secretary may allocate or reallocate the functions of the Office, or discontinue the Office, in accordance with section 872(a).

"(B) EXEMPTION FROM LIMITATIONS.—Section 872(b) shall not apply to any action by the Secretary under this paragraph.".

SEC. 7. NOTIFICATION REGARDING TRANSFER OR REPROGRAMMING OF FUNDS FOR DEPARTMENT OF HOMELAND SECURITY.

Section 702 of the Homeland Security Act of 2002 (6 U.S.C. 342) is further amended by adding at the end the following:

"(c) NOTIFICATION REGARDING TRANSFER OR REPROGRAMMING OF FUNDS.—In any case in which appropriations available to the Department or any officer of the Department are transferred or reprogrammed and notice of such transfer or reprogramming is submitted to the Congress (including any officer, office, or Committee of the Congress), the Chief Financial Officer of the Department shall simultaneously submit such notice to the Select Committee on Homeland Security (or any successor to the jurisdiction of that committee) and the Committee on Government Reform of the House of Representatives, and to the Committee on Governmental Affairs of the Senate.".

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentleman from Pennsylvania (Mr. PLATTS) and the gentleman from New York (Mr. TOWNS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PLATTS).

GENERAL LEAVE

Mr. PLATTS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4259.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. PLATTS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in strong support of H.R. 4259, the Department of Homeland Security Financial Accountability Act. This legislation, which I introduced in May 2004, along with the chairman of the Committee on Government Reform, the gentleman from Virginia (Mr. TOM DAVIS); the ranking member, the gentleman from California (Mr. WAXMAN); the chairman of the Select Committee on Homeland Security, the gentleman from New Jersey (Mr. COX); the ranking member of the Select Committee on Homeland Security, the gentleman from Texas (Mr. TURNER); the gentleman from New York (Mr. TOWNS); and the gentlewoman from Tennessee (Mrs. BLACKBURN), represents a compromise between the House Committee on Government Reform and the House Select Committee on Homeland Security.

Essentially, H.R. 4259 replaces H.R. 2886, which was reported by the House Committee on Government Reform in November of 2003. This latest version, H.R. 4259, was introduced to incorporate key changes requested by the minority and the Select Committee on Homeland Security.

Madam Speaker, let me provide a brief history of this important legislation. On July 24 of last year, I, along with the gentleman from Virginia (Chairman TOM DAVIS), the gentleman from California (Ranking Member WAXMAN), the gentleman from New York (Mr. TOWNS), and the gentlewoman from Tennessee (Mrs. BLACKBURN), introduced the original H.R. 2886 to ensure that the Department of Homeland Security is subject to the same financial accountability requirements as all other Cabinet-level Departments.

This bill, and the one before us today, codifies a structure for sound financial management that is mandatory, not optional, for future administrations. H.R. 4259, like its predecessor, achieves this goal by adding the Department of Homeland Security to the list of agencies that are covered by the CFO Act of 1990.

H.R. 4259 puts the Department of Homeland Security's Chief Financial Officer on the same footing as the CFOs at the rest of the Cabinet-level Departments by ensuring that the Department's CFO is a Presidential appointee subject to Senate confirmation, reports directly to the Secretary of the Department, and is part of the statutorily created Chief Financial Officer's Council.

In addition, the bill ensures that the Department will comply with the Federal Financial Management Improvement Act of 1996, which establishes important financial management systems requirements for the CFO Act agencies.

Additionally, this legislation requires an opinion-level audit of the Department's internal controls. Currently, OMB guidance requires a report on internal controls in conjunction with annual financial audits. Having an auditor issue an opinion on the internal controls report would help uncover inherent weaknesses and address problems as business practices are being established, before they become ingrained. Strong internal controls are essential to sound financial management.

H.R. 4259 incorporates a number of important changes requested by the gentleman from California (Ranking Member WAXMAN) as well as the Select Committee on Homeland Security. Most notably, H.R. 4259 alters the reporting structure for the Department of Homeland Security Chief Financial Officer to allow for dual reporting to both the Secretary and the Under Secretary for Management. It also provides for the establishment of an Office of Program Analysis and Evaluation. It requires a Future Years Homeland Security Program and Homeland Security Strategy. The new bill also delays a requirement for the Department's internal control audit until fiscal year 2006.

H.R. 4259 retains key provisions from the original bill, H.R. 2886, as introduced, including the requirement that the CFO at DHS be appointed by the President and confirmed by the Senate. The newness, size, and mission of the Department of Homeland Security calls for more accountability and oversight, not less.

At present, DHS is the only Cabinet-level Department whose CFO is not required to be Senate confirmed. This unique status demotes both the CFO position and the importance of financial management within the Department. Now is not the time to dilute the importance of the CFO position, and we should not require less financial accountability at DHS than we do at other Cabinet-level Departments.

This Department faces many daunting challenges, and these challenges will require strong leadership and a commitment from top-level management to overcome. Financial management at DHS must be of the highest priority. The legislation before the Congress today ensures that it is such a priority.

Madam Speaker, it is important to note that under the leadership of President George Bush and Department Secretary Tom Ridge, my fellow Pennsylvanian, the Department has shown a determination to be fiscally responsible, and they are to be applauded for this approach. I want to emphasize that, although they are not required to comply with the CFO Act, they have made a determined effort to do so and are setting a good example. What we are trying to do is make sure that is a permanent example followed by future administrations.

Future administrations are not bound by law, as I said, to follow this same path of fiscal responsibility. This bill rectifies that situation by codifying compliance with the provisions of the CFO Act. I urge my colleagues to support H.R. 4259.

Madam Speaker, I reserve the balance of my time.

Mr. TOWNS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me begin by commending both the gentleman from Virginia (Chairman TOM DAVIS); the gentleman from Pennsylvania (Mr. PLATTS), the chairman of the subcommittee; and the gentleman from California (Mr. WAXMAN), the ranking member, for their tireless efforts in forging a consensus for H.R. 4259, the Department of Homeland Security Financial Accountability Act, of which I am a proud cosponsor. Our work today will move us one step closer to ensuring that the critical resources utilized for protecting our Nation will finally have an appropriate level of management and oversight.

In an era of soaring Federal deficits, along with challenges in managing a dynamic workforce from distinct legacy agencies, the exemption of DHS's CFO from the requirements of all other Cabinet-level CFOs is irresponsible. Therefore, I am happy to say that the bill before us today is a well-crafted compromise forged after months of negotiation and deliberative discussions. There are several key provisions contained in this legislation. Most importantly, however, the bill amends the Chief Financial Officers Act of 1990 to include the Department of Homeland Security, ensuring that the DHS CFO is subject to the same reporting requirements, oversight responsibilities, and congressional scrutiny required for all major Cabinet-level positions. The CFO is in the executive branch.

Through thoughtful analysis and consideration, there have been several significant improvements made to this legislation, which I am happy have occurred. These include a provision requiring the CFO to be a Presidential appointee subject to Senate confirmation. The specific language would require the CFO to report directly to the

Secretary of Homeland Security, and authorization for the DHS CFO to become part of the statutorily created CFO Council. To address the need for stronger fiscal oversight, the bill requires DHS to annually review its internal financial controls, ensuring that agency standards for financial management and accountability remain intact.

By adding these provisions to the bill, we are strengthening the accountability, management, and oversight responsibilities of the new Department. As we all recognize, Madam Speaker, the establishment of the Department of Homeland Security was an unprecedented effort by Congress to increase our Nation's preparedness and responsiveness to domestic security threats. The Department is one of the largest in the Federal Government, consisting of 22 legacy agencies, and has perhaps the most important mission of any Federal agency as we struggle to counteract new threats to our domestic security.

To conclude, this is a necessary step forward if we are to develop an efficient and effective agency that is ready to achieve its purpose of protecting our citizens, infrastructure, and borders. I urge my colleagues to support this bill.

Madam Speaker, I reserve the balance of my time.

Mr. PLATTS. Madam Speaker, I yield myself such time as I may consume to just thank our ranking member, the distinguished gentleman from New York (Mr. TOWNS), for his work and his staff's work with me and our subcommittee staff on the majority side. It has certainly been a bipartisan effort, and I am grateful for his assistance.

Madam Speaker, I urge all Members to support the passage of H.R. 4259, the Department of Homeland Security Financial Accountability Act, and I yield back the balance of my time.

Mr. TOWNS. Madam Speaker, I yield myself such time as I may consume to thank the chairman of the subcommittee for his outstanding work in terms of bringing about a coalition to be able to work out some of the disagreements that we had, to be able to come up, I think, with a very strong bill. So I would like to salute him for that. I would like to salute the staff on both sides, the Democratic side and the Republican side, for their hard work as well.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and pass the bill, H.R. 4259.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4608) to name the Department of Veterans Affairs outpatient clinic located in Peoria, Illinois, as the "Bob Michel Department of Veterans Affairs Outpatient Clinic".

The Clerk read as follows:

H.R. 4608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, PEORIA, ILLINOIS.

The Department of Veterans Affairs outpatient clinic located in Peoria, Illinois, shall after the date of the enactment of this Act be known and designated as the "Bob Michel Department of Veterans Affairs Outpatient Clinic". Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Bob Michel Department of Veterans Affairs Outpatient Clinic.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the chief sponsor of this very important resolution, the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Madam Speaker, I thank the gentleman for yielding me this time. I appreciate the work of the Committee on Veterans' Affairs in expediting this and also the majority leader's office.

Madam Speaker, I am honored to rise today to express my strong support for H.R. 4608, legislation that would name the Department of Veterans Affairs Outpatient Clinic in Peoria, Illinois, after Bob Michel, the former Republican leader of the House of Representatives.

□ 1715

This year, as we mark the 60th anniversary of D-Day, we as a Nation are taking the time to reflect on those members of the greatest generation who served our country during World War II. Bob Michel is one of those heroes. As a member of the 39th Infantry, he served in England, France, Belgium and Germany. He fought from the beaches of Normandy to the Battle of the Bulge, where he was wounded by machine gun fire. His service earned him the Purple Heart, two Bronze Stars and four Battle Stars.

After the war, Bob Michel continued his service to our country and to our community, first as a congressional staffer, then as a Member of this House for 38 distinguished years.

He served 6 years as the minority whip and 15 years as the Republican leader, the longest-serving Republican leader in the history of the House of Representatives. During his career, he never forgot about those who served with him in World War II and those who served in uniform after him in peacetime and conflicts that followed.

He knows firsthand the sacrifice veterans have made for our country, so he was instrumental in gaining funding that established the VA clinic in Peoria, Illinois, in 1979, a source of care and comfort for thousands of veterans throughout central Illinois. In 2003, there were more than 42,000 visits to the Peoria clinic.

Respect for Bob Michel is certainly widespread. In 1989, President Reagan awarded the Presidential Citizens Award Medal, which recognizes individuals who performed exemplary deeds for their country and fellow citizens, to then minority leader Bob Michel.

In 1994, President Clinton honored Mr. Michel with the Presidential Medal of Freedom, the Nation's highest civilian award. In 2003, Mr. Michel became one of the first recipients of the Congressional Distinguished Service Award presented to him by the gentleman from Illinois (Speaker HASTERT), and in June of this year, Mr. Michel returned to France with the gentleman from Illinois (Speaker HASTERT) and was one of only 100 people to become a Knight of the Legion of Honor, one of the highest honors paid by the French Government to a noncitizen.

Bob Michel, a member of the American Legion, the Veterans of Foreign Wars, AMVETS, the Distinguished American Veterans and the Military Order of the Purple Heart, continues to be an example of patriotism and the exemplary public service to which we all aspire. I am honored to call him my mentor and my friend of more than 20 years, and I know many in this House, both staff and fellow Members alike, share these feelings with me.

On the top of many other accolades and honors, I can think of no better way to honor his lifetime of public service than to add his name to a facility that serves other patriots during their time of need. So I urge my colleagues today to help honor Bob Michel by designating the veterans clinic in Peoria, Illinois, as the Bob Michel Department of Veterans Affairs Outpatient Clinic.

I want to particularly thank the gentleman from New Jersey (Chairman SMITH), and as I said, the majority leader's office, the staff on both sides of the Committee on Veterans' Affairs for so quickly taking action on this legislation, and I urge passage.

Mr. MICHAUD. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 4608, a bill introduced by a former member of the Committee on Veterans' Affairs, the gentleman from Illinois (Mr. LAHOOD) to rename the Peoria, Illinois, VA clinic after former Congressman Bob Michel. For 2 decades, Congressman Michel served Peoria as a Member of this body. In the last 6 years of his tenure, he was elected to serve as minority leader, a post he maintained until his retirement in 1995.

While I missed the opportunity to work directly with Congressman Michel, I understand he was an effective and highly respected leader who worked well with both sides of the aisle. He is remembered here for expert political insight, a congenial manner and being a true gentleman. I hope all Members will join me in supporting this bill.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Let me urge all of my colleagues to vote for H.R. 4608, offered by my good friend and colleague, the gentleman from Illinois (Mr. LAHOOD), which would name the outpatient clinic in Peoria after the very distinguished former minority leader, Bob Michel. I cannot think of a person more deserving of this honor.

Bob Michel had an illustrious career as a Member of this body for 38 years. Having been elected in the 85th Congress, Bob was the minority leader for 14 years of his time here. Prior to that, he was the whip for three Congresses.

Madam Speaker, aside from his political career, which was outlined by the gentleman from Illinois (Mr. LAHOOD), Bob Michel was a distinguished veteran of World War II. Our colleague, the gentleman from Illinois (Mr. LAHOOD) talked about that, and for those of us who serve on the Committee on Veterans' Affairs, we look at a guy like Bob Michel and say, he is the quintessential veteran. He is a guy that served honorably, rarely talks about it, was honored by our country for his valor, and for his suffering with a Purple Heart, and he is a real example of the greatest generation.

He continues to give and to give mightily. Bob set an example as minority leader of statesmanship and civility in both his words and his actions. He taught those of us who were fortunate enough to serve with him, and I was elected in the 97th Congress, that one can disagree without being disagreeable, and that life in politics can and should be balanced with outside interests and pursuits.

Bob Michel was a patriot in all of the meaning that that word has. He was an outstanding Member of Congress, and I salute his fearless leadership, his long service and I salute him for his humility, something you do not hear about too often in this place. He could do great deeds, and he was the last person who would ever tell you about it.

He was just a tremendous human being, and is a tremendous human being, and this, plus all of the other accolades that he gets and should get, is just one more that says, "Bob, we love you, we thank you for your service, and you deserve this."

Again, I want to thank the gentleman from Illinois (Mr. LAHOOD) for his sensitivity and his foresight in naming this outpatient clinic in honor of our very distinguished former leader, Bob Michel.

Mr. MICHAUD. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. EVANS) who has continually fought for veterans' issues.

Mr. EVANS. Madam Speaker, I am proud to have served with Bob Michel. In the 1980s he represented the greater Peoria region, and the Peoria clinic serves many of my constituents in Fulton and Knox Counties.

Bob Michel is a rare breed in today's Congress. He knew the art of compromise well. He worked well with Members on both sides of the aisle, was a worthy adversary on the floor, but forgot about the battles once he was out of the Chamber. He was really everybody's friend here. He worked with Members on both sides, and most importantly, he played fair. This is a fitting tribute to a former colleague and friend.

We have a lot of good memories of Bob, and my good friend, the gentleman from Illinois (Mr. LAHOOD) has done an excellent job of filling his shoes. I want to thank him for bringing this legislation to the floor and I thank the chairman for your tribute.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Madam Speaker, I thank my chairman for yielding me the time.

It is my great privilege to rise this afternoon as the House considers H.R. 4608, a bill to name the Peoria, Illinois, Department of Veterans' Affairs Outpatient Clinic for Bob Michel, a great statesman and former minority leader in this very body.

Much has been said and much more will be said today about Bob Michael's valiant military service, about his service to God and country above self and about his contributions as minority leader of this great body.

After spending the 60th anniversary of D-Day with Leader Michel on the shores of Utah Beach, he was there on D-Day plus four, I cannot think of a better way to reflect upon this great patriot's leadership than through his own words. Bob Michel understands that a strong national defense and the sacrifices necessary in order to reach and maintain it are fundamental to this Nation's greatness.

I reflect on a speech from Memorial Day 1992 at Washington, Illinois, where he said, "We cannot afford to go through that old American three-step dance with national defense. It goes like this: In time of danger, unity. In time of victory, euphoria. And in time of peace, amnesia. We just forgot what the world is like, and we think that peace is just given to you. Well, it is not given. It has to be won by sacrifice, by vigilance, by courage. Each generation has to be prepared to do the job."

These words are of particular value to the generation at war today, and we can find guidance in a 1993 Washington Times article in which Leader Michel spoke of the need to have government that is at once limited and strong. "Government is not the enemy. Wasteful government, intrusive government, irresponsible government, corrupt government is the enemy. The people of the United States are not happy with the government when it does not work well, but make no mistake about it, Americans from the beginning have realized that the government system left to us by the Founding Fathers is the best in all the world."

Well, this statement could very well have been made by one of my constituents in the Florida panhandle who sent me here to represent the very same ideals. Leader Michel held himself to the highest standards of integrity and expected the same from his House colleagues.

To the New York Times in 1988, he said, "In over 30 years as a Member of this institution, I have kept my word, and I expect others to do the very same."

There is a lesson in those words for every public servant. As minority leader, Bob Michel never forgot who sent him to Washington or what they sent him here to do. To a newspaper back home in 1987, he said, "I have come to learn that leadership does not mean two hoots in hell to most folks back home if it tends to distract you in any way from your primary concern for them." I think most Americans would agree today.

In a speech before the Illinois State Convention of AMVETS in 1956, this veteran who served with the 39th Infantry Regiment as a combat infantryman in England, France, Belgium and Germany for nearly 10 years was wounded by machine gun fire and subsequently awarded two Bronze Stars, the Purple Heart and four Battle Stars, said this, "As veterans of World War II and Korea, the awful imprint of those conflicts is still fresh on our minds, and no one appreciates more than we that we are at peace today. Just as the fate of our country and the freedom-loving nations rested on our shoulders in time of war, so are we obliged to shoulder the responsibilities of establishing and preserving a lasting peace."

Madam Speaker, I commend my colleague, the gentleman from Illinois

(Mr. LAHOOD), for introducing this measure. It is my hope that upon its passage, the Senate will act swiftly so we can get on with providing this tribute to the service and life of a man who has done so much, not only for the Land of Lincoln, but for the man whose valiant military service, conservative leadership and steadfast commitment to traditional American values have helped reshape this Nation; and I urge my colleagues to support this measure, a befitting recognition of the legacy of this man who has borne the fate of this country and freedom-loving nations upon his shoulders.

Madam Speaker, it is very richly deserved.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Madam Speaker, I thank very much my colleague for yielding me time.

I come to the floor to express my deep appreciation for the House's recognition of our colleague, former Member of the House and Republican Leader, Robert Michel, as the House goes about naming a veterans medical clinic after Robert H. Michel, a fabulous Member of the House who reflects much of that which is the best of this place.

He was a Member of the House who for many years served as the minority leader during much of the time that I was a member of that caucus. As he carried forward that responsibility, he also carried forward some of the most important qualities of leadership in this House. He absolutely recognized that beyond the policy work that we do, that friendship on both sides of the aisle was fundamental to our success. And Bob Michel understood that as we walked away from the Chamber, we could be friends. And time and time again, he demonstrated the value of that because he was able to accomplish things as minority leader that all too often these days we find not getting accomplished.

But, indeed, more important than all of that, Bob Michel, represented his people in Illinois in a way like few ever have. He is a fabulous person and to have a medical clinic named after him is very, very appropriate, but particularly appropriate in this sense. It is a part of the past history, but at one time I had the privilege as serving as chairman of the subcommittee that handles veterans affairs and medical care problems. We all know that we are all very proud of the amount of money that we are, from time to time, able to get appropriated for veterans services. All too seldom, however, are the people who work here in an organized sense on behalf of veterans, all too seldom are they willing to go down to the communities where those services are actually delivered.

We have known for a long, long time that the big hospitals too often are too far away from where the services are needed, and too often the VSOs do not worry too much about whether the veterans are getting the service they need at home.

These medical clinics are designed to recognize that the huge hospital of the past is not necessarily the best way to deliver service in a local community either today or in the future. So this medical clinic as a part of the VA system appropriately reflects the changing demands and needs for medical services for our veterans; but most importantly in this instance, we recognize the fabulous service and the understanding of veterans' needs exhibited by our colleague, Bob Michel.

Mr. MICHAUD. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, we have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4608.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LAHOOD. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LAHOOD. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4608.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PRINCIPAL OFFICE OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS AND SENSE OF CONGRESS REGARDING NEW VETERANS COURTHOUSE AND JUSTICE CENTER

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3936) to amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, D.C., metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes.

The Clerk read as follows:

H.R. 3936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRINCIPAL OFFICE OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7255 of title 38, United States Code, is amended by striking "District of Columbia" and inserting "Washington, D.C., metropolitan area".

SEC. 2. FINDINGS AND SENSE OF CONGRESS REGARDING NEW VETERANS COURTHOUSE AND JUSTICE CENTER.

(a) FINDINGS.—Congress makes the following findings:

(1) Every Article I court of the United States other than the United States Court of Appeals for Veterans Claims is located in a dedicated courthouse.

(2) The United States Court of Appeals for Veterans Claims has since its creation in 1988 been located in a commercial office building in the District of Columbia.

(3) That court should be housed in a dedicated courthouse, as are all other Article I courts.

(4) A dedicated courthouse for that court constituting a Veterans Courthouse and Justice Center would express the gratitude and respect of the Nation for the sacrifices of those serving and those who have served in the Armed Forces, and their families.

(5) Location of such a courthouse and judicial center in an area proximate to the Pentagon, Arlington National Cemetery, and the Air Force Memorial (as planned) in Arlington, Virginia would be symbolically significant of the high esteem that the Nation holds for its veterans.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a dedicated Veterans Courthouse and Justice Center should be provided for the United States Court of Appeals for Veterans Claims; and

(2) the Secretary of Defense, in cooperation with the United States Court of Appeals for Veterans Claims, the Secretary of Veterans Affairs, and the Administrator of General Services, should determine the feasibility of locating such a Veterans Courthouse and Justice Center at an appropriate site owned by the United States that is part of or proximate to the Pentagon Reservation in Arlington, Virginia.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of Veterans Affairs, and the Administrator of General Services shall submit to the Committees on Veterans' Affairs and the Committees on Armed Services of the Senate and House of Representatives a joint report on the feasibility of locating a new Veterans Courthouse and Justice Center at an appropriate site owned by the United States that is part of or proximate to the Pentagon Reservation in Arlington, Virginia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

□ 1730

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 3936, a bill to authorize the U.S. Court of Appeals for Veterans Claims, now located in commercial office space in the District of Columbia, to seek a new location in the greater national capital region. This bill would also express the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for the court and the veterans it serves. It should be located, or would be located, if feasible, next to Interstate Highway 395 on one of three small parking lots that are part of the Pentagon Reservation in Arlington, Virginia.

The Court of Appeals for Veterans Claims was created by statute in 1988 as an independent article I judicial tribunal that for the first time gave our Nation's veterans the right to judicial review of benefits decisions on their disability, pension, education and other claims. It should, like all other article I courts, have a permanent courthouse.

In addition to the court, occupants of the new courthouse would be representatives of veterans that regularly practice before the court, for example, the Veterans Consortium Pro Bono Program, the National Veterans Legal Services Program, and the appellate attorneys of veterans service organizations. The court and the offices of its constituents pay over $3.7 million per year for their rent. The General Services Administration anticipates that the court's rental costs will increase substantially in the not-too-distant future. Therefore, the committee believes that it would be desirable to relocate the court on a government-owned site if possible.

H.R. 3936 would also require the Secretary of Defense and the Secretary of Veterans Affairs and the Administrator of General Services to submit a joint report to the House and Senate Committees on Armed Services and Veterans' Affairs on the feasibility of locating a new Veterans Courthouse and Justice Center at an appropriate site owned by the U.S. that is part of or near the Pentagon Reservation.

Madam Speaker, we have veterans or their survivors from all of the wars in which our country fought in the 20th century, and we are now engaged in a global war on terrorism. I cannot imagine a better use for one of the present parking lots near the Pentagon than a stand-alone dedicated Veterans Courthouse and Justice Center to embody the gratitude and the respect this Nation has for these men and women who have served and are serving their country so well.

Madam Speaker, I reserve the balance of my time.

Mr. MICHAUD. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, first of all, I would like to thank the gentleman from New Jersey (Mr. SMITH), the chairman of the full committee, and the gentleman from Illinois (Mr. EVANS), our ranking member, as well as our chairman of the Subcommittee on Benefits, the gentleman from South Carolina (Mr. BROWN), for their work in bringing this bill before the House this afternoon.

H.R. 3936 will honor our veterans by supporting the establishment of a dedicated courthouse for the United States Courts of Appeal For Veterans Claims in the greater Washington, D.C. area. It is strongly supported by Members from both sides of the aisle.

H.R. 3936 shows support for our Nation's veterans, especially those who must avail themselves of a Federal court system in order to obtain the benefits that they have earned by military service. I hope that by establishing a separate, dedicated courthouse for veterans' claims, there will ease any confusion veterans may have about the role of this court as part of the Federal judicial system, and not part of the VA, and that this will streamline and facilitate the adjudication process.

The establishment of this courthouse will also improve the security of the court. The events of September 11, 2001, have made clear the need for appropriate security in government buildings. The Court of Appeals for Veterans Claims is currently located above a parking area which creates a serious security risk. This bill recommends a location for the court on land near the Pentagon. I believe this is an appropriate site.

H.R. 3936 is a bill which deserves the support of all Members of this House, and I urge them to do so.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent to insert in the RECORD a letter from the Committee on Armed Services and an additional letter concerning H.R. 3936.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMITTEE ON ARMED SERVICES,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, June 21, 2004.

Hon. CHRISTOPHER SMITH,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Committee on Armed Services in matters being considered in H.R. 3936, a bill to amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, DC, metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes.

Our Committee recognizes the importance of H.R. 3936 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over a number of provisions of the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Committee on Armed Services.

Additionally, the Committee on Armed Services asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference. The Committee also asks that this letter and the Committee on Veterans' Affairs response be included in the CONGRESSIONAL RECORD.

With best wishes.

Sincerely,

DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, June 25, 2004.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of June 21, 2004, regarding the jurisdictional interest of the Committee on Armed Services in the bill H.R. 3936, to authorize the principal office of the U.S. Court of Appeals for Veterans Claims to be at any location in the Washington, D.C. metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes. This bill was referred primarily to the Committee on Veterans' Affairs and additionally to the Committee on Armed Services.

Your willingness to forego a sequential referral to expedite House consideration of H.R. 3936 is most appreciated. I recognize that the Committee on Armed Services has a valid claim to jurisdiction over certain provisions of the bill, and this decision to forego sequential referral is not construed by the Committee on Veterans' Affairs as affecting the jurisdiction of the Committee on Armed Services over the bill or as a precedent for other bills. In addition, if a conference on H.R. 3936 should become necessary, I will support any request by you for the Committee on Armed Services to be represented on the conference. Finally, because the bill report was submitted on June 9, 2004, I will include your letter and this reply in the Congressional Record during House consideration of H.R. 3936.

Thank you for your cooperation on this matter of interest to both of our committees, and I look forward to working with you again on other matters.

Sincerely,

CHRISTOPHER H. SMITH,
Chairman.

GENERAL LEAVE

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3936.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from South Carolina (Mr. BROWN) and the ranking member, the gentleman from Maine (Mr. MICHAUD), of the Subcommittee on Benefits for their strong support and work in crafting this legislation; and to my good friend, the gentleman from Illinois (Mr. EVANS), the ranking member on the full committee.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3936.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2004

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4175) to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Veterans' Compensation Cost-of-Living Adjustment Act of 2004".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2004, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2004.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2004, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2005, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

SEC. 4. IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR.

Section 1112(b)(3) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

"(L) Osteoporosis.".

SEC. 5. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 108–47.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) by striking "$104" in subsection (a) and inserting "$106";

(2) by striking "$201" in subsection (b) and inserting "$205";

(3) by striking "$310" in subsection (c) and inserting "$316";

(4) by striking "$445" in subsection (d) and inserting "$454";

(5) by striking "$633" in subsection (e) and inserting "$646";

(6) by striking "$801" in subsection (f) and inserting "$817";

(7) by striking "$1,008" in subsection (g) and inserting "$1,029";

(8) by striking "$1,171" in subsection (h) and inserting "$1,195";

(9) by striking "$1,317" in subsection (i) and inserting "$1,344";

(10) by striking "$2,193" in subsection (j) and inserting "$2,239";

(11) in subsection (k)—

(A) by striking "$81" both places it appears and inserting "$82"; and

(B) by striking "$2,728" and "$3,827" and inserting "$2,785" and "$3,907", respectively;

(12) by striking "$2,728" in subsection (l) and inserting "$2,785";

(13) by striking "$3,010" in subsection (m) and inserting "$3,073";

(14) by striking "$3,425" in subsection (n) and inserting "$3,496";

(15) by striking "$3,827" each place it appears in subsections (o) and (p) and inserting "$3,907";

(16) by striking "$1,643" and "$2,446" in subsection (r) and inserting "$1,677" and "$2,497", respectively; and

(17) by striking "$2,455" in subsection (s) and inserting "$2,506".

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) by striking "$125" in subparagraph (A) and inserting "$127";

(2) by striking "$215" and "$64" in subparagraph (B) and inserting "$219" and "$65", respectively;

(3) by striking "$85" and "$64" in subparagraph (C) and inserting "$86" and "$65", respectively;

(4) by striking "$101" in subparagraph (D) and inserting "$103";

(5) by striking "$237" in subparagraph (E) and inserting "$241"; and

(6) by striking "$198" in subparagraph (F) and inserting "$202".

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking "$588" and inserting "$600".

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—(1) Section 1311(a) of such title is amended—

(A) by striking "$948" in paragraph (1) and inserting "$967"; and

(B) by striking "$204" in paragraph (2) and inserting "$208".

(2) The table in section 1311(a)(3) of such title is amended to read as follows:

"Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E–1	*$967*	*W–4*	*$1,157*
E–2	*$967*	*O–1*	*$1,022*
E–3	*$967*	*O–2*	*$1,056*
E–4	*$967*	*O–3*	*$1,130*
E–5	*$967*	*O–4*	*$1,195*
E–6	*$967*	*O–5*	*$1,316*
E–7	*$1,000*	*O–6*	*$1,483*
E–8	*$1,056*	*O–7*	*$1,602*
E–9	*$1,102*[1]	*O–8*	*$1,758*
W–1	*$1,022*	*O–9*	*$1,881*
W–2	*$1,063*	*O–10*	*$2,063*[2]
W–3	*$1,094*		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,189.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,213.".

(3) Section 1311(b) of such title is amended by striking "$237" and inserting "$241".

(4) Section 1311(c) of such title is amended by striking "$237" and inserting "$241".

(5) Section 1311(d) of such title is amended by striking "$113" and inserting "$115".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—(1) Section 1313(a) of such title is amended—

(A) by striking "$402" in paragraph (1) and inserting "$410";

(B) by striking "$578" in paragraph (2) and inserting "$590";

(C) by striking "$752" in paragraph (3) and inserting "$767"; and

(D) by striking "$752" and "$145" in paragraph (4) and inserting "$767" and "$148", respectively.

(2) Section 1314 of such title is amended—

(A) by striking "$237" in subsection (a) and inserting "$241";

(B) by striking "$402" in subsection (b) and inserting "$410"; and

(C) by striking "$201" in subsection (c) and inserting "$205".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4175, as amended, would provide a cost-of-living adjustment in the same amount as given to Social Security recipients, to disabled veterans and surviving spouses. The committee ordered this bill reported when it met on May 19, 2004. Five other measures were also ordered reported at that meeting of our committee.

All veterans and qualified survivors of veterans who receive disability compensation would receive a full COLA on December 1 of this year. The COLA is actually calculated on September 30; but if calculated today, it would be 2.2 percent.

More than 2.5 million veterans, Madam Speaker, were receiving service-connected disability compensation as of April of 2004. The basic purpose of the disability compensation program is to provide a measure of relief from the impaired earning capacity of veterans disabled as a result of their military service. These benefits are paid monthly, and range from $106 for a 10 percent disability to $2,239 per month for a 100 percent disability. Additional monetary benefits are available for our most severely disabled veterans, as well as for their dependents.

Spouses of veterans who died on active duty or as the result of a service-connected disability likewise are entitled to monetary compensation, as the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and the children. Depending on their spouse's rank or grade in service, a spouse receives between $967 and $2,063 monthly. Currently, there are more than 300,000 surviving spouses and more than 29,900 children receiving dependency and indemnity compensation, also known as DIC.

The bill would also expand the list of diseases presumed to be related to a former prisoner of war for which benefits may be paid by adding osteoporosis, an often crippling bone condition. Former prisoners of war are eligible for disability compensation if they are disabled from one of the 16 conditions presumed to be the result of their POW experience.

I want to thank the gentleman from Florida (Mr. BILIRAKIS), the committee's vice chairman, for working with us to include this portion of his bill, which was H.R. 348.

Finally, the bill would codify the current rates of compensation for service-connected disabilities and the rates of DIC for surviving spouses and children of veterans who die of service-connected causes, which went into effect last December, pursuant to Public Law 108–147.

I urge my colleagues to support this bill. It is a bipartisan bill.

Madam Speaker, I reserve the balance of my time.

Mr. MICHAUD. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would like to thank once again the gentleman from New Jersey (Mr. SMITH); the ranking member, the gentleman from Illinois (Mr. EVANS); and our chairman of the Subcommittee on Benefits, the gentleman from South Carolina (Mr. BROWN), for their continued efforts to assure that our veterans' purchasing power is not decreased with the passage of time.

H.R. 4175, the Veterans Compensation Cost-of-Living Act of 2004, will help our service-disabled veterans and their survivors maintain the value of their compensation benefits despite any increase in the cost of living.

Although we will not know the amount of the increase until the consumer price index is computed this fall, I expect this bill will provide an increase in benefits for calendar year 2005.

No amount of money can adequately compensate for the loss of life or limb, but it is important that the compensation that is paid does not lose its value as the cost of living rises. This is particularly important in a rural State like Maine. Some labor market areas in my State have experienced double-digit unemployment. In one labor market alone last year, unemployment was as high as 32 percent.

Veterans benefits help veterans and their families in these areas make ends meet. I am also happy to note that the bill contains a provision adding osteoarthritis to the list of conditions that are presumptively service-connected for veterans who are former POWs.

I am a co-sponsor of H.R. 348, introduced by the gentleman from Florida (Mr. BILIRAKIS), which contains this provision and more. I regret that the full bill cannot be considered because of the fiscal constraints.

I believe that when men and women suffer disabilities as a result of confinement as prisoners of war, this Nation should compensate them for all the disabilities that result. These disabilities are another cost of war, and they should be recognized and compensated as such. This provision is another small step in the right direction.

H.R. 4175 will receive my full support, and it deserves the support of Members of this House.

Madam Speaker, I reserve the balance of my time.

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Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. BROWN), the distinguished chairman of our Subcommittee on Benefits.

Mr. BROWN of South Carolina. Madam Speaker, I rise in support of H.R. 4175, the Veterans' Compensation Cost-of-Living Adjustment Act of 2004.

Congress acts annually to provide a cost-of-living adjustment in VA disability compensation and survivors benefits. Congress has provided increases in these rates for every fiscal year since 1976, and the administration's fiscal year 2005 budget includes the cost for this increase.

As well as providing the cost-of-living adjustment effective December 1, 2004, and codifying the current dollar amount for veterans and survivors benefits, H.R. 4175, as amended, would add osteoporosis to the list of diseases presumed to be service-connected for former prisoners of war. This particular provision is derived from H.R. 438, which the gentleman from Florida (Mr. BILIRAKIS) introduced in January of 2003. The vice chairman has long been a champion for former POWs, and I regret that due to budgetary obstacles we were not able to consider his bill in its entirety. I appreciate his understanding in that regard.

Madam Speaker, I note that last year the Secretary of Veterans Affairs convened a work group comprised of officials from the Veterans Health Administration, Veterans Benefits Administration and the Office of General Counsel, to develop a methodology for a fair and balanced assessment of medical conditions identified and associated with POW detention. This summer, the workgroup will recommend to the Secretary any conditions it believes warrant either presumptive status or further study. I look forward to meeting with the Secretary upon the workgroup's findings.

I want to thank the gentleman from Maine (Mr. MICHAUD), the ranking member of the Subcommittee on Benefits, for his efforts on this bill and urge all my colleagues to support it.

Mr. MICHAUD. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member of the committee.

Mr. EVANS. Madam Speaker, I would like to thank the gentleman from New Jersey (Mr. SMITH), chairman of the full committee; the gentleman from South Carolina (Mr. BROWN), the Subcommittee on Benefits chairman; and the gentleman from Maine (Mr. MICHAUD), the ranking Democratic member, for their spirt of bipartisanship. Their work has resulted in a bill strongly supported by Members on both sides of the aisle.

H.R. 4175, the Veterans' Compensation Cost-of-Living Adjustment Act of 2004, will help our service-disabled veterans and their survivors maintain the value of their benefits despite any increases in cost-of-living adjustments. Our Nation's veterans and survivors have earned these benefits, and we must maintain their purchasing power.

I strongly support the provision adding osteoarthritis to the list of conditions which are presumptively service-connected for veterans who are former prisoners of war. Last year, the Congress passed legislation which I introduced to add additional disabilities to the presumptive list and to eliminate the time period of internment for certain conditions. I am a cosponsor and strongly support efforts to improve benefits for prisoners of war.

Additional presumptive conditions and the establishment of criteria for the Department of Veterans Affairs to establish new presumptive conditions are contained in H.R. 348, introduced by the gentleman from Florida (Mr. BILIRAKIS), my good friend. I hope that all of these provisions will one day become law.

This is a bill which deserves the support of all of the Members of this House. I urge all Members to support it.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. BEAUPREZ), a distinguished member of the committee.

Mr. BEAUPREZ. Madam Speaker, I thank the gentleman and the chairman of our committee for his diligence on this bill, as well as on behalf of all veterans. He is to be commended. And my thanks as well to the gentleman from Maine (Mr. MICHAUD), my good friend, and the gentleman from Illinois (Mr. EVANS), the ranking member of our full committee, for his work as well. It has been a real pleasure to serve on the Committee on Veterans' Affairs in a true bipartisan effort.

Mr. Speaker, I rise in full support of H.R. 4175. There is absolutely no question that our Nation's veterans are truly deserving of every bit of assistance we can afford to provide them in return for their service to our country.

Disabled veterans must receive even greater care and compensation. It is imperative that we ensure that these brave men and women receive every benefit they have so painstakingly earned.

It is equally important that these benefits be periodically adjusted to meet the increasing demands of inflation.

This bill, the Veterans' Compensation Cost-of-Living Adjustment Act, will increase disability compensation and survivor pensions based upon the Consumer Price Index. In addition, the bill will also provide additional compensation for surviving spouses and their children.

Madam Speaker, I feel the merits of this bill speak for themselves and have already eloquently been addressed in this Chamber. I hope my colleagues here today will join me in supporting this legislation for those who helped defend our Nation's unparalleled ideals.

Mr. MICHAUD. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Madam Speaker, I rise today in support of H.R. 4175, the Veterans' Compensation Cost-of-Living Adjustment Act of 2004.

I would also like to take this opportunity to thank the gentleman from New Jersey (Mr. SMITH), the chairman of the Committee on Veterans Affairs, and of course, the gentleman from Illinois (Mr. EVANS), our ranking member, for their leadership and advocacy for our Nation's veterans. I also would like to thank the gentleman from Maine (Mr. MICHAUD) for his efforts and his leadership as the ranking member of the Subcommittee on Benefits, as well as the gentleman from South Carolina (Mr. BROWN).

Every year Congress does a small yet much welcomed cost-of-living adjustment to increase the rates of disability compensation for veterans with service-connected disabilities. This legislation, similar to those we have passed before, would authorize the cost-of-living adjustment on December 1, 2004, based on the same formula for our Social Security users. Additionally, it would increase the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans.

Our disabled veterans are some of our country's greatest assets.

The Disabled American Veterans say it best: "Treaties are signed and the battles of nations end, but the personal battles of those disabled in war only begin when the guns fall silent." These men and women must struggle to regain health, to reshape lives shattered by disability, learn new trades or professions, and rejoin the civilian world. At each step, they need help to help themselves.

Madam Speaker, I know that this is just a small increase for our veterans and their survivors, but I know that they appreciate it. I encourage all my colleagues to vote in favor of this particular piece of legislation.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume. We do not have any further requests for time.

I, too, want to thank the gentleman from Maine (Mr. MICHAUD) and again the gentleman from Illinois (Mr. EVANS) and the gentleman from South Carolina (Mr. BROWN). This is again a good, bipartisan piece of legislation. It is very significant and will significantly help our veterans and especially those who are service-connected disabled.

Madam Speaker, I yield back the balance of our time.

Mr. MICHAUD. Madam Speaker, I yield 3 minutes to the gentlewoman from South Dakota (Ms. HERSETH), who has shown her interest in veterans' issues and is very dedicated and will be a hard fighter for veterans' issues.

Ms. HERSETH. Madam Speaker, I thank the gentleman for yielding me time.

I would like to thank the gentleman from New Jersey (Mr. SMITH), chairman of the House Committee on Veterans' Affairs, and the gentleman from Illinois (Mr. EVANS), the ranking Democrat member, as well as the gentleman from South Carolina (Mr. BROWN) and the gentleman from Maine (Mr. MICHAUD) for again working together to maintain the level of benefits provided to veterans who are disabled as a result of their military service and the survivors of those who have died.

In this Chamber, we hear debates often on the merits and costs of various programs proposed by the Department of Defense. Today, as men and women of the Armed Forces place themselves in harm's way, this bill reminds us that the costs of war do not end when the treaties are signed and the battle is over.

Those who are disabled while serving this Nation deserve to be appropriately compensated for the harm that they have suffered. As the cost-of-living rises, so must the compensation paid to those who have service-connected disabilities.

Those who have been held as prisoners of war deserve our special consideration. This bill would recognize that former prisoners of war are at greatest risk of osteoarthritis. I commend the gentleman from Florida (Mr. BILIRAKIS), the subcommittee chairman, for his efforts in this regard.

H.R. 4175 is a bill which deserves the support of all Members of this House, and I urge all Members to support it.

Mr. MICHAUD. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4175, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING MEMBERS OF AMVETS FOR THEIR SERVICE TO THE NATION

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 308) recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS National Charter Day.

The Clerk read as follows:

H. CON. RES. 308

Whereas on July 23, 1947, AMVETS (American Veterans) was chartered by the United States as a not-for-profit corporation;

Whereas membership in AMVETS is open to veterans who have honorably served, or are serving, in the Armed Forces, including the Coast Guard, National Guard, and Reserves, during or since World War II;

Whereas the veterans of the Armed Forces have made great sacrifices to ensure the peace and security of the United States;

Whereas the members of AMVETS are dedicated to providing important services to their local communities and to their fellow veterans;

Whereas the motto of AMVETS is "We fought together, now let's build together";

Whereas the members of AMVETS consistently honor that motto through countless hours of patriotic service, including providing services to hospitalized veterans, assisting veterans with their problems regarding housing and employment, marching in parades, participating in color guards and burial details, and educating the Nation's youth;

Whereas the war on terrorism has emphasized the sacrifices that veterans have made, and continue to make, for the benefit of the Nation;

Whereas AMVETS has designated July 23 as AMVETS National Charter Day; and

Whereas the goal of AMVETS National Charter Day is to raise public awareness regarding AMVETS' commitment and service to veterans, the families of veterans, and the Nation: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress recognizes the members of AMVETS (American Veterans) for their service to the Nation and supports the goal of AMVETS National Charter Day.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of H. Con. Res. 308, legislation recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS on National Charter Day.

I want to recognize the gentleman from New York (Mr. BISHOP), the sponsor of this legislation, and thank him for his work on this resolution.

From its origins in the middle of World War II, AMVETS has a long and distinguished history of service to our Nation. They held their first national convention in Chicago in October of 1945, and just 2 years later, on July 23, 1947, President Harry Truman signed the AMVETS Charter. Originally organized for World War II veterans, AMVETS had their charter amended in 1966 to include veterans who served honorably during the Korean conflict and the Vietnam War, and again in 1984 to include those who served honorably during peacetime as well.

From its humble origins, AMVETS has grown to a national organization, Madam Speaker, with over 250,000 members, in addition to another 60,000 members of its ladies auxiliary.

As chairman of the Committee on Veterans' Affairs, I can attest to the important role that AMVETS plays in Washington advocating for stronger Federal policies supporting veterans, their surviving spouses and dependents. Their legislative staff is among the finest, and they have played a key role in many important public policy debates. Members know that they can count on AMVETS for advice, counsel and support as we continue developing national policies to benefit our veterans.

Madam Speaker, I want to recognize and commend AMVETS National Commander John Sisler of Groveland, Illinois, who presented AMVETS legislative goals at our joint Senate-House Committee on Veterans' Affairs hearing earlier this year. He should be proud of the fact and of the success of AMVETS that they have achieved and continue to achieve, not just in Washington but also in communities across America. In addition to providing benefits and services to their fellow veterans, they also play an important role in the civic life of their communities.

I urge support for H. Con. Res. 308.

Madam Speaker, I reserve the balance of our time.

Mr. MICHAUD. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of House Concurrent Resolution 308. This measure recognizes the members of AMVETS for their efforts on behalf of military families and service to our Nation.

During and following their military service, members of AMVETS have routinely worked to provide important services to their local communities and to their fellow veterans. They have truly been guided by the AMVETS motto: "We fought together, now let's build together."

This motto definitely rings true back in my home State of Maine, which is home to a very active and successful AMVETS chapter.

Madam Speaker, AMVETS has designated July 23 as its National Charter Day, with the goal to encourage public awareness of their commitment and service to veterans, their families and our country.

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I commend and applaud AMVETS for their past, present, and future service. I am pleased to support House Concurrent Resolution 308, and I ask other Members to do the same.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I reserve the balance of my time.

Mr. MICHAUD. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Madam Speaker, we are incredibly blessed in this country to have a group of veterans service organizations looking out for the best interest of our veterans. For almost 60 years, American Veterans, commonly referred to as AMVETS, have been making a difference in the lives of those who have given so much for this country, our veterans and their families.

Through their national service foundations, AMVETS has service officers throughout the country who provide guidance and action on compensation claims and help them at no charge to our veterans.

Additionally, their Members and those of the AMVETS Auxiliary volunteer countless hours at our veterans and military hospitals throughout this country. During this time of increased military deployment, it is so important to have a network of veterans who help our injured soldiers and to whom they can turn for help and assistance.

Throughout my 7 years in Congress, I have met with AMVETS on a regular basis as they advocate for funding for veteran services, needs for homeless veterans, for better education benefits for our veterans, and many other issues. They have been there. Without them, we would not be where we are. They have been a voice for our veterans and continue to be there for our veterans. They have an incredible history, and I would like to take this opportunity not only to thank them for all they do for our veterans, but also to congratulate them on their upcoming National Charter Day.

Mr. MICHAUD. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Madam Speaker, I rise today in strong support of H. Con. Res. 308, a bill that I introduced to honor the AMVETS veterans service organization's National Charter Day. AMVETS is an organization that is truly dedicated to helping this Nation's veterans, and I am pleased to see that this Congress is now acting to support this group which consistently works to help the men and women who have selflessly served this country.

I am proud to recognize AMVETS for its dedication to bettering the lives of veterans throughout this country. As we continue our military operations overseas, we must not forget that honoring veterans and their service must be something that we do every day, not just on Memorial Day and Veterans Day. We must always look to recognize and pay tribute to the sacrifices made to the individuals that have stared down the many faces of tyranny with undying dedication to our country.

On July 23, 1947, President Harry S. Truman signed Public Law 216 making AMVETS the first World War II organization to be chartered by Congress. Today the organization is open to anyone who has served or is currently serving in the Armed Forces, including the National Guard and the Reserves.

AMVETS has a long history of helping veterans; and in a recent year, AMVETS processed more than 24,000 VA claims that resulted in veterans receiving approximately $400 million in owed benefits. As Members of Congress, we all know how important it is to provide this kind of service to America's deserving veterans.

I am pleased that the House will soon adopt this resolution honoring AMVETS National Charter Day, and I hope that this Friday, as we celebrate national recognition of this organization, all Members of Congress will take the time to support their local members of AMVETS.

I am proud to support the five AMVETS posts located in my district, and I am sure that my colleagues share in the feeling of appreciation I have for the thousands of AMVETS members and their families who are dedicated to helping America's veterans.

Madam Speaker, I urge swift passage of this resolution.

Mr. MICHAUD. Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I applaud the leadership of the gentleman from Maine, and I applaud particularly the sponsor and originator of this resolution, the gentleman from New York (Mr. BISHOP).

I celebrate with them as we commend AMVETS for their Charter Day on July 23, 1947. It has been said that Texas is a State that has probably the largest number of veterans living within it. Therefore, we are very much committed to our veterans. This is an excellent opportunity to honor the AMVETS because they honor us. Their theme, "We fought together, now let us build together," means they are vital components to our community.

As a congressional district that houses one of the largest veterans hospitals in the Nation, I thank them for their continued service to our veterans there, providing services to hospitalized veterans, assisting veterans in their problems regarding housing and employment, marching in parades, participating in Color Guards and burial details, and educating the Nation's youth.

On July 4, I had the opportunity to visit a homeless center where a number of men gathered. I provided them with a patriotic mission and message. In that group, however, it was interesting to note the many, many veterans that were there; and their point was our condition may not be the best now, but we love our country and want to improve our conditions in life. AMVETS are concerned about those veterans.

I expect we will have another legislative initiative on the floor today that will provide for the improved compensation for veterans sponsored by the gentleman from New Jersey (Mr. SMITH). I want to add my support for that legislation as well. But allow me to close by saying that the AMVETS deserve their full day of honor because they have honored us by their continued service in our community.

The very fact that these AMVETS include all of the veterans that have served honorably since World War II and during World War II is again a recognition of the Greatest Generation, but it is also a chance to be able to have these vets teach others.

I thank the gentleman from New York (Mr. BISHOP) for presenting us with this honor and tribute to AMVETS, and I add my support for this legislation. I ask my colleagues to unanimously vote for this AMVETS resolution honoring those who served.

Mr. MICHAUD. Madam Speaker, I yield myself such time as I may consume.

In closing, I want to thank the gentleman from New Jersey (Mr. SMITH) for his continued fighting for veterans issues. Also, I want to thank staff on both sides of the aisle for bringing these bills before us today. The staff has done a tremendous job in making sure that we have these bills before us in the proper form.

Also, I want to thank the veterans and the VSOs for all their work in helping keep Congress's feet to the fire in supporting issues important to our veterans in this country.

Madam Speaker, I yield back the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I too want to thank the gentleman from Maine (Mr. MICHAUD) and the staff, Pat Ryan, chief of staff and general counsel, and Mary Ellen McCarthy who has done a very good job, and Kingston Smith on my right here. This is truly an effort to try to write legislation that really will make a difference. These four bills, and some of the others that are pending which will soon be before the body, really do advance the ball on behalf of our veterans.

I thank them for their cooperation and their partnership on this. That is what it is all about, "to try to care for him who has borne this Nation's battle, and for his widow and for his orphan," to quote President Lincoln.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR APPOINTMENT OF ELI BROAD AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEY. Madam Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 38) providing for the appointment of Eli Broad as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

S.J. RES. 38

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, resulting from the death of Barber B. Conable, Jr., is filled by the appointment of Eli Broad of California. The appointment is for a term of 6 years, beginning upon the date of enactment of this joint resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of Senate Joint Resolution 38, which provides for the appoint of Eli Broad as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Smithsonian is governed by a board of regents which is comprised of 17 members. These 17 members include the Chief Justice of the Supreme Court and the Vice President of the United States, three Members each of the U.S.

House and Senate, and nine citizens who are nominated by the board and approved jointly in a resolution of Congress. The nine citizen members serve for a term of 6 years each, and are eligible for reappointment for one additional term.

Eli Broad will fill a vacancy on the board of regents for Barber Conable, Jr., who, sadly, passed away last year. Eli Broad is an accomplished business leader who built two Fortune 500 companies from the ground up. He serves on several boards, most notably; he is chairman of AIG Retirement Services and KB Home, formerly Kaufman and Broad Home Corporation. He is also the founding chairman of the board of trustees for the Museum of Contemporary Art in Los Angeles and currently a trustee and member of the executive committee of the Los Angeles County Museum of Art.

Eli Broad and his wife, Edythe, are active philanthropists. Since 1984, the Broad Art Foundation has operated an active "lending library" of its extensive collection to more than 400 museums and university galleries worldwide.

One of Eli Broad's charitable contributions includes the Broad Foundation, whose mission is to improve urban public education. The foundation has committed over $400 million to support new ideas in the Nation's largest urban school systems. The Broad Foundation contributed toward the construction of the Broad Art Center at UCLA.

However, Mr. Broad's background does not end there, as he incorporates extensive involvement in the field of science as well. The Eli and Edythe Broad Institute for Biomedical Research is a partnership with the Massachusetts Institute of Technology, Harvard University, and Whitehead Institute. It was created in June 2003, and the institute's aim is to realize the promise of the human genome and to revolutionize clinical medicine.

Eli Broad's ongoing leadership roles in art, education, science, and civic development make him a strong candidate for service on the Smithsonian Institution's Board of Regents. I join with my colleague, the ranking member, the gentleman from Connecticut (Mr. LARSON), in support of Senate Joint Resolution 38.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I wish to associate myself with the remarks of the gentleman from Ohio (Mr. NEY). As the chairman has pointed out, I am as well pleased to support Senate Joint Resolution 38 which appoints Eli Broad to a 6-year term as citizen regent of the Board of Regents of the Smithsonian Institution to fill that vacancy.

Senate Joint Resolution 38 passed the Senate on June 9, 2004. An identical bill, House Joint Resolution 99, was introduced by the gentleman from California (Mr. MATSUI), who continues to serve on the board of regents with distinction.

Mr. Broad has been recommended by the board of regents to replace our former colleague, Barber Conable, as the chairman pointed out. Mr. Conable retired from the House of Representatives in 1985 and passed away on November 20, 2003.

I especially, again, want to congratulate the gentleman from California (Mr. MATSUI) for his leadership in bringing this nomination to the floor. He has been a regent of the Smithsonian Institution since 1999 and has been diligent in his duties to promote its effective operation, even in the face of his increasing leadership responsibilities here in the House.

Madam Speaker, the board of regents, as the chairman has noted, was created in 1846 as a governing body of the Smithsonian Institution and currently has 17 board members. Eli Broad, who has been recommended to become its newest citizen regent, is a distinguished business leader who built two Fortune 500 companies over a 5-decade career.

As founder of the Broad Foundation, he has focused on philanthropy, promoting art, education, scientific and biomedical research and civic development. Mr. Broad is well qualified for this post, and his wide array of experience will be an asset to the Smithsonian Institution in the years ahead. I urge approval of this joint resolution and its enactment so Mr. Broad may attend the next meeting of the board of regents currently scheduled for September.

Madam Speaker, I am pleased to support S.J. Res. 38, to appoint Eli Broad to a six-year term as a citizen regent of the Board of Regents of the Smithsonian Institution to fill a vacancy. S.J. Res. 38 passed the Senate on June 9, 2004. An identical bill, H.R. Res. 99, was introduced by Representative MATSUI.

Mr. Broad has been recommended by the Board of Regents to replace our late former colleague, Barber Conable of New York, who retired from the House of Representatives in 1985 and passed away on November 20, 2003.

After his retirement, Rep. Conable was generous in his continuing contributions to the Congress, including his service on the advisory board created by the History of the House Awareness and Preservation Act, which was enacted in the 106th Congress and which I had sponsored.

The bill authorized the writing of a major new volume on the history of our institution by a major scholar in the field, and that work is currently being undertaken by Professor Robert Remini, professor emeritus of history at the University of Illinois—Chicago.

Representative MATSUI, who introduced the House's companion legislation (H.J. Res. 99), has been a regent of the Smithsonian since 1999 and has been diligent in his duty to promote its effective operation, even in the face of his increasing leadership responsibilities here in the House. He has been an exemplar of broad public service to the American people in a variety of roles.

On a more personal note, BOB is closely associated with his work to help the Smithsonian shape the "More Perfect Union" exhibit in the National Museum of American History. That exhibit examines the experiences of the Nisei, Americans of Japanese descent, many of whom, like BOB MATSUI and his family, were interned during World War II. It is a significant contribution to public awareness of that tragic era.

The Board of Regents was created in 1846 as the governing body of the Smithsonian, a unique trust equity created by Congress, and is currently composed of 17 Members, including six Members of Congress, three from each chamber. The positions of the nine citizen regents of the Smithsonian were created to bring a variety of expertise from business, politics, science, education and the arts to complement the other regents and provide additional perspective in the funding and management of the Smithsonian's infrastructure and worldwide network of initiatives.

Eli Broad, who has been recommended to become the newest citizen regent, is a distinguished business leader who built two Fortune 500 companies over a five-decade career. He is chairman of AIG Retirement Services Inc., formerly SunAmerica Inc., and founder-chairman of KB Home, formerly Kaufman and Broad Home Corporation.

As founder of the Broad Foundation, he is focused on philanthropy, promoting art, education, scientific and biomedical research and civic development. Since 1984, the Broad Art Foundation has loaned portions of its extensive collection to more than 400 museums and university galleries worldwide.

Mr. Broad was the founding chairman of the board of trustees of The Museum of Contemporary Art in Los Angeles, and is currently a trustee and member of the executive committee of the Los Angeles County Museum of Art.

Since 1999, The Broad Foundation has worked to improve urban public education through better governance, management and labor relations and has committed over $400 million to support innovation in the Nation's largest urban school systems. Mr. Broad has also been active in a variety of civic projects to promote and improve the city of Los Angeles.

In June 2003, in a partnership with the Massachusetts Institute of Technology, Harvard University and Whitehead Institute, the Broads announced the founding gift to create The Eli and Edythe Broad Institute for biomedical research. The Institute's aim is to revolutionize clinical medicine through genetic research and to make knowledge freely available to scientists around the world.

Mr. Broad is a member of the board of trustees of CalTech. He also served as chairman of the board of trustees of Pitzer College and vice chairman of the board of trustees of the California State University system.

Mr. Broad is well-qualified for this post and his wide array of experience will be an asset to the Smithsonian in the years ahead. I urge approval of the joint resolution and its enactment so that Mr. Broad may attend the next meeting of the Board of Regents currently scheduled for September.

Madam Speaker, I yield back the balance of my time.

☐ 1815

Mr. NEY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. HARRIS). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 38.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of S.J. Res. 38, the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMITTING LIBRARIAN OF CONGRESS TO HIRE LIBRARY OF CONGRESS POLICE EMPLOYEES

Mr. NEY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4816) to permit the Librarian of Congress to hire Library of Congress Police employees.

The Clerk read as follows:

H.R. 4816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMITTING LIBRARIAN OF CONGRESS TO HIRE LIBRARY OF CONGRESS POLICE EMPLOYEES.

(a) IN GENERAL.—Section 1006 of the Legislative Branch Appropriations Act, 2004 (2 U.S.C. 1901 note), is amended—

(1) in the heading, by striking "TRAINING, DETAILING, AND HIRING" and inserting "TRAINING AND DETAILING";

(2) by striking "(a)" and the heading of subsection (a);

(3) by striking subsection (b) and redesignating paragraphs (1) and (2) of subsection (a) as subsections (a) and (b); and

(4) in subsection (b) (as so redesignated), by striking "paragraph (1)" and inserting "subsection (a)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 4816, a bill that will restore the Librarian of Congress' authority to hire Library of Congress Police employees.

To understand this legislation, one must first understand the chain of events which brings this legislation to the floor of the House. Language was included in last year's appropriations bill which stripped the Library of its authority to hire new police officers. Our committee was not consulted and did not support that language.

The language further called on the United States Capitol Police to begin detailing officers to the Library of Congress as a way to force the beginning of a merger of the two agencies before the appropriate committees of jurisdiction had even had a chance to fully deliberate the merits of a merger.

Over the past several weeks, draft memorandums have circulated back to the committee which attempt to effect this transfer of officers to the Library. All of these memorandums have contained provisions that are not only objectionable to the committee, but raise more questions about the transfer and the merits of a merger.

It is the committee's steadfast position that such a sweeping action affecting security must be conducted in a manner which undeniably results in greater security and greater efficiency for both the Congress and the Library of Congress. There are a multitude of complex issues that really need to be dealt with in order to ensure that any steps taken by the Congress toward a merger are taken in a deliberate manner, with the long-term interests of both institutions in mind.

Many details of the potential merger or the initial detailing of Capitol Police officers have yet to be addressed, in my opinion, in a satisfactory manner, details such as the composition of a new command structure, differences between Library Police procedures and regulations because there is a large difference in the way we operate with the Capitol Hill Police and the way the Library of Congress operates in their missions and their tasks. We really, I think, need to look at those issues, plus the disposition of large numbers of Library Police who would be forced into retirement, the reconciliation of two distinct agency missions, the manner in which grievances are handled, the manner in which recruitment and morale of the United States Capitol Police could be affected, and ultimately, the life safety of the hundreds of thousands who serve, work or visit in the Capitol complex. The Committee on House Administration and the Congress have a responsibility to ensure that unresolved details like these are not swept up in a hasty and broken process.

Our committee was exercising appropriate oversight and due diligence in this process at the time this authorizing language, which originated from the other body, appeared in an appropriations conference report, placing the cart squarely in front of the horse.

Now, because the Librarian is unable to exercise any hiring authority to bring new police onto the Library force, there is a growing manpower gap which some argue could impact the security mission of the Library; and frankly, I think this is putting the Library in a Catch-22 position.

Additionally, the attention being paid on fixing the current situation is siphoning resources from the United States Capitol Police during what we know is a very crucial time. The growing need for officers at the Library is an urgency of the Congress' own creation and should be fixed by the Congress. The mission of the Capitol Police is to protect the Congress, and at a time when that mission is under threat from terrorists, any distraction, I think, is detrimental to the interests of the institution and could have dire consequences.

Madam Speaker, I am intimately involved with and deeply concerned about the security of this campus, as I know our ranking member is and all members of our committee and frankly all Members of this House. It is arguably the most important issue which our committee has jurisdiction over as it deals with matters of life and death. That is why I urge passage of this legislation.

We need to remove the restriction on the Librarian's authority to hire police officers so that we may mend this broken process and allow the authorizers to handle this complex issue in an appropriate manner. I urge my colleagues to vote for this bill so our security officials can meet their missions and focus their attention and their thrust on protecting everyone in the Capitol complex, especially in this heightened security threat environment.

I urge my colleagues to support this legislation restoring authority to the Librarian, and upon passage, I hope the other body will act quickly to lift these constraints on the Librarian and that the appropriators in both bodies will provide the funding necessary to train and pay the officers that can be hired pursuant to this resolution.

Let me just close by saying, also, I think we can have discussions about this with the other body, within appropriations and within the authorizers of both Chambers. But I think right now in the best interests of everybody involved, if we take this measure, it will help the Library of Congress, which is in really a very difficult situation.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield myself such time as I may consume. I would like to again associate myself with the remarks of the distinguished Chair from Ohio. I want to thank the distinguished chairman for moving so resolutely to address the problem caused by last year's appropriations bill.

This predicament, which he has thoroughly outlined and that his legislation would correct, could properly become a case study for why the House rules prevent appropriation bills from including legislative provisions and vest the responsibility for such matters in the authorizing committees.

I support and applaud the chairman's determination to ensure that the Library of Congress does not become a weak point in the Capitol's security perimeter. That, Madam Speaker, we simply cannot afford.

I have, as well, a letter from James Billington, where he quotes, I think, very appropriately that "the Library has been without an adequate police force for more than a year. The U.S. Capitol Police received funding to hire 23 officers that, under the 2004 legislative branch appropriations bill, were to be detailed to the Library of Congress. As a practical matter, we cannot get them until we have approval of a memorandum of understanding between the Capitol Police and the Library. The 2004 appropriations bill removed the Library's ability to hire police employees, and an additional 10 officers have left our force through attrition. Unless," as the chairman's bill provides, "action is rapidly taken to remedy this situation, we will soon have a police force staffed at only two-thirds of its authorized strength, clearly unacceptable in today's world."

I trust, as the chairman has indicated, that the Senate will follow his leadership in this regard. Again I applaud his efforts to prevent the usurpation of the authorizing committee's responsibility. I urge the passage of this.

Madam Speaker, I support the Chairman's motion and urge its adoption.

Section 1015 of Public Law 108–7, enacted on February 20, 2003, provided for the merger of the Library of Congress Police into the United States Capitol Police. The section, which originated in the Senate and was enacted in the Legislative appropriation for fiscal 2003, was never the subject of formal hearings in the Committee on House Administration. Section 1015 provides that the merger of the two police forces will not take place until an implementation plan, developed by the Chief of the Capitol Police and submitted to the Capitol Police Board, the Librarian of Congress, and the appropriate committees, has been approved. Pending that approval, which has not yet occurred, Section 1015 authorized the Librarian to fill vacancies in the Library Police ranks with applicants who satisfy the employment standards of the Capitol Police, to the extent practicable.

Seven months later, Section 1006 of the Legislative Branch Appropriations Act for 2004, another provision not subjected to hearings in our committee, eliminated the Library's authority to hire police officers pending the merger with the Capitol Police. During fiscal 2004, Section 1006 allows the Librarian to select and recommend to the Capitol Police enough qualified officers to replace those which the Library loses through attrition this year, and up to 23 more. Nevertheless, the restriction on the Library's hiring of police officers has in practice resulted in a serious manpower shortage for the Library. The Librarian, Dr. Billington, has warned our committee that if nothing changes, the Library may soon have a police force staffed at two-thirds of its authorized strength. I certainly agree with Dr. Billington that such a posture is unacceptable in these perilous times.

Madam Speaker, the Chairman's bill would restore the Library's authority to hire police officers pending the merger. Under the bill, the Librarian must still, to the extent practicable, hire individuals who meet the standards of the U.S. Capitol Police, as determined by the Capitol Police chief. Since it is not clear at this time how soon the merger implementation plan may win the approval of the appropriations and authorizing committees involved, including the Committee on House Administration, restoring the Library's control over its police hiring is the prudent course for us to take.

Madam Speaker, the Library of Congress is the nation's preeminent cultural institution. This Congress should take every reasonable step to assure the proper protection of the Library's 4,000 employees, millions of books and artifacts, and its capital facilities, so the Library can continue serving the American people and their Congress. Restoring the Library's ability to hire enough qualified police to support its mission is not only reasonable, but essential.

I want to thank the distinguished chairman, the gentleman from Ohio [Mr. NEY] for moving so resolutely to address the problem caused by last year's appropriations bill. This predicament, which the chairman's legislation would correct, could properly become a case study for why the House rules prevent appropriations bills from including legislative provisions, and vest the responsibility for such matters in the authorizing committees. I support and applaud the chairman's determination to ensure that the Library of Congress does not become a weak point in the Capitol's security perimeter. That, Madam Speaker, we simply cannot afford. I trust the Senate will follow the chairman's leadership in this regard.

Madam Speaker, I include for the RECORD a letter on this subject from the Librarian of Congress:

THE LIBRARIAN OF CONGRESS,
July 15, 2004.

Hon. ROBERT NEY,
Chairman, Committee on House Administration, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for taking the time to speak with me on Tuesday regarding the library's Police force. I truly appreciate your call and concern.

The Library has been without an adequate police force for more than a year. The U.S. Capitol Police received funding to hire 23 officers that, under the 2004 Legislative Branch Appropriations Bill, were to be detailed to the Library of Congress. As a practical matter we cannot get them until we have approval of a memorandum of understanding between the Capitol Police and the Library. The 2004 appropriations bill removed the Library's ability to hire police employees, and an additional ten officers have left our force staffed at only two-thirds of its authorized strength—clearly unacceptable in today's world.

I do not see any realistic alternative solution other than a short-term detail of U.S. Capitol Police officers to the Library of Congress police for filling this devastating gap in our police manpower. The memorandum of understanding currently before the House Administration Committee will accomplish that goal and return our police staffing to safe levels.

The outcome of any merger of police forces must be decided by the Congress. The Library will work with you and all other stakeholders on the architecture of this solution. But we must have this immediate infusion of police officers.

With true appreciation for all that you do for the Library of Congress, I am,

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

Madam Speaker, I yield back the balance of my time.

Mr. NEY. Madam Speaker, I yield myself the balance of my time.

I just want to thank our ranking member from Connecticut (Mr. LARSON) for working on this. It is a crucial issue. I believe our thinking is correct on this, to work together, to work with the appropriators and look at the long-term interests.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the bill, H.R. 4816.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of H.R. 4816, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SENSE OF THE HOUSE REGARDING POSTPONEMENT OF A PRESIDENTIAL ELECTION

Mr. NEY. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 728) expressing the sense of the House of Representatives that the actions of terrorists will never cause the date of any Presidential election to be postponed and that no single individual or agency should be given the authority to postpone the date of a Presidential election.

The Clerk read as follows:

H. RES. 728

Whereas no regularly scheduled national election for Federal office has ever been postponed for any reason;

Whereas regularly scheduled Federal elections took place as scheduled during the Civil War, World War I, and World War II;

Whereas after having been re-elected in an election that took place while the Civil War continued to rage, Abraham Lincoln said "We can not have free government without elections; and if the rebellion could force us to forego, or postpone a national election it might fairly claim to have already conquered and ruined us. . . . [T]he election, along with its incidental and undesirable strife, has done good too. It has demonstrated that a people's government can sustain a national election, in the midst of a great civil war. Until now it has not been known to the world that this was a possibility.";

Whereas the terrorist bombings that took place in Spain on the eve of the Spanish elections in March 2004 were almost certainly perceived by Al Qaeda as having contributed to the defeat of the government that had stood with the United States in the Global War on Terror;

Whereas terrorists may attempt to strike again against the United States in the months leading up to the November 2004 Presidential election in an attempt to alter or affect the election's outcome;

Whereas in the event that such a horrific attack were to occur, the actions of millions of Americans across the Nation casting their ballots would demonstrate powerfully the strength and resilience of our democracy;

Whereas there is no reason to believe that the men and women who administer elections in jurisdictions across the Nation would be incapable of determining how to react to a terrorist attack;

Whereas postponing an election in the aftermath of a terrorist attack would demonstrate weakness, not strength, and would be interpreted as a victory for the terrorists; and

Whereas under section 4 of article II of the Constitution, Congress has the authority to determine the date on which a Presidential election shall take place: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the actions of terrorists will never cause the date of any Presidential election to be postponed; and

(2) no single individual or agency should be given the authority to postpone the date of a Presidential election.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Madam Speaker, I yield myself such time as I may consume.

I rise today to introduce, I think, an extremely important resolution, House Resolution 728, which expresses the sense of the House that the actions of terrorists will never cause the date of any national election, Presidential election, to be postponed and that no single individual or agency should be given the authority to postpone the date of a national election.

In a great democratic republic such as ours, there is nothing more fundamental than the bond that is forged between citizens and their representatives during the course of regularly scheduled elections. In our country and by design of our Federal Constitution, the people are sovereign. The power that we exercise as representatives derives directly from their consent.

James Madison, writing in Federalist No. 52, stated that "It is essential to liberty that the government in general should have a common interest with the people." According to Madison, "Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured."

Congress is authorized by the Constitution to determine the date on which the Presidential election and all other Federal elections will take place. Thus, only an act of Congress, and not the actions of a single individual or agency, could change that date.

The ability of the United States to conduct regularly scheduled Federal elections even during the most difficult and trying of times, for example, such as during the Civil War and during World Wars I and II, is a hallmark of our strength and our resiliency, the great cornerstone of our democracy itself. We would do well to remember the counsel of Abraham Lincoln who, after having been reelected President while the Civil War was raging, stated:

"We cannot have free government without elections. And if the rebellion could force us to forgo, or postpone a national election, it might fairly claim to have already conquered and ruined us. The election, along with its incidental and undesirable strife, has done good. It has demonstrated that a people's government can sustain a national election in the midst of a great civil war. Until now it has not been known to the world that this was a possibility."

The resolution that we are introducing today reaffirms our national commitment to holding Federal elections, including the election for President, on the date prescribed by law and to stand firm in the face of terrorist enemies who seek to derail the operation of our democracy.

Since the terrible and fateful morning of September 11, 2001, we all have become in this country painfully aware of the destructive intent of our country's terrorist enemies as well as the increasingly sophisticated and devastating methods by which they carry out their deadly work. We were further reminded of al Qaeda's hatefulness and total disregard for innocent life this past March when, in the days leading up to the Spanish national elections, they unleashed a string of lethal bombings that killed scores of civilians in Madrid. Shortly thereafter, the Spanish Government, that had stood shoulder to shoulder with us, was then voted out of office. But it is not a matter of who was voted into office or who was voted out of office. It is the matter of the action that the terrorists took to intimidate a country.

I realize that many factors were at play during that election. However, I have no doubt that al Qaeda believes its actions led directly to the defeat of a government. And I believe, in fact, the threats that we hear about are intimidation factors on us in the United States to attempt to get us to think about the possibility of a national election being changed.

We hope that there are no terrorist attacks, of course, and we hope that our Central Intelligence Agency and FBI and Homeland Security will do everything possible, as we know they will, in conjunction with the States, to make sure that attacks are not carried out.

But if an attack did occur and we in fact postponed an election, what would we do? Would we say it will happen in 1 week? Or it will happen in 2 weeks? And there is another attack and we postpone it for 2 more weeks. One could imagine the chaos that would be caused by this type of action.

It has been suggested that such an attack may require the postponement of this November's election. I strongly disagree. Any delay in the conduct of an election in the aftermath of a terrorist attack would signify weakness rather than strength and would be a victory for the terrorists if they could accomplish that here on our soil. I believe that if such an attack were ever to occur, and I earnestly pray, as we all do, that it never happens, the actions of millions of Americans across this great country casting their ballots in a regularly scheduled election would send a very powerful signal to our terrorist enemies and to all the world about the vigor of our democracy and the fortitude of our citizens to continue on where America does her work, at the ballot box.

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With this resolution the House declares on behalf of the American people it represents that the strength and stability of the American democratic system and the values upon which it is founded are much greater than any attempts our terrorist enemies may make to disrupt or destroy them. The message we send is unmistakably clear: we will not shrink in the face of terrorist threats.

And let me add one other point I think that is important to make. As there has been chatter about the possibility of talking about one person or one agency postponing the elections, we live in a democracy. Elections are postponed in countries that have dictators by one individual. We do not operate that way. So there are many good reasons to support this.

I want to thank the Speaker of the House, all of the Republicans. I want to thank the gentlewoman from California (Ms. PELOSI) and most of all also the gentleman from Connecticut (Mr. LARSON), our ranking member. This is a truly bipartisan resolution. This is a resolution where everybody has joined together to say that we will not be intimidated and to say that Congress has the authority on the elections, the elections will go forward, and that no one single person or agency will even entertain the idea that, in fact, they can postpone an election. I thank the gentleman from Connecticut (Mr. LARSON) for his great support.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield myself such time as I may consume.

I wish to associate myself with the remarks of the gentleman from Ohio (Chairman NEY), my good friend.

I rise today in support of this resolution to reaffirm that our Federal elections should not be postponed in the event of terrorist attacks, as our chairman has eloquently stated in his remarks. I stand in support of this resolution because of the matters contained in the resolving clauses. Number one, the actions of terrorists will never cause the date of any Presidential election to be postponed; and, number two, no single individual or agency should be given the authority to postpone the date of a Presidential election. This is the meat of this resolution.

I further join with the gentlewoman (Ms. PELOSI), our distinguished leader, in calling for the United States to be an example for democracies around the world, and that means holding our elections on schedule. I would also like to thank the gentleman from Texas (Mr. TURNER), ranking member of the Select Committee on Homeland Security, who spoke out so eloquently on this issue, and the gentlewoman from California (Ms. WOOLSEY), who has already circulated in the immediate comments following some of the press with respect to this issue and garnered more than 150 signatures, as the chairman has indicated, along bipartisan lines.

The Union has stood for over 225 years and has never had a Federal election postponed or cancelled. Not in time of war, not in time of economic turmoil, and not in time of natural disaster. We should not start now. We as a country will not bend in the face of threats to our democracy. The United States was founded on the ideas of hope and freedom. Those who believe that they will break those pillars with the threat of terror are misguided.

I have requested a briefing from Department of Homeland Security Secretary Tom Ridge to learn how his Department plans to work with Congress to safeguard the November elections and on reducing the risk of attack. I join with the committee chairman and we share the concerns, and we all hope and pray and abide that no such attacks will occur, and yet we must be prepared for those contingencies. I would suggest that while we are mindful of security and the safety of voters, we should not focus on these issues to the extent that they damage democracy by frightening voters away from the polls. Americans should go to the polls in record numbers to show our determination that we take our democracy seriously.

Madam Speaker, I reserve the balance of my time.

Mr. NEY. Madam Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. SMITH), and I would also note that the gentleman has introduced House Concurrent Resolution 474 into our committee, and it supports the very same objectives; and I appreciate the gentleman's introducing that resolution.

Mr. SMITH of Michigan. Madam Speaker, I thank the chairman for yielding me this time, and I think there is going to be unanimous support for this resolution.

I think it is appropriate to mention the only reason this really came to the forefront and has become an issue is because the Election Assistance Commission Chairman, DeForest Soaries, proposed a possibility of a policy for allowing the alteration of the schedule for Federal elections in the event of an unspecified emergency. He said maybe we should be looking at that possibility. I think it was never the intention of Congress or the administration or anybody else for the reasons that have been presented from both sides to ever alter our election schedule in the United States of America.

I would like to add some of the whereases in the concurrent resolution that I introduced earlier in July, on H. Con. Res. 474.

And it says: "Whereas the United States has never postponed or delayed a Federal election for any reason, even during the Civil War" and "Whereas Condoleezza Rice, the Assistant to the President for National Security Affairs, has stated that the administration has no intention of altering the schedule for Federal elections and expects the elections to occur as scheduled" and "Whereas the American people have a longstanding and legitimate expectation that regularly scheduled Federal elections will continue to be held in accordance with Federal law" and "Whereas keeping the schedule of Federal elections is necessary to maintain confidence in the legitimacy of the Presidency and Congress both in the United States and around the world: Now therefore be it resolved" it is not going to happen and this Congress is never going to permit the alteration of law that would be required to have a postponement of our Federal elections because of terrorist threat.

I compliment both sides of the aisle for moving ahead with this resolution.

Mr. LARSON of Connecticut. Madam Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), who has led the effort here in the House and petitioned to Secretary Ridge.

Ms. WOOLSEY. Madam Speaker, it appeared earlier this month that if DeForest Soaries, the chairman of the U.S. Election Assistance Commission, had gotten his wish, his agency would have the authority to postpone the November Presidential elections in the event of a terrorist threat or attack. I was personally appalled that Soaries made such a request and that it was even considered.

The postponement of a Presidential election would present the greatest threat to date to our democratic process. It would be an admission of defeat to the terrorists, inviting them to disrupt the selection of our highest leader, and it would be unprecedented in our Nation's history. Such a proposal suggests that State officials responsible for elections in their region are incapable of deciding what steps to take in the event of a catastrophe. The legislative branch of the government has always held the authority to regulate elections, not the executive branch.

So last week I wrote a letter to Secretary Ridge, as the gentleman from Connecticut (Mr. LARSON) stated, and I requested that he take no further steps to postpone this year's Presidential election. 190 Members of Congress signed this letter with me, and I credit the gentleman from Ohio (Mr. NEY) and the gentleman from Connecticut (Mr. LARSON) for bringing this important resolution H. Res. 728, to the House floor immediately, showing support of our request and showing full appreciation for the election process.

Madam Speaker, in early 1864, President Abraham Lincoln feared that he would lose his Presidency due to the widespread criticism of his handling of the Civil War. No President had won a second term in more than 30 years, and the Union had recently suffered a string of military disappointments, and his advisers told him that they thought he should postpone the election. Many of President Lincoln's closest advisers told him he would lose the election, in fact, if it were held. But President Lincoln never considered that possibility, nor will we.

Wars, droughts, floods, and hurricanes have not stopped elections. And the possibility of a terrorist attack must not stop one either. I urge my colleagues to support this resolution.

Mr. NEY. Madam Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Madam Speaker, I thank the gentleman from Connecticut for yielding me this time and thank the gentleman from Ohio (Mr. NEY).

I want to raise a question here because, first of all, I absolutely agree that the executive branch must not be given the authority or must not assume the authority to change our elections. On that I one hundred percent agree. That must be the purview and the prerogative of the United States Congress.

But I just want to raise a question. The issue really is not the holding of elections. The issue is whether or not in the elections everyone's vote gets counted, and we must be very careful in our rhetorical concerns to not just say they will never disrupt the elections but to instead ensure that terrorists not allow individual votes to not be counted.

We have seen elections in which individual votes were not counted, and that is the threat to the democracy. And I mean this very seriously. It is quite plausible to imagine scenarios wherein we go forth with an election, but individual votes are not counted and thereby the election of an individual as President of the United States or as Members of the House or Senate does produce an outcome, but the outcome is not based on a fair and full counting of each of our votes.

And that is my concern. And my concern, frankly, is I think we are moving this forward too fast. My own preference would be to follow something along the lines of what Norm Ornstein recommended, and that is appoint a commission to study in the interim what the possible scenarios are and what our opportunities are because if, for example, one State, let us say California, is attacked by terrorists and the number of the votes are not in some way able to be tallied, are we today setting a marker in the ground that says it is better not to count the votes of the State of California or to only partially count those in order that we can say the election was held on time?

Quite frankly, I am not comfortable with the results of elections where we have said what matters is that we say we have held the election rather than we say what matters is every single person's vote is counted. It is that principle on which the integrity of a democratic Republic depends, not merely holding elections on a designated time.

So I will very likely vote for this, but I will do so with reservations. And I would suggest that if we do pass this resolution, we not assume that in so doing we have solved this problem. Nor do we assume that in so doing, we have assured the American people that their votes will be counted. Because the American people say not that we must hold the election on the first Tuesday of November. What they say is, most important is my vote must count. In the past it has not counted, and it must count ever after.

Mr. NEY. Madam Speaker, I yield myself such time as I may consume.

I am not sure I am going to attempt to actually answer that, but I will say this, and I respect always the gentleman's opinion: when he says the issue is about counting votes, we cannot count votes unless we have an election, I understand where he is coming from. However, there is an issue about the security of the ballots. Let us take terrorists away from it. There could be an earthquake. It could be in California. It could be in Texas. Do we then stop the national elections? Forget terrorism. Would we stop the national elections if on the day of the elections there was an earthquake somewhere? Would we somehow broadcast to the Nation stop, turn around, and go home? But I think, frankly, understanding what he is saying, respecting what he is saying about security, this still goes way beyond that.

□ 1845

At issue tonight is not forgetting about security elections, not forgetting about having accurate elections, but the issue is with the chatter about one person being able to stop elections; the Congress, I think this is the time the Congress is the body that can do that, and this is as a result of the chatter about one person.

Now, whom would we pick? Would we pick you, would we pick the Speaker, would we pick the minority leader, would we pick the Attorney General, would we pick Homeland Security?

So I think the issue of this is stating on the record that Congress will not even entertain one person, because the idea of one person is something so foreign to us, that no one individual in this country ever, ever has the power to stop an election.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I just wanted to comment, as well, that I appreciate the spirit of my colleague's comments and what he had to say, and I think that votes being conducted does truly matter.

In the legislative process, would it be that every time we passed a piece of legislation did we not think the problem had been solved? So I agree that we have to continue to follow through on this issue.

But I think the chairman is correct in terms of looking at the gravity of this situation and an individual, and, as the gentleman pointed out in his remarks as well, understanding completely that that authority should derive with the United States Congress.

Madam Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Madam Speaker, I thank the gentleman for yielding me time.

I appreciate the discussion here. I absolutely agree. I want to underscore that. The gentleman, I could not agree more; it must not reside with one person. Frankly, not because we feel that way, not because we cannot think of who that one person would be, but because the Constitution of the United States of America has never said that the President or a designee of the President can delay an election. That must reside with Congress, if anything is going to happen to elections.

But I really do want to underscore, what is the purpose of an election? The purpose of an election is not simply to say we had an election and someone was declared the winner. The purpose of the election is to understand the will of the majority of the American people.

If events, be they natural or terrorist, in some way distort the ability of us to accurately glean and determine the will of the American people, then that is to be of profound consideration.

My concern, again, is we must first and foremost ask ourselves what mechanisms are in place to ensure that the will of the American people is accurately recorded and counted, not what mechanisms are in place so that at the close of business on November 2 we can all declare we have had an election. That is all I am trying to say here.

I absolutely applaud the gentleman for saying no one person must make this decision. If nothing else than that, I would vote for this resolution. But I think we must step back after that and say, What mechanisms do we have in place? If on Election Day something profound has happened, be it terrorist or natural, that we reliably can reliably say we do not have an accurate count at the end of this day, should we move forward so that we can say, We had an election; or should we have some mechanism in place to ask ourselves, Has this mechanism of an election been valid? And if it has not been valid, then it behooves us and it is our duty to the American people and the voters to say, We are going to do something beforehand to make sure it is valid and not leave it up to chance. That is all I am trying to say.

So if we pass this, let us please continue this discussion, and ask if something does happen that interferes with your right to have your vote counted and accurately represented, we have some mechanism to anticipate that.

Mr. LARSON. Madam Speaker, I thank the gentleman for his thoughtful comments.

Madam Speaker, I yield 4 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE)

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman for yielding me time and for his leadership, particularly the guidance that he has given us through a number of election challenges that we have had in this Congress. And I thank the chairman of the committee, who has remained open-minded on these issues.

I think my colleague that has just spoken has crafted one instruction for us, and that is that we should be diligent and we should be vigilant, and I frankly think that this legislation allows us to do both.

I am rising to enthusiastically support the idea that we are committed to the principles of this country and we are not to be intimidated.

Let me say that I believe there is not one of us who is not committed unanimously and in a bipartisan and nonpartisan manner and as Americans to fight the war against terror. We are saying to the world that we will not be intimidated by terrorists or terror. I think we also are committed to securing the homeland, and we realize that we have that kind of important challenge.

In a few days, we will receive the 9/11 report, and it will probably announce, pronounce, a number of failings in our system, one of them being the failing in our Intelligence Community's communication.

In a few days, as well, probably simultaneously, the Select Committee on Homeland Security, of which I am a member, will be marking up a new authorization bill, one that I hope will not be a bill that is intimidating and timid, that we will address the questions of securing the homeland; and frankly, I hope that in the discussions we will talk about the sanctity and the importance of holding elections.

With that in our mind-set, the 9/11 Commission report and homeland security, this particular initiative, this legislation, is important. It makes a public pronouncement of the authority of the United States Congress to hold Federal elections.

I do believe it is important, however, to have this discussion realize that we too understand the possibility of tragic incidents, whether it is one of terror or natural disaster, and that we will say, as we debate this, that we will be cognizant of those possibilities and be prepared as a Congress to respond.

We will be prepared to respond. How that response will take place, it will be our decision as to how it will take place, but we are assuring everyone that our first priority is to have elections.

So I will support this particular legislation because it makes an important public statement: Whose authority is it? It is the United States Congress', the Federal authority, to ensure we have elections.

But, Madam Speaker, let me say this. I think it is important to make note of the fact that all votes should be counted. I was here on January 6, 2001, and supported the idea of challenging the election at that time. The challenge was not a personal challenge, it was simply one that had to do with making sure that every vote was counted. So that point is very clear, that we should be diligent and vigilant with ensuring that all votes are counted.

Let me add, as I close, that one of the other important aspects of our diligence and our vigilance is, as we look forward to the elections, to make sure they are accurate.

So I was disappointed with the vote of this Congress, an amendment by the gentleman from Indiana (Mr. BUYER), that would ask that we not have international monitors here. The debate was vigorous, and I think the prevailing debate, although it was not prevailing in the vote, is that we are proud of our democracy. We have our failures and our faults, but we are proud of our democracy, and we do not mind if anyone comes to monitor our elections. So this is in sync with this particular legislation on the floor.

Again, let me congratulate the gentleman from Connecticut (Mr. LARSON) and the gentleman from Ohio (Mr. NEY), because we will find that most of the Members of Congress, and let me say that I think all, will find themselves able to vote for this legislation enthusiastically, because we do believe in the importance of elections, no matter whether we win or lose.

But let us do so by being vigilant and diligent. Let us make sure they are accurate elections and make sure that we open the doors for international monitors so that we can make sure that the American people have the best elections ever for the world to see.

Madam Speaker, I ask for support of this legislation.

Mr. LARSON. Madam Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the distinguished gentlewoman, and I again want to add both my praise and thanks for the leadership of our distinguished chairman, the gentleman from Ohio (Mr. NEY), in bringing this resolution to the floor.

We are the greatest country on the face of the Earth. We are known throughout the globe for our great strength and resolve. We are known for the great strength of our military and our armies and the shock and awe that they create.

But the most awesome thing that we have, the thing that sticks out in everybody's minds, what makes us the Nation that we are, is our freedom of expression and our right to vote. That is why this is such an important resolution and such an important issue.

In the final analysis, it will not be the strength of our armies; it will be the strength of the individual and collective thoughts of our citizens that are expressed on the day we vote that makes us the Nation that we are.

Madam Speaker, I thank the gentleman from Ohio for his leadership.

Madam Speaker, today I rise in support of this resolution to reaffirm that our Federal elections should not be postponed in the event of terrorist attack. I would like to associate myself with the remarks of the Chairman and thank his staff for drafting this resolution. I stand in support of this resolution because of the matters contained in the resolving clauses (1) the actions of terrorists will never cause the date of any Presidential election to be postponed; and (2) no single individual or agency should be given the authority to postpone the date of a Presidential election. This is the meat of the resolution, and others can debate about the meaning of the "whereas" clauses—and I am sure there will be lots of different interpretations.

I further join with Leader PELOSI in calling for "the United States to be an example for democracies around the world, and that means holding our elections as scheduled." I would also like to thank the ranking minority member of the Homeland Security subcommittee JIM TURNER and Representative LYNN WOOLSEY for their leadership on this very important issue. This union has stood for over 225 years and has never had a Federal election postponed or cancelled. Not in time of war; not in time of economic turmoil and not in time of natural disaster. We should not start now! We as a country will not bend in the face of threats to our democracy. The United States was founded on the ideals of Hope and Freedom! Those who believe that they will break those pillars with the threat of terror are misguided.

I have requested a briefing from Homeland Security Secretary Thomas Ridge to learn how his department plans to work with Congress to safeguard the November elections and on reducing the risk of an attack.

I would suggest that while we must be mindful of the security and safety of voters, we should not focus on these issues to the extent that it damages democracy by frightening voters away from the polls. Americans should go to the polls in record numbers to show our determination that we take democracy seriously.

Madam Speaker, I urge my colleagues to join me in supporting this resolution.

Madam Speaker, I yield back the balance of my time.

Mr. NEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have gone a long way in this country, and we always continue to look for ways we can better improve security, ways that we can have integrity in the elections, the Help America Vote Act. There are a lot of different things that we continuously do in the history of our country.

On this issue, I am so proud of this House. I want to thank the Speaker for his support, the gentleman from Connecticut (Mr. LARSON) for his quick action on this, the Democratic leader, the gentlewoman from California (Ms. PELOSI).

You take Members from all backgrounds in this House and sometimes people say, do you ever agree on anything? Well, you know, we might disagree here and there. But you take Members from the left, the right and the middle, you take Members from the rural and the urban, they have come together so quickly on this resolution on a bipartisan basis, because I believe that this Chamber knows and respects the integrity of our process and the rule of law that we have on the election process and Congress' clear, defined role in that.

Madam Speaker, I thank the gentleman and I urge support of this resolution.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the resolution, H. Res. 728.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. NEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 728.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

JUNK FAX PREVENTION ACT OF 2004

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4600) to amend Section 227 of the Communications Act of 1934 to clarify the prohibition on junk fax transmissions, as amended.

The Clerk read as follows:

H.R. 4600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Junk Fax Prevention Act of 2004".

SEC. 2. PROHIBITION ON FAX TRANSMISSIONS CONTAINING UNSOLICITED ADVERTISEMENTS.

(a) PROHIBITION.—Subparagraph (C) of section 227(b)(1) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(C)) is amended to read as follows:

"(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

"(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient, and

"(ii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D),

except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or".

(b) DEFINITION OF ESTABLISHED BUSINESS RELATIONSHIP.—Subsection (a) of section 227 of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'established business relationship', for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of the Commission's regulations, as in effect on January 1, 2003, except that—

"(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

"(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G).".

(c) REQUIRED NOTICE OF OPT-OUT OPPORTUNITY.—Paragraph (2) of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new subparagraph:

"(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

"(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

"(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

"(iii) the notice sets forth the requirements for a request under subparagraph (E);

"(iv) the notice includes—

"(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

"(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

"(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request during regular business hours; and

"(vi) the notice complies with the requirements of subsection (d);".

(d) REQUEST TO OPT-OUT OF FUTURE UNSOLICITED ADVERTISEMENTS.—Paragraph (2) of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsection (c) of this section, is further amended by adding at the end the following new subparagraph:

"(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

"(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

"(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

"(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;".

(e) AUTHORITY TO ESTABLISH NONPROFIT EXCEPTION.—Paragraph (2) of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c) and (d) of this section, is further amended by adding at the end the following new subparagraph:

"(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to their members in furtherance of the association's tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(ii), except that the Commission may take action under this subparagraph only by regulation issued after public notice and opportunity for public comment and only if the Commission determines that such notice required by paragraph (1)(C)(ii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements; and".

(f) AUTHORITY TO ESTABLISH TIME LIMIT ON ESTABLISHED BUSINESS RELATIONSHIP EXCEPTION.—Paragraph (2) of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c), (d), and (e) of this section, is further amended by adding at the end the following new subparagraph:

"(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship to a period not shorter than 5 years and not longer than 7 years after the last occurrence of an action sufficient to establish such a relationship, but only if—

"(I) the Commission determines that the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

"(II) upon review of such complaints referred to in subclause (I), the Commission has reason

to believe that a significant number of such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

"(III) the Commission determines that the costs to senders of demonstrating the existence of an established business relationship within a specified period of time do not outweigh the benefits to recipients of establishing a limitation on such established business relationship; and

"(IV) the Commission determines that, with respect to small businesses, the costs are not unduly burdensome, given the revenues generated by small businesses, and taking into account the number of specific complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines by small businesses; and

"(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-year period that begins on the date of the enactment of the Junk Fax Prevention Act of 2004.".

(g) UNSOLICITED ADVERTISEMENT.—Paragraph (5) of section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)(4)), as so redesignated by subsection (b)(1) of this section, is amended by inserting ", in writing or otherwise" before the period at the end.

(h) REGULATIONS.—Except as provided in clause (ii) of section 227(b)(2)(G) of the Communications Act of 1934 (as added by subsection (f) of this section), not later than 270 days after the date of the enactment of this Act, the Federal Communications Commission shall issue regulations to implement the amendments made by this section.

SEC. 3. FCC ANNUAL REPORT REGARDING JUNK FAX ENFORCEMENT.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended by adding at the end the following new subsection:

"(g) JUNK FAX ENFORCEMENT REPORT.—The Commission shall submit a report to the Congress for each year regarding the enforcement of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which shall include the following information:

"(1) The number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission's rules.

"(2) The number of such complaints received during the year on which the Commission has taken action.

"(3) The number of such complaints that remain pending at the end of the year.

"(4) The number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines.

"(5) The number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines.

"(6) For each such notice—

"(A) the amount of the proposed forfeiture penalty involved;

"(B) the person to whom the notice was issued;

"(C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and

"(D) the status of the proceeding.

"(7) The number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines.

"(8) For each such forfeiture order—

"(A) the amount of the penalty imposed by the order;

"(B) the person to whom the order was issued;

"(C) whether the forfeiture penalty has been paid; and

"(D) the amount paid.

"(9) For each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty.

"(10) For each case in which the Commission referred such an order for recovery—

"(A) the number of days from the date the Commission issued such order to the date of such referral;

"(B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and

"(C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.".

SEC. 4. GAO STUDY OF JUNK FAX ENFORCEMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding complaints received by the Federal Communications Commission concerning unsolicited advertisements sent to telephone facsimile machines, which shall determine—

(1) the mechanisms established by the Commission to receive, investigate, and respond to such complaints;

(2) the level of enforcement success achieved by the Commission regarding such complaints;

(3) whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints; and

(4) whether additional enforcement measures are necessary to protect consumers, including recommendations regarding such additional enforcement measures.

(b) ADDITIONAL ENFORCEMENT REMEDIES.—In conducting the analysis and making the recommendations required under paragraph (7) of subsection (a), the Comptroller General shall specifically examine—

(1) the adequacy of existing statutory enforcement actions available to the Commission;

(2) the adequacy of existing statutory enforcement actions and remedies available to consumers;

(3) the impact of existing statutory enforcement remedies on senders of facsimiles;

(4) whether increasing the amount of financial penalties is warranted to achieve greater deterrent effect; and

(5) whether establishing penalties and enforcement actions for repeat violators or abusive violations similar to those established by section 4 of the CAN-SPAM Act of 2003 (15 U.S.C. 7703) would have a greater deterrent effect.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study under this section to Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4600, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume, and it is to make this point: That the majority worked very well with the minority on this issue. The gentleman from Michigan (Mr. DINGELL) and I and all the Members on our side want to thank the gentleman from Michigan (Mr. UPTON) and the gentleman from Texas (Mr. BARTON) for their cooperation on this legislation.

I was the principal House sponsor of the original junk fax bill back in 1991. That bill worked quite well, but we need to update it, and this legislation will help to give the additional protections to American consumers so that they can protect themselves against the tsunami of unwanted junk faxes which go into their homes.

After all, what could be worse than to have something come into your home, consume paper in your fax machine that you have to pay for, and then not have an ability to be able to stop that person from sending any more junk faxes into your home?

That is what this bill will help to ensure does not occur in our country. The provisions in it, I think, are solid, they are sound, and they are the product of a bipartisan bill.

Mr. Speaker, I rise in support of this bill. This legislation reflects a compromise that was negotiated out between both Democratic and Republican Members over a number of weeks and I encourage Members to support this legislation today.

First, let me state that I was the principal House sponsor of the Telephone Consumer Protection Act (TCPA) of 1991, which contained the original junk fax prohibition. Congress endorsed my call in 1991 for a general prohibition against junk faxes because of the intrusive nature of that form of advertising. Junk faxes represent a form of advertising in which the ad is essentially paid for by the recipient. The recipient of a junk fax pays for the fax paper and printer costs, pays in the form of precious lost time as the machine is tied up, and also in the form of the clutter in which important faxes are lost in the midst of a pile of junk faxes.

I think it is important to emphasize that the bill we bring to the House floor today retains the general prohibition against sending junk faxes. In other words, sending an unsolicited facsimile advertisement is against the law. We are not changing the law or the policy with respect to this—sending a junk fax was illegal and remains illegal under this bill. Neither are we changing any of the statutory enforcement mechanisms available to the FCC or consumers in this bill.

The legislation we are proposing will address certain provisions affecting an exception to the general prohibition against sending junk faxes and will improve the bill in these areas. Since the FCC originally implemented the 1991 junk fax provisions of the TCPA, Commission regulations contained an exception for faxes that were sent because an "established business relationship" existed between the sender and the recipient. These regulations were in place and the ability to send junk faxes based upon the exception was permitted by the Commission for over a decade.

This concept of an "established business relationship" permitted a commercial entity to invoke its ability to prove such a relationship with a consumer in order to contact that consumer in spite of the general prohibitions of the law. The FCC has more recently determined that the term "established business relationship" was not specifically included in the provisions addressing junk faxes in the TCPA and therefore changed its regulations. The new rules require "written" permission from consumers and these new rules have been stayed from going into effect until January of 2005.

The legislation before us is designed to put specific language into the statute permitting an "established business relationship" exception to the general prohibition against junk faxes. Many businesses have complained that written permission is too onerous a regulatory requirement for many of the faxes that they stipulate are routinely sent in the ordinary course of business, presumably without complaints from the recipients of such faxes. The draft bill is responsive to these complaints.

We must recognize, however, that many small businesses and residential consumers find many of these unsolicited faxes, including those faxes sent because a valid claim of an "established business relationship" was being asserted in order to send them, to be a considerable irritant and strongly object to receiving them. The legislation, therefore, addresses additional issues, including putting into the statute an "opt-out" ability for consumers to object to receiving junk faxes, even when such faxes are sent to them based on an established business relationship. For the decade that the original FCC regulations were in place, many consumers simply were not aware of the FCC's established business relationship exception, nor did very many know they had an ability to stop these faxes or any clear way in which to effectuate such a request.

The bill the House is considering includes new provisions requiring an "opt-out" notice and policy that we will add to the statute. The bill requires junk faxes to include, on the first page, a clear and conspicuous notice to consumers that they have the right not to receive future junk faxes from the sender. Second, the notice must include a domestic contact telephone number an fax number for consumers to transmit a request not to receive future faxes. Third, the bill stipulates that consumers must be able to make such requests during normal business hours. Fourth, the bill requires the notice to conform with the Commission's technical and procedural standards for sending faxes under Section 227(d) of the law, which include the requirement to identify the entity sending the facsimile advertisement.

This is an important provision because one of the biggest complains from the FCC at the hearing, and with other law enforcement entities and aggrieved consumers, is that they have had difficulty legally identifying the source of many of the unsolicited faxes. In addition, there were some senders of junk faxes who evidently and falsely believed that simply because they were sending an unsolicited fax based upon their ability to prove they had a "established business relationship" with a consumer, and thus did not have to abide by the general prohibition against such faxes, that this also meant they did not have to abide by the other FCC and statutory technical rules. These statutory and regulatory rules include requirements that junk fax senders identify themselves in such faxes. Law enforcement entities and consumers need to be able to find the legal business name or widely recognized trade name of the entity sending a junk fax in violation of the rules in order to pursue enforcement actions.

Fifth, this bill makes it clear that a consumer can "opt-out" of receiving faxes to multiple machines, if they have more than one, rather than opting out solely for the particular machine that received the junk fax. Sixth, in this legislation the Commission is tasked with exploring additional mechanisms by which a consumer might opt-out, such as in person or by e-mail or regular mail, and also requests that the Commission established cost-free ways by which consumers can opt-out. These notice and opt-out requirements all represent new provisions to the law for which existing enforcement remedies will apply.

This legislation also includes the ability for the FCC to limit the duration of an established business relationship notwithstanding the fact that the law would include an opt-out notice and ability which avails consumers of the right to opt-out of receiving faxes at any point in time. I believe this is an important concept and one which deals with the legitimate expectations of consumers. If a consumer buys something from a store, consumers might expect to hear from that store within a reasonable period of time under the notion that they have an established business relationship and the store was sending an unsolicited fax based upon that fact. Over time however, a consumer's expectation changes and there is a time after which the established business relationship can be said to have lapsed.

There are some who believe that no time limit is necessary, in light of the fact that we are now adding a clear way by which consumers may opt-out of receiving junk faxes at any time. There are others who believe that a time limit is necessary for consumer protection, and many of us have different views over what period of time is reasonable. While it is not the preferred resolution for any of us, the bill contains a new provision which tries to bridge the gap between our different perspectives on this issue. The legislation will permit the Commission to put in place a sunset of the established business relationship, after the FCC implements the new opt-out policy and it gets a track record on what is happening in the marketplace. In particular, the Commission will examine consumer complaints to the agency during this period with an analysis as to whether junk faxes from entities with whom consumers have an established business relationship constitute a significant number of complaints. If so, the Commission may establish a limit, between 5 and 7 years, for the duration of an established business relationship. If it does so, then after the limit, entities would not be able to send junk faxes because they can prove an established business relationship with a consumer. In other words, the relationship would end for purposes of the exception and the policy would revert back to the general prohibition against sending the junk fax for that consumer.

Finally, I think it is important to take a comprehensive look at overall enforcement of the junk fax law. I am concerned that some of the most egregious junk fax operations, the entities that broadcast such faxes to millions, often escape enforcement. They may be found guilty, cited by the FCC and sometimes fined—but often it appears as if they either ignore the fines, skip town, or live overseas. For these reasons the bill includes provisions that will give us an annual accounting of the FCC's enforcement activities as well as a GAO analysis of what additional enforcement tools may be necessary to provide sufficient deterrent, especially to the most egregious and abusive junk fax senders.

Again, I want to commend Chairman UPTON and Chairman BARTON for their work on this bill, and in particular for their willingness and openness in working with me and Mr. DINGELL in crafting the compromises needed to achieve consensus. I encourage all the members to support it.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering the Junk Fax Prevention Act of 2004, bipartisan legislation which I introduced along with the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. DINGELL). I want to thank those Members for their hard work and bipartisan cooperation.

In 1991, Congress passed the Telephone Consumer Protection Act, which included landmark legislation that protected consumers from receiving unwanted and unsolicited commercial faxes. For over 10 years, the FCC had interpreted that law to provide businesses with an exception to the general ban when they faxed commercial or advertising material to an existing business customer.

Then, in 2003, the FCC made a major change in their interpretation of the law. Under the new FCC rules, every business, every single one, small, large, home-based, every association, every nonprofit organization, every charity, would be required to obtain prior written approval from each individual before it sent a commercial fax.

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The logistical and financial costs of the new FCC rules, particularly to small business and nonprofit associations, would be enormous.

For instance, the survey of the U.S. Chamber of Commerce suggested that the cost to the average small business would be at least $5,000 in the first year and more than $3,000 each year thereafter. The survey further indicated that it would take, on average, more than 27 hours of staff time to obtain the initial written consent from their customers, and an additional 20 hours each year to keep those forms current. A recent survey by the National Association of Wholesalers-Distributors revealed that its member companies expected to pay an average of $22,500 just to obtain the consent forms. With our economy in the fragile stages of an economic recovery, I would much rather see those dollars going towards production and job creation.

Given the dramatic impact which the new rules would have, last August, just before the new rules were to go into effect, the gentleman from Louisiana (Mr. TAUZIN), the then chairman of the Committee on Energy and Commerce, and I wrote the FCC and requested that the FCC delay the effective date of the new rules. Thankfully, the FCC did. In fact, they stayed the effective date until January of 2005.

Moreover, while the FCC currently has the new rules under reconsideration, I think it is the wisest course for Congress to step in and fix the law to resolve any lingering statutory interpretation problems which led to the FCC's new rules, and that is why we are here today.

Let me start by stating what the Junk Fax Prevention Act of 2004 would not do. The bill does not overturn the ban on the faxing of unsolicited advertisements. That has been outlawed since the passage of the Telephone Consumer Protection Act of 1991, and this bill does nothing to change that.

This bill does not protect the senders of those annoying, unsolicited faxed advertisements which so many of us get from companies with whom we have never done business, often sent to us randomly by blast fax, and do not properly identify themselves in the fax transmission.

Rather, the bill with clearly reinstate the established business relationship exemption to allow businesses, associations, and charities to send commercial faxes to their customers and members without first receiving written permission. Additionally and importantly, the bill would establish new opt-out safeguards to provide additional protections for fax recipients. Under the bill, senders of faxes must alert recipients clearly and conspicuously on the first page, of their right to opt-out of future faxes, and senders must abide by those requests. This is a level of protection that consumers never had under the FCC rules. Finally, the bill sets out the FCC reporting requirements so that Congress can monitor the FCC's enforcement activity.

The Junk Fax Prevention Act is commonsense, regulatory relief; and time is of the essence for Congress to pass it, since many businesses will very soon need to begin making arrangements to be in compliance with the new rules by January of 2005.

I want to thank my friends, the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Texas (Mr. BARTON), and the gentleman from Michigan (Mr. DINGELL), for their sincere bipartisan cooperation on the bill. I also want to thank the staff on both sides of the aisle, Kelly Cole, Howard Waltzman, Pete Filon, Colin Crowell, Will Carty, and certainly Will Nordwind for all of their superb efforts.

I urge my colleagues to support this measure. I look forward to working with my colleagues on the other side of the Capitol to ensure that we get this must-pass legislation to the President's desk as expeditiously as possible this year.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 4600, the Junk Fax Prevention Act of 2004. The bill strikes a proper balance between protecting consumers from unwanted junk faxes and permitting legitimate business communications, and I would commend Chairmen BARTON and UPTON, and Ranking Member MARKEY for their bipartisan work.

H.R. 4600 is necessary because the Federal Communications Commission (FCC), as part of its Do-Not-Call order last year, reversed its existing business relationship (EBR) policy regarding junk faxes. Starting in January 2005, permission to receive junk faxes must be in writing and include the recipient's signature.

This rule will have a perverse effect on legitimate business communications. For example, under the Commission's new policy, if I would like my travel agent to send me a description of various vacation packages, I must first deliver to my agent a signed waiver requesting the fax. Likewise, my favorite restaurant would have to obtain a similar waiver in order to fax me its updated menu. Not surprisingly, commercial enterprises, especially small businesses and trade associations, are justifiably concerned about the impact of the FCC's new junk fax rules.

H.R. 4600 takes the corrective step of codifying a modified version of the FCC's current 12-year-old junk fax EBR policy that is set to end this year. To provide further protection to consumers, however, that policy will be changed to provide consumers with the right to opt out from receiving such faxes from a particular sender. Further, consumers must be provided clear and conspicuous notice of their new opt-out right. Additional protections for consumers include enabling recipients to opt out using a cost-free mechanism and giving the FCC the authority to sunset the EBR.

In an effort to focus on enforcement against those who illegally send junk faxes, the legislation requires the Commission to report to the Congress each year on the number of junk fax complaints it has received and on the enforcement actions taken against those who violate the agency's rules. This report should assist the commission in maintaining proper vigilance on those who fail to respect consumer privacy. Moreover, the bill requires the Government Accountability Office to study the junk fax issue and make recommendations to the Committee on additional enforcement measures that can be taken to protect consumers from unwanted junk faxes.

Mr. Speaker, consumers are fed up with the unwanted and intrusive junk faxes that clog up their fax machines. H.R. 4600 will help protect consumers from receiving these faxes while ensuring that businesses can continue to use the fax machine to communicate with their customers. I urge my colleagues to support this bill.

Mr. UPTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 4600, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MINOR USE AND MINOR SPECIES ANIMAL HEALTH ACT OF 2004

Mr. PICKERING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 741) to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

The Clerk read as follows:

S. 741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MINOR USE AND MINOR SPECIES HEALTH

SECTION 101. SHORT TITLE.

This title may be cited as the "Minor Use and Minor Species Animal Health Act of 2004".

SEC. 102. MINOR USE AND MINOR SPECIES ANIMAL HEALTH.

(a) FINDINGS.—Congress makes the following findings:

(1) There is a severe shortage of approved new animal drugs for use in minor species.

(2) There is a severe shortage of approved new animal drugs for treating animal diseases and conditions that occur infrequently or in limited geographic areas.

(3) Because of the small market shares, low-profit margins involved, and capital investment required, it is generally not economically feasible for new animal drug applicants to pursue approvals for these species, diseases, and conditions.

(4) Because the populations for which such new animal drugs are intended may be small and conditions of animal management may vary widely, it is often difficult to design and conduct studies to establish drug safety and effectiveness under traditional new animal drug approval processes.

(5) It is in the public interest and in the interest of animal welfare to provide for special procedures to allow the lawful use and marketing of certain new animal drugs for minor species and minor uses that take into account these special circumstances and that ensure that such drugs do not endanger animal or public health.

(6) Exclusive marketing rights for clinical testing expenses have helped encourage the development of "orphan" drugs for human use, and comparable incentives should encourage the development of new animal drugs for minor species and minor uses.

(b) AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) DEFINITIONS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(nn) The term 'major species' means cattle, horses, swine, chickens, turkeys, dogs, and cats, except that the Secretary may add species to this definition by regulation.

"(oo) The term 'minor species' means animals other than humans that are not major species.

"(pp) The term 'minor use' means the intended use of a drug in a major species for an indication that occurs infrequently and in only a small number of animals or in limited geographical areas and in only a small number of animals annually.".

(2) THREE-YEAR EXCLUSIVITY FOR MINOR USE AND MINOR SPECIES APPROVALS.—Section 512(c)(2)(F) (ii), (iii), and (v) of the Federal Food, Drug, and Cosmetic Act is amended by striking "(other than bioequivalence or residue studies)" and inserting "(other than bioequivalence studies or residue depletion studies, except residue depletion studies for minor uses or minor species)" every place it appears.

(3) SCOPE OF REVIEW FOR MINOR USE AND MINOR SPECIES APPLICATIONS.—Section 512(d) of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new paragraph:

"(5) In reviewing an application that proposes a change to add an intended use for a minor use or a minor species to an approved new animal drug application, the Secretary shall reevaluate only the relevant information in the approved application to determine whether the application for the minor use or minor species can be approved. A decision to approve the application for the minor use or minor species is not, implicitly or explicitly, a reaffirmation of the approval of the original application.".

(4) MINOR USE AND MINOR SPECIES NEW ANIMAL DRUGS.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"Subchapter F—New Animal Drugs for Minor Use and Minor Species

"SEC. 571. CONDITIONAL APPROVAL OF NEW ANIMAL DRUGS FOR MINOR USE AND MINOR SPECIES.

"(a)(1) Except as provided in paragraph (3) of this section, any person may file with the Secretary an application for conditional approval of a new animal drug intended for a minor use or a minor species. Such an application may not be a supplement to an application approved under section 512. Such application must comply in all respects with the provisions of section 512 of this Act except sections 512(a)(4), 512(b)(2), 512(c)(1), 512(c)(2), 512(c)(3), 512(d)(1), 512(e), 512(h), and 512(n) unless otherwise stated in this section, and any additional provisions of this section. New animal drugs are subject to application of the same safety standards that would be applied to such drugs under section 512(d) (including, for antimicrobial new animal drugs, with respect to antimicrobial resistance).

"(2) The applicant shall submit to the Secretary as part of an application for the conditional approval of a new animal drug—

"(A) all information necessary to meet the requirements of section 512(b)(1) except section 512(b)(1)(A);

"(B) full reports of investigations which have been made to show whether or not such drug is safe under section 512(d) (including, for an antimicrobial new animal drug, with respect to antimicrobial resistance) and there is a reasonable expectation of effectiveness for use;

"(C) data for establishing a conditional dose;

"(D) projections of expected need and the justification for that expectation based on the best information available;

"(E) information regarding the quantity of drug expected to be distributed on an annual basis to meet the expected need; and

"(F) a commitment that the applicant will conduct additional investigations to meet the requirements for the full demonstration of effectiveness under section 512(d)(1)(E) within 5 years.

"(3) A person may not file an application under paragraph (1) if—

"(A) the application seeks conditional approval of a new animal drug that is contained in, or is a product of, a transgenic animal,

"(B) the person has previously filed an application for conditional approval under paragraph (1) for the same drug in the same dosage form for the same intended use whether or not subsequently conditionally approved by the Secretary under subsection (b), or

"(C) the person obtained the application, or data or other information contained therein, directly or indirectly from the person who filed for conditional approval under paragraph (1) for the same drug in the same dosage form for the same intended use whether or not subsequently conditionally approved by the Secretary under subsection (b).

"(b) Within 180 days after the filing of an application pursuant to subsection (a), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) issue an order, effective for one year, conditionally approving the application if the Secretary finds that none of the grounds for denying conditional approval, specified in subsection (c) of this section applies and publish a Federal Register notice of the conditional approval, or

"(2) give the applicant notice of an opportunity for an informal hearing on the question whether such application can be conditionally approved.

"(c) If the Secretary finds, after giving the applicant notice and an opportunity for an informal hearing, that—

"(1) any of the provisions of section 512(d)(1) (A) through (D) or (F) through (I) are applicable;

"(2) the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such drug, is insufficient to show that there is a reasonable expectation that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

"(3) another person has received approval under section 512 for the same drug in the same dosage form for the same intended use, and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended;

the Secretary shall issue an order refusing to conditionally approve the application. If, after such notice and opportunity for an informal hearing, the Secretary finds that paragraphs (1) through (3) do not apply, the Secretary shall issue an order conditionally approving the application effective for one year and publish a Federal Register notice of the conditional approval. Any order issued under this subsection refusing to conditionally approve an application shall state the findings upon which it is based.

"(d) A conditional approval under this section is effective for a 1-year period and is thereafter renewable by the Secretary annually for up to 4 additional 1-year terms. A conditional approval shall be in effect for no more than 5 years from the date of approval under subsection (b)(1) or (c) of this section unless extended as provided for in subsection (h) of this section. The following shall also apply:

"(1) No later than 90 days from the end of the 1-year period for which the original or renewed conditional approval is effective, the applicant may submit a request to renew a conditional approval for an additional 1-year term.

"(2) A conditional approval shall be deemed renewed at the end of the 1-year period, or at the end of a 90-day extension that the Secretary may, at the Secretary's discretion, grant by letter in order to complete review of the renewal request, unless the Secretary determines before the expiration of the 1-year period or the 90-day extension that—

"(A) the applicant failed to submit a timely renewal request;

"(B) the request fails to contain sufficient information to show that—

"(i) the applicant is making sufficient progress toward meeting approval requirements under section 512(d)(1)(E), and is likely to be able to fulfill those requirements and obtain an approval under section 512 before the expiration of the 5-year maximum term of the conditional approval;

"(ii) the quantity of the drug that has been distributed is consistent with the conditionally approved intended use and conditions of use, unless there is adequate explanation that ensures that the drug is only used for its intended purpose; or

"(iii) the same drug in the same dosage form for the same intended use has not received approval under section 512, or if such a drug has been approved, that the holder of the approved application is unable to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended; or

"(C) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable.

"(3) If the Secretary determines before the end of the 1-year period or the 90-day extension, if granted, that a conditional approval should not be renewed, the Secretary shall issue an order refusing to renew the conditional approval, and such conditional approval shall be deemed withdrawn and no longer in effect. The Secretary shall thereafter provide an opportunity for an informal hearing to the applicant on the issue whether the conditional approval shall be reinstated.

"(e)(1) The Secretary shall issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that another person has received approval under section 512 for the same drug in the same dosage form for the same intended use and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended.

"(2) The Secretary shall, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that—

"(A) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable; or

"(B) on the basis of new information before the Secretary with respect to such drug, evaluated together with the evidence available to the Secretary when the application was conditionally approved, that there is not a reasonable expectation that such drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

"(3) The Secretary may also, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that any of the provisions of section 512(e)(2) are applicable.

"(f)(1) The label and labeling of a new animal drug with a conditional approval under this section shall—

"(A) bear the statement, 'conditionally approved by FDA pending a full demonstration of effectiveness under application number'; and

"(B) contain such other information as prescribed by the Secretary.

"(2) An intended use that is the subject of a conditional approval under this section shall not be included in the same product label with any intended use approved under section 512.

"(g) A conditionally approved new animal drug application may not be amended or supplemented to add indications for use.

"(h) 180 days prior to the termination date established under subsection (d) of this section, an applicant shall have submitted all the information necessary to support a complete new animal drug application in accordance with section 512(b)(1) or the conditional approval issued under this section is no longer in effect. Following review of this information, the Secretary shall either—

"(1) issue an order approving the application under section 512(c) if the Secretary finds that none of the grounds for denying approval specified in section 512(d)(1) applies, or

"(2) give the applicant an opportunity for a hearing before the Secretary under section 512(d) on the question whether such application can be approved.

Upon issuance of an order approving the application, product labeling and administrative records of approval shall be modified accordingly. If the Secretary has not issued an order under section 512(c) approving such application prior to the termination date established under subsection (d) of this section, the conditional approval issued under this section is no longer in effect unless the Secretary grants an extension of an additional 180-day period so that the Secretary can complete review of the application. The decision to grant an extension is committed to the discretion of the Secretary and not subject to judicial review.

"(i) The decision of the Secretary under subsection (c), (d), or (e) of this section refusing or withdrawing conditional approval of an application shall constitute final agency action subject to judicial review.

"(j) In this section and section 572, the term 'transgenic animal' means an animal whose genome contains a nucleotide sequence that has been intentionally modified in vitro, and the progeny of such an animal; Provided that the term 'transgenic animal' does not include an animal of which the nucleotide sequence of the genome has been modified solely by selective breeding.

"SEC. 572. INDEX OF LEGALLY MARKETED UNAPPROVED NEW ANIMAL DRUGS FOR MINOR SPECIES.

"(a)(1) The Secretary shall establish an index limited to—

"(A) new animal drugs intended for use in a minor species for which there is a reasonable certainty that the animal or edible products from the animal will not be consumed by humans or food-producing animals; and

"(B) new animal drugs intended for use only in a hatchery, tank, pond, or other similar contained man-made structure in an early, non-food life stage of a food-producing minor species, where safety for humans is demonstrated in accordance with the standard of section 512(d) (including, for an antimicrobial new animal drug, with respect to antimicrobial resistance).

"(2) The index shall not include a new animal drug that is contained in or a product of a transgenic animal.

"(b) Any person intending to file a request under this section shall be entitled to one or more conferences to discuss the requirements for indexing a new animal drug.

"(c)(1) Any person may submit a request to the Secretary for a determination whether a new animal drug may be eligible for inclusion in the index. Such a request shall include—

"(A) information regarding the need for the new animal drug, the species for which the new animal drug is intended, the proposed intended use and conditions of use, and anticipated annual distribution;

"(B) information to support the conclusion that the proposed use meets the conditions of subparagraph (A) or (B) of subsection (a)(1) of this section;

"(C) information regarding the components and composition of the new animal drug;

"(D) a description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug;

"(E) an environmental assessment that meets the requirements of the National Environmental Policy Act of 1969, as amended, and as defined in 21 CFR Part 25, as it appears on the date of enactment of this provision and amended thereafter or information to support a categorical exclusion from the requirement to prepare an environmental assessment;

"(F) information sufficient to support the conclusion that the proposed use of the new animal drug is safe under section 512(d) with respect to individuals exposed to the new animal drug through its manufacture or use; and

"(G) such other information as the Secretary may deem necessary to make this eligibility determination.

"(2) Within 90 days after the submission of a request for a determination of eligibility for indexing based on subsection (a)(1)(A) of this section, or 180 days for a request submitted based on subsection (a)(1)(B) of this section, the Secretary shall grant or deny the request, and notify the person who requested such determination of the Secretary's decision. The Secretary shall grant the request if the Secretary finds that—

"(A) the same drug in the same dosage form for the same intended use is not approved or conditionally approved;

"(B) the proposed use of the drug meets the conditions of subparagraph (A) or (B) of subsection (a)(1), as appropriate;

"(C) the person requesting the determination has established appropriate specifications for the manufacture and control of the new animal drug and has demonstrated an understanding of the requirements of current good manufacturing practices;

"(D) the new animal drug will not significantly affect the human environment; and

"(E) the new animal drug is safe with respect to individuals exposed to the new animal drug through its manufacture or use.

If the Secretary denies the request, the Secretary shall thereafter provide due notice and an opportunity for an informal conference. A decision of the Secretary to deny an eligibility request following an informal conference shall constitute final agency action subject to judicial review.

"(d)(1) With respect to a new animal drug for which the Secretary has made a determination of eligibility under subsection (c), the person who made such a request may ask that the Secretary add the new animal drug to the index established under subsection (a). The request for addition to the index shall include—

"(A) a copy of the Secretary's determination of eligibility issued under subsection (c);

"(B) a written report that meets the requirements in subsection (d)(2) of this section;

"(C) a proposed index entry;

"(D) facsimile labeling;

"(E) anticipated annual distribution of the new animal drug;

"(F) a written commitment to manufacture the new animal drug and animal feeds bearing or containing such new animal drug according to current good manufacturing practices;

"(G) a written commitment to label, distribute, and promote the new animal drug only in accordance with the index entry;

"(H) upon specific request of the Secretary, information submitted to the expert panel described in paragraph (3); and

"(I) any additional requirements that the Secretary may prescribe by general regulation or specific order.

"(2) The report required in paragraph (1) shall—

"(A) be authored by a qualified expert panel;

"(B) include an evaluation of all available target animal safety and effectiveness information, including anecdotal information;

"(C) state the expert panel's opinion regarding whether the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks to the target animal, taking into account the harm being caused by the absence of an approved or conditionally approved new animal drug for the minor species in question;

"(D) include information from which labeling can be written; and

"(E) include a recommendation regarding whether the new animal drug should be limited to use under the professional supervision of a licensed veterinarian.

"(3) A qualified expert panel, as used in this section, is a panel that—

"(A) is composed of experts qualified by scientific training and experience to evaluate the target animal safety and effectiveness of the new animal drug under consideration;

"(B) operates external to FDA; and

"(C) is not subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

The Secretary shall define the criteria for selection of a qualified expert panel and the procedures for the operation of the panel by regulation.

"(4) Within 180 days after the receipt of a request for listing a new animal drug in the index, the Secretary shall grant or deny the request. The Secretary shall grant the request if the request for indexing continues to meet the eligibility criteria in subsection (a) and the Secretary finds, on the basis of the report of the qualified expert panel and other information available to the Secretary, that the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks to the target animal, taking into account the harm caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question. If the Secretary denies the request, the Secretary shall thereafter provide due notice and the opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

"(e)(1) The index established under subsection (a) shall include the following information for each listed drug—

"(A) the name and address of the person who holds the index listing;

"(B) the name of the drug and the intended use and conditions of use for which it is being indexed;

"(C) product labeling; and

"(D) conditions and any limitations that the Secretary deems necessary regarding use of the drug.

"(2) The Secretary shall publish the index, and revise it periodically.

"(3) The Secretary may establish by regulation a process for reporting changes in the conditions of manufacturing or labeling of indexed products.

"(f)(1) If the Secretary finds, after due notice to the person who requested the index listing and an opportunity for an informal conference, that—

"(A) the expert panel failed to meet the requirements as set forth by the Secretary by regulation;

"(B) on the basis of new information before the Secretary, evaluated together with the evidence available to the Secretary when the new animal drug was listed in the index, the benefits of using the new animal drug for the indexed use do not outweigh its risks to the target animal;

"(C) the conditions of subsection (c)(2) of this section are no longer satisfied;

"(D) the manufacture of the new animal drug is not in accordance with current good manufacturing practices;

"(E) the labeling, distribution, or promotion of the new animal drug is not in accordance with the index entry;

"(F) the conditions and limitations of use associated with the index listing have not been followed; or

"(G) the request for indexing contains any untrue statement of material fact,

the Secretary shall remove the new animal drug from the index. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

"(2) If the Secretary finds that there is a reasonable probability that the use of the drug would present a risk to the health of humans or other animals, the Secretary may—

"(A) suspend the listing of such drug immediately;

"(B) give the person listed in the index prompt notice of the Secretary's action; and

"(C) afford that person the opportunity for an informal conference.

The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

"(g) For purposes of indexing new animal drugs under this section, to the extent consistent with the public health, the Secretary shall promulgate regulations for exempting from the operation of section 512 minor species new animal drugs and animal feeds bearing or containing new animal drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of minor species animal drugs. Such regulations may, at the discretion of the Secretary, among other conditions relating to the protection of the public health, provide for conditioning such exemption upon the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer or the sponsor of the investigation of such article, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of such article, as the Secretary finds will enable the Secretary to evaluate the safety and effectiveness of such article in the event of the filing of a request for an index listing pursuant to this section.

"(h) The labeling of a new animal drug that is the subject of an index listing shall state, prominently and conspicuously—

"(1) 'NOT APPROVED BY FDA.—Legally marketed as an FDA indexed product. Extra-label use is prohibited.';

"(2) except in the case of new animal drugs indexed for use in an early life stage of a food-producing animal, 'This product is not to be used in animals intended for use as food for humans or other animals.'; and

"(3) such other information as may be prescribed by the Secretary in the index listing.

"(i)(1) In the case of any new animal drug for which an index listing pursuant to subsection (a) is in effect, the person who has an index listing shall establish and maintain such records, and make such reports to the Secretary, of data relating to experience, and other data or information, received or otherwise obtained by such person with respect to such drug, or with respect to animal feeds bearing or containing such drug, as the Secretary may by general regulation, or by order with respect to such listing, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (f). Such regulation or order shall provide, where the Secretary deems it to be appropriate, for the examination, upon request, by the persons to whom such regulation or order is applicable, of similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(j)(1) Safety and effectiveness data and information which has been submitted in support of a request for a new animal drug to be indexed under this section and which has not been previously disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

"(A) if no work is being or will be undertaken to have the drug indexed in accordance with the request,

"(B) if the Secretary has determined that such drug cannot be indexed and all legal appeals have been exhausted,

"(C) if the indexing of such drug is terminated and all legal appeals have been exhausted, or

"(D) if the Secretary has determined that such drug is not a new animal drug.

"(2) Any request for data and information pursuant to paragraph (1) shall include a verified statement by the person making the request that any data or information received under such paragraph shall not be disclosed by such person to any other person—

"(A) for the purpose of, or as part of a plan, scheme, or device for, obtaining the right to make, use, or market, or making, using, or marketing, outside the United States, the drug identified in the request for indexing; and

"(B) without obtaining from any person to whom the data and information are disclosed an identical verified statement, a copy of which is to be provided by such person to the Secretary, which meets the requirements of this paragraph.

"SEC. 573. DESIGNATED NEW ANIMAL DRUGS FOR MINOR USE OR MINOR SPECIES.

"(a) Designation.—

"(1) The manufacturer or the sponsor of a new animal drug for a minor use or use in a minor species may request that the Secretary declare that drug a 'designated new animal drug'. A request for designation of a new animal drug shall be made before the submission of an application under section 512(b) or section 571 for the new animal drug.

"(2) The Secretary may declare a new animal drug a 'designated new animal drug' if—

"(A) it is intended for a minor use or use in a minor species; and

"(B) the same drug in the same dosage form for the same intended use is not approved under section 512 or 571 or designated under this section at the time the request is made.

"(3) Regarding the termination of a designation—

"(A) the sponsor of a new animal drug shall notify the Secretary of any decision to discontinue active pursuit of approval under section 512 or 571 of an application for a designated new animal drug. The Secretary shall terminate the designation upon such notification;

"(B) the Secretary may also terminate designation if the Secretary independently determines that the sponsor is not actively pursuing approval under section 512 or 571 with due diligence;

"(C) the sponsor of an approved designated new animal drug shall notify the Secretary of any discontinuance of the manufacture of such new animal drug at least one year before discontinuance. The Secretary shall terminate the designation upon such notification; and

"(D) the designation shall terminate upon the expiration of any applicable exclusivity period under subsection (c).

"(4) Notice respecting the designation or termination of designation of a new animal drug shall be made available to the public.

"(b) Grants and Contracts for Development of Designated New Animal Drugs.—

"(1) The Secretary may make grants to and enter into contracts with public and private entities and individuals to assist in defraying the costs of qualified safety and effectiveness testing expenses and manufacturing expenses incurred in connection with the development of designated new animal drugs.

"(2) For purposes of paragraph (1) of this section—

“(A) The term ‘qualified safety and effectiveness testing’ means testing—

“(i) which occurs after the date such new animal drug is designated under this section and before the date on which an application with respect to such drug is submitted under section 512; and

“(ii) which is carried out under an investigational exemption under section 512(j).

“(B) The term ‘manufacturing expenses’ means expenses incurred in developing processes and procedures associated with manufacture of the designated new animal drug which occur after the new animal drug is designated under this section and before the date on which an application with respect to such new animal drug is submitted under section 512 or 571.

“(c) EXCLUSIVITY FOR DESIGNATED NEW ANIMAL DRUGS.—

“(1) Except as provided in subsection (c)(2), if the Secretary approves or conditionally approves an application for a designated new animal drug, the Secretary may not approve or conditionally approve another application submitted for such new animal drug with the same intended use as the designated new animal drug for another applicant before the expiration of seven years from the date of approval or conditional approval of the application.

“(2) If an application filed pursuant to section 512 or section 571 is approved for a designated new animal drug, the Secretary may, during the 7-year exclusivity period beginning on the date of the application approval or conditional approval, approve or conditionally approve another application under section 512 or section 571 for such drug for such minor use or minor species for another applicant if—

“(A) the Secretary finds, after providing the holder of such an approved application notice and opportunity for the submission of views, that in the granted exclusivity period the holder of the approved application cannot assure the availability of sufficient quantities of the drug to meet the needs for which the drug was designated; or

“(B) such holder provides written consent to the Secretary for the approval or conditional approval of other applications before the expiration of such exclusivity period.”.

(5) CONFORMING AMENDMENTS.—

(A) Section 201(u) of the Federal Food, Drug, and Cosmetic Act is amended by striking “512” and inserting “512, 571”.

(B) Section 201(v) of the Federal Food, Drug, and Cosmetic Act is amended by inserting the following after paragraph (2): “Provided that any drug intended for minor use or use in a minor species that is not the subject of a final regulation published by the Secretary through notice and comment rulemaking finding that the criteria of paragraphs (1) and (2) have not been met (or that the exception to the criterion in paragraph (1) has been met) is a new animal drug.”.

(C) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking “512(a)(4)(C), 512(j), (l) or (m)” and inserting “512(a)(4)(C), 512 (j), (l) or (m), 572(i).”

(D) Section 301(j) of the Federal Food, Drug, and Cosmetic Act is amended by striking “520” and inserting “520, 571, 572, 573.”

(E) Section 502 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new subsection:

“(w) If it is a new animal drug—

“(1) that is conditionally approved under section 571 and its labeling does not conform with the approved application or section 571(f), or that is not conditionally approved under section 571 and its label bears the statement set forth in section 571(f)(1)(A); or

“(2) that is indexed under section 572 and its labeling does not conform with the index listing under section 572(e) or 572(h), or that has not been indexed under section 572 and its label bears the statement set forth in section 572(h).”.

(F) Section 503(f) of the Federal Food, Drug, and Cosmetic Act is amended—

(i) in paragraph (1)(A)(ii) by striking “512” and inserting “512, a conditionally-approved application under section 571, or an index listing under section 572”; and

(ii) in paragraph (3) by striking “section 512” and inserting “section 512, 571, or 572”.

(G) Section 504(a)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking “512(b)” and inserting “512(b), a conditionally-approved application filed pursuant to section 571, or an index listing pursuant to section 572”.

(H) Sections 504(a)(2)(B) and 504(b) of the Federal Food, Drug, and Cosmetic Act are amended by striking “512(i)” each place it appears and inserting “512(i), or the index listing pursuant to section 572(e)”.

(I) Section 512(a) of the Federal Food, Drug, and Cosmetic Act is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for purposes of section 501(a)(5) and section 402(a)(2)(C)(ii) unless—

“(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such approved application;

“(B) there is in effect a conditional approval of an application filed pursuant to section 571 with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such conditionally approved application; or

“(C) there is in effect an index listing pursuant to section 572 with respect to such use or intended use of such drug in a minor species, and such drug, its labeling, and such use conform to such index listing.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

“(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for purposes of section 501(a)(6) unless—

“(A) there is in effect—

“(i) an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such approved application;

“(ii) a conditional approval of an application filed pursuant to section 571 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such conditionally approved application; or

“(iii) an index listing pursuant to section 572 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such index listing; and

“(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed.”.

(J) Section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act is amended by striking “under paragraph (1) or a request for an investigational exemption under subsection (j)” and inserting “under paragraph (1), section 571, or a request for an investigational exemption under subsection (j)”.

(K) Section 512(d)(4) of the Federal Food, Drug, and Cosmetic Act is amended by striking “have previously been separately approved” and inserting “have previously been separately approved pursuant to an application submitted under section 512(b)(1)”.

(L) Section 512(f) of the Federal Food, Drug, and Cosmetic Act is amended by striking “subsection (d), (e), or (m)” and inserting “subsection (d), (e), or (m), or section 571 (c), (d), or (e)”.

(M) Section 512(g) of the Federal Food, Drug, and Cosmetic Act is amended by striking “this section” and inserting “this section, or section 571”.

(N) Section 512(i) of the Federal Food, Drug, and Cosmetic Act is amended by striking “subsection (b)” and inserting “subsection (b) or section 571” and by inserting “or upon failure to renew a conditional approval under section 571” after “or upon its suspension”.

(O) Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking “subsection (b)” and inserting “subsection (b) or section 571”.

(P) Section 512(m)(1)(C) of the Federal Food, Drug, and Cosmetic Act is amended by striking “applicable regulations published pursuant to subsection (i)” and inserting “applicable regulations published pursuant to subsection (i) or for indexed new animal drugs in accordance with the index listing published pursuant to section 572(e)(2) and the labeling requirements set forth in section 572(h)”.

(Q) Section 512(m)(3) of the Federal Food, Drug, and Cosmetic Act is amended by inserting “or an index listing pursuant to section 572(e)” after “subsection (i)” each place it appears.

(R) Section 512(p)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking “subsection (b)(1)” and inserting “subsection (b)(1) or section 571(a)”.

(S) Section 512(p)(2) of the Federal Food, Drug, and Cosmetic Act is amended by striking “subsection (b)(1)” and inserting “subsection (b)(1) or section 571(a)”.

(T) Section 108(b)(3) of Public Law 90–399 is amended by striking “section 201(w) as added by this Act” and inserting “section 201(v)”.

(6) REGULATIONS.—On the date of enactment of this Act, the Secretary of Health and Human Services shall implement sections 571 and 573 of the Federal Food, Drug, and Cosmetic Act and subsequently publish implementing regulations. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 573 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 573 of the Federal Food,

Drug, and Cosmetic Act. Not later than 18 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 572 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 36 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 572 of the Federal Food, Drug, and Cosmetic Act. Not later than 30 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 571 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 42 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 571 of the Federal Food, Drug, and Cosmetic Act. These timeframes shall be extended by 12 months for each fiscal year, in which the funds authorized to be appropriated under subsection (i) are not in fact appropriated.

(7) OFFICE.—The Secretary of Health and Human Services shall establish within the Center for Veterinary Medicine (of the Food and Drug Administration), an Office of Minor Use and Minor Species Animal Drug Development that reports directly to the Director of the Center for Veterinary Medicine. This office shall be responsible for overseeing the development and legal marketing of new animal drugs for minor uses and minor species. There is authorized to be appropriated to carry out this subsection $1,200,000 for fiscal year 2004 and such sums as may be necessary for each fiscal year thereafter.

(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 573(b) of the Federal Food, Drug, and Cosmetic Act (as added by this section) $1,000,000 for the fiscal year following publication of final implementing regulations, $2,000,000 for the subsequent fiscal year, and such sums as may be necessary for each fiscal year thereafter.

TITLE II—FOOD ALLERGEN LABELING AND CONSUMER PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Food Allergen Labeling and Consumer Protection Act of 2004".

SEC. 202. FINDINGS.

Congress finds that—

(1) it is estimated that—

(A) approximately 2 percent of adults and about 5 percent of infants and young children in the United States suffer from food allergies; and

(B) each year, roughly 30,000 individuals require emergency room treatment and 150 individuals die because of allergic reactions to food;

(2)(A) eight major foods or food groups—milk, eggs, fish, Crustacean shellfish, tree nuts, peanuts, wheat, and soybeans—account for 90 percent of food allergies;

(B) at present, there is no cure for food allergies; and

(C) a food allergic consumer must avoid the food to which the consumer is allergic;

(3)(A) in a review of the foods of randomly selected manufacturers of baked goods, ice cream, and candy in Minnesota and Wisconsin in 1999, the Food and Drug Administration found that 25 percent of sampled foods failed to list peanuts or eggs as ingredients on the food labels; and

(B) nationally, the number of recalls because of unlabeled allergens rose to 121 in 2000 from about 35 a decade earlier;

(4) a recent study shows that many parents of children with a food allergy were unable to correctly identify in each of several food labels the ingredients derived from major food allergens;

(5)(A) ingredients in foods must be listed by their "common or usual name";

(B) in some cases, the common or usual name of an ingredient may be unfamiliar to consumers, and many consumers may not realize the ingredient is derived from, or contains, a major food allergen; and

(C) in other cases, the ingredients may be declared as a class, including spices, flavorings, and certain colorings, or are exempt from the ingredient labeling requirements, such as incidental additives; and

(6)(A) celiac disease is an immune-mediated disease that causes damage to the gastrointestinal tract, central nervous system, and other organs;

(B) the current recommended treatment is avoidance of glutens in foods that are associated with celiac disease; and

(C) a multicenter, multiyear study estimated that the prevalence of celiac disease in the United States is 0.5 to 1 percent of the general population.

SEC. 203. FOOD LABELING; REQUIREMENT OF INFORMATION REGARDING ALLERGENIC SUBSTANCES.

(a) IN GENERAL.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

"(w)(1) If it is not a raw agricultural commodity and it is, or it contains an ingredient that bears or contains, a major food allergen, unless either—

"(A) the word 'Contains', followed by the name of the food source from which the major food allergen is derived, is printed immediately after or is adjacent to the list of ingredients (in a type size no smaller than the type size used in the list of ingredients) required under subsections (g) and (i); or

"(B) the common or usual name of the major food allergen in the list of ingredients required under subsections (g) and (i) is followed in parentheses by the name of the food source from which the major food allergen is derived, except that the name of the food source is not required when—

"(i) the common or usual name of the ingredient uses the name of the food source from which the major food allergen is derived; or

"(ii) the name of the food source from which the major food allergen is derived appears elsewhere in the ingredient list, unless the name of the food source that appears elsewhere in the ingredient list appears as part of the name of a food ingredient that is not a major food allergen under section 201(qq)(2)(A) or (B).

"(2) As used in this subsection, the term 'name of the food source from which the major food allergen is derived' means the name described in section 201(qq)(1); provided that in the case of a tree nut, fish, or Crustacean shellfish, the term 'name of the food source from which the major food allergen is derived' means the name of the specific type of nut or species of fish or Crustacean shellfish.

"(3) The information required under this subsection may appear in labeling in lieu of appearing on the label only if the Secretary finds that such other labeling is sufficient to protect the public health. A finding by the Secretary under this paragraph (including any change in an earlier finding under this paragraph) is effective upon publication in the Federal Register as a notice.

"(4) Notwithstanding subsection (g), (i), or (k), or any other law, a flavoring, coloring, or incidental additive that is, or that bears or contains, a major food allergen shall be subject to the labeling requirements of this subsection.

"(5) The Secretary may by regulation modify the requirements of subparagraph (A) or (B) of paragraph (1), or eliminate either the requirement of subparagraph (A) or the requirements of subparagraph (B) of paragraph (1), if the Secretary determines that the modification or elimination of the requirement of subparagraph (A) or the requirements of subparagraph (B) is necessary to protect the public health.

"(6)(A) Any person may petition the Secretary to exempt a food ingredient described in section 201(qq)(2) from the allergen labeling requirements of this subsection.

"(B) The Secretary shall approve or deny such petition within 180 days of receipt of the petition or the petition shall be deemed denied, unless an extension of time is mutually agreed upon by the Secretary and the petitioner.

"(C) The burden shall be on the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that such food ingredient, as derived by the method specified in the petition, does not cause an allergic response that poses a risk to human health.

"(D) A determination regarding a petition under this paragraph shall constitute final agency action.

"(E) The Secretary shall promptly post to a public site all petitions received under this paragraph within 14 days of receipt and the Secretary shall promptly post the Secretary's response to each.

"(7)(A) A person need not file a petition under paragraph (6) to exempt a food ingredient described in section 201(qq)(2) from the allergen labeling requirements of this subsection, if the person files with the Secretary a notification containing—

"(i) scientific evidence (including the analytical method used) that demonstrates that the food ingredient (as derived by the method specified in the notification, where applicable) does not contain allergenic protein; or

"(ii) a determination by the Secretary that the ingredient does not cause an allergic response that poses a risk to human health under a premarket approval or notification program under section 409.

"(B) The food ingredient may be introduced or delivered for introduction into interstate commerce as a food ingredient that is not a major food allergen 90 days after the date of receipt of the notification by the Secretary, unless the Secretary determines within the 90-day period that the notification does not meet the requirements of this paragraph, or there is insufficient scientific evidence to determine that the food ingredient does not contain allergenic protein or does not cause an allergenic response that poses a risk to human health.

"(C) The Secretary shall promptly post to a public site all notifications received under this subparagraph within 14 days of receipt and promptly post any objections thereto by the Secretary.

"(x) Notwithstanding subsection (g), (i), or (k), or any other law, a spice, flavoring, coloring, or incidental additive that is, or that bears or contains, a food allergen (other than a major food allergen), as determined by the Secretary by regulation, shall be disclosed in a manner specified by the Secretary by regulation.".

(b) EFFECT ON OTHER AUTHORITY.—The amendments made by this section that require a label or labeling for major food allergens do not alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) to require a label or labeling for other food allergens.

(c) CONFORMING AMENDMENTS.—

(1) Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by section 102(b)) is amended by adding at the end the following:

"(qq) The term 'major food allergen' means any of the following:

"(1) Milk, egg, fish (e.g., bass, flounder, or cod), Crustacean shellfish (e.g., crab, lobster, or shrimp), tree nuts (e.g., almonds, pecans, or walnuts), wheat, peanuts, and soybeans.

"(2) A food ingredient that contains protein derived from a food specified in paragraph (1), except the following:

"(A) Any highly refined oil derived from a food specified in paragraph (1) and any ingredient derived from such highly refined oil.

"(B) A food ingredient that is exempt under paragraph (6) or (7) of section 403(w).".

(2) Section 403A(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)(2)) is amended by striking "or 403(i)(2)" and inserting "403(i)(2), 403(w), or 403(x)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any food that is labeled on or after January 1, 2006.

SEC. 204. REPORT ON FOOD ALLERGENS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that—

(1)(A) analyzes—

(i) the ways in which foods, during manufacturing and processing, are unintentionally contaminated with major food allergens, including contamination caused by the use by manufacturers of the same production line to produce both products for which major food allergens are intentional ingredients and products for which major food allergens are not intentional ingredients; and

(ii) the ways in which foods produced on dedicated production lines are unintentionally contaminated with major food allergens; and

(B) estimates how common the practices described in subparagraph (A) are in the food industry, with breakdowns by food type as appropriate;

(2) advises whether good manufacturing practices or other methods can be used to reduce or eliminate cross-contact of foods with the major food allergens;

(3) describes—

(A) the various types of advisory labeling (such as labeling that uses the words "may contain") used by food producers;

(B) the conditions of manufacture of food that are associated with the various types of advisory labeling; and

(C) the extent to which advisory labels are being used on food products;

(4) describes how consumers with food allergies or the caretakers of consumers would prefer that information about the risk of cross-contact be communicated on food labels as determined by using appropriate survey mechanisms;

(5) states the number of inspections of food manufacturing and processing facilities conducted in the previous 2 years and describes—

(A) the number of facilities and food labels that were found to be in compliance or out of compliance with respect to cross-contact of foods with residues of major food allergens and the proper labeling of major food allergens;

(B) the nature of the violations found; and

(C) the number of voluntary recalls, and their classifications, of foods containing undeclared major food allergens; and

(6) assesses the extent to which the Secretary and the food industry have effectively addressed cross-contact issues.

SEC. 205. INSPECTIONS RELATING TO FOOD ALLERGENS.

The Secretary of Health and Human Services shall conduct inspections consistent with the authority under section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) of facilities in which foods are manufactured, processed, packed, or held—

(1) to ensure that the entities operating the facilities comply with practices to reduce or eliminate cross-contact of a food with residues of major food allergens that are not intentional ingredients of the food; and

(2) to ensure that major food allergens are properly labeled on foods.

SEC. 206. GLUTEN LABELING.

Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with appropriate experts and stakeholders, shall issue a proposed rule to define, and permit use of, the term "gluten-free" on the labeling of foods. Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule to define, and permit use of, the term "gluten-free" on the labeling of foods.

SEC. 207. IMPROVEMENT AND PUBLICATION OF DATA ON FOOD-RELATED ALLERGIC RESPONSES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Commissioner of Food and Drugs, shall improve (including by educating physicians and other health care providers) the collection of, and publish as it becomes available, national data on—

(1) the prevalence of food allergies;

(2) the incidence of clinically significant or serious adverse events related to food allergies; and

(3) the use of different modes of treatment for and prevention of allergic responses to foods.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

SEC. 208. FOOD ALLERGIES RESEARCH.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall convene an ad hoc panel of nationally recognized experts in allergy and immunology to review current basic and clinical research efforts related to food allergies.

(b) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the panel shall make recommendations to the Secretary for enhancing and coordinating research activities concerning food allergies, which the Secretary shall make public.

SEC. 209. FOOD ALLERGENS IN THE FOOD CODE.

The Secretary of Health and Human Services shall, in the Conference for Food Protection, as part of its efforts to encourage cooperative activities between the States under section 311 of the Public Health Service Act (42 U.S.C. 243), pursue revision of the Food Code to provide guidelines for preparing allergen-free foods in food establishments, including in restaurants, grocery store delicatessens and bakeries, and elementary and secondary school cafeterias. The Secretary shall consider guidelines and recommendations developed by public and private entities for public and private food establishments for preparing allergen-free foods in pursuing this revision.

SEC. 210. RECOMMENDATIONS REGARDING RESPONDING TO FOOD-RELATED ALLERGIC RESPONSES.

The Secretary of Health and Human Services shall, in providing technical assistance relating to trauma care and emergency medical services to State and local agencies under section 1202(b)(3) of the Public Health Service Act (42 U.S.C. 300d-2(b)(3)), include technical assistance relating to the use of different modes of treatment for and prevention of allergic responses to foods.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. PICKERING) and the gentlewoman from New York (Mrs. LOWEY) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. PICKERING).

GENERAL LEAVE

Mr. PICKERING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 741.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. PICKERING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to highlight a problem faced by livestock and food animal producers, animal and pet owners, zoo and wildlife biologists, and animals themselves, as well as to present a policy remedy that can lead to a solution for this often unnoticed threat.

We face a severe shortage of approved animal drugs for use in minor animal species. These include sheep, goats, game birds, ranched deer, rabbits and all fish and shellfish. A similar shortage of pharmaceutical medicines exist for major animal species for diseases that occur infrequently or which only occur in limited geographic areas. These species include horses, cattle, dogs, cats, swine, and others. Millions of animals go either untreated for illnesses or treatment is delayed, due to the lack of availability of these minor use drugs. This produces not only unnecessary animal suffering, but could also pose a serious threat to human health, while undermining our agricultural industry.

An unhealthy animal left untreated can spread disease through an entire stock of its fellow species, resulting in severe economic losses and hardships to our farmers and ranchers. Ultimately, these costs are passed on to consumer food costs.

One example that is reported in my home State of Mississippi is the catfish industry, the fifth largest agricultural sector in my home State. Every year, they lose approximately $60 million attributable to minor diseases for which drugs are not available to treat aquaculture and catfish. In this industry alone, we have approximately 800 different species, yet the industry has only six drugs approved for use in treating aquaculture diseases. It creates tremendous economic hardship and animal suffering within the industry.

Restricted market opportunity, low profit margin, and the requirement of massive capital investment prevents the economic feasibility of drug manufacturers in pursuing research, development, and government approval for medicines used in minor species and infrequent conditions and diseases.

As a sponsor of this bill, or one similar to the one we introduced in the House, it is an honor today to resolve this issue with the passage of S. 741, the Minor Use and Minor Species Act, or affectionately referred to as the MUMS Act. This legislation will allow companies the opportunity to develop and approve minor use drugs which are of vital interest to a large number of animal industries. Our legislation incorporates the major proposals of the FDA's Center for Veterinary Medicine to increase the availability of drugs for minor animal species and rare diseases in major species.

The Animal Drug Availability Act of 1996 required the Food and Drug Administration to provide Congress with a report describing administrative and legislative proposals to improve and enhance the animal drug approval process for minor uses and minor species of new animal drugs. This report by FDA delivered to Congress in December of 1998 laid out nine proposals. Tonight, eight of these FDA proposals require statutory changes, and this bill before us reflects those changes called for in the report. Today's MUMS Act creates incentives for animal drug manufacturers to invest in product development and obtain FDA marketing approvals. Furthermore, it creates a program very similar to the successful Human Orphan Drug Program that over the past 20 years has dramatically increased the availability of drugs to treat rare human diseases.

Mr. Speaker, besides providing benefits to livestock producers and animal owners, this measure will develop incentives in sanctioning programs for the pharmaceutical industry, while maintaining and ensuring public human health. This measure is supported by the Food and Drug Administration, the American Farm Bureau, the Animal Health Institute, the American Veterinary Medical Association, and virtually every organization representing all genres of minor animal species. This is vital legislation which will fill a great need in the animal health world.

S. 741 will alleviate much animal suffering. It will promote the health and well-being of minor animal species, while increasing and protecting human health. It benefits pets and provides the emotional security of the pets and their owners. It will provide greater health security to various endangered species of aquatic species, and it will reduce economic hardships and risks to farmers and ranchers.

This is a commonsense piece of legislation which will benefit millions of Americans, from our farmers to our pet owners. I call on all of my colleagues in the House to support S. 741, and I take personal privilege to thank my staff who have worked on this, John Rounsaville and Cade King. They have worked hard and worked effectively to bring this bill to passage in the House, to passage in the Senate, and to the President's signature soon.

Mr. Speaker, I reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of S. 741, the Minor Use and Minor Species Animal Health Act of 2004. The bill, known as MUMS, will make an important contribution to animal health.

This legislation is very similar to H.R. 2079 sponsored by the gentleman from Louisiana (Mr. JOHN) and the gentleman from Mississippi (Mr. PICKERING); and although we are taking up the Senate bill, they, along with my colleague, the gentleman from Ohio (Mr. BROWN), deserve credit for leadership on this issue.

The bill is supported by the MUMS Coalition and the Keep Antibiotics Working Coalition. The MUMS coalition includes the American Farm Bureau Federation, the American Veterinary Medical Association, the Animal Health Institute, the National Fisheries Institute, and many other organizations. The Keep Antibiotics Working Coalition includes the Union of Concerned Scientists, Environmental Defense, and the Center For Science in the Public Interest. In sum, the proverbial delicate balance has been found.

Mr. Speaker, I am also greatly pleased that MUMS includes the Food Allergen Labeling and Consumer Protection Act, Title II of S. 741. I authored the food allergy bill 4 years ago; and since the bill's inception, everyone, from food-allergic consumers to members of the food industry, has rallied behind the bill.

However, we would not be here today without the backing of the gentleman from Michigan (Ranking Member DINGELL), the gentleman from Texas (Chairman BARTON), the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Ohio (Mr. BROWN), Secretary Thompson, and Commissioner Crawford. I am truly grateful to them for their involvement and support.

I also owe the gentleman from Pennsylvania (Mr. GREENWOOD) and Senators KENNEDY and GREGG special thanks for being my partners in this effort. We spent a few years and many hours hashing out the bill before us, committed to crafting a noncontroversial, bipartisan product. And I believe we accomplished our goal.

Yesterday, I was surprised to learn that my good friend, the gentleman from Pennsylvania (Mr. GREENWOOD), will be retiring at the end of the year. While I am disappointed to be losing such a tremendous colleague, one I have worked with on so many issues of importance for so many years, I know that the gentleman from Pennsylvania (Mr. GREENWOOD) will continue to lead and be a strong advocate for great causes. Good luck in all your future endeavors. And please know, Jim, that your fair, bipartisan manner will be missed.

Mr. Speaker, the 11 million Americans with food allergies face a daily struggle. Because there is no cure for allergies, the only way to stay healthy is to avoid certain foods. But maintaining an allergen-free diet is incredibly difficult. Food ingredient statements use scientific jargon commonly used by only those wearing lab coats, not average citizens.

□ 1915

Take, for example, a recent study which found that fewer than one in ten parents restricting milk from their allergic children's diet were actually able to correctly recognize terms for milk on a label. Statistics like this make you think if adults cannot easily determine terms like whey, casein, lactose, how can you expect food-allergic children to remember so many complicated terms? The answer is, we cannot and we should not.

Today up to 200 allergic reactions to foods result in death each year, and 30,000 require life-saving emergency treatments. Moreover, within just the last five years, the number of children with a peanut allergy has doubled. If we do not take action to improve food labels, the number of deaths and incidents will rise.

Navigating insufficient labels is much more than an irritation for the millions with food allergies. It is a matter of life and death. Unfortunately, the situation is the same for those with celiac disease, a lifelong digestive disorder that damages the small intestine and interferes with absorption of nutrients from food. Although celiac sufferers do not go into anaphylactic shock if they consume gluten, the consequences of leaving the disease undiagnosed or untreated can be just as grave and deadly, potentially leading to additional autoimmune disorders, infertility, osteoporosis or cancer.

With no treatment for this disease, the only alternative is to follow a strict gluten-free diet, which means not eating wheat, rye or barley. However, it is a regimen difficult to adhere to, because food ingredient statements are written more for scientists than consumers.

The bill before us provides a common-sense solution for those with food allergies and celiac disease. It will require that food ingredient statements list in everyday language the eight major food allergens: milk, egg, peanuts, tree nuts, fish, crustacean shellfish, soy and wheat. It will also give those with celiac disease the green light to consume foods without hesitation by establishing and setting guidelines for the use of the term "gluten-free."

Simply put, the Food Allergen Labeling and Consumer Protection Act requires minimal but life-saving changes to food ingredient statements. Upon its implementation, millions of Americans will finally be able to let out a collective sigh of relief, something we can all be proud of.

Before I close, I hope the Speaker and my colleagues will indulge me for just a moment. This bill has been a work in progress for 4-plus years. There are many people who worked diligently behind the scenes to craft it and secure its implementation. I would be remiss if I did not personally thank some key staffers, including John Ford, Ed Walz, Ryan Long, Alan Eisenberg, David Dorsey and Kate Winkler.

Additionally, we would not be standing here without the expertise of Tina Harper, Bob Lake and Felicia Satchell from the Food and Drug Administration.

The Food Allergy Initiative, American Celiac Task Force, Food Allergy and Anaphylaxis Network and so many others also deserve thanks for their continued dedicated advocacy.

I urge my colleagues to support S. 741 so that those with food allergies and celiac disease will have the dietary information they need at their fingerprints.

Mr. Speaker, I yield back the balance of my time.

Mr. PICKERING. Mr. Speaker, I yield myself such time as I may consume.

I want to commend the gentlewoman from New York for all of her hard and good and effective work and that of her staff. It is a great accomplishment after a long path to get to this place, both on the allergens and on the MUMS. I am glad that we could find a coalition that could make something during a difficult Congress actually pass, and we will send this to the President. It will be signed, and we can celebrate soon.

So I thank the gentlewoman for her good and hard work and the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. UPTON) and many from the committee. Again, my staff, Cade King and John Rounsaville, I wish that they could be here with us tonight to celebrate.

Mr. SHUSTER. Mr. Speaker, I rise today in strong support of S. 741, the Minor Use and Minor Species Animal Health Act. This legislation contains provisions that will better the lives and ease some of the frustrations for the more than 7 million Americans that suffer from food allergies every day.

I have had the unfortunate experience to learn more about the trials and tribulations of food allergen sufferers when one of the members of my staff, Christy Farmer, was diagnosed with Celiac Disease earlier this year. Celiac Disease is an immune-mediated disease that causes damage to the gastrointestinal tract and is triggered by the consumption of gluten. Gluten is the protein part of wheat, rye, barley, oats, and other related grains, which are found in many of the foods that people eat on a day-to-day basis. The only treatment for Celiac Disease is adherence to a strict lifelong, gluten-free diet. In order to comply with this, individuals must carefully read all food labels, which can often be inaccurate and extremely confusing. Many times, food products may contain a derivative of a known food allergen, however the food label does not make that clear. This can lead to people unknowingly consuming exactly what they have been trying so hard to avoid. This painstaking process of carefully examining every food label and determining the exact ingredient of each product can be extremely frustrating and difficult for individuals.

This legislation will help tremendously in taking some of the guesswork out of reading food labels. Manufacturers in the food industry must now include the commonly accepted names of the eight most common allergens—milk, eggs, fish, crustacea, tree nuts, wheat, peanuts, and soybeans. Food allergen sufferers will now be able to scan food labels with greater ease and many incidents of accidental ingestion can be avoided.

Having a food allergy, especially to something that is found in so many different foods, can add a level of complication to a person's life that can be difficult to imagine. Christy was required to undergo a total lifestyle change due to her gluten sensitivity. Spontaneously stopping at a restaurant for dinner is no longer possible, traveling not knowing in advance what foods will be available is no longer an option, and giving up your favorite foods is not as easy as it sounds.

I am pleased that this legislation will help ease some of the frustrations and make adhering to an allergy-free diet a little easier for the millions of Americans that suffer from food allergies. I strongly urge my colleagues in joining me to support S. 741.

Mr. DINGELL. Mr. Speaker, I rise in support of S. 741, the "Minor Use and Minor Species Animal Health Act of 2004." The bill known as "MUMS" will make an important contribution to animal health. This legislation is very similar to H.R. 2079 sponsored by Reps. JOHN and PICKERING, and although we are taking up the Senate bill, they, along with my colleague SHERROD BROWN, deserve credit for leadership on this issue.

The bill is supported by the MUMS Coalition and the Keep Antibiotics Working Coalition. The MUMS Coalition includes the American Farm Bureau Federation, the American Veterinary Medical Association, the Animal Health Institute, the National Fisheries Institute, and many other organizations. The Keep Antibiotics Working Coalition includes the Union of Concerned Scientists, Environmental Defense, and the Center for Science in the Public Interest. In sum, the proverbial "delicate balance" has been found.

I also note that the MUMS bill contains a specific provision on food allergens. I want to acknowledge the hard work in the House on the issue by the gentlelady from New York, Mrs. LOWEY. Eight food allergens cause over ninety percent of serious allergic reactions from food. This legislation will require that food labels bear the name of any of these allergens if they are in the food and are not already noted on the ingredient label.

S. 741 is a good bill and I urge my colleagues to support this legislation.

Mr. RADANOVICH. Mr. Speaker, upon reading S. 741, there appears to be some confusion over the application of the allergen labeling requirements. It is my understanding that the requirements contained in this bill only apply to food subject to regulation by the Food and Drug Administration (FDA). I would like to clarify that wine and other alcoholic beverages are regulated by the Alcohol and Tobacco Tax and Trade Bureau. Subject to a Memorandum of Understanding with the FDA, the Tax and Trade Bureau has primary jurisdiction over the production and labeling of most wine and other alcoholic beverages.

In this regard, the Tax and Trade Bureau is sensitive to the issue of allergens in alcoholic beverages. For example, wine with levels of sulfites over 10 parts per million has been required to state "Contains Sulfites" since 1987. The Tax and Trade Bureau works closely with the FDA in determining whether such labeling is appropriate.

Because of the manner in which wine and other alcoholic beverages are produced, there are significant questions whether substances that Tax and Trade Bureau allows to be used in the production of wine would have any allergenic effect. In this connection, other countries have implemented or are considering additional regulation of allergens in their food supply. Due to the potential impact of this on the international wine trade, research specifically directed to the allergenic effect of certain substances used in production of wine in being conducted in Australia and elsewhere. In light of this research, the industry section of the World Wine Trade Group (WWTG) (an intergovernmental organization which seeks to facilitate trade in wine among its members, including the U.S., Canada, Australia, New Zealand, and Chile), submitted the following statement to their Governments:

ALLERGEN LABELING FOR WINE

> Several countries, including WWTG members countries, have introduced or are considering the introduction of labeling for potential allergens including, inter alia, fish, milk and egg products. The WWTG industry group recommends that any such labeling must be based on sound science.
>
> To date the scientific community has no evidence on the allergenic affects of these products in wine. Australia is currently undertaking extensive research in this area. Therefore, the WWTG industry group urges the WWTG governments to take full account of the scientific findings, expected within 12

months, in formulating or revising their labeling regulations in this area.

I anticipate that the Tax and Trade Bureau, in consultation with the FDA, will take the results of this international research into account in determining whether additional regulations requiring allergen labeling would be appropriate for wine and other alcoholic beverages. Among other things, the Tax and Trade Bureau should evaluate whether any such regulation would create an inadvertent international trade barrier. In this regard, I would like to work with the Chairman and Ranking Member, as well as the author of this bill, to ensure there are no unintended consequences resulting from this legislation.

Mr. PICKERING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Mississippi (Mr. PICKERING) that the House suspend the rules and pass the Senate bill, S. 741.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Mr. LINCOLN DIAZ-BALART of Florida (during consideration of S. 741), from the Committee on Rules, submitted a privileged report (Rept. No. 108–620) on the resolution (H. Res. 731) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

Mr. LINCOLN DIAZ-BALART of Florida (during consideration of S. 741), from the Committee on Rules, submitted a privileged report (Rept. No. 108–621) on the resolution (H. Res. 732) providing for consideration of the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. STENHOLM. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Stenholm moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 1308 be instructed to agree, to the maximum extent possible within the scope of conference, to a conference report that—

(1) extends the tax relief provisions which expire at the end of 2004, and

(2) does not increase the Federal budget deficit.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Texas (Mr. STENHOLM) and the gentleman from Wisconsin (Mr. RYAN) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

This is a very simple motion. The motion calls on Congress to extend middle-class tax relief without increasing the deficit. There is a broad, bipartisan support for extending the middle-class tax provisions which expire at the end of this year. There is also bipartisan support for the concept of pay-as-you-go to avoid further increasing the record budget deficits facing our Nation. Our motion would put the House on record in support of a conference report that achieves both of these goals.

I strongly support middle-class tax relief. I support extending marriage penalty relief. I support continuing the $1,000 per child tax credit and the expanded 10 percent tax bracket.

What I oppose is passing those tax cuts with borrowed money and leaving our children and grandchildren to pay our bills.

The Blue Dog budget and Spratt budget substitute called for extension of middle-class tax relief offset by suspending a portion of additional tax cuts for upper-income taxpayers.

More recently, a bipartisan group of Senators has put forward a proposal to expand the three middle-class tax cuts for 1 year, offset by an extension of customs user fees and closing corporate tax loopholes.

The question is not whether or not we should provide tax relief to middle-class families. The debate is whether we should do so with borrowed money, adding more debt on top of our $7.1 trillion national debt.

We should not pay for tax cuts by borrowing money against our children's future. Congress should be required to sit down and figure out how to make things fit within a budget, just like families across the country do every day. If we do not pay for tax cuts by cutting spending or replacing the revenues, every dime of the tax cuts will be added to the debt we will leave for our children and grandchildren.

At a time when our national debt is approaching $8 trillion and our Nation faces tremendous expenses for our troops overseas, it is irresponsible to continue passing legislation that would put our Nation even deeper in debt.

As of the close of business last Friday, our total national debt stood at $7,273,792,456,490.62. It appears very likely the debt limit will be reached sometime in late September or October, with the most likely date being early October, and here let me pause for a moment and say instead of working in a bipartisan way, which we could achieve in a heartbeat to increase the debt ceiling, what we continue to face are more and more bills to increase spending and decrease revenue and increase the deficit.

We offer the hand of bipartisan cooperation on this amendment tonight, and in my opinion, if this would suddenly become the leadership's position, we would pass the tax cuts that the folks on this side of the aisle are talking about unanimously tomorrow or the next day, and it would conference out of the Senate.

But instead, it appears very likely the debt limit that will be reached sometime in late September or October will come and go, and we will have a crisis.

Secretary Snow has publicly urged Congress to increase the debt limit as soon as possible, even before recessing in August, and we should do that. The most responsible thing for this Congress to do is do exactly what Secretary Snow is asking us to do.

As of the end of April, $1.726 trillion of our debt was held by foreign investors, more than $1 trillion held by official institutions of foreign countries. Despite this, the leadership of this body is talking about bringing up legislation that would add another $75 to $180 billion to that debt. And some folks even have the nerve to say with a straight face they are taking a conservative position.

Those who want to extend expiring tax cuts or make the tax cuts permanent should be willing to put forward the spending cuts or other offsets necessary to pay for them.

Applying pay-as-you-go rules to tax cuts do not prevent Congress from passing more tax cuts. All it says is that if we are going to reduce our revenues, we need to reduce our spending by the same amount.

If Republicans actually mean what they say about controlling spending, you should have no problem with applying pay-as-you-go to tax cuts, because it would force Congress to actually control spending when we pass tax cuts instead of just promising to do so in the future and having what apparently seems to be a good campaign issue.

The problem is that actions of Republicans have not matched their rhetoric. They cut taxes without cutting spending, in fact, increasing spending at the most dramatic rate that we have seen in many, many years. They charge the difference to our children and grandchildren by increasing the deficit. We should provide tax relief to working men and women, but we must do so without increasing taxes on our children and grandchildren. That is what the Stenholm amendment to instruct conferees would provide.

Mr. Speaker, I reserve the balance of my time.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to be very brief about this. This is a similar motion to instruct that we have seen before. The practical result of this motion to instruct is to make sure that a tax increase hits all middle-income families next year.

□ 1930

We have a problem and the problem is when the tax cuts passed into law last July and in the original tax cuts when they passed in 2001, the intention of this body was to make those tax cuts permanent. The tax cut that passed the House originally was that the child tax credits would be doubled, the marriage tax penalty would be vastly eliminated, and the 10 percent bracket would be expanded, and that that would be the law of the land in perpetuity.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. RYAN of Wisconsin. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I know the gentleman did not intend to mischaracterize my amendment.

Mr. RYAN of Wisconsin. I am getting there.

Mr. STENHOLM. I guess I did not hear what I thought I heard you say.

Mr. RYAN of Wisconsin. Reclaiming my time, I am making a larger point that will come around to the practical effect of this motion to instruct.

The point I was trying to make, Mr. Speaker, is that because of an arcane rule in the other body, those tax cuts were made temporary, meaning next year if Congress does not act, the per child tax credits will go from $1,000 down to $700. The marriage penalty relief will go away and the marriage penalty will come back into full force which costs the average married couple $1,400 in higher taxes. And the 10 percent bracket which is income tax relief to low-income Americans will go away and go back to the 15 percent tax bracket.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. RYAN of Wisconsin. I yield to the gentleman from Texas.

Mr. STENHOLM. You are mischaracterizing my amendment. We are suggesting that the tax cuts be extended through next year. You are describing something that is not going to happen in my amendment, leaving a wrong impression with the people that might be listening to us right now.

Mr. RYAN of Wisconsin. Reclaiming my time, the point I am coming to is that the practical effect of this by saying "does not increase the Federal budget deficit," is to say that this will not, in effect, end up happening. And what we want to do is make sure these tax cuts stay in place.

The point is this, Mr. Speaker, when the House passed its budget resolution, when the House deemed its budget resolution passed, we budgeted for this. We planned for this. It is within our budget, which is also a broader plan to reduce the budget deficit. The point is if you put this emphasis as this motion to instruct is created, it will put a bias in to keep these taxes high. It will put pressure not on reducing spending, but keeping taxes high. That is my concern with the gentleman's motion to instruct.

By saying, "extend the tax relief provisions that expired at the end of 2004 and does not increase the Federal budget deficit," that puts emphasis on keeping taxes high or raise raising taxes somewhere else to make this tax cut extended, rather than putting the emphasis where it ought to be, and that is reducing spending like we budget for in the budget resolution which we have deemed here.

So the points is this: we want these tax cuts to be permanent. It was always the intention they be permanent. By having these kinds of motions to instruct which will have the practical effect, in my opinion, of derailing these tax relief measures, we will have a tax increase on the middle-income family earners.

This is in our budget resolution. We budget for these tax cuts to be made permanent. That is what should happen. That is why I urge a "no" vote on this motion to instruct.

With that, I understand my friend from Texas disagrees with my assessment of this, but that is my assessment. I think that is exactly what would happen if this were to be the case. That is why I urge a "no" vote.

Mr. Speaker, I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

I think it is a fascinating argument. We have heard it time and time and time again. My friend talks about the lack of controlling of spending. Let me remind, Mr. Speaker, you control this House. You control the Senate. You control the White House. All of the great speeches that are made about controlling spending are your responsibility.

This amendment will not stop that from happening. In fact, I suggest just the opposite has been happening because we continue to pay tax cuts but spending goes up. Nothing in my amendment suggests that spending would not go down. If you want to have a tax cut, pass the spending cuts first. Do not just do it on the promise of a theory that so far has not worked. Did not work in the 1980s, has not worked in the 1990s. But yet we hear the same rhetoric; and with all due respect, my colleague mischaracterizes our amendment.

I would be happy to yield at any time to my friend.

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. As this motion to instruct is written, number one, under the PAYGO rules that you are advocating, you will have to raise taxes somewhere else to pay for this tax cut or you will cut entitlements because that is how PAYGO works for these tax reliefs.

Mr. STENHOLM. Reclaiming my time, I take back time because again you are totally misleading the body when you make that statement.

If you go back to PAYGO as was originally passed in this body in 1990, repassed in 1993, repassed in 1997 with Republican votes for it and Democrats joining, like myself, in putting that in place, it worked. There is nothing in this amendment that suggests that you, the majority party, must cut entitlement spending in order to achieve a tax cut.

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Does PAYGO allow for cuts in discretionary spending to be used to pay for tax relief?

Mr. STENHOLM. Yes.

Mr. RYAN of Wisconsin. I have a different understanding on that.

Mr. STENHOLM. That is the problem. That is the problem. It is a lack of understanding.

PAYGO means you have got to come up with the spending cuts to take care of the amount of tax cut.

Mr. RYAN of Wisconsin. If the gentleman is suggesting that when the budget resolution sets its 302(a) and reconciles its provisions, then the answer is you can put credit on the PAYGO score card to pay for a tax cut. But given the fact that we already have a budget resolution that is deemed, that accommodates this tax relief provision extending this tax cut so that it does not expire, we already have in our budget this budgeted for.

Mr. STENHOLM. The gentleman has misstated the facts again. There is no budget. There is no budget until we get a House-Senate conference and we have a budget. If we had a budget, I would probably be standing up here agreeing with parts of what you are saying.

Mr. RYAN of Wisconsin. The House deemed a budget, so we for practical purposes are operating under the House budget resolution which we deemed to be the budget of the House because we could not get a budget agreement with the other body.

Mr. STENHOLM. Reclaiming my time, that is precisely why I am standing here tonight offering a solution for the House and the Senate.

There is a bipartisan family tax relief proposal in the other body. It calls for a clean 1-year extension of the present law, $1,000 tax credit. It calls for the marriage tax penalty relief and the standard deduction, clean 1-year extension of present law so that married couples get twice the standard deductions of single filers. It calls for the 10 percent rate bracket clean 1-year extension. It calls for 1-year acceleration of the scheduled 2005 increase from 10 to 15 percent. It provides for the benefit of the child credit to military families by expanding the definition of earned income.

There is not a bit of this that you are opposed to. We all agree on that.

Now, what my proposal does is the offsets that they put in their bill. The Concord Coalition today has endorsed what this bipartisan group of Senators, let me read the names, Senator SNOWE, Republican of Maine; Senator BAUCUS, Democrat of Montana; Senator McCAIN, Republican of Arizona; Senator BREAUX, Democrat of Louisiana; Senator CHAFEE, Republican of Rhode Island; Senator LINCOLN, Democrat of Arkansas.

The other body is showing some signs of saying, look, it is time for us to deal with a very serious problem. If we do not act, these tax cuts are going to become tax increases on the middle-income folks. If we do not act. To act you are going to have to eventually get some kind of bipartisan agreement. You will never get bipartisan agreement by standing up in this body and saying, we passed a budget in this House. Whoopee. We passed one in this House. But you have got to have a Senate concurrence if you are going to, in fact, achieve something that we all agree needs to be done. That is my point.

We can do this. It is not that difficult. Unless you just believe we can borrow unlimited amounts of money.

There are some misconceptions flowing around. I have been in this body now for 13 terms. And when I look at spending as a percent of gross domestic product when I arrived here in 1979 and compare it with spending today, total spending as a percent of GDP, it is one half of 1 percent less today than it was in 1979. Revenue has dropped by 5 percent. The amount of revenue that we have available to fund the programs, including fighting three wars, has dropped by 5 percent; and in dropping the revenue by 5 percent, we are adding to the deficit at an alarming rate.

It does not seem to bother you, Mr. Speaker. It does not seem to bother my friend. As long as we were out here arguing about tax cuts, it does not bother anyone. And why should it? The folks that this should bother are our children and grandchildren, and they have about as much knowledge of this as my friend arguing on the other side here today and they cannot vote. That is the problem. Our grandchildren cannot vote.

Adding to the deficit under a political theory that has not worked, did not work in the 1980s, is not working today, is dangerous to the future health of this country. I believe that.

My friends on the other side apparently do not believe that. And that is fine. As long as you stand up and say, honestly, I do not believe it is going to harm the United States of America that we borrow another 75 to $180 billion, because tonight I do not know what my friends are proposing in this mysterious conference. Very unusual procedure that we are talking about in doing what no one knows until the leadership deems that it is going to be on the floor, and deems the way it is going to be carried out, and deems the way that it is going to, in fact, effect the future economy of this country.

Now, that is perfectly within the purview of the majority party, to continue to allow business as serious as the economic future of this country to be decided in a very small cadre of Members who happen to be in the leadership. And if you continue to do as you have been doing, you are going to be successful in this body. But then what happens if we cannot get an agreement with the other body?

Why would we not come together tonight and say, okay, we can have a 1-year extension and we can pay for it, either with the way the Senate has proposed it or by finding some other spending cuts up front. Not doing it like we did it 2 weeks ago, and spending 7 hours in this body debating all these wonderful amendments and then having nothing. Some got 100 votes and some got 105. And that is perfectly within the purview of any Member to stand up and speak for what they are for. But, ultimately, when you are in the majority party you have to accept the responsibility, the responsibility of your actions.

Just as I took the hand of your party in the 1980s when we were in the majority in this body and we worked together for some compromises regarding the economy of this country, we offer that hand tonight. This amendment, if you look at it honestly, again, is a very simple motion. It calls on Congress to extend middle-class tax relief without increasing the deficit. What is wrong with that? I ask my colleagues, what is wrong with extending middle-class tax relief without increasing the deficit? Why are my friends on the other side of the aisle so bound and determined that you want to continue to increase the deficit because you have a theory, a theory, that by cutting taxes without paying for them that it will do something other than increase the deficit?

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. I was thinking we were going to yield all time back.

I want to be very brief. We do want to reduce the deficit. We are trying to reduce the deficit. I think there is a better way than this vehicle. That is the point I am trying to make.

I do believe there is a difference of opinion on how the PAYGO rules work. But also I think it is important to point out the fact that the tax cuts that took place last year, since then we have actually raised more money in tax receipts under these new lower tax rates than we did last year under the higher tax rates. So the facts are there; but, nevertheless, the point of this is we passed budget resolutions. We have not gotten one with the other body for a lot of reasons, but we have deemed it here. We passed the budget to try to get a handle on spending and reduce the deficit. I would have done even more on spending control in our budget resolution.

This is not the vehicle to do it because I believe this vehicle will make it harder to extend this tax relief; and, therefore, you will have a tax increase on middle-income workers. And I believe the better vehicle to get a hold of our deficit is to pass a good budget that gets down our deficit, that reduces our deficit.

I thank the gentleman for giving me the time.

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Mr. STENHOLM. Mr. Speaker, I do. I respect the sincerity of the gentleman and his belief. I happen to believe that he is wrong and is being proven wrong every day by the facts. And let the facts speak for themselves.

That is the whole question today, and this is something that we can continue to argue, but if we do not get some agreements fairly soon, middle-income folks will get a tax increase, and it will not be my fault.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STENHOLM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

CITIZENSHIP DAY

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GREEN of Texas. Mr. Speaker, on June 12 our office hosted our 10th annual Citizenship Day event. This is a one-stop application processing opportunity for residents who wish to become U.S. citizens. With the help of local volunteers, elected officials and community-based organizations, we were able to help over 150 residents take their first step to becoming a U.S. citizen. Over 10 years we have assisted thousands of people to become citizens of this great Nation.

The Citizenship Day process involves completing United States Customs and Immigration Service forms, taking photographs, and having volunteer attorneys and U.S. Customs and Immigration Service representatives review the application and actually mailing it that day.

Every year this event can bring tears to your eyes at the number of people who want to become citizens of our great country. While some of us tend to take for granted that we live in a great country, others wait in line all night long simply to submit an application to become a U.S. citizen.

Although an event like this takes many months of coordinating, the rewards are remarkable. Not only does it provide a service to our community, but it increases awareness among legal residents about how important it is to become a citizen.

Mr. Speaker, I would like to list in the RECORD all the volunteers and groups that helped us on this event, as follows:

Houston Community College—Northeast Campus, Harris County Constable Victor Trevino, U.S. Customs and Immigration Service, United States Postal Service, JP Morgan Chase, Alma Latina Taqueria, League of United Latin American Citizens LULAC, National Association of Latino Elected Officials, Hispanic Organization of Postal Employees HOPE, Telemundo, Univision, Quan, Burdette & Perez, Attorneys at Law, Hipolito Acosta-Houston District Director of USCIS, Rose Aguilar, Mary Almendarez, Norma Ambriz, Carmen Bermudez, Graciela Caballero, Rob Caballero, John Cedillo, Mary Closner, Tolanda Crombie, Anselmo Davila, Zonia Davila, Elias De La Garza, Cesar De Paz, Hector DeLeon, Olivia Del Bosque, Raul Diaz, Debbie Dimas, Jaime Elizondo, Armando Entenza, Linda Escamilla, Fernando Espadin, Pedro Espadin, Silvia Espadin, Charles Flores, Tim Floyd, Carmen Galle, Jaime Garcia, Juan Garcia, Rose Garcia, Martina Garcia, Sophie Ha, Krystal Hernandez, Ernest Hill, Amalia Huerta, Natasha Jabbar, Andres Lara, Dorothy Ledezma, Teresa Longoria, John Martinez, Leticia Martinez, Frances Munoz, Valerie Noyoda, Anna Nunez, Isela Obregon, Rafael Palafox, Clauia Pulido, Isabel Ramirez, Sylvia Ramirez-Martinez, Mary Ramos, Christina Ramos Avila, Francisco Rodriguez III, Margaret Rodriguez, Catalina Rosas, Patrese Ruffin-Bush, David Ruiz, Rosalinda Salazar, Noe Sanchez, Cathy Shuler, Teri Smith, Christie Nga, Glida Treadway, Theresa Turnini, Frank Urteaga, Moses Villapando, Juana Wilson.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, when Ronald Reagan was running for President in 1980, he asked voters the question, "Are you better off now than you were 4 years ago?" Ronald Reagan won the 1980 election, becoming the 40th President of the United States.

Now, in the year 2004, the disarray of world events and the failed economic policies of the Bush administration force us to ask of the American people once more, "Are you better off than you were 4 years ago?"

Since he became President in 2001, George W. Bush has enacted the infamous policy of preemption. This doctrine asserts that the United States has the right to attack any country that the President thinks may seek to attack the United States without having any proof to back up that assumption.

Claiming this policy makes America safer against the threat of terrorism ignores the truth, that the war in Iraq has struck a hornet's nest of hatred in the Arab world against the United States for what it sees as a war against Islam.

In his annual budget request, President Bush has pushed hard for billions of dollars to fund an unproven missile defense system and research on new, illegal nuclear weapons. He claims these enormous weapons systems will make America safer against the threat of terrorism, but vast defense spending has squandered money that should be spent at home on health care for the millions of uninsured, on retirement benefits for our Nation's veterans, and funding for new energy sources to stop our dependence on foreign oil.

The time has come for a new national security strategy, and I have introduced H. Con. Res. 392, legislation to create a SMART security platform for the 21st century. SMART stands for Sensible, Multilateral, American Response to Terrorism.

In crafting this legislation, my staff and I received brilliant support and counsel from Ira Shorr, from Physicians For Social Responsibility; from Bridget Moix, from the Friends Committee on National Legislation; and Marie Rietmann, from Women's Action for New Directions. Without them, this legislation would not have happened.

SMART security will make the world safer by preventing future acts of terrorism. Because terrorism is an international problem, our response to terrorism must involve the international community.

SMART security emphasizes multilateral partnership because we are stronger when we work together than when we alienate our friends and allies, rejecting their participation, rejecting their help.

The possibility of nuclear weapons falling into the wrong hands is possibly the biggest threat we face as a Nation, and SMART takes the threat of weapons of mass destruction seriously.

SMART takes the Cooperative Threat Reduction program, which has been successful in dismantling nuclear weapons and materials in the states of the former Soviet Union, and replicates this program in other nuclear powers like Iran and North Korea.

It invests not only in new, effective weapons systems and equipment, but in peacekeeping and reconstruction efforts to prevent terrorism, exactly the kind of support that is needed in places like Haiti, Liberia, Sudan.

Mr. Speaker, every country in the world knows that America is the strongest nation in the world, particularly when it comes to defense. We have billions of dollars in weapons to prove it, but sometimes situations call for more than just brute strength.

Let us not look back in another 4 years and wish we had done things differently. It is time America got smart about its national security.

I urge all my colleagues to cosponsor this vitally important resolution, H. Con. Res. 392. Let us be smart about our future. SMART security is tough, pragmatic and patriotic, and it will keep America safe.

ORDER OF BUSINESS

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to speak out of turn.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADMINISTRATION WILL HAVE TO ACCOUNT TO THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, this is the administration that lays claim to security. They have got it under control. They have got it covered. They know, so Americans should trust them and reward them with another 4 years.

Well, it sure does not look that way. It took an independent, bipartisan panel to uncover 3 years later the fact that many of the 9/11 terrorists had crossed Iran's border with the knowledge and approval of the Iranian Government.

Why did the administration not know this? They made claims about their leadership in the war on terror. The administration's word rings hollow in the light of the 9/11 Commission's revelations.

When it comes to the war on terror, this revelation demonstrates this administration does not know what it does not know, but they claim to be the leaders and they claim it now. Clearly, they do not. Three years after 9/11 occurred there is no excuse for them having to find out from the 9/11 Commission.

The 9/11 Commission, with nothing close to the resources the administration has at its disposal, was able to uncover that many of the hijackers passed through Iran. Why did the administration not know this?

What else do they not know? Why have 3 years gone by without an investigation into Iran? Why is that? What does this revelation mean about Iran? We do not know and neither does this administration.

How could this happen? Very simply. The administration's obsession with Iraq. It is that simple. The administration diverted attention, resources and global support away from Afghanistan and the hunt for Osama bin Laden. This administration launched a war in Iraq on thinner evidence than what has been discovered about Iran and al Qaeda.

The President talked tough today. Is he signaling the start of another prewar campaign? That was the pattern in Iraq. Start the rhetoric out in the open and plan behind the closed doors.

Is that what is going on here? Considering the overwhelming U.S. military commitment in Iraq, the truth is, the United States has limited, if any, real ability to launch another significant military action while 160,000 troops remain in Iraq.

What does that mean? It means we are overextended for one thing. It means that diversion into Iraq diverted the war on terror. It means the President's decision to invade Iraq deprived us of the right to investigate Iran. We have lost invaluable time, measured in years, when this administration beat a drum beat that turned war rhetoric with Iraq into reality.

The 9/11 Commission has given us a glimpse of what we do not know. The rhetoric only goes so far. In the aftermath of the truth about Iraq, the administration's rhetoric is long on words but very short on credibility. That is not leading a war on terror.

Today, America strains under the weight and the consequences of a misguided war that substituted rhetoric for evidence. Today, America sees firsthand the consequences of a war that diverted us away from the real fight we have. Today, America is beginning to see what was overlooked, left behind or simply ignored in the administration's rush to judgment against Iraq.

Three years later, the consequences of the administration policy makes clear the real intelligence failure began not in the CIA but in the White House. Intelligence failure was not in the agencies. It was at the top, from the people who directed them. It should never have happened, and this administration will have to account with the America people in 105 days.

We cannot afford an administration that wastes 3 years on the investigation of a country with nuclear power and other issues.

PROBLEMS THAT OHIO FACES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 60 minutes as the designee of the minority leader.

Mr. STRICKLAND. Mr. Speaker, I thank the Speaker for his recognition, and I am happy to be joined this evening by the gentleman from Ohio (Mr. RYAN) and the gentlewoman from Ohio (Mrs. JONES), and later we will be joined by the gentleman from Ohio (Mr. BROWN). We are going to be talking this evening about the Nation, but especially about some of the problems that are faced by those of us who live in the State of Ohio.

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Mr. Speaker, Ohio's theme has been "Ohio, The Heart of It All." It is true that Ohio is the heartland of our Nation. Ohio probably more than any other State is a microcosm of this great Nation. We have the Great Lakes to the north, the majestic Ohio River along the eastern and southern boundaries. We have some of the richest, most productive farmland in the world. We have great cities: Akron, Toledo, Youngstown, Cincinnati, Columbus. They are wonderful metropolitan areas. We have small towns. And many of those small towns are in my district. Certainly Youngstown and Steubenville, Marietta, Portsmouth, Lisbon, Ohio, all wonderful towns. And we have a great diversity of population. We have great ethnic and racial diversity. We have religious diversity. We have high tech and some of the greatest universities that exist in this country.

Although the American people are hurting tonight economically and otherwise, the people of Ohio are especially hurting. In the month of June, Ohio lost 14,100 jobs, bringing the total number of jobs lost since President Bush came to office, the number of jobs lost in Ohio, to 231,500 jobs. In June, Ohio lost 3,400 manufacturing jobs, bringing the total number of manufacturing jobs lost under President Bush to 173,300 jobs. That is only 200 jobs behind those jobs lost in Texas, and third in the entire Nation.

The number of unemployed persons in Ohio grew by 111,121 since President Bush took office in 2001, rising to a total number of 3,338,831 persons unemployed last month. That is in Ohio. Nationwide, job creation is still anemic with only about 110,000 jobs created nationally in the last month.

The middle class in America is being squeezed. Senator JOHN KERRY has been talking about this middle-class squeeze. Over 90 percent of the new jobs created since August 2003 are service-sector jobs that pay an hourly wage of less than the national wage average. About 1.4 million of the jobs created are service-sector jobs with an average wage of $15.24 an hour, which is 41 cents less than the national average. And 203,000 of these jobs are temporary in nature, providing no stability to the people and the families who depend upon them. Approximately 370,000 of these jobs were in low-paying domestic industries such as wait staff in restaurants and bars and retail workers.

In addition to this, and most Americans know this, wages are at a record low. Over the last year, the average hourly wage has fallen. When adjusted for inflation, wages are now at the lowest point in 2 years, and the typical American family is making $1,500 less per year under President Bush.

The portion of the national economy going to wages is lower than it has been since 1966. In contrast, after-tax corporate profits are the highest since the government began keeping track in 1947. So the wages of America's workers are declining and the income of the corporate giants are increasing.

Now as we approach a month-long recess, instead of this Congress taking steps to help the American working family, Congress is spending its last remaining days debating what is likely to be an unconstitutional effort to block gay marriage and a bill to further extend tax cuts to those who are already wealthy. No wonder that this Congress has come to be known as the "do-nothing Congress." Instead of taking up bills which focus on issues which are really important to the average American, congressional leaders are focusing on issues which are important to their very narrow political constituency. The priorities of this Congress do not reflect the priorities of the American people.

Tonight, my colleagues, the gentlewoman from Ohio (Mrs. JONES) and the gentleman from Ohio (Mr. RYAN) and the gentleman from Ohio (Mr. BROWN), and I will be talking about some of these issues to inform the American people and to try to alert our colleagues to what is really happening in this country.

Mr. Speaker, I yield to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman. The gentleman talks about an area in his district which is near and dear to my heart. My grandfather lived in Portsmouth, Ohio, and raised nine children in Portsmouth, and I still have cousins and relatives there.

Mr. STRICKLAND. Mr. Speaker, every time I mention a town in Ohio, the gentlewoman from Ohio (Mrs. JONES) has relatives there. I do know the gentlewoman's relatives in Portsmouth, Ohio, and they are delightful folk, and I am so pleased the gentlewoman is joining us today, and it is wonderful to have her as a colleague because I do feel like we come from the same part of the country.

Mrs. JONES of Ohio. Mr. Speaker, I also recognize the gentleman from Ohio (Mr. RYAN) from the Youngstown area. He has come to Congress, and he has not missed a beat; and I am so proud and pleased he is doing such a wonderful job.

Tonight I am going to focus on gas prices because gas prices have significantly affected Ohioans. I rise to express my disdain that gasoline prices have increased dramatically, exceeding $2 per gallon, and reached record levels in May 2004. Although recent decisions by OPEC are expected to have some impact on gas prices, the Energy Information Administration has indicated that gasoline price levels are still expected to remain high by historical standards.

These high gasoline prices have significant impacts on family budgets and on the economy as a whole. We were talking about the middle-class squeeze; I am going to talk about middle-class and lower-class squeeze. Who can expect that they are going to have to pay $2 a gallon for gas? Last night in Cleveland at a gas station right around the corner from my house, a guy walked up to the window and said $40 worth of gas.

Increased expenditures for gasoline reduce families' discretionary income and can result in inflation in the price of consumer goods. On May 17, 2004, the Federal Reserve Chairman, Alan Greenspan, indicated that the dramatic increase in oil and gas prices is "an economic event that can significantly affect the long-term path of the U.S. economy."

A recent report by the staff of the Committee on Government Reform of the House of Representatives found that increased cost of gasoline prices can force motorists in Ohio to pay $483 million more for gasoline in the summer driving season than they did last summer. The increased cost will be approximately $62 million in the Cleveland area alone. For the average family in Ohio, the increasing gasoline prices can increase fuel costs by $125 between Memorial Day and Labor Day.

In recent months, gasoline prices have increased rapidly in Ohio and in the Columbus area. On July 6, 2004, the average price for a gallon of gasoline in Ohio was $1.81. Compared to 1 year ago, that represents a 35-cent-per-gallon increase.

Prices have increased by a similar amount in metro areas throughout the State. On July 6, 2004, average gasoline prices were $1.82 in the Cleveland area, an increase of 32 cents a gallon compared to prices 1 year ago. In 2004, drivers in Ohio will purchase approximately 5.5 billion gallons of gasoline, an estimated 460 million gallons per month. Assuming that the prices remain at the statewide average of 35 cents per gallon average higher this summer than in 2003, increased gasoline prices could cost Ohio drivers an additional $161 million monthly. Over the 3-month summer driving season from Memorial Day through Labor Day, the total increased cost for drivers in Ohio would be $483 million. An estimated 12 percent of all gasoline used in Ohio is used in the Cleveland area. That means that Cleveland drivers purchase approximately 57 million gallons of gasoline monthly. Assuming gasoline prices in the region remain 36 cents per gallon higher this summer than last year, increased gasoline prices will cost Cleveland drivers almost $21 million monthly. For the 3-month summer driving season from Memorial Day through Labor Day, the increased cost for Cleveland drivers would be approximately $62 million.

There are 7.7 million registered drivers in Ohio. On a per-driver basis, the increased gasoline prices will cost the average driver in Ohio $60 over the summer months. An average two-car family in Ohio will spend an additional $125 for gasoline during the summer driving season, and the list goes on.

I am here to say that under this administration, we have not seen any efforts to decrease the cost of gasoline, which continues to put a pinch on our families.

Mr. STRICKLAND. Mr. Speaker, in the last Presidential election, then-candidate, now President, Bush said, I am an oil man. He said, I am not a big oil man, but I am an oil man, and I know how to jawbone, and I will jawbone OPEC and I will tell them to turn on the spigots.

The Saudi regime, I believe, only remains in power because of the support they receive from this country. In my judgment, if we were to withdraw our support from Saudi Arabia and that regime governing that country, they would be gone in a split second. And yet at a time when we really needed their help, when our economy was struggling to recover, they participated in a decision to cut oil production which sent the cost of gasoline in this country skyrocketing. To my knowledge, President Bush has said nothing to OPEC, nothing to the Saudi regime. He has not jawboned. We have gone through this spring and summer with all of these high prices. The gentlewoman talked about the price of gasoline in Ohio, and that situation exists across this country.

Now, are we going to have lower prices soon? I suspect we may because I think there is reason to believe that an arrangement has been made with OPEC and especially the Saudi government as the election comes nearer and nearer, that they will take steps to increase production and thereby decrease the price pressure, and the result may be lower gasoline prices. But I hope the American people remember what they have gone through over the last 5 or 6 months. I hope they remember the hundreds and hundreds of dollars that have come out of their family budgets as a result of these high gasoline prices.

Mr. Speaker, I thank the gentlewoman from Ohio (Mrs. JONES) for sharing her thoughts.

Mrs. JONES of Ohio. Mr. Speaker, I heard on the news that a Saudi person, a representative said in fact they do this every time a Presidential year comes up, nearer to the Presidential election, they reduce the cost of gasoline in an effort to support the President.

I want to remind Members of one more thing. I heard candidate Bush, then-candidate, now President Bush, say if Bill Clinton wanted to reduce the cost of gasoline in the United States, all he would have to do was pick up the phone, call the OPEC leaders and say, turn on the spigot.

My statement to President Bush is practice what you preach. Pick up the phone, call the OPEC leaders, and tell them to turn on the spigots. It is a much more complicated process than that. He knows it, but now he is not willing to step up and do what he said back when he was a candidate.

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I want to again thank the gentleman from Ohio (Mr. STRICKLAND) for his leadership. I thank the gentleman from Ohio (Mr. RYAN) for the opportunity to be a colleague of his.

Mr. STRICKLAND. I thank the gentlewoman from Ohio (Mrs. JONES).

Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN), our newest representative from the Youngstown/Trumbull County area.

Mr. RYAN of Ohio. I thank the gentleman for the opportunity here tonight and for taking the leadership to put this together for us for the Ohio delegation.

We have suffered unlike any other State, I think in the country, as far as job loss goes. The one statistic that former Secretary Reich shared with us last week was that one in five of the jobs in the United States of America that were lost have been lost in the State of Ohio. One out of every five. And so if there is any constituency, if there is any State that has something at stake in the upcoming election, I think it is the great State of Ohio.

I would like to shift gears a little bit, not too much, but to talk a little bit within the same context of job loss and talk a little bit about China.

Ohio has had over the years an extremely strong manufacturing base in a variety of sectors, an opportunity to really grow our economy over the last 30 or 40 years and to provide a great opportunity for immigrants who have moved into the State of Ohio an opportunity to have a good wage and a pension and health care benefits and be able to send their kids on to school. We are now competing with, really, the great country as far as manufacturing goes that is China. We cannot deny it any longer. In many ways we have let this happen, but we have to deal with the facts as they present themselves today.

I was going through Wired Magazine last week, and I want to share with the American people and the citizens of the State of Ohio some statistics and some pie charts here. I do not know if they can read them at home so I will share them with them, but they can get this at Wired Magazine. I do not know if it is on their Web site or not, but their last publication had these, or maybe it was two publications ago, had these statistics in there. I want to share them with the American people because I think they are very indicative of the situation we are facing, the critical situation that we are facing in the United States of America.

Let me just say, first, that this is not an issue that we can deal with 10, 20, 30 years down the line. This is not an issue where we can say, "We're just going to wait. We're the United States. We're the superpower, the only superpower. We're going to wait and we'll deal with that later. We've got to deal with Iraq, and we've got the budget deficits."

Mr. STRICKLAND. The fact is if we do not wake up and smell the coffee in a few years, and I am talking about a handful of years, we are going to find that China is going to eat our lunch economically. They have billions of people. They do not have the same kind of requirements that we have here in terms of environmental requirements, labor standards. Their wages are pathetic. We are talking about pennies a day. And they use slave labor; they use child labor.

They are an authoritarian government. I have been told that when a Chinese worker is injured on the job, they are just shuttled aside and they bring on someone else. So there are all kinds of reasons why the playing field is not level when it comes to China and dealing with China and this trade issue.

We made a mistake, in my judgment; this Congress, this administration made a mistake in granting to China most-favored-nation trading status. We gave them the advantages that come with that designation.

We supported their entry into the World Trade Organization, although they are authoritarian, although they are oppressive, although they routinely abuse their own citizens in terms of human rights and civil rights; and yet now we are allowing them to engage in a trade relationship with us which is out of balance, unfair, unequal.

I think my friend is right, and I believe he has some charts there showing what is happening in terms of certain sectors of our economy.

Mr. RYAN of Ohio. And staggering, staggering in the sense, and the gentleman has been here a lot longer than I have, but he will remember, every trade agreement that we have signed, from NAFTA on, the great phrase, the permanent normal trade status that we have granted to China, at one point it was most-favored-nation, and Singapore and Chile and then Australia and now Morocco later this week.

In each instance, when we were talking about this, we were told that the high-wage jobs were going to stay here and that we were going to give the lower-paying jobs, the jobs that Americans did not want, we would let them go to China. We were told that all this new high technology, all these new high-tech jobs that we were going to be creating here in the United States of America would stay here, so our people would benefit with the jobs and health care and everything else.

I want to just share with the American people these pie charts. This is the top five exporters of electronics in the billions of dollars in 2002. Top five exporters of electronics, one of the industries that we thought when everyone was talking about these trade agreements, we could keep here.

Who is actually exporting these electronics? The United States of America in 2002, $2.5 billion; China exporting electronics, $8.8 billion worth. The United States, $2.5 billion; China, $8.8 billion. That was in 2002, top five exporters. Then it goes on, it has Italy is at $5.9 and Germany and the Republic of Korea.

Then we get to the top five exporters of telecom equipment in the billions of dollars in 2002. United States of America, $21.6 billion; China, $36.4 billion. In electronics, in telecommunications equipment, we are getting our clock cleaned. Wake up and smell the Starbucks.

Next pie chart. I will start over here. The top five exporters of assembled computers. When we were hearing NAFTA and GATT and permanent normal trade, these were the jobs. We are going to start making computers in the United States of America. You are going to go from making steel to computers. It is going to be great. You are going to make good wages. You are going to be able to move your community forward and increase your tax base.

Top five exporters of assembled computers, United States, $2.4 billion; China, $3.8 billion. They are cleaning our clock in the computer industry as well. Ireland, $4.6, Mexico, Malaysia.

So the point is well taken. Electronics, telecommunications equipment, assembled computers, we are getting our clock cleaned by China.

And so the point I want to make is, it is easy to sit up here and say, what do we do? We are getting beat up. We look like Rocky Balboa at the end of Rocky I. We have the bloody eye and we cannot see. We have the Band-Aid and our nose is broke. That is how the United States looks as we are competing with China.

And so what do we do? It is easy to make that analysis. The only thing that we can do is invest in education in the United States of America, and we have not done it.

This is a staggering statistic that I want to share with the American people that will explain and illustrate why we are having the problems that we are having today with China and why, if we do not fix this problem, we are going to continue to have these kinds of troubles.

Top five sources of engineering graduates: United States of America, 59,000 in 2001; China, 219,563 engineering graduates.

If we want to create the new economy, if we want to compete in electronics and computers and telecommunications equipment, if we want to start exporting, we need to have engineers graduating from universities in the United States of America who are going to go out into our economy, who are going to create jobs, start businesses, work for American companies. There are not many Americans that want to move to China. There just are not that many. That is not a jingoistic statement. That is not slamming the Chinese. The Chinese have a proud culture, as they should, as every country does in some capacity.

But quite frankly, I was not elected in China. I was elected in the United States of America. And when you see a problem like this, a problem that can be fixed, 219,000 engineers in China graduating every year compared to 59,000 in the United States of America, that is something that the United States of America can fix. We can make it a national priority. We can fund Pell grants. We can lower tuition costs around the country. We can provide incentives for people to graduate in math and science and engineering and the different kind of technological industries that we need them to graduate in.

We need to fund No Child Left Behind. We need to start at the beginning and we are not doing the job here in the United States of America.

There are a lot of problems here that we cannot fix. There are some problems that you hope, you say your prayers at night that the problems get fixed. This is not one of them. This is a problem we can fix. The unfortunate thing is, as I go through these educational statistics here, title I, underfunded by $7.2 billion. The No Child Left Behind Act that was passed by this administration and the Congress, the last Congress, just in Ohio, the No Child Left Behind Act with all the Federal mandates in Ohio, Ohio local school districts are underfunded by $1.5 billion this year, $1.5 billion.

Pell grants, in the 1970s when they started, they accounted for 80 percent of a person's college tuition. Now they account for 40 percent. Student loans being run by the banks. The banks are in on the deal now. We have to worry about making sure the banks make their cut instead of making sure students have the opportunity to go to school. There are 250,000 people that are college eligible that do not go to college because they cannot afford it, 250,000.

Mr. STRICKLAND. Speaking about China, job loss, the needs that we have, I have a chart here that shows that since President Bush has been in office, I am talking about the period from January 2001 through April of 2004, 48 of our 50 States have lost manufacturing jobs. These are jobs that traditionally pay decent wages, have benefits, enable a person to support their families, pay their taxes, support their communities. If we can just look at the heartland of our country here, and I am talking about our great State of Ohio, Ohio has lost 163,500 manufacturing jobs.

That job loss is continuing. We now know from the recent statistics that just last month, Ohio lost more than 3,000 manufacturing jobs.

Mr. RYAN of Ohio. I thought the economy was doing great. Did I miss something?

Mr. STRICKLAND. There are people who live in Never-Never Land. People in this administration must live in Michael Jackson's Never-Never Land because they seem totally out of touch. The President comes to Ohio and he talks about how the economy is doing better than it has done in decades. Where is he talking about? What is he talking about?

The job loss continues. You look at our surrounding States. Pennsylvania lost 157,400 jobs. West Virginia, a fairly small State, 9,500 manufacturing jobs. The great State of Kentucky where I got my education, my higher education, lost 38,600 jobs. Indiana lost 66,500 jobs. Michigan, 133,200 jobs. The job loss is horrendous, and it is continuing. Even the jobs that are coming back do not pay nearly as much as the jobs that have been lost.

Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY) who is kind enough to join us tonight.

Ms. SCHAKOWSKY. I appreciate this discussion tonight and just wanted to make a few points. The gentleman said that there has been talk from the Bush administration, from the President himself, on how there has been this great recovery. I wanted to point out what was in the Wall Street Journal today that talks about that, yes, for some sectors of the economy, there has been a recovery.

□ 2030

They talk about a two-tier recovery that is going on where wealthier households are the big beneficiaries of a stronger stock market and higher corporate profits and bigger dividend payments and boom in housing, but ordinary people are not seeing that same kind of recovery.

And they show some very telling statistics here. For example, hotel revenue was up 11 percent in the first 5 months of 2004 at luxury and upscale chains, but just up 3 percent at economy chains. At the five-star Broadmoor Hotel in Colorado Springs, Colorado, $600-a-night lakeside suites are sold out every day through mid-October.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I think this may indicate something that I think we intuitively feel, that under this administration the wealthy have done very well. There are people in this country who have got significant tax breaks, who are capable of paying $600 a night for a hotel room. Most of my constituents certainly could not do that, and I think this is just one example of how the rich are being well cared for by the Bush administration. The working middle class is being squeezed, as Senator JOHN KERRY and Senator EDWARDS have been talking about as they have traveled around this country. There is a middle-class squeeze. The wealthy are doing very well.

Ms. SCHAKOWSKY. Mr. Speaker, let me give the gentleman a couple of other examples that will kind of surprise him, I think. At least I do not know people who spend this kind of money. At high-end Bulgari stores, and I may not be pronouncing it right because I am not sure what they are, but "at high-end Bulgari stores, meanwhile, consumers are gobbling up $5,000 Astrale gold and diamond 'cocktail' rings made for the right hand, a spokeswoman says. The Italian company's U.S. revenue was up 22 percent in the first quarter. Neiman Marcus Group, Inc., flourishing on sales of pricey items like $500 Manolo Blahnik shoes, had a 13.5 percent year-over-year sales rise at stores open at least a year. By contrast some 'same stores' sales at Wal-Mart Stores, Inc., retailer for the masses, were up just 2.2 percent in June. Wal-Mart believes higher gasoline costs are pinching its customers. At Payless ShoeSource, Inc.," and I know about Payless Shoes, "which sells items like $10.99 pumps, June same-store sales were 1 percent below a year earlier.

"A similar pattern shows up in cars. Luxury brands like BMW, Cadillac, and Lexus saw double-digit U.S. sales increases in June from a year earlier. Sales of lower-tier brands such as Dodge, Pontiac, and Mercury either declined or grew in the low single digits."

So it is not just the gentleman that thinks that maybe there is a difference, but this economist from J.P. Morgan, Dean Maki, says: "To date the recovery's primary beneficiaries have been upper-income households." He said, "Two of the main factors supporting spending over the past year, tax cuts and increases in stock wealth, have sharply benefited upper-income households relative to others."

So we have the good times for upper-income Americans and pretty hard times or certainly not better times for most other Americans.

If I could just go on for another minute, there was an article also in the New York Times on July 18. The headline was: "Hourly Pay in U.S. not Keeping Pace with Price Rises," and the lead is: "The amount of money workers receive in their paychecks is failing to keep up with inflation." So this is really the relevant number. Even though we may be seeing some increase in jobs, what we are finding is that wages are going down, that American workers are having a hard time keeping up with inflation.

Last Friday, the Bureau of Labor Statistics reported that hourly earnings of production workers, nonmanagement workers ranging from nurses and teachers to hamburger flippers and assembly-line workers fell, wages fell, 1.1 percent in June after accounting for inflation. The June drop, the steepest decline since the depths of the recession in mid-1991, came after a 0.8 percent fall in real hourly earnings in May.

And one other article I wanted to quote from the New York Times on Sunday, if I could, and that will end my comments: "If President Bush was correct when he asserted recently that the economy was strong and getting stronger, why are so many people not only out of work but also looking for jobs?

"Mr. Bush noted with evident relief that the Nation had added 1.5 million jobs since last August. Senator Kerry and his supporters complain that the country still has about a million fewer jobs than when Mr. Bush took office.

"But," the New York Times says, "neither statement captures properly the shortfall of jobs that has built up over the last 3 years. An accurate estimate is not 1 million but 4 million, and possibly higher."

So the real job numbers, the real numbers of the shortfall of jobs, is about 4 million jobs. This tells us average workers are not even keeping up with inflation, and this Wall Street Journal article tells us today for some people they can go out and buy $5,000 cocktail rings made for the right hand, that there is a boom business in that. We have a two-tier recovery. Ordinary people are not feeling it.

Mr. STRICKLAND. Mr. Speaker, I want to thank the gentlewoman from Illinois for sharing with those of us from Ohio tonight.

As I said earlier, and this reinforces what she has said, wages are now at the lowest point in terms of the purchasing power that they have been in 2 years, and the typical American family is making nearly $1,500 less per year than they were when George Bush was elected President.

I yield to the gentleman from Ohio (Mr. RYAN), and I noticed the gentleman from Ohio (Mr. BROWN) has joined us.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding to me, and I welcome our good friend from Lorain, who is here.

A couple of points. We are, talking about how the wealthy are doing very well, and I think most Americans would say George Bush is an all right guy, and this is not a personal debate that we are having here. These are statistics that we have. These are facts that we are presenting to the American people and let them make the decision that they need to make in the fall.

But I really think that this administration, very similar to the first President Bush's administration, has really gotten out of touch with average American families.

The gentlewoman from Illinois (Ms. SCHAKOWSKY) was just saying $600 for a hotel room. For people in my district, that is 2 months' rent. They are spending it for one night in a hotel room. I mean, that is out there. But I think this President has really become out of touch, and a couple of examples, one in particular, that I want to use.

Last year, last Labor Day, the President came to Ohio, and all the problems that we have talked about tonight, all of the issues that we have talked about with all the different cities in our communities and Youngstown, this President on Labor Day, the most job loss since Herbert Hoover, goes to Richfield, Ohio, which is one of the wealthiest suburbs in the State. He does not go to Toledo or Youngstown or Lorain or Akron or Cleveland or Steubenville. He goes to Richfield. I mean, if one really wants to empathize with the people who are suffering in our country, one does not go to the suburb. Go to where the people are hurting.

And two times ago when he came to Ohio, he was in a very small little county that had the best unemployment rate in Ohio. In the city of Youngstown, the unemployment rate is almost 17 percent. In the city of Warren, it is 14 percent. He goes to an area that is doing okay and says the economy is really turning around.

So I think that this administration is clearly out of touch. They are not understanding that we have lost 14,000 jobs in the State of Ohio just in June. This was not over the last year. Just in June we lost 14,000 jobs. Tuition has gone up by 10 percent. We are getting our clock cleaned by China. So I think all of these issues tell me, as a new Member of Congress, that this administration is not really getting the point.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I think what my friend is describing is the middle-class squeeze. The fact that in America today the people who play by the rules, who work, who want to work, who want to pay their taxes, support their churches, invest in their communities, educate their kids, these are the people who are being squeezed. And those at the very upper limits of the income ladder are being richly rewarded by this administration.

I yield to the gentleman from Ohio (Mr. BROWN), my long-time friend.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio (Mr. STRICKLAND) for yielding to me, and the gentleman from Ohio (Mr. RYAN) and earlier the gentlewoman from Illinois (Ms. SCHAKOWSKY) for joining us.

I got here late, but I heard the comments of each of my three colleagues about job loss, and Ohio has suffered probably more than any other State. Maybe the gentleman from Michigan's (Mr. HOEKSTRA) State has been hit just about as hard. But we have lost one sixth of our manufacturing jobs in my State, the State of Ohio. We have lost over 200,000 jobs. In fact, if we look at it, we have literally lost 180 jobs every single day of the Bush administration.

They are saying that we are seeing job growth now, and we have seen a few jobs created; but there are a couple of issues there. One is we have not nearly come back to where we were. In fact, as the gentleman from Ohio (Mr. RYAN) pointed out, George Bush will be the first President since Herbert Hoover to have lost a net loss of jobs. We have had a net loss of 215,000 jobs, and now we have just had a net loss this past month, heavily manufacturing jobs, 160, 165,000 manufacturing job loss.

And it is not just the people that lose their jobs. It is what it does to these communities. Cleveland laid off 800 school teachers because of job loss, and that means that the average schoolroom in Cleveland will have 30 students per teacher in an average schoolroom. The city of Lorain, my hometown, has been forced to cut its number of teachers to lay teachers off. It means worse police and fire protection for those people who live in these communities. So job loss does not just hit the families who lose their jobs, as bad as this is. It also can really devastate a community.

That is the first part of it. And even though we are now seeing some job growth, and that is a good thing, as we said, those jobs do not pay as much as the jobs, as the gentleman from Ohio (Mr. STRICKLAND) said, that were lost. We lose a steel job, an auto job, and we create a job maybe, not as many as we lost, but we create a few jobs that pay $5 an hour less. Better than nothing, but certainly not what we need to build the kind of middle-class economy and middle-class communities that we would like.

But the other part of it, as the gentleman from Ohio (Mr. STRICKLAND) said, is those who have jobs, and most people, of course, have not lost their jobs. Most people still have jobs. But those who have jobs are feeling that squeeze. Gas prices are up almost $2 a gallon. I guess I should not be surprised because the President and the Vice President both were oil company executives. Vice President CHENEY is still receiving $3,000 a week from the Halliburton Company, the oil company that he used to work for that is now doing so much business in Iraq. Oil prices are up. Health care costs are way up. The cost of prescription drugs is through the roof.

Yet this Congress and the President have done absolutely nothing to bring drug prices down. The drug industry has given President Bush and the Republican Congress for their campaigns literally, literally, tens of millions of dollars. And it has been a good investment for the drug companies because their profits continue to be the best, the highest profits by a factor of three or four of any industry in America.

So gas prices are up. Health insurance prices are up. College tuition, if people want to send their kids to college, Ohio State is going up 13 percent next month, I believe, or in September, whenever school starts. Tuition at Akron University a year ago, in the gentleman from Ohio's (Mr. RYAN) and my district, for freshmen went up about 16 percent. So they are getting gas prices increasing, health care costs increasing, college tuition increasing. At the same time, wages are stagnant. There has been no wage increase.

And I think the best example of sort of the Bush economy, we can see it at the Timken Company.

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Timken, for those who are not from Ohio that are listening and for those perhaps unfamiliar, Timken is one of the major success stories of American manufacturing, a fourth generation family running a steel company, ball bearings and steel supply company, in Canton, Ohio.

The Timken Company, the fourth generation owners of the company and managers of the company are very good friends of President Bush. The Bush family and the Timken family have gone back for years together.

The Timken Company a year ago was the site of a visit by President Bush celebrating the productivity of the workers and the success of the company. President Bush said, and we all applaud this, that Timken workers' productivity has increased 10 percent from 2 years ago to last year. A 10 percent productivity increase, almost unprecedented.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I would ask the gentleman, what was the result of that increased productivity? What did the workers get out of that?

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will continue to yield, that is the rest of the story. That is exactly right. A 10 percent productivity increase a year ago. Then earlier this year, in April, Timken announced record sales, the highest sales of any quarter in its history, in its almost 100-year history, and Timken announced a 63 percent increase in earnings per share over the first quarter of 2003. So immensely more productive workers, 10 percent more. A year later, record sales, a year later highest earnings, a great increase in earnings per share.

Do you know what happened a week later? You know, obviously. Timken announced it was going to shut down its three remaining Canton, Ohio, plants; 1,300 workers would lose their jobs, good-paying jobs, industrial workers, and Timken was going to build another plant in China.

This is sort of the Bush economy. It is more productive workers, more corporate profits, higher pay for executives; squeeze the workers, squeeze their health care, make them pay more, squeeze wages; shut the plant down, more production in China. Then a whole other cycle: more profits, more sales, bigger executive pay, more squeeze on the workers.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I make a prediction to my good friend, the gentleman from Ohio (Mr. BROWN). My prediction is this: President Bush will not return to Canton, Ohio, to the Timken plant during this election year, because the people there are hurting. They know that although they worked hard, although they increased productivity, although the company continued to make money, it wanted to move to where it could earn more money, and that was China.

I just want to share with my friend something that is in the President's economic report to the Congress that was presented to us in February of this year. On page 25 of that report, is this statement: "Whenever a good or a service can be produced at lower cost in another country, it makes sense to import it, rather than to produce it domestically."

That is the philosophy that drove Timken to China: more money, greed, higher profits. But that is the philosophy of the Bush administration. "Whenever a good or a service can be produced at lower cost in another country, it makes sense to import it, rather than to produce it domestically."

I say to my friend, the gentleman from Ohio (Mr. BROWN), nearly every product can be produced at lower cost in another country if you are going to pay slave wages, if you are not going to have environmental standards, if you are not going to have safety requirements for the workplace.

That is what we face with the George W. Bush economic philosophy, and we are going to lose jobs until we change our course.

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will yield further, it is interesting what the gentleman says about these companies moving to China, because I have heard executives say to me, some from my district, some from Ohio, some from around the country, "The global economy forces us to have to move to China."

But it is those same executives, and the gentleman from California (Mr. HUNTER) has been part of these debates in the past, a Republican friend from California opposed to these trade agreements, but these same executives come to this Congress and ask for trade agreements, ask for PNTR for China, as for the North American Free Trade Agreement.

President Bush is wanting to double the size of NAFTA in population with the Central American Free Trade Agreement and the Free Trade Area of the Americas and quadruple the number of low-income workers. So the companies push for the trade agreements which serve to bring in more low-income workers, weak environmental laws, no labor standards. Then the companies throw their hands up and say, "We have to move because our competitors do."

It is all part of the Bush economic plan, to do these trade agreements that lower wages, that force down wages, that weaken food safety standards, that weaken environmental laws; that really do pave the way, invite those companies, really invite those companies to go overseas, at forced slave labor wages for totalitarian governments.

These are not democratic governments. They are countries that suppress labor, that keep laborers from organizing, that keep workers docile. Then we are surprised they are "outcompeting" us. Of course they are.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I am sometimes amazed and sometimes appalled at what I perceive to be the hypocrisy of this administration. Recently, with the approval of the Bush administration and this Congress, a decision was made that Cubans living in this country could only visit their relatives on the island once every 3 years. Why? Because Cuba is a Communist country. Fidel Castro is an authoritarian dictator. Yet, at the very same time, we continue to expand our efforts to accommodate China, to encourage Americans to invest in China, to encourage trade with China.

Mr. BROWN of Ohio. If the gentleman will yield further, to encourage China to take our jobs, the best example, when the gentleman from Ohio (Mr. STRICKLAND) and I came to this Congress in 1992, our trade deficit with China, meaning the number of dollars we bought from them more than we sold to them, was about $1 billion. In those days, 1992, we bought from China about $1 billion more than we sold to China. We had a trade deficit of about $1 billion.

A year-and-a-half ago, that trade deficit passed $100 billion. This year it will exceed $120 billion. So we are buying from China every day about $300 million more than we are selling to China. We have a daily trade deficit with China of between $300 and $400 million.

What does that translate to? According to the first President Bush, who really lost his job because he was out of touch with the workaday problems of American workers, but what President Bush I said is, $1 billion in trade deficit translates into 18,000 jobs.

If we have a trade deficit every day of $300 million, we are losing hundreds of thousands of jobs as a result of that trade deficit.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I thank the gentleman for pointing out those really outrageous facts. But can you imagine the American citizen is being told, you cannot voluntarily travel to Cuba. You cannot go down there and enjoy a few days vacation or interact with your friends or families except once every 3 years, because they are a bad Communist country and Fidel Castro is a authoritarian dictator, and they persecute people of religious faith.

Does anyone in this Chamber or who serves in this Chamber or in this administration, are they unaware that China routinely persecutes people of religious faith, puts them in jail, in prison; uses slave labor; is an authoritarian country? And yet we encourage this free trade with China.

I think it is hypocritical. I do not think it is consistent. I think the American people should be asking, what kind of rationale or reason is behind such duplicitous policy and behavior?

Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, when the gentleman from Ohio (Mr. BROWN) was talking about Timken and all the issues with China and how it really has tilted the playing field to benefit really the top 1 or 2 percent of the people who can benefit from the increase in stock prices and the increase in their own personal wages because they have to pay someone 50 cents an hour, as opposed to $50 an hour with health care benefits and all that, I think what we are trying to say here, beginning to wrap up, is all we are trying to do here is to create a system where everybody gets to play along.

It is like there are only certain kids that can get into the sandbox, and if you are not born to the right gene pool or you are not born in the right hospital or in the right neighborhood or belong to the right church, somehow you do not get to play.

All we are saying is, there are ways that the government throughout the history of this country has played a role in moving these people along.

We mentioned earlier with the Title I funding, which deals with at-risk youths who need help, Title I funding, the 2005 President's budget underfunded it by $7.2 billion. $7.2 billion.

So we could talk about China, and we are getting our clock cleaned, and the top 1 percent is really benefiting. The question the American people are asking and the people in my district are asking is, how do we help those people who are not able to play along? And the answer that we always have come up with in this country is to make sure everybody is educated, that everybody has health care, that everybody has a shot. You may not finish the same, but you should start the same at the beginning.

All I am saying is, we are trying to argue that if the system does not help everybody, the system is not working; and this system is not working. The threat when people do not move along with everyone else is, the whole system collapses.

Mr. STRICKLAND. Mr. Speaker, reclaiming my time, I want to thank my friend.

Earlier this evening I had the privilege of meeting with a group of Ohioans who are involved with projects and agencies that try to help the homeless. They were from Cincinnati and Cleveland and Portsmouth and all of the areas throughout Ohio.

I said to them, "You are the people who are really doing God's work, because you believe in community. You understand that none of us really gets through this life as individuals. All of us need help and receive help. It may be from our parents, our relatives, our neighbors, our church, our schools."

But I think what the gentleman from Ohio (Mr. RYAN) is trying to describe is the fact that we are a large national family, and we have differences. We have ethnic and religious and racial, philosophical differences. We have different skills and abilities, different educational levels. The fact is, we are not all the same, but we are all a part of the same great Nation.

What we have been describing tonight is a nation that is out of balance, that has great unfairness, has inconsistencies, and quite frankly, I believe, a nation that is lacking in leadership.

What we need is a Congress that will come together and work for the real benefit of the American people, and we need a President who is aware of the real problems. I think what we have described tonight is a government administration that is out of touch.

I want to thank my friend, the gentleman from Ohio (Mr. RYAN), the gentleman from Ohio (Mr. BROWN), earlier our colleague, the gentlewoman from Ohio (Mrs. JONES), and our colleague, the gentlewoman from Illinois (Ms. SCHAKOWSKY) for participating in this discussion tonight.

NEUTRALIZING THE IRAQI THREAT

The SPEAKER pro tempore (Mr. HENSARLING). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. HUNTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. HUNTER. Mr. Speaker, I want to follow my good colleagues who just talked about what they consider to be the free trade debacle of the 1990s with a gentle reminder that that debacle commenced with the 1994 NAFTA vote under the Clinton administration, strongly supported by President Clinton, and I think, strongly supported by then Senator KERRY. At the time when we started that, I think we had a $3 billion trade surplus with Mexico. Shortly thereafter, we had a $15 billion annual trade loss.

I am reminded with respect to China that one of Mr. Clinton's strongest contributors, who happened to be the chief executive officer of the Loral Corporation, found that he had, after he had seriously violated the rules of transferring technology, had transferred technology to the Chinese with respect to their launch capability, because in their satellite launches they use these Long March rockets to do their satellite launches, and they use that same rocketry to aim nuclear warheads at their adversary cities, several of which are in the United States of America.

□ 2100

And when Loral violated the restrictions on transferring this weapons technology, which puts all Americans at risk, he was allowed to continue to make those sales; and Loral was allowed to continue to make those sales, prematurely, in my judgment, and there was, I think, a very strong link to the Clinton administration manifested in a $300,000-plus contribution to President Clinton.

So I remember the free trade, the threshold free trade vote well, which a lot of my Republican colleagues do not agree with me on, and a number of Democrats do not agree with me on; but I do remember that it was done by President Clinton, and I wanted to add that little historic footnote.

I wanted to engage in a little dialogue with my good friend, the gentleman from Michigan (Mr. HOEKSTRA), who has been to Iraq a number of times, four times, I believe, and is one of the Members who has really focused on Iraq. I would just start off by saying, Mr. Speaker, that it is a long, hard road in Iraq. We understand that. It has been tough for our soldiers. It is a difficult environment. It is full of sweat and dust and high temperatures, and sometimes blood. But we are undertaking and are now well on our way to making this hand-off, both politically and militarily, to the Iraqi people in Iraq, and giving them the best running start at freedom that country has ever had. And, in doing so, we are on our way to neutralizing Iraq as a potential springboard for terrorism in the years to come, which will accrue to the benefit of many, many generations of Americans.

So the cause is right. It is a just cause. We are standing up that military right now. We have General David Petraeus, one of our best military leaders, former commander of the 101st Airborne in Iraq, as a leader of that standup and training of the Iraqi forces. He has put together the schools for officers, for noncoms, for enlisted personnel; and those forces are starting to pick up that weight a little bit now and carry it in various battles and clashes that they have had around Iraq with the insurgents.

So, Mr. Speaker, I would simply want to report that while this is not an easy task, it is a very difficult task, the United States is carrying the ball and the folks who wear the uniform of the United States are doing a wonderful job for us.

Having said that, I would like to yield to the gentleman from Michigan (Mr. HOEKSTRA) for his observations on this very important issue.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding. He, like myself, has been to Iraq a number of different times. And as chairman of the Committee on Armed Services, I just want to congratulate the gentleman on the tremendous work that the gentleman and his committee have done to demonstrate to our armed services, our men and women in uniform, that we stand with them, that we are providing them with all of the resources necessary to conduct this war effectively, and that our presence in Iraq is a testament to the courage that we witness from them each and every day.

I was over there on Father's Day, really, just to go over there and to say thank you. We have 130,000 men and women over there who are giving up their time with their families, who are over there on Father's Day, they are over there on Christmas, they are over there on Easter, all of the important holidays for our families. It was really meaningful to be there and to have lunch and dinner with some of our troops.

As we talked with them, we found out the effectiveness of the Committee on Armed Services. We found out that this is a little different type of a war than what we expected, a little bit different than an occupation. The gentleman and his committee have done just a tremendous job in altering the procurement process and the types of things that we are buying to get them what they need in Iraq to be successful and to be safe. I know that they appreciate all of the work that the gentleman and his committee have done. I know there are lots of other things.

The gentleman may want to respond to some of the things that the gentleman's committee has done in terms of getting armored Humvees and these types of things to our troops, to enable them to be successful to go after these insurgents.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. I will tell him that I am just one of many, many great folks on that committee, I am just part of the group there, because we have really wonderful people on both sides of the aisle on the Committee on Armed Services. The committee has been working hard. Our members have been working very hard. This has been a challenge. The IEDs, these Improvised Explosive Devices that are detonated remotely now, are an enormous challenge; and the deadliness of those is manifested and can be illustrated as you walk the halls of the hospital there in Ramstein, Germany, or over here in Bethesda at Walter Reed when they come back.

So we moved out smartly and the services moved out very quickly to armor up some 8,000-plus Humvee vehicles, basically our follow-on utility vehicle, and we are also working hard on other means of trying to stop these very deadly systems.

But in the end, if we look at the combat that took place in Iraq, it is interesting, with this high-tech world, a lot of it is just great, great people. So we have done a few good things; but we have had some really, really wonderful people wearing the uniform of the United States.

The last citation I picked up before I went over there was for a Marco Martinez, who was a sergeant in the Marine Corps who won the Navy cross for taking an enemy position, taking on and taking out four insurgents with grenades and rifle fire. That is one of hundreds of high awards for valor and literally thousands of lesser awards. We have issued some 16,000 Bronze Stars in that theater and over 127 Silver Stars. Mr. Speaker, those people, the television this year and the movie screens were filled with the invasion of Normandy, but the kids that wear the uniform of the United States, and they are kids, because a lot of them are teenagers, a few of them just in their early 20s, are every bit as courageous and dedicated as that great generation that hit the beaches in Normandy and hit the beaches in the South Pacific.

So I want to thank the gentleman for all the great work that he has done, all the intelligence work that he has done along with his colleagues.

Saddam Hussein really rattled on when he was there in the court, and I do not know if that is an equivalent to a preliminary hearing or a time in which one enters their plea; but he said as he rattled on, he said one thing that was true. He said, in essence, if it was not for George Bush and those Americans, this would not be taking place, and that was true. He would not be there if it was not for George Bush and about 300,000 great Marines and soldiers and sailors and airmen.

And I think of all of those great units, the First Marine Division, 101st Airborne, the Third Army, the Fourth Infantry Division, now taken over by the Big Red One, the first infantry division up there in Tikrit, and the First Cav and the First Armored Division, which has been centered there in Baghdad for so long, right in the heart of the tough operations, and now the First Striker Brigade up in the north, if it was not for the Americans, the people of Iraq would have no chance at freedom and we, the Free World, would have no chance at neutralizing Iraq as a potential springboard for terrorism.

So I want to thank the gentleman. I also want to thank the gentleman from New Hampshire (Mr. BRADLEY) and the gentleman from Florida (Mr. MILLER) for coming on down here. We have spent a lot of time working this issue and going over to theater, and all of the great work that they have done.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will yield, I just want to put some of that in context of what our men and women are doing in Iraq as to the shameful event that was outlined yesterday here in the United States, last night. This war on terrorism has evolved through the 1990s. It was not brand-new on September 11, 2001. It started when the World Trade Centers were bombed the first time in the early 1990s, when the Khobar Towers in Saudi were attacked, when our embassies in Africa were attacked, when the USS *Cole* was attacked. We know that during much of the 1990s, the Clinton administration did not appear to take this war on terror very seriously. Mr. Speaker, it was not identified.

What we found out last night was we may never know the decision-making process that the Clinton administration went through as it developed its policies. Because after 9/11, we have had a joint inquiry between the House and the Senate as to what happened, what went wrong, and what went right; and there has been talk about the failure in decision-making, both in the executive branch and in Congress, and in other areas. And we now have a 9/11 Commission report coming out.

What we found out last night, what America learned last night, is that JOHN KERRY's foreign policy adviser, Sandy Berger, who was the National Security Adviser to President Clinton, removed highly classified documents from a secure area; and these documents, we are not quite sure what they are anymore, because they are gone. But we do know that he went into a secure area, and the gentleman and I have gone into these rooms ourselves. you go in with maybe a couple of pieces of paper, a pen, they bring in the documents, you have the opportunity to review the documents, to read them, to study them, to take notes on them, to organize your thoughts. But when you leave that room, you leave all of the paper and you leave all of your notes in the room. Nothing comes out with you, because these are secret documents.

Sandy Berger, the National Security Adviser, last night revealed, and he has been under investigation by the FBI I guess now for over a year, last night publicly admitted that he inadvertently took documents from the National Archives that outlined Clinton administration decision-making policies, practices, whatever, in relationship at least to the millennium threat; he removed those documents inadvertently. We do not know exactly how many. We do not know what was in them. But he inadvertently removed them; and then, some time later, when he was home or in his office, he inadvertently destroyed these documents.

I think some of the news media said, Berger said he deeply regretted the sloppiness involved. Well, to American citizens, to the folks that are involved in the 9/11 Commission, and to our troops who are fighting in Iraq, and for the troops that may be fighting sometime in the future, I am sorry, America deserves better than that. Our troops deserve better than that, and taking highly classified, secret documents out of a secure room inadvertently and then destroying them inadvertently means that the 9/11 Commission, this Congress, and others will probably never really know what we knew in the 1990s, what we could and maybe should have acted on in the 1990s, and how we could have improved this process so that it would not happen again.

Critical documents were taken out and they were destroyed, and we have a National Security Adviser who was involved in this for years. He knows, the gentleman from California (Mr. HUNTER) and I know the rules going into that room. How is it characterized? I think the sloppiness is characterized as somebody stuffing papers into their coat and into their pants. Excuse me. This is a National Security Adviser with top secret documents who takes them out of there, and the only question that one can really ask is, because I believe that he probably knew that somewhere along the line someone would discover that these documents were missing; why was he willing to risk taking these documents out of this security facility and taking them home and destroying them? What was in those documents that he probably did not want the American people to see?

I yield back to the chairman, because it is an unbelievable assertion from Sandy Berger that he inadvertently took documents. I mean, when the gentleman from California (Mr. HUNTER) and I go into these rooms, do we walk in with a binder of our own notes and our own documents and then put the classified stuff next to it and kind of put it through each other and then walk out with a binder and say, oh, man, I just happened to take a few extra documents? Is that the process that we go through? I yield back to the chairman.

□ 2115

Mr. HUNTER. Well, I would just say to my friend that, at worst, we do not put documents in our socks; and I have not seen the definitive statement on this, but one, at least according to the news reports, and I think that is why we need to get more information on this, one of the staff members at the Archives said he put some of them into his socks.

Now, I think that they keep the temperature fairly temperate in that room, and you do not need to warm your feet. And just the idea of a national security adviser putting documents into his socks, I think raises a few questions.

There are more questions here than there are answers, and I think we all want to believe the best of our fellow man, our fellow government servant, who, as you said, was national security adviser. But another thing that I think the American people have to ponder on is that he did not, according to the news reports, say, Yes, I have got them until he was called by the archivists, who said, "You have got secure documents." And at that point he said, "Yes, I believe I do."

So you are right. These are not documents that are mixed up.

It is a standard procedure to divest yourself of any notes that you have written, but also divest yourself of the documents, as it is to turn your car off when you pull your car into the parking garage. You turn it off. And the idea that you left the car running, and then you did not go down and turn the car off until somebody called you and told you the car was still running and that that was all done unintentionally is, I think, something that Mr. Berger needs to continue to explain.

Because one thing about the 9/11 Commission, the reports are out, one they were afraid of, and I need to yield to my friend from Florida, is that bits and pieces, little bitty statements out of that report, two and three words, will be used for news triggers, little statements that people made. And they will be plucked out and they will be used politically on one side or the other and they will be used by the news media, and so just a couple of words, one sentence, can have enormous effect, enormous effect.

I know the more liberal members of the media have pointed to one sentence that somebody used in one of the weapons of mass destruction analyses, where said it does not matter what we find, because this war is going to happen. Now, that was not a statement of policy. That was a statement by some guy who did not control policy, but it was plucked out and used and probably put in front of 50 million people. So little bitty words and little bitty sentences and little bitty phrases can be pulled out. And so the idea that we now have an incomplete reservoir of facts is, I think, disturbing to the American people.

If you lined up all the people in the United States and said, who would take those documents out, the President's former national security adviser would be the last gentleman that you would suspect. And on the other hand, apparently truth is stranger than fiction. It has happened. I think there is some explaining to do.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman would yield for a second, I think we need to put this in context to the American people.

He removed those documents as he was preparing his testimony for the 9/11 commission. It just does not feel right. The context of going into a secure room, reviewing documents, knowing that these documents are going to be scrutinized by the 9/11 Commission, and as the chairman said, word for word for word, and then perhaps stuffing them into his coat, into his pants and perhaps even into his socks as he is preparing that testimony, and the disappointing thing is, now the American people will probably never know what was in those documents.

Those were original documents. They were not copies of documents, at least the evidence that we have or the information we have today said that those were original documents, they were not copies. There are not multiple versions of this available. He had the originals.

And the other thing we have to know about Sandy Berger, very different than the current President in the way that he operates, Sandy Berger was the gatekeeper to the President, meaning that George Tenet, John Deutsch and the CIA and other folks who wanted to get to the President and brief the President had to go through Sandy Berger, and Sandy Berger was the gatekeeper.

It is not like this President, who gets briefed by a wide variety of people on a pretty regular basis. Sandy Berger was the gatekeeper. He had all of the information. These were documents that he prepared. Most likely, these are documents that are now missing. We will never know what is in them.

As those of us here on Capitol Hill are involved in the process of trying to improve the Intelligence Community, improve the intelligence capability and the analysis, we will never have the benefit of reviewing how these documents influence decision-making, and that will impair our ability to come up with the right recommendations to try to make sure or to minimize the possibility that a 9/11 will ever happen again.

I thank the chairman for yielding.

Mr. HUNTER. Mr. Speaker, I thank the gentleman, and I think he has raised probably the most important question for the next several weeks.

One other question we might ask is when Mr. Berger took these documents home, he obviously took them home for a purpose, and presumably he reviewed them at home, he looked at them. That would be another opportunity to say, I have got classified documents; they should go back. And it would certainly be a time when you would not scrunch one of them up and destroy it, because you realize you have got something that the Archives needs.

And so it is a very, very strange situation, and I think the gentleman has posited the most important questions. And maybe in the next 5 or 6 or 7 days we are going to have some answers.

I hope the gentleman would stay around and we will talk about Iraq, because the gentleman, along with the gentleman from Florida (Mr. MILLER) and the gentleman from New Hampshire have a wealth of experience with respect to the Iraq theatre.

I would be happy to yield to the gentleman from Florida, a great member of the committee.

Mr. MILLER of Florida. Mr. Speaker, I thank the chairman very much.

We all intended to come down to the floor tonight and speak about Iraq and the successes that are taking place in that region, having been there myself, planning to go back there in August again on behalf of the committee.

But I do think attention needs to be drawn, as my good friend, the gentleman from Michigan (Mr. HOEKSTRA) and the chairman have already alluded to, the fact that the information that was provided to most of us today and some last night that Sandy Berger has in fact admitted that he did take information out of a secure area.

It has already been alluded to that we can take notes while we are in an area looking at specific Top Secret information, but we by no means are allowed to take any of that information out, much less the notes that we make to take out, and the facts that are coming to light now that he apparently used his jackets, his pants and possibly his socks. And I would tell my good friend that I understand today that while they all were original documents, there may, in fact, have been three different drafts of a single document that were there. And apparently, Mr. Berger went back and got all three drafts of that particular document. For what reason, I do not know.

Mr. HOEKSTRA. Mr. Speaker, would the gentleman yield?

Mr. MILLER of Florida. I would certainly yield to my good friend.

Mr. HOEKSTRA. I think this is another critical point. Again, the information that we have to date is that this was not a single occurrence, but this was a pattern on a series of visits that he on multiple occasions inadvertently took documents. Again, that is what some of the press reports are indicating, which makes it even more suspect that by accident you took documents on a number of occasions.

I thank my colleague for yielding.

Mr. MILLER of Florida. Exactly, and I think that the additional question that needs to be asked, and apparently now the presumed Democratic nominee, Mr. KERRY has accepted Mr. Berger's resignation as his national security adviser in regards to his political campaign.

Interestingly enough, I think it should have been the reverse. I think that the good Senator probably should have immediately, once he found out what was going on, should in fact asked Mr. Berger to step aside instead of waiting for Mr. Berger to make that decision. Again, I think it shows a lack of leadership on the Senator's side in regards to how he would handle an issue in regards to Top Secret information.

I would be glad to yield to our chairman.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding at this point, because I think that it does reflect on the judgment of Senator KERRY, but I think more reflective of his judgment with respect to intelligence is the fact that Senator KERRY voted to cut intelligence all during the 1990s.

Now what we have discovered is that we cut intelligence, we cut our operatives, our operating officers by more than 20 percent during the 1990s, during the Clinton administration; and that meant that we cut all of the people that gave us information because each of those operating officers has stables of people who talk to them, whether they are taxicab drivers or people in a bureaucracy in some foreign country or just people that have a certain insight into knowledge, people who are in the room when somebody bad makes a decision to hurt Americans. We lost 40 percent of our assets, of our intelligence assets.

So we had all this information coming in, and we cut out 40 percent of it. So we are like Ford Motor Company cutting out 40 percent of its dealerships and then wondering why the number of Fords sold has dropped dramatically.

Well, while we were doing that during the Clinton administration in the 1990s, Senator KERRY tried to cut it more, and in 1994 he offered a massive cut that received from fellow Democrats extreme criticism, one of them saying this was going to cut the eyes and ears out of our Permanent Select Committee on Intelligence, and another one saying that this was going to be a disservice to our troops.

And then in 1996, Senator KERRY offered a bill, and I understand that he did not get a single cosponsor. There was not anybody in the Senate, Democrat or Republican, who was liberal enough to sign up to this one, because this cut $1.5 billion out of the intelligence budget. This is in 1996 when we really needed it, when we needed to rebuild intelligence; and he cut what would have been $300 million per year for 1996, 1997, 1998, 1999 and the year 2000. Luckily, not a single Senator was liberal enough to join him in that.

And it goes back to a statement that he made that was reported in one of the Harvard newspapers when he was first running for office, and he said that for practical purposes, he was going to for practical purposes defund the CIA, just take away the money.

I think that Senator KERRY always looked at the CIA in the same way as people look at it when they go into these movies and the movie is made through the prism of some left-winger in Hollywood; and in these Hollywood movies the CIA is always out there moving drugs and hurting people and being basically a bad influence. In reality, the people that serve in the CIA and our other intelligence agencies are wonderful people who serve this country, get no kudos, get no parades down Main Street, put themselves in dangerous positions for our country and often die in small, isolated places around the world for the United States of America.

But the problem in judgment is not Sandy Berger, the image of Sandy Berger stuffing stuff into his clothes and leaving the classified intel room, as JOHN KERRY's adviser. The real crisis in judgment, I think, is when JOHN KERRY got up and tried to cut an already debilitated CIA, one where the Clinton administration had sliced the top right off of it, cut out 40 percent of our assets, and he came in with further cuts. And he called our programs, the intelligence programs, silly programs.

Nobody calls them silly programs today. We wish we had had more. We wish we had had people sitting in those meetings when decisions were made to hurt Americans.

I would be happy to yield to the gentleman.

Mr. MILLER of Florida. And I appreciate the chairman's remarks, and in fact, President Bush has been working diligently, as the chairman knows, for months and months trying to rebuild that Intelligence Community that has been decimated so terribly.

Looking for that great peace dividend that was out there and slashing the intelligence budget was a foolish thing to do, and we now see, and in fact people are telling us, that it will take 1, 2, 3, maybe 5 years, in order to rebuild that human intelligence. You do not just rely on all of the whiz-bang things that we have now and the great ways that we have to gather intelligence, but you certainly have to take the opportunity to get the human intelligence.

But what bothers me even more is the fact that it appears that the information that Mr. Berger took out of that Top Secret room in that area where he should not have taken anything out of that room possibly dealt with very credible information in regards to our vulnerability at airports and seaports and what was going on in those general areas; and I think it is very coincidental, at best, that Mr. KERRY, Senator KERRY's advertisements, as he has been running for the Democratic nomination and has in fact been beating on our President time and time again, have in fact been homed in on our vulnerability at our airports and our seaports. And I am just concerned as to what Mr. Berger did with the information once he removed it from that Top Secret classified room and took it supposedly to his home, who may have seen it, who gained from the information that was there; and in fact, is there any type of tie that can be made to the campaign of Mr. KERRY, because it is beginning to appear we have a very convoluted web at this point in regards to some of the issues that the Senator has been raising.

□ 2130

Mr. HUNTER. I thank the gentleman. Another question I think is a commonsense question that the average American would ask is, well, if you took this stuff home that was highly classified, very sensitive, it is against the law to take it home, and you took it home. And you are reading it and you are a former security advisor, you know that it is highly classified, well, if you wad it up and throw it in the garbage, which is almost unthinkable, almost unthinkable, would you not, when you get called up by the people who have run the collection of that information, would you not then go try to retrieve it?

Would you not go out to your garbage and dig through it and say, why did I just lose it and throw it away?

Mr. MILLER of Florida. I understand that it was not just papers that were taken, but there possibly were bound books or folders of some type that you, in fact, could not just crunch up as a bunch of papers. You would know, in fact, that you were disposing of them; and you had to do it deliberately, if, in fact, you did dispose of it.

So to say that it was sloppy and inadvertent kind of stretches the imagination. But, of course, a lot of this has been done in this House over recent months, unfortunately; and it is being done out on the campaign trail, so it is certainly to be expected.

Mr. HUNTER. I agree with that and I want to thank, also, the gentleman from New Hampshire (Mr. BRADLEY) for his great work on the committee and especially his focus on making sure our troops have everything that they need. I yield to the gentleman.

Mr. BRADLEY of New Hampshire. I thank the chairman.

I first want to take this opportunity to salute his leadership, the way that he works on the Committee on Armed Services in a bipartisan fashion to strengthen our Nation's military and to make sure our troops have what they need. Certainly your leadership is commendable.

The one point that your comments brought to mind from some in the Defense authorization bill that we recently just passed out of the Committee on Armed Services, when we were talking about intelligence, one of the other cut backs that was made in the 1990s was the overall troop level. And we are seeing the unfortunate consequences of that when we have gone from 18 Army divisions down to 10 today. And we have our troops, our brave, loyal troops that are being asked by all of us as Americans to win the war on terrorism and fighting in over 100 different countries. It is not just Iraq and Afghanistan. It is Bosnia, it is Kosovo, it is many different places. And we are by virtue of having made these cut backs, stressing our troops rather to a high degree.

The point that I am trying to make, and perhaps the gentleman would want to elaborate on this, is that in the Defense authorization bill which we passed as I recall unanimously out of the committee in the final vote, we upped the number of troops over the next 3 years by 30,000, 10,000 for each of the next 3 years, active members of the Army and 9,000 additional Marines over the next 3 years. And this is certainly a first step in addressing the fact that we have gone from 18 Army divisions to 10 divisions.

And certainly something that all of us have to look at to make sure that not only, like intelligence, but in terms of personnel that we have the troop strength that is necessary to win the war on terror, it is not just the numbers. It is ample pay. It is the appropriate level of benefits for veterans, housing allowances, all of those things that the gentleman has shown such remarkable leadership on in his tenure as a chairman to make those improvements for our troops.

Mr. HUNTER. Let me thank the gentleman for his great initiative because I am just a cog in this wheel and both gentlemen, the gentleman from Florida (Mr. MILLER), has been a leader and put together, drafted the provisions that we all got behind that gave these great survivor benefits which heretofore had not been coming. And the gentleman from Florida (Mr. MILLER) is to be congratulated on that.

The gentleman from New Hampshire (Mr. BRADLEY) has been a real leader in making sure that we have this momentum to rebuild the military; and not only do we have the 30,000 increase in Army end strength in our bill, but we also have an increase of some 9,000 Marines. I think that is important also. The Marines are out there deployed a great deal of the time. They are kind of a 911 for us. It always has one MEU or one larger unit. A MEU is a Marine Expeditionary Unit, a little bit bigger than a battalion, out on patrol, so to speak, in the world's oceans, ready to move in quickly if there is a problem.

The interesting thing is this all reflects on the people. If you have a family sitting around the breakfast table trying to decide whether to re-up or not, the fact that the dad has not been home for two or three Christmases is going to have an effect on whether he stays in. This is a corporate decision that is made by the family. So having enough people is a very, very important thing.

It is also standing military that is not committed that is an insurance policy for our country. It makes sense to have an insurance policy.

I want to thank the gentleman for his great work and just ask the gentleman, he has been to Iraq, and I would like to ask both gentlemen what their take is now. We all know it is a tough, hard road; but our troops are walking down that road. We are starting to make this hand-off. We have handed off the government of Iraq to Iraqis, and we are starting to hand off the military. What do you think?

Mr. BRADLEY of New Hampshire. As the chairman knows, I had the opportunity to visit Iraq several months ago. While there is no question what we saw there, there were six of us Members of Congress with other military personnel attached to us. We saw a war zone. There was no question about that. But we also saw the rebuilding of the country; and that is something that, unfortunately, people only see the pictures from the war zone, but they do not see the fact that the electricity is coming on, that the water is being restored, that there is adequate supplies of petroleum products in the country.

We saw a lot of traffic on the street. For instance, in northern Iraq, in Kirkuk where we were, we even saw some new construction. We were told there was plenty of food available in the country. As we flew around the country, not only in the C–130 transport planes at 18,000 feet but in Black Hawk helicopters at 150 feet, we flew over a lot of agricultural areas of the country that were starting the winter planting.

We did not have, when we were there, the opportunity to visit a school or a hospital; but certainly we have been told, as you know, about the progress in refurbishing those critical institutions for Iraqi education and health care. So these are things that show where progress is being made to this day and certainly it was when I was there in November.

The other thing I think is really important to stress, and I think you may want to add to this, Mr. Chairman, is the morale of our troops. I had the opportunity to talk to a number of New Hampshire troops at every stop that we made, as did all of the other Members of the delegation. You are right, we are asking them to do a dangerous and dirty job. It is difficult. It is life threatening. And these kids are so dedicated to their mission and that is probably the most compelling story that I came away with. And when I say "kids" that is really not right. They were young Americans. They are wonderful patriots. They are fine Americans. And they are so dedicated to restoring a sense of normalcy, a representative government in Iraq; and they felt, despite the difficulty of the job that we are asking them to do, they felt that they were making significant progress and the morale was high.

All I can say is God bless them, and I pray for their safe return. They are doing a fantastic job in very difficult circumstances.

Mr. HUNTER. I thank the gentleman for his comments. I would like to ask the same question of the gentleman from Florida (Mr. MILLER), who has been a great member of the committee and who has really worked this issue.

Mr. MILLER of Florida. I thank the Chairman. I would say that all indications, I think for most Members, they would say that Baghdad is returning to normal. Yes, there still are some problems. We see them on a daily basis, but the fact of the matter is children are attending new schools, new universities, playgrounds are up. Children are actually going there. Their parents feel comfortable to allow them to go. Where the statue of Saddam Hussein was pulled down some 15 months ago in Firdos Square, adults are sitting around playing games of bingo.

Now, that sounds pretty silly, but the fact of the matter is if you are comfortable enough to sit on the ground or under the shade of a tree and play bingo, things are getting back to normal.

At the northern end of Iraq in Mosul, security forces are in almost total control up there. It has been divided into sectors. They have been going house to house, neighborhood to neighborhood; and they have got a lot of insurgents out and a lot of weapons caches there in that area to make sure our troops and coalition forces remain safe. We have thwarted hundreds of different types of IED attacks on our troops. On the banks of the Tigress River I would say that nightlife is returning to normal as well.

You look in the background of all of these TV scenes that you see of some of the car bombs that are exploded and burning. If you look in the very back, you will see that traffic is moving and progress is still going on. Commerce is taking place. People are walking in the streets.

Certainly the target is coalition forces. And recently we have seen where they have begun to target those members of the coalition that have the smallest numbers of troops because it makes them easy for them to pull out by going in and taking some of their people captive and holding them hostage and threatening to cut their heads off. Of course, the press might show that for maybe 1 or 2 days on television, but they are going to over and over and over again show the fact of our troops and the coalition forces that are being killed.

It goes back, I think, to the old adage, and I hate to be overly descriptive of this but I am a journalism major. And I can tell you that one of the things we learned, if it bleeds, it leads. That is exactly what the press want to do right now is to continue to try to turn the American situation or the American feelings and opinions against what is going on. Our opponents know that. They have been working it.

Saddam Hussein is not a dumb man. He had his people well prepared, and he thought that the American citizens and the coalition forces would be so afraid when these things started that we would pull out, and leave or we would be willing to give in to whatever demands that he may actually put out there. And that, in fact, is not what is happening.

President Bush has been very strong in his resolve. I will never forget, totally different subject, but I had an opportunity to travel to North Korea over a year ago. When we were in North Korea, the North Koreans absolutely could not understand why this American Commander in Chief would not negotiate with them. They were used to dealing with the Clinton administration who would give them whatever they asked for in order to keep the peace.

Now, the things that have been welling up inside and swelling up for so long have come to pass. We have had 9/11. We have had attacks on our soil. President Bush is doing whatever he can to make sure that does not happen in the United States again on our own soil, making sure that we take the war to the terrorists where they live and root them out, and it is not going to happen over night. I mean, Saddam Hussein ruled for over 25 years. Longer than Tojo was in Japan. Longer than Hitler was in power in his time in Germany.

So the fact of the matter is for years Saddam Hussein ruled. He killed the Kurds in the north and those in the south, and we are continuing to try to root out those people in whatever hole they may have climbed into.

Mr. HUNTER. The gentleman made a good point when he said that sometimes the news media follows the old adage, if it bleeds, it leads. Because that is what a TV station will use to get viewership for their news hour so they can sell Coca-Cola and whatever type of advertising they have got. And they know that violence does attract a certain core audience.

Now, the problem with running wall-to-wall car wrecks if you are a local TV station is that you give a misleading impression of the traffic situation in a given town. If you go in, if you are a new TV station in town and you say, because we do not have a lot of good substantial news, we will do wall-to-wall car wrecks, and your news guys may say, we only have two car wrecks a day; and you say, run them over and over again. If the average person watches that news station and sees wall-to-wall car wrecks on the news, he will be given the impression if he drives out on the freeway in that town, he has a 50 percent chance of being in an accident.

The car wrecks in isolation may be true. They are accurate pictures, but if you run them back-to-back, wall-to-wall, all the time, all car wrecks, you are going to give a misleading impression on the traffic situation on that town. Similarly, if you run wall-to-wall pictures of burning tankers. If there was one tanker blown up in a country that is as big as the State of California and has 25 million people, and you run one explosion over and over and over, you give the impression that the entire country is on fire. It is not.

That is not to say it is not dangerous, because it is dangerous; and that is not to say it is not tough.

I want to give a description of what I saw last time I was there. When we went into Balad, we were there in time for the daily mortaring, where a couple of mortar rounds are thrown in by the insurgents in this big former fighter base for Saddam Hussein, which is now one of our main logistics bases.

Well, we were out looking at the gun trucks at that time; and as these rounds came in about 1,000 yards away, all the GIs just walked, they did not panic or stampede. They just walked, did not even stop their conversations, to the shelters that were nearby.

☐ 2145

Our general said, Quick, get into the nearest building. It happened to be a movie theater. We went in there, and he said, get away from the glass, go indoors. We went into the actual theater portion of this building. I opened up the door and went in. It was a big church service. It was on Sunday. There were 400 GIs there. They had a great preacher who was preaching. They had a 100 GI choir, a band, had a couple of steel guitars up there, and everybody had their combat gear sitting there.

Not only were the politicians forced to go into the church service because of mortaring, we were forced to stay there because of mortaring. We asked when we could leave, and they said, You are going to have to wait till the service was over, and so we waited until the service was over and we left.

My point is, those folks are standing firm. Our people in uniform are standing firm. The American people should stand firm.

It was interesting to come back here and watch the talking heads on television whip themselves into a tizzy, and in my mind's eye I had those great folks in uniform who were doing their job very coolly, very professionally and with a sense of purpose; and with respect to a sense of purpose, that is an important thing.

Just saying, Well, I support the troops, but they are wasting their lives is not enough. If you tell people that what they are doing, whether they are a truck driver for a living or they are a soldier, is without value. Then you are really denigrating that person. You are really taking the value away from their occupation.

So those who say, Well, I would support the troops, but what they are doing is a waste, is not a support of the troops.

Now, you may say, Well, that is okay, I think my opinion outbalances whether or not I support the troops but I am not a supporter of the troops, and it does a disservice to the troops.

I want to let you know when we went over, and the gentleman from Texas (Mr. REYES), a great Member from El Paso, was over with us and the gentleman from California (Mr. CALVERT), we let the troops know that we valued their service and valued them.

I would be happy to continue to yield to the gentleman from New Hampshire.

Mr. BRADLEY of New Hampshire. Mr. Speaker, one of the most telling periods of time when I was there was our visit to the Abu Ghraib prison, and while that prison has gotten a certain amount of notoriety because of the abuse by our troops, a very small number of people, of Iraqi detainees, the larger story that I took away from it is what I saw in that prison.

When you walk through the execution chamber, when you go through the torture chambers, and when you see the barbaric nature of those facilities, and the fact that in this one prison, 80,000 Iraqis were first tortured and then executed, it was a life-altering experience for me and, I think, the other Members of Congress who were there to have been in that room where so many souls were so cruelly murdered.

I left, from that experience, I think, a very changed person, having seen that kind of depraved behavior and the aftermath of it; and certainly when I have come home and had the opportunity throughout New Hampshire to talk to people about that, it has been a pretty telling experience.

I had a video camera with me and took an actual picture of the execution chamber and how it worked. We were shown the grizzly details. It is a very frightening experience, and people need to know of the mass graves and the fact that Saddam Hussein started two wars; that he actually used chemical weapons against his own people, against the Iranians; that he was funding suicide bombers; that he did have a very significant weapons of mass destruction program that the United Nations was never able to account for at the end what happened to.

While there certainly have been intelligence questions, and we need to improve our intelligence as we talked about at the beginning of this hour, these are facts about what happened. Having been in that prison and having seen that execution chamber, it certainly changed the way I look at this entire situation.

Mr. HUNTER. Mr. Speaker, I will tell the gentleman about another operation that took place.

For those folks who now have given the distorted view to the world that somehow the Americans are worse than Saddam Hussein, that we have tortured people and we are the emblems of torture because they have run these pictures back to back, including the picture where a person is pretending to shock a person. In the briefings I received, they never turned on the electricity, but they have given that picture out to literally millions of viewers with the clear impression that that person is being shocked with electricity.

When I was in the hospital there at Ramstein, one of the surgeons had a disk, and on the disk was a video of Saddam Hussein's people amputating the hands of people in one of the villages because they had not done enough for the economy. They were businessmen, and the growth rate of the economy had not been high enough. So he thought he would give a little example and amputate their hands.

So for people that want to see real torture, real inhumane treatment, it is there to see, but of course, if we give that disk to the news media, I am sure that nobody will. In fact, I think those people were in the capital. I think the gentleman from Pennsylvania (Mr. WELDON) brought them over for a reception, and as I recall, there were almost no stories about those people.

There was a story or two about the young kids, the 14-year-old kids who wrote anti-Saddam graffiti on their blackboard in high school. They were promptly taken out and hanged.

Mr. BRADLEY of New Hampshire. In that prison.

Mr. HUNTER. And the Kurdish mothers who died there by poison gas, with their babies in their arms, those were representations of real inhumane treatment.

I would be happy to yield to the gentleman from Florida.

Mr. MILLER of Florida. Mr. Speaker, I want to say I think a little perspective probably needs to be added to some of the discussions tonight, and I would imagine there is not a person that looks at that hollow Manhattan skyline that does not think of the Twin Towers and where they stood. There are some that remember before the towers were ever built. Certainly, there are those that now know the towers were there and one day something will be built in its place, but I say this just to say that it is far easier to destroy something than it is to rebuild it. And rebuild is, in fact, what America and the coalition forces have been doing in Iraq and in Afghanistan as well, but tonight, we are mostly focused on Iraq.

Our military forces have been engaged in a very complex not only war on terror, but also the process of going through and rebuilding. They have been looking for weapons of mass destruction. We keep hearing people saying that it is a failure because the weapons of mass destruction have not been found.

I am more concerned because of the fact that they have not been found. Where are they? We know that they existed at one point. We know that Saddam Hussein used them on his own people. We have not found them yet. David Kay said, all we are looking for from a biological standpoint is a vial that is about this big and a two-car garage-size building that could hold 500 chemical warheads in a country, as you have already related, the size of California.

We are working on restoring basic public services: electricity, water, sewer. We hear some on the other side say, we went in and we broke it. We did not break it. It was already broken, but what is happening out of all of this is something that I think is truly revolutionary, and that is, the verge of democracy breaking out in an Arab region.

The fact of the matter is, Iraq now has a new government. They are preparing for election, but of course, the press does not want to tell the positive story that is there to be told. They want to continue to focus, as you have already said, on those car crashes in a loop over and over again, those burning cars. They want to focus on those lives that have been lost, and we are all focused on the lives that have been lost.

Not a single Member of this Congress does not mourn the loss of an American military man or woman, nor a Coalition force person; but the fact of the matter is, they are doing again, as the chairman has adequately stated tonight, very, very difficult work in a difficult region and in an area where people want to kill us. We are the enemy to them, and we understand that, and the soldiers that are there and the Marines that are there know they are there to do a job.

A great number of individuals have chosen to travel to Iraq. Some have not been yet, but they want to go to Iraq, and they are working on scheduling trips over there. And when they sit down and they talk with the soldiers, bar none, every one of them will tell them they are there for the right reason. They have, in fact, been welcomed as liberators. They have had the arms of young Iraqi children, men and women around their neck thanking them, hugging them for what they have done relieving them of the brutal regime of Saddam Hussein; and now we are helping, along with the Coalition forces, to rebuild their country.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. I thank the gentleman from New Hampshire also, and would ask if he has any closing words he would like to say.

Mr. BRADLEY of New Hampshire. Once again, it has been a pleasure to serve under the gentleman from California's (Mr. HUNTER) leadership, to have watched the Committee on Armed Services start the process of rebuilding our Nation's military, in particular, making sure that we have given a pay increase to members of the military for the last couple of years; that we have done a better job of providing the bulletproof vests and the retrofit kits for the Humvees and that type of thing. It is a process that needs to continue.

I thank you once again for your leadership and certainly look forward to continuing to work with you.

Mr. HUNTER. We will all continue to work together, and I thank all Members, Republican and Democrat, on our committee. We have got a great membership.

Let me just say one thing, if I could, with the indulgence of my colleagues.

A great gentleman, Cato Cedillo, who served as my assistant district administrator for 23 years passed away early this morning, and he was a real hero. He was a guy from San Angelo, Texas, who helped everybody, who had a heart as big as all outdoors; and I swear he could do more with a telephone, getting the problem solved, than the rest of us with a bank of computers.

Cato was a wonderful, wonderful person, and I was with him and with his family last night as we said good-bye to Cato. It is sad. He will be greatly missed around his hometown of San Angelo, Texas, and San Diego, California.

I thank the gentlemen for letting me mention him in the closing moments of our special order.

I want to thank the gentlemen for participating tonight, and again, the message from our troops was that they are staying steady and we in America should stay steady. We are making this handoff. We need to follow through with it and follow through with our mission.

I thank the gentlemen.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. HENSARLING). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, once again, it is an honor to address the American people and also Members of the U.S. Congress, and there are so many issues to talk about tonight.

As many of the Members know and the American people know, once a week the gentlewoman from California (Ms. PELOSI), the Democratic leader, has allowed the 30-something Working Group to come to the floor to share with the American people issues that are facing not only young Americans but Americans in general. We have 14 Members in our working group, and we work throughout the week and here in the Congress to make sure that we give voice to issues that are facing Americans throughout our country.

I must say that being from Miami, Mr. Speaker, I just want to share with the Members and the American people, we are so glad that the people of Los Angeles allowed for the Miami Heat to be able to receive Shaq. We look forward to the Miami Heat going to the NBA not only finals, but championship this upcoming season. Shaq is going to bring a new flavor to Miami, and all Miamians are very proud to have him there and also his family; and we welcome them all. We look forward to a successful Eastern Conference playoff and even regular season, and I will tell you, not being a season ticketholder myself, I look forward to saving up my money to get an opportunity to see him in the Magic City.

□ 2200

Mr. Speaker, let me share for a moment with the American people that week after week the 30-something Working Group has had an opportunity to come to the floor to speak to the American people about the issues. This week we had a visit from the WWE, which is the World Wrestling Entertainment Association. These are wrestlers that came to the U.S. House of Representatives to talk about their initiative that they are working on throughout the country.

Everywhere the WWE is going, they are registering voters, and they are working with the democratic way of making sure that every vote counts in this upcoming election. We know that many Americans, many of them are young; a lot of issues facing Americans right now are issues that are working towards our future. It does not matter what age you are, but especially for young people. I commend WWE for the work they are doing. They were here Monday night at the MCI Center registering voters. Their number is up to a million voters who have already registered for the upcoming election.

I am very excited about Americans who have not had an opportunity to vote in the past that are taking an opportunity to vote this time; and wrestlers, entertainers are telling them it is important that they vote. There are issues facing the economy, the environment, the war in Iraq; and we are glad they are there.

I have a picture, if I may, of three of the WWE wrestlers that came to the Capitol on Monday. This fine gentleman is myself. I wanted to wrestle once upon a time, but I do not think I can hang with these guys. We have Maven, who is an outstanding young man. We had an opportunity to hear his views on voter suppression.

This is Hurricane. We had an opportunity to see him Monday night. He is a very popular young man and has a bright future in the wrestling entertainment world. And then we have Chris Nowitski, who is a Harvard graduate. He graduated from Harvard and now wrestles in the WWE. They all have a voter consciousness. And here is our very own, the gentleman from Ohio (Mr. RYAN), who wanted to have a lights-out cage match with these gentlemen. He said as long as he has his track shoes on, he will be okay.

Mr. Speaker, we want to commend these men for coming and helping to get out the word about democracy and making sure every voter takes their American right and has an opportunity to vote so their voices are heard. It was good. We had an hour-long meeting, and we opened it to the press to allow them to come in and hear these fine gentlemen. I am glad they have taken time out to share in a bipartisan and nonpartisan way the importance of voting.

Mr. Speaker, I must share the issue of voter suppression. This is going on throughout the country, and I must say to many of those students that are going to return to colleges and institutions and even to those parents that are sending their kids off for the first time to a college in a city that they have never been in before, many of those individuals have registered in high school through their social studies programs and government classes. We do it in Florida, and in many locations throughout the country the same thing happens. We want to make sure that these young people know they can register.

In November, November 2, they are going to be at the location where they are going to school. We started getting reports of young people going to register to vote before they recessed for the spring, and now in the middle of August they are going to return for the fall semester; but they were told they were not eligible to vote because they did not live in that particular city. Taken from my good friend, David Letterman, and hopefully I will get out of here in time to be able to catch the show, if you live in Sioux City, Iowa, and you are attending university in Akron, Ohio, you should have the opportunity to vote there. The Supreme Court said in 1979, if you are a registered student, going to school there, you have a right to vote in that location.

Mr. Speaker, there is also rhetoric that is being shared with many students that want to vote at their college campus, if they register, they will lose their out-of-state or in-state aid they will receive, or their scholarship will be in jeopardy because they were brought in as an out-of-state student. That is not true, and there are no repercussions to take part in our democracy. We want to make sure we get that word out to all Americans.

I think it is important for every parent and grandparent, for the grandparents that have given their hard-earned money to make sure their bloodline has a better opportunity than what they had, that they have the opportunity to educate themselves, and they have also an opportunity to share in this democracy. They have feelings, too. As it relates to growing and skyrocketing tuition costs, they have to be heard on that. They have to be heard on the environment. A lot of things that are happening that were not happening years ago, they have to be heard on that. They have to let it be known that we want alternative fuel sources in the United States of America. If they are not heard, it may not happen.

They have to be heard on the issue of student loans, of skyrocketing costs of college tuition, and that they are graduating in debt. We want them to take part in the American Dream. That is what it is all about, to buy a home and get a piece of the rock. And we want them to have a credit report so that they will be able to be eligible to get a loan to buy a house.

So for 18 to 30, young people being able to have an opportunity to vote, if we can raise the level in that demographic, what we call it in the political world, we will have a better America. We will have a safer America, a cleaner America, and a healthier America. I think that is very important.

That is the reason why the 30-something Working Group formed itself under the leadership of the gentlewoman from California (Ms. PELOSI), because she believes in a better America. She believes if given the opportunity to be Speaker of this House that we will be able to top-shelf many of the issues that are facing young Americans. So not only now but post-election, we will be coming to the floor to share these philosophies and issues with the American people.

Also as it relates to voter suppression, we want to make sure if anybody wants to find out more information about it, go on the rockthevote.com Web site and find out more information on voter suppression, or you can take the opportunity to contact us here in the House of Representatives. We are going to give voice to those individuals that may run into problems.

This is our Web site here. We have our e-mail address, 30somethingdems@mail.house.gov. Also our Web site, we have democraticleader.house.gov/30something. I will share the Web site and the e-mail address again later on. You will have an opportunity to be able to allow us to fight on your behalf. We are not talking about just Democrats; we are talking about Independents, Republicans, Green Party, what have you.

We feel to be able to have a stronger America, safer and healthier America, it is important that our entire country takes part in the electoral process. If one does not take part in the electoral process, we will not bring about the kinds of change that everyone cares about. That is what we are about. We are about making sure that everyone, and I mean everyone, not just folks from Florida or Ohio or the Californians or Texans, we want to make sure that everyone participates in this process. We want to make sure that everyone can have their voice heard, and that is why it is so very important.

Tonight we are going to talk about several issues. One we are going to talk about is our breach in intelligence. We are also going to talk about many issues facing Americans. And guess what, we even have a top 10 list tonight that we will give birth to tonight so when we return after Labor Day, we will continue on with our top 10 list.

I have been joined by the gentleman from Ohio (Mr. RYAN), who is an outstanding Member of the House of Representatives.

Mr. Speaker, I just want to say to the gentleman from Ohio (Mr. RYAN) that I shared our picture on the Capitol steps. I talked a little about how you wanted to have a lights-out cage match, and as long as you had your tennis shoes on that it would be okay.

Mr. RYAN of Ohio. Mr. Speaker, did the gentleman explain that I was not the man with the green hair in the picture? Was that clarified?

Mr. MEEK of Florida. I think it is obvious. The man with the green hair has more muscles.

Mr. RYAN of Ohio. That hurts me.

Mr. MEEK of Florida. It is love.

Mr. RYAN of Ohio. The Hurricane is in the green hair, along with the Maven. I have not watched professional wrestling since Jimmy Superfly Snuka and the Wild Samoans. And so to now meet the next generation, and I am sure the gentleman touched on this, how great it is that they are taking part in trying to reach young people to get out the vote. They have registered over a million kids already.

Did you get into the voter suppression?

Mr. MEEK of Florida. We talked about, but it would not be complete without your views.

Mr. RYAN of Ohio. That was really the issue yesterday when we were here. There is a huge voter suppression issue where young college kids, and I talked about it last week, how young students who live in college towns are going to register to vote at the local board of elections or supervisor's office, and they are being told they cannot vote there because they are not a permanent resident. Or if they do register to vote in that town, they will lose their financial aid, they may be prosecuted for fraud, lose their health care coverage. There are issues which have dissuaded young college students from actually registering to vote.

Once we started hearing about this, we went back and did some research. The gentleman from Florida (Mr. MEEK) did most of the research. He found a Supreme Court decision back in 1979 that said that even if you live in a dorm, you can register to vote in that community.

We have just been getting flooded with e-mails from people all over the country, young students who have tried to register to vote in certain areas and have been denied. They have been told that the local prosecutor would prosecute them for fraud or that they would lose their financial aid. So if you tell a young student that they are going to lose their financial aid if they register to vote, they are not going to vote.

Then we turn around and say why do young people not participate in the process? So to have the Hurricane and the Maven here was special. It was special.

Mr. MEEK of Florida. Mr. Speaker, if the gentleman would yield, everyone forgot about us. Walking through the halls, they wanted to touch the Hurricane and the Maven. They said these guys are just Capitol regulars.

Mr. Speaker, athletes nine times out of ten get a bad rap for being about business. This is a capital city. These gentleman could have been doing anything. They could have been somewhere relaxing, kicking back, doing what they wanted to do. They were doing what they wanted to do. They wanted to make sure that not only young people but wrestling fans throughout the country could just pause for a moment and realize the seriousness about their vote and about their voice being heard. This is serious business.

Mr. RYAN of Ohio. Big time.

Mr. MEEK of Florida. We are at war. If I can say, 897 American troops are not coming home. We honor them, but they are not coming home. That means 897 individuals will no longer see their family members ever again.

□ 2215

That means that 5,394 American troops, not coalition troops, American troops, injured, dealing with the war in Iraq, just Iraq. This is not talking about Afghanistan, going after the Taliban and 9/11. Do not get me started.

The real issue is serious. We have to make sure that the men and women that follow the WWE, and that is what these gentlemen are trying to do, let your voice be heard. They are not telling them how to vote or who to vote for. They are just telling them that they have to get registered and that they have to get out the vote.

Mr. RYAN of Ohio. What is interesting is that after having discussions, both of those gentlemen, they were in Cleveland a few months ago, maybe last year some time, and they came to Kent State University to have this discussion. We had a chance to talk a little bit. One, and I will not say which one, is a Republican. The other is a Democrat. And so it is a very bipartisan issue of just getting kids registered and getting them out and engaged in the process.

Last week, since you brought it up about the soldiers, and then I want to quickly move back to the voter suppression because I have someone who wrote in, e-mailed in from Ohio State University after hearing me last week talk about voter suppression.

Mr. MEEK of Florida. I must say, the gentleman from Ohio does that well. He reads the e-mails. He gives the Web site. I gave the Web site out earlier. I want to apologize to the gentleman from Ohio for giving the Web site out because that is what he does.

Mr. RYAN of Ohio. I practice reading these e-mails. I do not just come to the floor and expect myself to have the rhythm. I practice.

Mr. MEEK of Florida. The gentleman just wants to make sure that the individual who e-mails, that he does not skip a word. Every word is important. Every little nuance is important. We are not here to talk about travelogues or footlockers. We are here to talk about serious business.

Mr. RYAN of Ohio. Let me read this since we have come back to it. Here is a young kid, a young student, a graduate of Ohio State University, still residing in the 12th District in Ohio. She was told a few years ago by the local Franklin County board of elections when she registered herself to vote, told by someone in the office that if she registered in Franklin County she could lose access to college funding because her parents were of another voting district. On and On. Currently I'm an assistant manager for a bookstore across the street from the Ohio State campus. In March I went to the Franklin County board of elections office on Broad Street in Columbus to pick up 500 voting registration forms to set on display for the many students that walk through our doors each day.

So here is someone who wants to go out and try to recruit people to make sure they get registered to vote. Put them on display. The lady at the office that provided me with the registration form asked that we warn students that their financial aid could be affected if they should choose to register in Franklin County. Being that this information was consistent to what I had heard when I was a student, I assumed this was accurate information and placed a warning sign near the applications. After watching Representative RYAN on C–SPAN last night, I have realized that what I was told may be erroneous, illegal information and this really upsets me because I have noticed that some students have been hesitant to pick up the application. I would like to know if this is indeed a case of voter suppression. If not, I would be glad to help fix the problem.

So here is a student that not only wanted to vote for themselves, they were willing to go and get 500 applications, set them down at the bookstore, and say, let's register to vote, let me get these young kids involved in the process. She actually was so confused that she put up a sign saying they may lose their financial aid.

The gentleman from Florida and I are here tonight to tell the Speaker and everyone else who is listening that that is not true. The Supreme Court ruled in 1979 that students can register to vote on campus even if they live in a dorm or off campus. They can register wherever they want in most States. Do not be deterred. Do not let anyone tell you that you cannot sign up to vote. I am 31 years old. The gentleman from Florida is 37 years old. I know this is probably going to be the biggest election of my life. And there are people who are 60 or 70 years old that are telling me that this is going to be the biggest election of their life. Do not let someone tell you that you cannot register to vote. We have the 1979 Supreme Court decision. We have the WWE wrestlers. If you have a problem at the local board of elections, we will call up the Hurricane, we will call up the Maven and we will do what we have got to do.

Mr. MEEK of Florida. Nowinski, also. We cannot leave him out. Our Harvard grad.

Mr. RYAN of Ohio. We cannot leave out the Harvard grad.

Mr. MEEK of Florida. Who is a wrestler.

Mr. RYAN of Ohio. I have had conversations over the past couple of weeks with some people in the entertainment industry whom I think also are going to be willing to take this and promote it to their fans as well. This is something that is really catching on that I think we really need to make sure that everyone knows, ride the wave out and let them know. If you have a particular story like the gentleman who heard us on Friday from Columbus, Ohio, send us an e-mail to 30somethingdems@mail.house.gov. Or you can also e-mail our friends at smackdownyourvote.com. You can e-mail them or studentsuffrage.com, also, a new organization.

Mr. MEEK of Florida. Studentsuffrage.com. They have good information about voter suppression. I just want to from that e-mail let you know, we have to remind the American people and Members of the House, this is not the 30-something report. This is not the Representative TIM RYAN report nor the Representative KENDRICK MEEK report. This is for real. People who would think we are joking, it is unconscionable for someone to even put a sign out as much as we are trying to encourage young people to come out and to take part in this democracy, that anyone would say that you would suffer financially from voting. Leave alone from voting, from registering to vote. I am from Florida. Do not get me started. I am just going to say that when we look at individuals taking part in this democracy, we are not talking about Democrats only. Let us make sure we are straight on that because we will get some folks who come in on the other side of the aisle, the 30-something Dems, they have Dems on the back of 30-something, they are only fighting to make sure the Democrats have a right to vote. That is not true. We want Republicans to vote. We want independents to vote. We want democracy. We want to make sure that their voices are heard. We want to make sure that we have a better America as we move forward. If we do not have a voting America, then we are not going to have a better America. If they are not turned on or turned off about what is going on, we need individuals like WWE. We need them to have a fair shake when they go to register to vote. And for someone to a student, think of a student, and I am sorry, I am getting a little wound up here, think of a student that would even take the prerogative to register to vote when they have all of these issues to worry about, exams, term papers, making sure that they get registered in their classes. They want to do what they are supposed to do, what their parents have done, and that is register to vote. We want kids, we want parents. Parents, if you are listening to us here tonight, even Members of the House, if you have children that are attending, or of the other body or even of the Bush administration, I must add, if you have children or, I must say, let us just be bipartisan, if you work for Senator JOHN KERRY or Senator EDWARDS or what have you, we want you to be able to call your kids and make sure that they have an opportunity to vote. The bottom line is that we have to crush this. We have to crush this right now. We want people to let us know. We want to fight on behalf of those individuals. We want to make sure that they know that they have a voice, even here in the U.S. House of Representatives, that they have a voice. For all the folks who stand up here and say, I support the troops. No, I support the troops more than you do. No, you don't support the troops as much as I do. I support the troops even more. I have a tattoo saying, I support the troops.

Let me tell you something, we want some folks enthusiastic here in this House and in this democracy, I must add, here in the United States to be supportive of democracy. There may be some individuals that are actually scared that people may very well vote in this country and if they vote, they may no longer be here. But that is the price we pay for being public servants in this process. I am saying, bring it on. Allow Americans to vote, especially young people. My goodness, I am taking out my deficit chart here. $477 billion in Federal debt and this is using the Congressional Budget Office. The number is probably higher. $477 billion. That means children at birth already owe the Federal Government money. This is serious business. This is not a joke. This is $477 billion, the highest deficit in the history of the republic. So for those of us in this House that want to drape ourselves in the flag and talk about how we support the troops and I am more American than you are, you look at this number. This is nothing to be proud of. I have two children. I have a 7-year-old and a 9-year-old. I do not want them asking the question, what were you doing when this was going on? Why don't we have Social Security now? To my uncle who is a Korean War veteran, why do I have to wait 6 months at the VA to see an ophthalmologist? Why don't I have health care, for the 43 million Americans that are working. These are not individuals that are sitting at home, looking at cable and saying the job situation looks sad. These are people that are working every day. So how are we going to resolve those issues that are facing everyday Americans? $477 billion, that is not a small number. We are knocking on the Bank of China and Japan every 3 weeks saying, guess what, we're the United States of America. We need money to pay down the debt.

So this voter suppression issue, some people may say, it's just rhetoric. This is for real. These are the individuals that are going to have to pay this. That is why we need them engaged. Everyone that comes to Capitol Hill, we have a lot of young people walking through the Capitol. We see them in the hall. They come. They identify with us. They want to talk to us. They want to talk to Members of Congress. But when they get back in the fall, do you think that it is going to be a lower tuition rate there? I do not. Why? Because of this. $477 billion because we do not have the money to be able to help State governments. State governments do not have a credit card with a U.S. Treasury here and, I must add, we are not in control. News flash to Members of the Congress and the American people. They cannot say, well, you know, the Democrats, tax-and-spend Democrats. Hey, guess what, ladies and gentlemen, the last time that the budget was actually balanced in this House, the Democrats had control. And we passed a balanced budget amendment in this House without one Republican vote. Without one. Maybe two or three could have come over. Without one. When we start talking about this issue of spending and the deficit, we need to talk to the hand. You cannot talk to me about that, because the real issue is that the Republican Congress put us in the situation that we are in now.

Believe me, there is a good argument for it, if someone was to mike up on the Republican side of this House and some of them are very good people. Some of my best friends are Republicans, okay? I am going to let you know that right now. I will tell you that many of those individuals feel the way that we feel, fiscal conservatives, concerned about the Federal deficit. They have children, too. And they are concerned, too. And every time someone from the other side of the aisle tries to step out and say I am going to do the responsible thing and make sure that we spend within reason, make sure that we invest within reason, that I will not give a tax break that I know that we cannot afford, that I will no longer send States that are over $87 billion in deficit right now, because States do not have a credit card. They pass that cost on to State universities. They pass that cost down to local governments and they have to pay the bill. So this voter suppression, I say to Members of this Congress, members of the Bush administration, I hope they are listening. This is serious business. Yes, we know November 2 is going to go and come but this deficit will be here, for our children and in many cases our grandchildren to pay the cost. Even seniors now will pay the cost. Prescription drugs, they will pay the cost.

□ 2230

Adequate health care for every American, will pay the cost. For everyday working Americans that know what it means to have a 15-minute break in the morning and a solid 30 minutes and not-a-minute-over lunch break, and 15 minutes in the afternoon, they know what I am talking about. So those are individuals that we are trying to represent. That is why their children have to have an opportunity to vote, and that is the reason why the 30-something Working Group wants an opportunity to fight on behalf of that individual that sent the gentleman from Ohio (Mr. RYAN) that e-mail to make sure that they have a right to not only vote but, guess what, a right to register.

Goodness gracious. I am from Florida. We talk about voting in Florida. Now we are having in the United States an opportunity to talk about just registering. So when we look at that, it is important that we fight. Now, the National Secretaries of State Association, which is a bipartisan organization, not a Democratic organization, but a bipartisan professional organization, has joined in this effort with us to make sure that these individuals will have an opportunity to vote.

So I want to apologize for my being a Congressman just for a few minutes because it is a great amount of frustration.

Mr. RYAN of Ohio. Mr. Speaker, the gentleman does not have to apologize. Let us go, after that passionate display, over to our e-mail, 30somethingdems@mail.house.gov. If there is some kind of voter suppression going on where people are telling them they cannot register at their local board of elections because it is on a college campus or because they are a student or because they live in a dorm, I ask them to give us a call. We will help them negotiate the waters with Smack Down Your Vote, with Hurricane and the Maven and our guys from WWE who are helping us out; we will be happy to help them.

I know I just sent around a letter last week contacting all the local members of Congress in the State of Ohio. We are going to send a letter off to the Secretary of State in the State of Ohio. I know the gentleman from Florida (Mr. MEEK) is going to do that in Florida. So we start contacting the Secretaries of State in these different States. The National Secretaries of State Association is going to help us also communicate to their local board of elections to let them know that this is something that can really happen with young people. So 30somethingdems@mail.house.gov, send us an e-mail.

One of the issues that the gentleman from Florida was talking about, about how this is their future, the future of the country is at stake, and how we need young people to participate in the process, and I will tell my colleagues why. Not because young people are just inherently great, but young people have certain qualities that this democracy needs, and they have a way of replenishing the system here with some new ideas, and so in a way they are great. We need new ideas in this institution. And we are in the process of creating a new economy, and we need them.

And the disagreement they have with many on the other side is that they consistently have chosen to give tax cuts to people who make millions of dollars a year and are not invested in the Pell grants, not invested into low, low, low-interest student loans, not invested into the States to allow them to reduce the costs of college and reduce the tuition costs that a lot of these kids will face as they go back to school in the fall. And the gentleman said, You know how I know they are going to have higher tuition? Well, you know how I know? Because they have already said in Ohio State it is going up 13 percent. In Akron it is going to go up 10 percent.

So I want to share this, and we did this earlier. We had an Ohio working group that was out here earlier, and I shared some of these graphs, but I want to share these with the people watching here. One of the greatest threats to the United States of America, Mr.

Speaker, is China. China. And give me a minute here because I am going to have to segue into making my point.

Mr. MEEK of Florida. Mr. Speaker, I further yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, I appreciate that. He is a generous man. I am getting choked up here with the gentleman's hospitality.

Exports from China. And I went over this about an hour ago here, but I want to do it again just in case we have some new people watching. This is out of Wired Magazine, and Ryan Keating on my staff ran across this, and I want to thank him for his insight into these particular issues. Top five exporters of electronics, countries: China in 2002, $8.8 billion in exports of electronics; United States of America, $2.5 billion. Let me repeat. China, $2.5 billion; United States, $2.5 billion exporting electronics. So China is cleaning our clock. Top five exporters of telecom equipment: China, $36.4 billion, United States $21.6 billion. Getting our clock cleaned in the telecom equipment industry.

We will go over here to the green. Top five exporters of assembled computers, when we signed all these trade agreements and we said we are going to compete with all these countries, we are going to have to have the high-tech jobs. That is what everyone always told us. Top exporters of assembled computers: China, 3.8 billion; USA, 2.4 billion. Getting our clock cleaned by China for assembled computers.

Here is the point I want to make with this pie chart and two other graphs here. Top five sources of engineering graduates, if we want to get the new economy going, if we want to make sure that our economy can compete in this very competitive global economy, one of the things we need to do is we need to have engineers who are creating, finding better ways of doing things, finding more efficient ways of doing things. Engineer grads in 2001: United States, 59,000; China, 219,000 engineers in 2001, graduated from China. 59,000 in the United States of America.

And I ask the gentleman from Florida, the Speaker, and everyone else who is listening here tonight, how are we going to compete in the global economy when we have 59,000 engineers graduating, China has 219,000, European Union has 179,000, Japan has 104,000, Russia has 82,000, and the United States of America has 59,000? How are we going to compete in the global economy when we do not have enough engineers out there creating the new economy?

And we have talked here before, Mr. Speaker, about the space program and how the goal for the United States was to go to the Moon; but that was the sexy, glamorous part. We are going to land on the Moon and everyone can see it and it is great. But the idea was to make sure that we are educating mathematicians, scientists, engineers, chemists, people who are going to be able to participate. There was a goal there to go to the Moon, but all that was to make sure that we were educating people in the process of getting there. Yes, it is great to get to the Moon. Yes, we can do experiments up there. But imagine all those people who got educated in those specific sciences and never ended up working for NASA. They ended up in the private sector driving our economy.

Let me share two more charts here; and I do not like to get too statistical because, one, it makes me nervous, but we have got to wake up and smell the Starbucks. Other countries emphasize science and engineering education. This is the percentage of first degrees awarded in the natural sciences and engineering.

Mr. MEEK of Florida. Mr. Speaker, it is important. Natural sciences, engineering.

Mr. RYAN of Ohio. Natural sciences, engineering. And I am not saying I was the sharpest knife in the drawer when I went through college, but what I am saying is I know enough and the gentleman from Florida (Mr. MEEK) knows enough, and I think the American people know enough of what we need to do to compete. So look at this chart. Percentage of first degrees awarded in natural sciences and engineering: China, 73 percent; Japan, 66 percent; Germany, 59 percent; South Korea, 45 percent; United States, 32 percent. So China is at 73 percent. We are at 32 percent. And how do we expect to compete with all these people if we do not have enough people participating in the sciences and in engineering?

One final chart. These are people entering graduate school and engineering, physical sciences, math and computer sciences in U.S. institutions. The green line is U.S. students and permanent residents, 59,000, roughly, as I stated earlier. The red line is foreign students at U.S. institutions, almost 83,000.

I do not want to get bogged down in the numbers; but my point is that because we are not investing in education, because this administration, this House, this Senate, this Congress, has chosen time and time again to give tax breaks to the top 1 percent while we have 250,000 students across the United States of America who are college eligible but will not go because they cannot afford it, we have a problem.

And we have a problem that we can fix, and this is why I am here at almost 11 o'clock at night. This is why the gentleman ran for Congress. This is why we spend long hours going to parades and shaking hands and working here late at night during the week, because we believe that there is an answer to this problem that is going to make the United States stronger. And what we have been arguing here on the Democratic side, and many Republicans have been arguing this as well, but the leadership, the President, the leadership in the Senate, has not been responsive, the Pell grant now only accounts for 40 percent of one's college tuition. In 1973 or 1974 when the Pell grant was started, the Pell grant would take care of almost 80 percent of a student's college tuition. We had a commitment to education. We had a commitment to make sure that we could keep driving this economy by having engineers and scientists out in the private sector pushing it along, starting a business, working for a business, making it grow, helping it grow time and time again.

We did not have the banks involved in the student loan business. Why do the banks have to be cut in on the whole deal? I have nothing against banks. They own my house right now; so I do not have anything against them. But they do not have any business being involved in a student loan. We cannot help them make profits. We are trying to get kids educated, and that is what this country needs to do. We need to make it a priority, and I think this is something that has got to come from the President of the United States. I love JOHN KERRY's plan. He wants to double the Pell grant. He wants to give $25 billion to the States that has to be spent to lower tuition costs. He wants to help kids get low-interest loans. He wants scholarships for math and science students. These are things we need to do.

And I went off and I apologize, but the frustrating part is that this is solvable. These are solvable problems, and that is the beauty of this system. And we can fix this. I think we have to fix it because really the future of the country is at stake. When we look at trying to compete with China and they are cleaning our clock in electronics, telecommunications equipment, assembled computers, and the United States workers are losing their jobs and scrambling over to see if they can get to Wal-Mart, we have got a real problem. And I think if we made this a national commitment, and I hope President KERRY would make it a national commitment, but if we do that, I think we still have some time left. And the scary thing is the clock is ticking.

Mr. MEEK of Florida. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. RYAN) for sharing that with the American people. I know he needed those charts to make sure that he can show the picture, but he was kind of brushing against kind of like a Ross Perot kind of feeling there. I started thinking he was going to say in a minute, You are not listening. But I think it is important. We try to make this not normal C–SPAN watching for the viewing public and for the Members of Congress. We want to make sure they hear what we have to say. But if we are going to compete, guess what, we have to have players on the field that are the numbers. It is almost like football. One cannot line up with five people and expect to beat a full defense there with five people on offense.

Mr. RYAN of Ohio. Mr. Speaker, the gentleman from Florida (Mr. MEEK) is a former football player.

Mr. MEEK of Florida. That is correct.

Mr. RYAN of Ohio. What position did the gentleman play?

Mr. MEEK of Florida. I played a little defensive end. That was when I could legally hit someone. But we will leave that out here because there is no hitting in the Congress, I must add.

Mr. RYAN of Ohio. That saves lives.

Mr. MEEK of Florida. That saves lives.

Mr. Speaker, we are going to talk a little bit about intelligence for a minute, if we can.

□ 2245

Then we are going to get into our top 10 list after intelligence. I am just going to talk about that for a minute, because the American people are going to get an opportunity to hear more about intelligence as the week gets a little older.

We know that there has been a lot of talk, that there has been a Senate report released. The Senate Intelligence Committee put out a 511 page report, which is a bipartisan report. It gave a pretty good picture of what was going on in the CIA, of what possibly went on in this administration as it relates to intelligence analysts that were subject to political pressure.

There is going to be a second tier to this report, and guess what? It is going to be after the election.

Mr. RYAN of Ohio. Absolutely.

Mr. MEEK of Florida. Wow. Is that not a news flash?

Mr. RYAN of Ohio. If the gentleman will yield, we are trying to engage young people here in the voting, participating in the process, and they hear this garbage that "we are not going to tell you until after the election. Then, you know, then we will give you the truth."

Mr. MEEK of Florida. Once again, this is not the gentleman from Florida (Mr. MEEK), the gentleman from Ohio (Mr. RYAN) and/or the 30-something Democrats working group report. This is a report from the Senate, or the "other body" Intelligence Committee.

I must say that the Democrats on that committee did file a dissenting view, basically saying intelligence analysts were subject to political pressure.

I will say this: We had some very honorable Members whom I respect and, we are both members of the Committee on Armed Services, I am also a member of the Select Committee on Homeland Security, and this is serious business. We have men and women right now getting sand in their teeth over in Iraq right now based on intelligence.

Right here in this well, right above the gentleman from Ohio (Mr. RYAN), our Commander-in-Chief shared with us information that we know now is false, or was given bad information.

This is serious business. This is the reason why we have got to deal with voter suppression. This is the reason why everyone who has a voter registration card or will become eligible to get a voter registration card should make sure they let their voice be heard at the polls.

I for one and the gentleman for one and the 30-something Democrats for one are not scared of American people voting. Democrats, Republicans, Independents, Green Party, whatever party you are a member of, we want you to vote, because in this democracy things will happen better for our future.

This report will be coming out. There will be a lot of rhetoric about who did what, who did not say this. We know the CIA director, Mr. Tenet, resigned. We know that there are others that should resign.

No one gets fired from this administration, I must add. For all of the issues that have gone on in this country, no one has been asked to resign. Everyone has done a superb job.

Mr. RYAN of Ohio. They have not made a mistake.

Mr. MEEK of Florida. They have not made a mistake.

Mr. RYAN of Ohio. The first administration in the history of the United States of America that has not made one mistake.

Mr. MEEK of Florida. I will tell you this: It would be good for politics. But, do you know something? I have to go back to the numbers. The numbers speak for themselves.

The reason why this is serious business and the reason why week after week we come back and the reason why we have a Committee on Armed Services, hopefully that will have hearings that would hold the higher echelons, and I mean the secretary and undersecretary and everyone over at the Pentagon that is wearing a shirt and tie and suit that is appointed, that are calling the shots for men and women. They say well, you know, we wait to hear from our commanders in the field. We do not make those decisions.

Mr. Speaker, I remember a day when everyone at the Pentagon took credit for what was going on. Now it is like, well, we are waiting to hear from this general and this other general, and, until we hear from the field, we are not going to do anything.

Mr. Speaker, 897 and climbing. A coalition of troops that one may say is over 132,000 American troops, enlisted, Reserve, National Guard. And, guess what? Over 6,000 individuals that did not say, hey, I am ready to go. They were called up and sent. And also 4,000 troops were relocated from other parts of the world that we need them to go to Iraq.

The last I checked on 9/11, it was all about the Taliban and al Qaeda. And, guess what? They are in Afghanistan doing what they want to do.

Yes, we commend the troops. Do not get me wrong. I do not know a Member in this Congress, I have not encountered an individual out on the street, either here in Florida or Washington, D.C., that says I am not with the troops. So we can just put that debate aside.

I think it is important that the American people understand that we all support the troops. For anyone that spends 30 or 40 minutes talking about how he or she supports the troops, we need to focus on other things about the intelligence of why we are in Iraq in the first place.

Mr. RYAN of Ohio. We want to protect the troops.

Mr. MEEK of Florida. And protect the troops, and making sure that Reservists who signed up to protect this country, they will fight for 20 years if this country asked them to fight. That is not the question. It is about decisions that are being made here inside the Beltway. It is about the individuals that are being driven around with tinted windows in black cars and Suburbans with police escorts. We are talking about those individuals.

Guess what, I say to the gentleman from Ohio? The U.S. Congress and the Committee on Armed Services are the individuals charged with making sure that those individuals are held accountable. We have the leadership of this House on the other side of this aisle here that says, oh, we do not need to bother the Pentagon. They have a lot work to do. We do not need to ask the Secretary to come down here. He has a war to fight.

Well, guess what? The last I checked, we need some help, and we need some oversight.

Mr. RYAN of Ohio. Article I, Section 1. The people govern.

Mr. MEEK of Florida. So I want to move on, if we can. If the gentleman from Ohio would, he can remove that e-mail address. We want to make sure the American people get an opportunity to see it. He is going to help me out here.

Mr. RYAN of Ohio. This is unbelievable. This is unprecedented.

Mr. MEEK of Florida. Unprecedented. We want to make sure that people know that we are here, that we mean business.

Mr. RYAN of Ohio. And I am not Vanna White. I want you to know from right now, I am not Vanna White.

Mr. MEEK of Florida. No one is calling the gentleman from Ohio (Mr. RYAN) Vanna White. No one wants to.

Mr. RYAN of Ohio. Are we ready? I do not know what to do here. I just pull this off?

Mr. MEEK of Florida. What you do at the top, you start at the very top.

Mr. RYAN of Ohio. I am nervous.

Mr. MEEK of Florida. I want to let you know, this is the top 10 reasons why young Americans need a change in leadership. I just want to make sure our viewing public has their eyes on this, or our friends at C–SPAN have their eyes on this chart here, because it is important.

The top 10 reasons why Americans need a change in leadership. Can you take number 10 off.

At the top, the gentleman from Ohio (Mr. RYAN), look at that.

Mr. RYAN of Ohio. Oh, yes.

Mr. MEEK of Florida. Not sure how you will be able to pay your share of the $2.9 trillion deficit and afford Outcast tickets. That is important there. The Outcast tickets are important.

I want to add to the American people that the Congressional Budget Office says that is the next 10 years. It will be $477 billion, which is the current deficit for this fiscal year. That is right now where we stand. That is number 10.

Number 9.

Mr. RYAN of Ohio. Here we go.

Mr. MEEK of Florida. Look at the gentleman from Ohio (Mr. RYAN). The gentleman from Ohio (Mr. RYAN) is about to get a contract here in a minute.

New dorm rooms run by Halliburton overcharge you by $900,000.

That is possible. I want to let you know that is very possible. That happened.

Mr. RYAN of Ohio. If you think your college tuition is high now, wait until we privatize your dorms and turn them over to Halliburton. Then you are in trouble.

Mr. MEEK of Florida. Let us go with number 8.

Mr. RYAN of Ohio. I am ready.

Mr. MEEK of Florida. We have to get moving here.

Mr. RYAN of Ohio. I am nervous.

Mr. MEEK of Florida. Because young people cannot get sick, 30 percent of young people do not have health insurance. That is an important issue. That is number 8.

The top reasons why young Americans need a change in leadership.

Go ahead with number 7.

Mr. RYAN of Ohio. I like this number 7. I had a chance to peek.

Mr. MEEK of Florida. You can talk about it later.

Young people concerned over the prospect of another CHENEY swearing in. Oh, wow, that is interesting.

Mr. RYAN of Ohio. That is because when he was in the Senate with Senator LEAHY, he keeps swearing.

Mr. MEEK of Florida. Let us go from there.

Number 6: MTV spring break coverage lacking. Only 15 students able to afford the Cancun getaway. Worse teen unemployment since 1949.

That is very serious.

Go ahead. We have got a couple more here. Number 5: Students dismayed that 10 Crackerjack box tops now worth the same as Bush's Pell Grant.

Go ahead, number 4: Because John Ashcroft has got to go.

So, number 3, the gentleman from Ohio (Mr. RYAN) has got to move faster. Number 3.

Mr. RYAN of Ohio. I know help me out.

Mr. MEEK of Florida. A draftee is not what you meant when you said you hope the Bush policies would help you find a job.

Mr. RYAN of Ohio. The gentleman from Florida (Mr. MEEK) has got to give me a chance to drop the thing.

Mr. MEEK of Florida. Just drop it to the floor. We will clean it up later.

Number 2, cannot buy self-help books titled "I am da bomb" in fear that the homeland security officers will investigate you under the Patriot Act.

Number one, the gentleman from Ohio (Mr. RYAN) is doing a fine job: Because this is your country and what is at stake is your future.

And that is very, very important, that the American people understand that that is important, and that goes for everyone and every age group.

We want to make sure this top 10 reasons why young people need to change leadership in America is all in being able to frame this issue, to let them know what the issues are. We know that we put a little humor to it, but, at the same time, it is very real, it is very accurate.

We need to give folks our website. We are running out of time. We have probably a minute or so left.

Mr. RYAN of Ohio. We have 2 minutes.

Mr. MEEK of Florida. And make sure we give them the web site so we can continue to communicate with Americans.

To the gentleman from Ohio (Mr. RYAN), I must say he is going to have the last word tonight and close this out. That it is a pleasure being here with the gentleman and a pleasure working with the 30-something group. We look forward to hopefully a democratically-controlled House when we return back here after November so we can talk about offense and not defense.

Mr. RYAN of Ohio. 30-somethingdemocrats@mail.house.gov. 30, as in the number, somethingdemocrats@mail.house.gov.

I agree. We are wrapping things up this week. This will be our last 30-something probably until September. We will be here for a few weeks, and then off to the elections. So, hopefully you can send us an e-mail. Let us know what you think.

But part of what we are trying to do here is share with the American people what we are learning while we are down here and just present the facts. It has not been partisan, but we have, I think, illustrated tonight and over the past few weeks kind of what we want and the direction we think the country needs to go in. So I appreciate the opportunity to be with the gentleman from Florida (Mr. MEEK) here. The gentleman from Florida (Mr. MEEK) does a fine job, and I am happy to be his wing man.

Mr. MEEK of Florida. Mr. Speaker, this is the conclusion of the 30-something working group. We appreciate the opportunity to address the American people and the House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CARTER). The Chair will remind Members to refrain from referring to Senators in violation of clause 1 of rule XVII and to address all remarks to the Chair rather than the viewing audience.

CONFERENCE REPORT ON H.R. 4613

Mr. LEWIS of California submitted the following conference report and statement on the bill (H.R. 4613) "making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes":

CONFERENCE REPORT (H. REPT. 108–622)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4613) "making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $29,381,422,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $24,347,807,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $9,581,102,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $24,155,911,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,663,890,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,084,032,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $623,073,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,451,950,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $5,901,729,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,540,242,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,144,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $25,764,634,000: Provided, That of funds made available under this heading, $1,900,000 shall be available for Fort Baker, in accordance with the terms and conditions as provided under the heading "Operation and Maintenance, Army", in Public Law 107–117.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,525,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $29,687,245,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,629,901,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $28,113,533,000: Provided, That notwithstanding any other provision of law, that of the funds available under this heading, $750,000 shall only be available to the Secretary of the Air Force for a grant to Florida Memorial College for the purpose of funding minority aviation training.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $17,449,619,000: Provided, That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code, and of which not to exceed $32,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading, $500,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth Development and Leadership program and Department of Defense STARBASE program: Provided further, That of the funds made available under this heading, $2,550,000 shall be available only for a Washington-based internship and immersion program to allow U.S. Asian-American Pacific Islander undergraduate college and university students from economically disadvantaged backgrounds to participate in academic and educational programs in the Department of Defense and related Federal defense agencies: Provided further, That notwithstanding any other provision of law, the Office of Economic Adjustment of the Department of Defense may make grants and supplement other Federal funds using funds made available by this Act under this heading in accordance with the guidance provided in the Joint Explanatory Statement of the Committee of the Conference for the Conference Report to accompany H.R. 4613 and these projects shall hereafter be considered to be authorized by law: Provided further, That of the funds provided under this heading that are available for commercial imagery purchases, $500,000 shall be used by the National Geospatial-Intelligence Agency to pay for imagery and high-resolution terrain data collected in 2003 in support of the California wildfires: Provided further, That of the funds provided under this heading not less than $27,000,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): Provided further, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the

Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,991,128,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,237,638,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $187,196,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,242,590,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,442,386,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,472,738,000.

OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, $10,000,000, to remain available until expended: Provided, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; the Defense Health Program appropriation; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $10,825,000, of which not to exceed $5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $400,948,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $266,820,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $397,368,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $23,684,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $266,516,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $59,000,000, to remain available until September 30, 2006.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $409,200,000, to remain available until September 30, 2007: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,854,541,000, to remain available for obligation until September 30, 2007.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,307,000,000, to remain available for obligation until September 30, 2007.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,467,495,000, to remain available for obligation until September 30, 2007.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,590,952,000, to remain available for obligation until September 30, 2007.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,955,296,000, to remain available for obligation until September 30, 2007.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $8,912,042,000, to remain available for obligation until September 30, 2007.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,114,720,000, to remain available for obligation until September 30, 2007.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $888,340,000, to remain available for obligation until September 30, 2007.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $626,084,000;

NSSN, $1,581,143,000;

NSSN (AP), $871,864,000;

SSGN, $469,226,000;

SSGN (AP), $48,000,000;

CVN Refuelings (AP), $333,061,000;

SSN Submarine Refuelings (AP), $19,368,000;

SSBN Submarine Refuelings, $262,229,000;

SSBN Submarine Refuelings (AP), $63,971,000;

DDG–51 Destroyer, $3,444,950,000;

DD(X) (AP), $305,516,000;

DDG–51 Destroyer Modernization, $50,000,000;

LPD–17, $966,559,000;

LHD–8, $236,018,000;

LHA–R (AP), $150,000,000;

LCU (X), $25,048,000;

LCAC Landing Craft Air Cushion, $90,490,000;

Prior year shipbuilding costs, $484,390,000;

Service Craft, $36,899,000;

Power Unit Assembly Facility, $11,300,000; and

For outfitting, post delivery, conversions, and first destination transportation, $351,327,000.

In all: $10,427,443,000, to remain available for obligation until September 30, 2009: Provided, That additional obligations may be incurred after September 30, 2009, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 9 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,875,786,000, to remain available for obligation until September 30, 2007: Provided, That funds *available in this appropriation may be used for TRIDENT modifications associated with force protection and security requirements.*

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,432,203,000, to remain available for obligation until September 30, 2007.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $13,648,304,000, to remain available for obligation until September 30, 2007: Provided, That amounts provided under this heading shall be used for the procurement of 15 C–17 aircraft: Provided further, That amounts provided under this heading shall be used for the advance procurement of not less than 15 C–17 aircraft: Provided further, That the Secretary of the Air Force shall fully fund the procurement of not less than 15 C–17 aircraft in fiscal year 2006: Provided further, That the Secretary of the Air Force shall allocate a reduction of $158,600,000 proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity funded by this appropriation.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $4,458,113,000, to remain available for obligation until September 30, 2007.

Procurement of Ammunition, Air Force

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,327,459,000, to remain available for obligation until September 30, 2007.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $13,071,297,000, to remain available for obligation until September 30, 2007.

Procurement, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,956,047,000, to remain available for obligation until September 30, 2007.

National Guard and Reserve Equipment

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $350,000,000, to remain available for obligation until September 30, 2007: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

Defense Production Act Purchases

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $42,765,000, to remain available until expended.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Test and Evaluation, Army

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,698,989,000, to remain available for obligation until September 30, 2006: Provided, That of the amounts provided under this heading, $11,500,000 for Molecular Genetics and Musculoskeletal Research in program element 0602787A shall remain available until expended.

Research, Development, Test and Evaluation, Navy

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $17,043,812,000, to remain available for obligation until September 30, 2006: Provided, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: Provided further, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

Research, Development, Test and Evaluation, Air Force

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $20,890,922,000, to remain available for obligation until September 30, 2006.

Research, Development, Test and Evaluation, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $20,983,624,000, to remain available for obligation until September 30, 2006.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $314,835,000, to remain available for obligation until September 30, 2006.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

For the Defense Working Capital Funds, $1,174,210,000.

National Defense Sealift Fund

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $1,204,626,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $18,171,436,000, of which $17,297,419,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2006, and of which up to $8,953,494,000 may be available for contracts entered into under the TRICARE program; of which $367,035,000, to remain available for obligation until September 30, 2007, shall be for Procurement; and of which $506,982,000, to remain available for obligation until September 30, 2006, shall be for Research, development, test and evaluation: Provided, That notwithstanding any other provision of law, of the amount made available under this heading for Operation and maintenance, $9,500,000 shall remain available until expended, and shall be available only for deposit into the Army Fisher House Non-Appropriated Fund Instrumentality and shall be used in support and upkeep of existing Fisher Houses managed by the Army: Provided further, That notwithstanding any other provision of law, of the amount made available under this heading for Research, development, test and evaluation, not less than $7,500,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations: Provided further, That Title VI of the Department of Defense Appropriations Act, 2004, in the appropriation for the Defense Health Program, is amended by adding before the period a comma and the following: "and of which not less than $4,250,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations".

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,372,990,000, of which $1,088,801,000 shall be for Operation and maintenance; $78,980,000 shall be for Procurement to remain available until September 30, 2007; $205,209,000 shall be for Research, development, test and evaluation to remain available until September 30, 2006; and no less than $137,404,000 may be for the Chemical Stockpile Emergency Preparedness Program, of which $44,631,000 shall be for activities on military installations and $92,773,000 shall be to assist State and local governments.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $906,522,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $204,562,000, of which $202,362,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $2,100,000, to remain available until September 30, 2007, shall be for Procurement; and of which $100,000, to remain available until September 30, 2006, shall be for Research, development, test and evaluation.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $239,400,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $310,466,000, of which $26,953,000 for the Advanced Research and Development Committee shall remain available until September 30, 2006: Provided, That of the funds appropriated under this heading, $39,422,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2007 and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2006: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2005: Provided further, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation *accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.*

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: Provided further, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

Lightweight 155mm Howitzer.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2005, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2006 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2006 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2006.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) $10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b) EXCEPTIONS.—

(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the

United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Notwithstanding any other provision of law, during the current fiscal year and hereafter, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for subsequent fiscal years shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8020. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9) shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: Provided further, That notwithstanding 41 U.S.C. 430, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9): Provided further, That businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8023. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8025. (a) Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, AIR FORCE", up to $2,500,000 may be used for the acquisition of Native Allotment F–14589 by the Secretary of the Air Force in accordance with this section (including for the appraisal under this section), and for fully compensating the owners of such allotment for the damages caused to such owners by Air Force occupancy of property comprising that allotment.

(b) The acquisition under this section may be made only with the consent of the owners of Native Allotment F–14589 and only for the appraised fair marked value of that allotment, as determined by the appraiser under subsection (c).

(c) Not later than 60 days after the date of the enactment of this Act, the Secretary of the Air Force shall select, jointly with the owners of Native Allotment F–14589, and retain a qualified appraiser to appraise the fair market value of that allotment. The appraiser shall be an appraiser who is independent of the Department of the Air Force and the owners of the allotment. The Secretary shall ensure that the appraiser completes the appraisal not later than 180 days after the date of the enactment of this Act. The Secretary shall pay the costs of the appraisal.

(d) The Secretary of the Air Force shall complete the acquisition of Native Allotment F–14589 not later than September 30, 2005, subject to the conditions set forth in subsection (b).

SEC. 8026. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8027. (a) Of the funds made available in this Act, not less than $24,971,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) $21,588,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) $2,581,000 shall be available from "Aircraft Procurement, Air Force"; and

(3) $802,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8028. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2005 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2005, not more than 5,400 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this

subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs: Provided further, That this subsection shall not apply to staff years funded in the National Foreign Intelligence Program (NFIP).

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2006 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $125,000,000.

SEC. 8029. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8030. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8031. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8032. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2005. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8033. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8034. Amounts deposited during the current fiscal year and hereafter to the special account established under 40 U.S.C. 572(b)(5)(A) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 572(b)(5)(B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8035. None of the funds appropriated in this Act shall be used to study, demonstrate, or implement any plans privatizing, divesting or transferring of any Civil Works missions, functions, or responsibilities for the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 8036. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8037. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8039. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8040. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

SEC. 8041. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2006 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2006 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2006 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8042. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2006: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2006.

SEC. 8043. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8044. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available *only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.*

SEC. 8045. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8046. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8047. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8048. (a) Upon a determination by the Secretary of the Navy that the vessel USNS Capable (T–AGOS 16) is no longer needed by the Navy, the Secretary shall transfer such vessel to the National Oceanic and Atmospheric Administration as an exploration and research ship.

(b) Upon a transfer of the vessel USNS Capable (T–AGOS 16) under subsection (a), the Secretary of the Navy shall transfer to the Secretary of Commerce $18,000,000 out of funds appropriated by title IV under the heading "Research, Development, Test and Evaluation, Navy". The amount so transferred shall be available to the National Oceanographic and Atmospheric Administration for the conversion of the vessel for use as an exploration and research ship.

(RESCISSIONS)

SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Shipbuilding and Conversion, Navy, 2002/2006", $14,000,000;

"Former Soviet Union Threat Reduction, 2003/2005", $50,000,000;

"Aircraft Procurement, Navy, 2003/2005", $50,000,000;

"Aircraft Procurement, Air Force, 2003/2005", $50,000,000;

"Other Procurement, Army, 2004/2006", $16,000,000;

"Aircraft Procurement, Navy, 2004/2006", $32,800,000;

"Shipbuilding and Conversion, Navy, 2004/2008", $10,300,000;

"Weapons Procurement, Navy, 2004/2006", $25,200,000;

"Other Procurement, Navy, 2004/2006", $41,700,000;

"Procurement, Marine Corps, 2004/2006", $40,200,000;

"Other Procurement, Air Force, 2004/2006", $100,000,000;

"Procurement, Defense-Wide, 2004/2006", $34,571,000;

"Research, Development, Test and Evaluation, Army, 2004/2005", $30,000,000;

"Research, Development, Test and Evaluation, Navy, 2004/2005", $148,500,000;

"Research, Development, Test and Evaluation, Air Force, 2004/2005", $57,666,000; and

"Research, Development, Test and Evaluation, Defense-Wide, 2004/2005", $78,700,000.

SEC. 8050. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8051. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8052. During the current fiscal year and hereafter, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8053. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8054. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003 level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8055. (a) LIMITATION ON PENTAGON RENOVATION COSTS.—Not later than the date each year on which the President submits to Congress the budget under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of wedges 2 through 5 of the Pentagon Reservation, cumulatively, will not exceed four times the total cost for the planning, design, construction, and installation of equipment for the renovation of wedge 1.

(b) ANNUAL ADJUSTMENT.—For purposes of applying the limitation in subsection (a), the Secretary shall adjust the cost for the renovation of wedge 1 by any increase or decrease in costs attributable to economic inflation, based on the most recent economic assumptions issued by the Office of Management and Budget for use in preparation of the budget of the United States under section 1104 of title 31, United States Code.

(c) EXCLUSION OF CERTAIN COSTS.—For purposes of calculating the limitation in subsection (a), the total cost for wedges 2 through 5 shall not include—

(1) any repair or reconstruction cost incurred as a result of the terrorist attack on the Pentagon that occurred on September 11, 2001;

(2) any increase in costs for wedges 2 through 5 attributable to compliance with new requirements of Federal, State, or local laws; and

(3) any increase in costs attributable to additional security requirements that the Secretary of Defense considers essential to provide a safe and secure working environment.

(d) CERTIFICATION COST REPORTS.—As part of the annual certification under subsection (a), the Secretary shall report the projected cost (as of the time of the certification) for—

(1) the renovation of each wedge, including the amount adjusted or otherwise excluded for such wedge under the authority of paragraphs (2) and (3) of subsection (c) for the period covered by the certification; and

(2) the repair and reconstruction of wedges 1 and 2 in response to the terrorist attack on the Pentagon that occurred on September 11, 2001.

(e) DURATION OF CERTIFICATION REQUIREMENT.—The requirement to make an annual certification under subsection (a) shall apply until the Secretary certifies to Congress that the renovation of the Pentagon Reservation is completed.

SEC. 8056. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8057. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8058. Appropriations available under the heading "Operation and Maintenance, Defense-Wide" for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8059. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8060. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8061. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8062. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8063. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8064. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8065. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, for the current fiscal year and hereafter the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8066. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8067. Funds appropriated for the Department of Defense and for intelligence activities in this Act are available for transfer to the Department of State as remittance for a fee charged by the Department of State for fiscal year 2005 for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount of the fee so charged (when added to other amounts of such fees previously charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the departments and agencies funded by this Act during that fiscal year in providing goods and services to the Department of State.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8068. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8069. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8070. Hereafter, funds appropriated for Operation and maintenance and for the Defense Health Program in this Act, and in future appropriations acts for the Department of Defense, for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects, or any planning studies, environmental assessments, or similar activities related to installation support functions, may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8071. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8072. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8073. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8074. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8075. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8076. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8077. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

SEC. 8078. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T–AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8079. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8080. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8081. The Secretary of Defense shall provide a classified quarterly report, beginning 30 days after enactment of this Act, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8082. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

SEC. 8083. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

(1) During the current fiscal year, a major automated information system may not receive

Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8084. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8085. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API–T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8086. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8087. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8088. Up to $3,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8089. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8090. (a) Of the amounts appropriated in this Act under the heading, "Research, Development, Test and Evaluation, Defense-Wide", $60,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

(b) Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Army", $185,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: Provided further, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2005, consistent with the terms and conditions set forth therein: Provided further, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: Provided further, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8091. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2005.

SEC. 8092. (a) Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Navy", $214,678,000 shall be available for the construction of the first prototype vessel under the Littoral Combat Ship program.

(b) None of the funds provided in this Act may be obligated to prepare a fiscal year 2006 budget request for a third vessel under the Littoral Combat Ship program in fiscal year 2006: Provided, That funds for the second vessel shall be for a second source supplier: Provided further, That all subsequent ships shall be purchased with "Shipbuilding and Conversion, Navy" funds beginning in fiscal year 2007.

SEC. 8093. In addition to amounts provided elsewhere in this Act, $2,000,000 is hereby appropriated for "Defense Health Program", to remain available for obligation until expended: Provided, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8094. Amounts appropriated in title II of this Act are hereby reduced by $300,000,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

(1) From "Operation and Maintenance, Army", $66,700,000.

(2) From "Operation and Maintenance, Navy", $77,900,000.

(3) From "Operation and Maintenance, Marine Corps", $6,100,000.

(4) From "Operation and Maintenance, Air Force", $149,300,000.

SEC. 8095. The total amount appropriated or otherwise made available in this Act is hereby reduced by $500,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

"Operation and Maintenance, Army", $25,000,000;

"Operation and Maintenance, Defense-Wide", $225,000,000;

"Research, Development, Test and Evaluation, Army", $50,000,000; and

"Research, Development, Test and Evaluation, Defense-Wide", $200,000,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8096. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $155,290,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $68,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: Provided further, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: Provided further, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

SEC. 8097. Notwithstanding any other provision of law, of the amounts provided in this Act and in Public Law 108–87 under the heading "Research, Development, Test and Evaluation, Navy", $1,500,000, and $500,000, respectively, shall be provided as a grant (or grants) to the California Central Coast Research Partnership

(C3RP) through the California Polytechnic State University Foundation: Provided, That the Secretary of the Navy shall make said grant (or grants) within 90 days of the enactment of this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8098. (a) In addition to amounts provided elsewhere in this Act, $34,000,000 is hereby appropriated for "Aircraft Procurement, Navy": Provided, That these funds shall be available only for transfer to the Coast Guard for mission essential equipment for Coast Guard HC–130J aircraft.

(b) In addition to amounts appropriated or otherwise made available in this Act, there is hereby appropriated $40,000,000, for "Operation and Maintenance, Defense-Wide": Provided, That, of the funds provided herein, $30,000,000, to remain available until expended, shall be transferred within 15 days of the enactment of this Act to the Department of Agriculture, Forest Service "Wildland Fire Management" account and shall be merged with other funds in this account and shall be made available for hazardous fuels reduction, hazard mitigation, and rehabilitation activities of the Forest Service in the San Bernardino National Forest, and $10,000,000, to remain available until expended, shall be transferred within 15 days of the enactment of this Act to the Forest Service, "Capital Improvement and Maintenance" account and shall be made available to construct a wildfire management training facility in San Bernardino County: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8099. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", $484,390,000 shall be available until September 30, 2005, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2005":

LPD–17 Amphibious Transport Dock Ship Program, $55,000,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2005":

New SSN, $10,000,000;

LPD–17 Amphibious Transport Dock Ship Program, $38,100,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2000/2005":

DDG–51 Destroyer Program, $44,963,000;

LPD–17 Amphibious Transport Dock Ship Program, $171,681,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2001/2005":

DDG–51 Destroyer Program, $83,316,000;

New SSN, $67,330,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2002/2005":

LCAC SLEP, $2,100,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2003/2005":

LCAC SLEP, $11,900,000:

Provided further, That section 126 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1410; 10 U.S.C. 7291 note) is repealed.

SEC. 8100. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8101. None of the funds available to the Department of Defense may be obligated to implement any action which alters the command responsibility or permanent assignment of forces until 270 days after such plan has been provided to the congressional defense committees.

SEC. 8102. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

SEC. 8103. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2005 until the enactment of the Intelligence Authorization Act for fiscal year 2005.

SEC. 8104. In addition to funds made available elsewhere in this Act, $5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: Provided further, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): Provided further, That up to $2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

SEC. 8105. The total amount appropriated in title IV of this Act is hereby reduced by $197,500,000 to reduce cost growth in information technology development and modernization, to be derived as follows:

(1) From "Other Procurement, Army", $39,500,000.

(2) From "Other Procurement, Navy", $10,800,000.

(3) From "Other Procurement, Air Force", $49,000,000.

(4) From "Procurement, Defense-Wide", $20,100,000.

(5) From "Research, Development, Test and Evaluation, Army", $3,500,000.

(6) From "Research, Development, Test and Evaluation; Navy", $10,800,000.

(7) From "Research, Development, Test and Evaluation, Air Force", $3,500,000.

(8) From "Research, Development, Test and Evaluation, Defense-Wide", $60,300,000.

SEC. 8106. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8107. The amounts appropriated in title II of this Act are hereby reduced by $316,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

(1) From "Operation and Maintenance, Navy", $150,000,000.

(2) From "Operation and Maintenance, Air Force", $166,000,000.

SEC. 8108. (a) In addition to the amounts provided elsewhere in this Act, the amount of $6,000,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Army National Guard". Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of $6,000,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8109. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS–C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: Provided, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: Provided further, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

SEC. 8110. Of the funds made available in this Act, not less than $87,900,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,700,000 shall be available from "Military Personnel, Air Force", $55,300,000 shall be available from "Operation and Maintenance, Air Force", and $28,900,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B-52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2005: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2006 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8111. Of the funds made available under the heading "Operation and Maintenance, Air Force", $9,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson: Provided, That of the funds made available under the heading "Operation and Maintenance, Air Force", $14,000,000 shall be available for engineering and environment studies necessary to extend the railroad to Stryker Brigade Combat Team training areas north of Fort Wainwright, Alaska: Provided further, That the Secretary of the Air Force is authorized, using funds available under the heading "Operation and Maintenance, Air Force", to complete a phased repair project, which repairs may include upgrades and additions, to the infrastructure of the operational ranges managed by the Air Force in Alaska. The total cost of such phased projects shall not exceed $32,000,000.

(TRANSFER OF FUNDS)

SEC. 8112. Of the amounts appropriated in Public Law 107–206 under the heading "Defense Emergency Response Fund", an amount up to the fair market value of the leasehold interest in adjacent properties necessary for the force protection requirements of Tooele Army Depot, Utah, may be made available to resolve any property disputes associated with Tooele Army Depot, Utah, and to acquire such leasehold interest as required: Provided, That none of these funds may be used to acquire fee title to the properties.

SEC. 8113. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $51,425,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2005: Provided, That the Secretary of Defense shall make grants in the amounts specified as follows: $5,000,000 to the Intrepid Sea-Air-Space Foundation; $1,875,000 to the Presidio Trust only for renovations of the parade field; $1,000,000 to the Fort Ticonderoga Association; $8,500,000 to the Military Aviation Museum of the Pacific; $10,000,000 to the Wings of Liberty Military Museum at Fort Campbell; $2,550,000 to the United Services Organization; $5,000,000 to the Galena IDEA Distance Learning Program; $1,500,000 to the Wing Luke Asian Museum; $8,000,000 to the Center for Applied Science and Engineering; $1,000,000 to the Women in Military Service for America Memorial Foundation; $2,000,000 to the American Red Cross Greater Alleghenies Blood Services Center; $4,000,000 to the Clarksville-Montgomery County School System; and $1,000,000 to the National Museum of Cavalry and Armor at Fort Knox.

SEC. 8114. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Account" may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: Provided, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Account": Provided further, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

SEC. 8115. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8116. The budget of the President for fiscal year 2006 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: Provided, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8117. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8118. Notwithstanding any other provision of law, section 2533a(f) of title 10, United States Code, shall hereafter not apply to any fish, shellfish, or seafood product. This section applies to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

SEC. 8119. Of the amounts provided in title II of this Act under the heading, "Operation and Maintenance, Defense-Wide", $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8120. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: Provided, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8121. (a) LAND CONVEYANCES, NORTON AIR FORCE BASE, CALIFORNIA.—

(1) FOREST SERVICE CONVEYANCE.—Subject to paragraph (2), the Secretary of Agriculture shall convey to the Inland Valley Development Agency all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 3.74 acres designated as parcel D–1 (including the former Air Force S–2 Headquarters Building) on the former Norton Air Force Base, California.

(2) As consideration for the transfer under paragraph (1), the Inland Valley Development Agency shall execute a long-term ground lease with the Secretary of Agriculture, upon terms acceptable to the Federal Aviation Administration, to provide the United States Forest Service with a replacement parcel of land of approximately 7.5 acres at the San Bernardino International Airport adjacent to current facilities of the Forest Service to be used for aeronautical purposes in furtherance of wildfire prevention and containment.

(b) AIR FORCE CONVEYANCE.—

(1) Subject to paragraph (2), the Secretary of the Air Force shall convey to the Inland Valley Development Agency all right, title, and interest of the United States in and to certain parcels of real property, including improvements thereon, located on or adjacent to the former Norton Air Force Base, California, that as of the date of the enactment of this Act have been determined through a record of decision to be eligible to be transferred to, or held in trust for, the San Manuel Band of Mission Indians.

(2) The Secretary of the Air Force shall make a conveyance under paragraph (1) with respect to any parcel of real property to which that paragraph applies only upon delivery to the Secretary of an instrument executed by the San Manuel Band of Mission Indians that releases and extinguishes any real property interest of the San Manuel Band of Mission Indians in that parcel of real property.

SEC. 8122. (a) The total amount appropriated or otherwise made available in titles II, III and IV of this Act is hereby reduced by $711,000,000 to reflect savings from assumed management improvements, to be distributed as follows:

"Title II", $200,000,000;

"Title III", $300,000,000; and

"Title IV", $211,000,000.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8123. (a) The amount appropriated in title II for "Operation and Maintenance, Air Force" is hereby reduced by $967,200,000 to reflect cash balance and rate stabilization adjustments in the Department of Defense Transportation Working Capital Fund.

(b) Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall transfer $967,200,000 from the Department of Defense Transportation Working Capital Fund to "Operation and Maintenance, Air Force" to offset the reduction made by subsection (a). The transfer required by this subsection is in addition to any other transfer authority provided to the Department of Defense.

SEC. 8124. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: Provided, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

SEC. 8125. Of the amount appropriated under the heading "Operation and Maintenance, Marine Corps" for the Marine Corps Air-Ground Task Force Training Center, Twenty Nine Palms, California, $3,900,000 shall be available to the Secretary of the Navy to enter into a contract, notwithstanding any other provision of law, for the widening of Adobe Road, which is used by members of the Marine Corps stationed at the installation and their dependents, and for construction of pedestrian and bike lanes for the road, to provide for the safety of the Marines stationed at the installation.

SEC. 8126. In addition to amounts appropriated or otherwise made available in this Act, there is hereby appropriated $2,500,000, for "Operation and Maintenance, Marine Corps": Provided, That the Secretary of the Navy shall make a grant in that amount to the "Hi-Desert Memorial Health Care District", Joshua Tree, California, for the purposes of providing a capability for non-invasive assessment, diagnostic testing and treatment in support of service personnel and their families stationed at the Marine Corps Air-Ground Task Force Training Center.

SEC. 8127. (a) LAND CONVEYANCE, ARMY RESERVE TRAINING CENTER, WOOSTER, OHIO.—The Secretary of the Army may convey, without consideration, to the City of Wooster, Ohio, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at 1676 Portage Road, Wooster, Ohio, and contains a former Army Reserve Training Center.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City of Wooster, Ohio.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 8128. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8129. The Secretary of the Navy may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: Provided, That the Secretary may transfer not to exceed $100,000,000 under the authority provided by this section: Provided further, That the funding transferred shall be available for the same time period as the appropriation to which transferred: Provided further, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committee on Appropriations of the Senate and the House of Representatives, unless sooner notified by the Committees that there is no objection to the proposed transfer: Provided further, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8130. The amounts appropriated in title II of this Act are hereby reduced by $50,000,000 to reflect savings attributable to the offsetting of payments to contractors for the collection, pursuant to law, of unpaid taxes owed to the United States, as follows:

(1) From "Operation and Maintenance, Army", $11,000,000.

(2) From "Operation and Maintenance, Navy", $13,000,000.

(3) From "Operation and Maintenance, Marine Corps", $1,000,000.

(4) From "Operation and Maintenance, Air Force", $25,000,000.

SEC. 8131. The total amount appropriated in title IV is hereby reduced by $350,000,000 to decrease amounts budgeted in anticipation of the application of non-statutory funding set asides: Provided, That this reduction shall be allocated proportionately to each budgeted program, program element, project, and activity: Provided further, That funds made available for programs of the National Foreign Intelligence Program (NFIP) are exempt from the application of this provision.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8132. TANKER REPLACEMENT TRANSFER FUND.—In addition to funds made available elsewhere in this Act, there is hereby appropriated $100,000,000, to remain available until transferred: Provided, That these funds are appropriated to the "Tanker Replacement Transfer Fund" (referred to as "the Fund" elsewhere in this section), which is hereby established in the Treasury: Provided further, That the Secretary of the Air Force may transfer amounts in the Fund to "Operation and Maintenance, Air Force", "Aircraft Procurement, Air Force", and "Research, Development, Test and Evaluation, Air Force", only for the purposes of proceeding with a tanker acquisition program: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary of the Air Force shall, not fewer than 15 days prior to making transfers using funds provided in this section, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

SEC. 8133. None of the funds appropriated or otherwise made available by this Act may be used to amend or cancel, or implement any amendment or cancellation of, Department of Defense Directive 1344.7, "Personal Commercial Solicitation on DOD Installations", until after the end of the 90-day period beginning on the date on which the report containing the results of the investigation regarding insurance premium allotment processing, which is underway as of the date of the enactment of this Act, is submitted to the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code), the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

SEC. 8134. The Secretary of Defense shall provide a report to the congressional defense committees not later than October 15, 2004, that addresses how the Department of Defense (DOD) is improving the dud rate of cluster munitions to meet existing DOD policies. This report shall address: (1) the types and quantities of munitions systems that employ cluster munitions presently in DOD's inventory that do and do not meet the 1-percent dud rate policy; (2) DOD efforts to ensure the development of cluster munitions that meet the 1-percent dud rate policy, including a list of programs funded in fiscal year 2005; and (3) a schedule describing the DOD cluster munitions inventory profile from the present until the time this inventory will meet the 1-percent dud rate policy.

SEC. 8135. Up to $2,600,000 of the funds appropriated under the heading, "Operation and Maintenance, Navy" in this Act may be made available to contract for the installation, repair, maintenance, and operation of on-base and adjacent off-base drainage and flood control systems critical to base operations and the public health and safety of community residents in the vicinity of the Naval Magazine Lualualei.

SEC. 8136. From funds provided under the heading "Operation and Maintenance, Navy", the Secretary of the Navy may make a grant in the amount of $2,100,000 to the Chicago Public Schools for establishment of a Naval Military Academy High School, Chicago, Illinois, in partnership with the Great Lakes Naval Training Center.

SEC. 8137. Of the amount appropriated by title III under the heading "Aircraft Procurement, Air Force", $880,000 shall be available to the Secretary of the Air Force for a grant to Rocky Mountain College, Montana, for the purchase of three Piper aircraft, and an aircraft simulator, for support of aviation training.

SEC. 8138. It is the sense of the Senate that—

(1) any request for funds for a fiscal year for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code; and

(2) any funds provided for such fiscal year for such a military operation should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such Acts.

SEC. 8139. Notwithstanding any other provision of law, the Secretary of the Air Force may, using funds available to the Air Force, demolish or provide for the demolition of any facilities or other improvements on real property at the former Wurtsmith Air Force Base.

SEC. 8140. (a) The total amount appropriated or otherwise made available in this Act is hereby reduced by $768,100,000 to reflect excessive unobligated balances, to be distributed as follows:

"Operation and Maintenance, Army", $160,800,000;

"Operation and Maintenance, Navy", $171,900,000;

"Operation and Maintenance, Marine Corps", $15,700,000;

"Operation and Maintenance, Air Force", $142,400,000; and

"Operation and Maintenance, Defense-Wide", $277,300,000.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

SEC. 8141. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $100,000,000 to limit excessive growth in the travel and transportation of persons.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

(INCLUDING RESCISSIONS)

SEC. 8142. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Aircraft Procurement, Navy, 2002/2004", $50,000,000; and

"Aircraft Procurement, Air Force, 2002/2004", $50,000,000:

Provided, That in addition to funds made available elsewhere in this Act, $100,000,000 is hereby appropriated, in the specified amounts to the following accounts:

"Aircraft Procurement, Navy, 2003/2005", $50,000,000; and

"Aircraft Procurement, Air Force, 2003/2005", $50,000,000:

Provided further, That this section shall become effective upon enactment of this Act.

TITLE IX

ADDITIONAL WAR-RELATED APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $915,700,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $27,700,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $241,700,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $64,900,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $13,550,000,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $367,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $1,665,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $419,000,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $404,000,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Iraq Freedom Fund", $3,800,000,000, to remain available for transfer until September 30, 2006, only to support operations in Iraq or Afghanistan and classified activities: Provided, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; the Defense Health Program; and working capital funds: Provided further, That of the amounts provided under this heading, $1,800,000,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: Provided further, That up to $100,000,000 shall be available for the Department of Homeland Security, "United States Coast Guard, Operating Expenses": Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $50,000,000, to remain available until September 30, 2007.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $110,000,000, to remain available until September 30, 2007.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $755,000,000, to remain available until September 30, 2007.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $79,000,000, to remain available until September 30, 2007.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $30,000,000, to remain available until September 30, 2007.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $150,000,000, to remain available until September 30, 2007.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $110,000,000, to remain available until September 30, 2007.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $50,000,000, to remain available until September 30, 2007.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $50,000,000, to remain available until September 30, 2007.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", $1,478,000,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $683,000,000 for Operation and maintenance.

GENERAL PROVISIONS, TITLE IX

SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2005, unless otherwise so provided in this title: Provided, That notwithstanding any other provision of law or of this Act, funds in this title are available for obligation, and authorities in this title shall apply, upon enactment of this Act.

SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

(TRANSFER OF FUNDS)

SEC. 9003. (a) Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $1,500,000,000 of the funds made available to the Department of Defense in this title: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

(b) Section 8005 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1071), is amended—

(1) by striking "$2,100,000,000" and inserting in lieu thereof "$2,800,000,000"; and

(2) by striking all after the third proviso and inserting the following: ": Provided further, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.".

(c) Section 168(a) of division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 456), is repealed upon enactment of this Act.

SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2004 and 2005 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 9006. Notwithstanding any other provision of law, from funds made available in this title to the Department of Defense for operation and maintenance, not to exceed $500,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to the New Iraqi Army and the Afghan National Army to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan: Provided, That such assistance may include the provision of equipment, supplies, services, training and funding: Provided further, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

SEC. 9007. From funds made available in this title to the Department of Defense, not to exceed $300,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding the source of funds and the allocation and use of funds made available pursuant to the authority provided in this section.

SEC. 9008. Section 202(b) of the Afghanistan Freedom Support Act of 2002 (Public Law 107–327, as amended by section 2206 of Public Law 108–106) is amended by striking "$450,000,000" and inserting in lieu thereof "$550,000,000".

SEC. 9009. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 9010. (a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

(b) Each report shall include the following information:

(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

(2) An assessment of the progress made toward preventing attacks on United States personnel.

(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12304 of title 10, United States Code.

(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12304 of title 10, United States Code, the following information:

(A) The unit.

(B) The projected date of return of the unit to its home station.

(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.

SEC. 9011. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

SEC. 9012. The President shall provide to the Congress a report detailing the estimated costs over the period from fiscal year 2006 to 2011 of Operation Iraqi Freedom and Operation Enduring Freedom, or any related military operations in and around Iraq and Afghanistan, and the estimated costs of reconstruction, internal security, and related economic support to Iraq and Afghanistan: Provided, That the President may waive the requirement to submit this report only if the President certifies in writing to the Congress that estimates of these future military and economic support costs cannot be provided for purposes of national security: Provided further, That the report referenced above shall be submitted no later than January 1, 2005.

SEC. 9013. None of the funds made available in this title may be used to fund any contract in contravention of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)).

SEC. 9014. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom.

SEC. 9015. Amounts appropriated or otherwise made available in this title are each designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of this Act.

TITLE X

OTHER MATTERS

CHAPTER 1

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs" for costs associated with United States Mission operations, technological support, logistical support, and necessary security costs in Iraq, $665,300,000, to remain available until expended.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance" for interim facilities for the United States Mission in Iraq, $20,000,000, to remain available until expended.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 11001. For the purposes of applying sections 204 and 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (division B of Public Law 108–199) to matters in title II of such Act under the heading "National Institute of Standards and Technology" (118 Stat. 69), in the account under the heading "Industrial Technology Services", the Secretary of Commerce shall make all determinations based on the Industrial Technology Services funding level of $218,782,000 for reprogramming and transferring of funds for the Manufacturing Extension Partnership program and may submit such a reprogramming or transfer, as the case may be, to the appropriate committees within 30 days after the date of the enactment of this Act.

SEC. 11002. In addition to amounts otherwise made available in this Act, $50,000,000, is made available upon enactment for "Office of Justice Programs—State and Local Law Enforcement Assistance" for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs for reimbursement to State and local law enforcement entities for security and related costs, including overtime, associated with the 2004 Presidential Candidate Nominating Conventions, to remain available until September 30, 2005: Provided, That from funds provided in this section the Office of Justice Programs shall make grants in the amount of $25,000,000 to the City of Boston, Massachusetts; and $25,000,000 to the City of New York, New York.

SEC. 11003. To ensure the continuity of Criminal Justice Act (CJA) representations by panel attorneys, $26,000,000 is appropriated to the Judiciary, "Courts of Appeals, District Courts, and Other Judicial Services, Defender Services", to remain available until expended: Provided, That the entire amount shall become available upon enactment of this Act: Provided further, That the amounts made available in this section shall only be used for CJA panel attorney representations.

SEC. 11004. Authorities contained in sections 402, 407, and 605 of division B of Public Law 108–199 shall also apply to amounts provided in this title for the Department of State.

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for "International Disaster and Famine Assistance", $70,000,000, to remain available until expended: Provided, That funds appropriated by this paragraph shall be available to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $25,000,000, to remain available until expended: Provided, That funds appropriated by this paragraph shall be available to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 12001. (a)(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President may transfer to Israel, in exchange for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) The items referred to in paragraph (1) are armor, artillery, automatic weapons ammunition, missiles, and other munitions that—

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for Israel; and

(D) as of the date of enactment of this Act, are located in a stockpile in Israel..

(b) The value of concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) Not later than 30 days before making a transfer under the authority of this section, the President shall transmit a notification of the proposed transfer to the Committees on Foreign Relations and Armed Services of the Senate and the Committees on International Relations and Armed Services of the House of Representatives. The notification shall identify the items to be transferred and the concessions to be received.

(d) No transfer may be made under the authority of this section more than 2 years after the date of the enactment of this Act.

SEC. 12002. Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended—

(1) in subparagraph (A), by striking "for fiscal year 2003" and inserting "for each of fiscal years 2004 and 2005"; and

(2) in subparagraph (B), by striking "for fiscal year 2003" and inserting "for a fiscal year".

CHAPTER 3

SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2004 FOR URGENT WILDLAND FIRE SUPPRESSION ACTIVITIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

For an additional amount for fiscal year 2004 for "Wildland Fire Management", $100,000,000, to remain available until expended, for urgent wildland fire suppression activities related to *the fiscal year 2004 fire season pursuant to section 312 of S. Con. Res. 95 (108th Congress): Provided, That such funds are also available for repayment of advances to other appropriations accounts from which funds are transferred for such purposes: Provided further, That cost containment measures shall be implemented within this account for fiscal year 2004, and the Secretary of the Interior shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on such cost containment measures by December 31, 2004.*

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

For an additional amount for fiscal year 2004 for "Wildland Fire Management", $400,000,000, to remain available until expended, for urgent wildland fire suppression activities related to the fiscal year 2004 fire season pursuant to section 312 of S. Con. Res. 95 (108th Congress): Provided, That such funds are also available for repayment of advances to other appropriations accounts from which funds are transferred for such purposes: Provided further, That the Secretary of Agriculture shall establish an independent cost-control review panel to examine and report on fire suppression costs for individual wildfire incidents that exceed $10,000,000 in cost: Provided further, That if the independent review panel report finds that appropriate actions were not taken to control suppression costs for one or more such wildfire incidents, then an amount equal to the aggregate estimated excess costs of suppressing those wildfire incidents shall be transferred to the Treasury from unobligated balances remaining at the end of fiscal year 2004 in the Wildland Fire Management account, if available.

CHAPTER 4

GENERAL PROVISIONS, THIS TITLE

SEC. 14001. Appropriations provided in this title are available for obligation until September 30, 2005, unless otherwise so provided in this title.

SEC. 14002. Funds in this title are available for obligation and authorities in this title shall apply upon enactment of this Act.

SEC. 14003. (a) Public Law 108–199 is amended in division F, title I, section 110(g) by striking "Of the" and inserting "Prior to distributing"; striking "each" every time it appears and inserting "the"; striking "project" every time it appears and inserting "projects".

(b) The limitation under the heading "Federal-aid Highways (Limitation on Obligations) (Highway Trust Fund)" in Public Law 108–199 is increased by such sums as may be necessary to ensure that each State receives an amount of obligation authority equal to what each State would have received under division F, title I, section 110(a)(6) of Public Law 108–199 but for the amendment made to division F, title I, section 110(g) of Public Law 108–199 by subsection (a) of this section: Provided, That such additional authority shall remain available during fiscal years 2004 and 2005: Provided further, That for each State receiving an amount of obligation authority greater than what each State would have received under division F, title I, section 110(a)(6) of Public Law 108–199 but for the amendment made to division F, title I, section 110(g) of Public Law 108–199 by subsection (a) of this section, such additional obligation authority shall remain available during fiscal years 2004 and 2005.

SEC. 14004. (a) RESCISSION.—Upon enactment of this Act, there is rescinded an amount equal to $795,280 from the amount appropriated to carry out part B of title VII of the Higher Education Act of 1965, in title III of division E of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 3). This amount shall reduce the funds available for the projects specified in the statement of the managers on the Conference Report 108–401 accompanying the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 3).

(b) DISREGARD AMOUNT.—In the statement of the managers on the Conference Report 108–401 accompanying the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 3), in the matter in title III of division E, relating to the Fund for the Improvement of Postsecondary Education under the heading "Higher Education", the provision specifying $800,000 for Wahpeton State School of Science and North Dakota State University to recruit, retain and train pharmacy technicians shall be disregarded.

(c) APPROPRIATION.—There is appropriated an amount equal to $795,280 to the Department of Labor, Employment and Training Administration for "Training and Employment Services", available for obligation for the period from July 1, 2004, through June 30, 2005, of which—

(1) $200,000 shall be made available to the North Dakota State School of Science to recruit, retain, and train pharmacy technicians;

(2) $297,640 shall be made available to Bismarck State College for training and education related to its electric power plant technologies curriculum; and

(3) $297,640 shall be made available for Minot State University for the Job Corps Fellowship Training Program.

(d) The matter under the heading "Institute of Museum and Library Services" in title IV of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004, (Public Law 108–199, division E) is amended by striking "Michigan Space and Science Center, Jackson, Michigan, for development of the strategic plan, operational costs and personnel" and inserting "Jackson Intermediate School District, Jackson, Michigan, for equipment and materials for the Math and Science Resource Library".

SEC. 14005. Of the unobligated amounts available for the District of Columbia Public Schools under this heading, $10,600,000 are rescinded immediately upon enactment of this Act. For a Federal payment to the District of Columbia under this heading, $10,600,000, available immediately upon enactment of this Act, to improve public school education in the District of Columbia, to remain available until September 30, 2005.

SEC. 14006. The numerical limitation contained in section 214(g)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(B)) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) who is employed (or has received an offer of employment) as a fish roe processor, a fish roe technician, or a supervisor of fish roe processing.

SEC. 14007. 2005 DISCRETIONARY LIMITS. (a) IN GENERAL.—For the purposes of section 302(a) of the Congressional Budget Act of 1974, the allocation of the appropriate levels of budget totals for the Senate Committee on Appropriations for fiscal year 2005 shall be—

(1) for total discretionary spending—

(A) $821,419,000,000 in total new budget authority; and

(B) $905,328,000,000 in total budget outlays; and

(2) for mandatory—

(A) $460,008,000,000 in total new budget authority; and

(B) $445,525,000,000 in total budget outlays;

until a concurrent resolution on the budget for fiscal year 2005 is agreed to by the Senate and the House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

(b) ADJUSTMENTS AND LIMITS.—The following limits and adjustments provided in S. Con. Res. 95 (108th Congress) shall apply to subsection (a):

(1) Sections 311 and 403 for fiscal year 2005.

(2) Sections 312 and 402 which shall apply to both fiscal years 2004 and 2005.

(c) DEFINITION.—In this section, the term "total discretionary spending" includes the discretionary category, the mass transit category, and the highway category

(d) REPEAL.—Section 504 of H. Con. Res. 95 (108th Congress) is repealed.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

SEC. 14008. Amounts appropriated or otherwise made available in chapters 1 and 2 of this title are each designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of this Act.

This Act may be cited as the "Department of Defense Appropriations Act, 2005".

And the Senate agree to the same.

JERRY LEWIS,
BILL YOUNG,
DAVID L. HOBSON,
HENRY BONILLA,
GEORGE R. NETHERCUTT, Jr.,
RANDY "DUKE" CUNNINGHAM,
RODNEY P. FRELINGHUYSEN,
TODD TIAHRT,
ROGER F. WICKER,
JOHN P. MURTHA,
NORMAN D. DICKS,
MARTIN OLAV SABO,
PETER J. VISCLOSKY,
JAMES P. MORAN,
DAVID R. OBEY,
Managers on the Part of the House.

TED STEVENS,
THAD COCHRAN,
ARLEN SPECTER,
PETE DOMENICI,
KIT BOND,
MITCH MCCONNELL,
RICHARD C. SHELBY,
JUDD GREGG,
KAY BAILEY HUTCHISON,
CONRAD BURNS,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS, *(except for deeming section),*
ROBERT C. BYRD, *(except for the section deeming FY 2005 discretionary limits),*
PATRICK J. LEAHY, *(except for deeming section),*
TOM HARKIN, *(except for deeming section),*
BYRON L. DORGAN, *(except for deeming section),*
RICHARD J. DURBIN, *(except for the deeming FY 2005 discretionary limits),*
HARRY REID, *(except for deeming section),*
DIANNE FEINSTEIN, *(except for deeming section),*
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4613), making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Department of Defense Appropriations Act, 2005, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 108–553 and Senate Report 108–284 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

The conferees agree that for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 2005, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes and reports, and the P–1 and R–1 budget justification documents as subsequently modified by Congressional action. The following exception to the above definition shall apply: for the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

At the time the President submits his budget for fiscal year 2006, the conferees direct the Department of Defense to transmit to the congressional defense committees budget justification documents to be known as the "M–1" and "O–1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel and operation and maintenance in any budget request, or amended budget request, for fiscal year 2006.

REPROGRAMMING, WITHHOLDING, AND "TAXING" APPROPRIATED FUNDS

The conferees agree to continue the existing below-threshold reprogramming guidelines which are as follows: $20 million for procurement accounts and $10 million for research, development, test and evaluation (RDT&E) accounts. The conferees further agree that these thresholds are to be applied to the specific dollar threshold or 20 percent of each P–1 or R–1 line, whichever is the lesser level. Furthermore, the dollar or 20 percent threshold is to be considered in a cumulative fashion. Therefore if the combined values of transfers into or out of a procurement (P–1) or research and development (R–1) line exceed the identified threshold, the Department of Defense must submit a prior approval reprogramming request.

The conferees agree with the Senate position that the Department of Defense is to abide by legal requirements for congressional notification of new starts. Section 8106 of this conference agreement establishes a requirement for written notification for initiating a new start program. The conferees agree with both the Senate and the House position on the inappropriate nature of "taxing" an appropriation to generate funds to support a new start project not previously disclosed to Congress. This practice violates these requirements and is therefore prohibited.

The conferees agree to a prohibition on the practice of setting aside funds—the taxing of appropriations made for particular programs—to fund shortfalls in other programs, or initiate new programs. This includes the practice of "taxing" funds appropriated for congressional interest items to pay for laboratory overhead or management costs. The conferees direct that funds shall not be included in a budget request for any program, project and activity to accommodate the application of non-statutory withholds and taxes, or to reimburse other programs as "repayment" for funds transferred to a program in a previous year. Statutory withholds such as Small Business Innovative Research, shall be applied uniformly to each program element, project and activity within an account.

The conferees direct the Secretary of Defense to provide data by January 31, 2005 on the adequacy and use of the Department's current reprogramming and withholding practices. Furthermore, the conferees direct the Department to work with the congressional defense committees on a method of providing timely and accurate data on reprogramming activity (above threshold and below threshold), and the application of statutory and administrative withholds. The conferees further direct that reprogramming data should be available on at least a monthly basis, potentially in conjunction with DoD 1002 reports and that the Department should transmit the data electronically, if feasible, to the congressional defense committees.

NEW START PROGRAMS

The conferees agree to amend Section 8106 to ensure that written notification is provided prior to initiation of new start programs. The conferees direct that such notification be provided to the congressional defense committees no less than 30 calendar days prior to obligation of funds for the new start program.

BUSINESS MANAGEMENT MODERNIZATION PROGRAM

The conferees are concerned about the pace of the reforms for improving financial management at the Department of Defense. Although the Department announced its intention to achieve a fully functional accounting system by fiscal year 2007, a significant amount of funding provided in prior years for the Business Management Modernization Program (BMMP) remains unexpended. Furthermore, the Department has not developed an execution plan for $30,248,000 requested for procurement for the BMMP. The conferees note that these and other problems are examined in the GAO report dated May 17, 2004, entitled "DOD Business Systems Modernization: Limited Progress in Development of Business Enterprise Architecture and Oversight of Information Technology Investments." Although the conferees have reduced the budget request for the BMMP by $97,248,000 for unjustified program growth and low obligations and expenditures, the conferees are committed to financial management reform, and urge the Department to redouble its efforts in this area.

CLASSIFIED ANNEX

Adjustments to classified programs are addressed in the classified annex accompanying this report.

TITLE I--MILITARY PERSONNEL

The conference agreement on items addressed by either the House or the Senate is as follows:

		(In thousands of dollars) Budget	House	Senate	Conference
30800	RECAPITULATION				
30850	MILITARY PERSONNEL, ARMY	29,723,472	29,507,672	29,457,797	29,381,422
30900	MILITARY PERSONNEL, NAVY	24,459,957	24,416,157	24,330,171	24,347,807
30950	MILITARY PERSONNEL, MARINE CORPS	9,595,902	9,591,102	9,567,768	9,581,102
31000	MILITARY PERSONNEL, AIR FORCE	24,510,811	24,291,411	24,165,011	24,155,911
31050	RESERVE PERSONNEL, ARMY	3,733,590	3,719,990	3,675,390	3,663,890
31100	RESERVE PERSONNEL, NAVY	2,171,632	2,108,232	2,132,432	2,084,032
31150	RESERVE PERSONNEL, MARINE CORPS	654,973	653,073	624,973	623,073
31200	RESERVE PERSONNEL, AIR FORCE	1,464,050	1,451,950	1,458,650	1,451,950
31250	NATIONAL GUARD PERSONNEL, ARMY	5,950,729	5,915,229	5,913,329	5,901,729
31300	NATIONAL GUARD PERSONNEL, AIR FORCE	2,546,442	2,536,742	2,543,892	2,540,242
31350	GRAND TOTAL, MILITARY PERSONNEL	104,811,558	104,191,558	103,869,413	103,731,158

FORCE STRUCTURE CHANGES

The conferees recommend a total of $98,100,000 in the military personnel, operation and maintenance, and procurement accounts for force structure that was not included in the budget request, as follows:

[In thousands of dollars]

	MILPERS	O&M	Proc.	Total
Air Force B–52 aircraft	$2,600	$25,000	$20,300	$47,900
National Guard Full-Time Support:				
ARNG Civil Support Teams AGRs	12,600	14,000	18,200	44,800
ANG Civil Support Teams AGRs	2,100	....	....	2,100
Ground-Based Midcourse Missile Defense AGRs	3,300	....	....	3,300

ACTIVE END STRENGTH

[Fiscal year 2005]

	Budget	Conference	Conference vs. budget
Army	482,400	482,400	....
Navy	365,900	365,900	....
Marine Corps	175,000	175,000	....
Air Force	359,700	359,700	....
Total, Active Personnel	1,383,000	1,383,000	....

MILITARY PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
50 MILITARY PERSONNEL, ARMY				
100 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
150 BASIC PAY	4,587,538	4,587,538	4,587,538	4,587,538
200 RETIRED PAY ACCRUAL	1,261,573	1,261,573	1,261,573	1,261,573
250 DEFENSE HEALTH PROGRAM ACCRUAL	426,390	426,390	426,390	426,390
300 BASIC ALLOWANCE FOR HOUSING	1,019,189	1,019,189	1,019,189	1,019,189
350 BASIC ALLOWANCE FOR SUBSISTENCE	173,278	173,278	173,278	173,278
400 INCENTIVE PAYS	99,608	99,608	99,608	99,608
450 SPECIAL PAYS	211,637	211,637	211,637	211,637
500 ALLOWANCES	78,958	78,958	78,958	78,958
550 SEPARATION PAY	73,427	73,427	73,427	73,427
600 SOCIAL SECURITY TAX	344,712	344,712	344,712	344,712
700 TOTAL, BUDGET ACTIVITY 1	8,276,310	8,276,310	8,276,310	8,276,310
750 ACTIVITY 2: PAY AND ALLOW OF ENLISTED PERS				
800 BASIC PAY	9,914,330	9,914,330	9,914,330	9,914,330
850 RETIRED PAY ACCRUAL	2,726,441	2,726,441	2,726,441	2,726,441
900 DEFENSE HEALTH PROGRAM ACCRUAL	2,175,161	2,175,161	2,175,161	2,175,161
950 BASIC ALLOWANCE FOR HOUSING	2,322,693	2,322,693	2,322,693	2,322,693
1000 INCENTIVE PAYS	72,293	72,293	72,293	72,293
1050 SPECIAL PAYS	452,955	446,655	452,955	446,655
1100 ALLOWANCES	474,907	474,907	474,907	474,907
1150 SEPARATION PAY	287,296	287,296	287,296	287,296
1250 SOCIAL SECURITY TAX	753,051	753,051	753,051	753,051
1350 TOTAL, BUDGET ACTIVITY 2	19,179,127	19,172,827	19,179,127	19,172,827

	(In thousands of dollars) Budget	House	Senate	Conference
1400 ACTIVITY 3: PAY AND ALLOW OF CADETS				
1450 ACADEMY CADETS	50,969	50,969	50,969	50,969
1500 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERS				
1550 BASIC ALLOWANCE FOR SUBSISTENCE	805,410	805,410	805,410	805,410
1600 SUBSISTENCE-IN-KIND	520,687	520,687	520,687	520,687
1650 FAMILY SUBSISTENCE SUPPLEMENTAL ALLOWANCE	1,537	1,537	1,537	1,537
1750 TOTAL, BUDGET ACTIVITY 4	1,327,634	1,327,634	1,327,634	1,327,634
1800 ACTIVITY 5: PERMANENT CHANGE OF STATION				
1850 ACCESSION TRAVEL	195,971	195,971	195,971	195,971
1900 TRAINING TRAVEL	53,235	53,235	53,235	53,235
1950 OPERATIONAL TRAVEL	177,814	177,814	177,814	177,814
2000 ROTATIONAL TRAVEL	438,795	438,795	438,795	438,795
2050 SEPARATION TRAVEL	154,083	154,083	154,083	154,083
2100 TRAVEL OF ORGANIZED UNITS	3,492	3,492	3,492	3,492
2150 NON-TEMPORARY STORAGE	31,387	31,387	31,387	31,387
2200 TEMPORARY LODGING EXPENSE	20,456	20,456	20,456	20,456
2300 TOTAL, BUDGET ACTIVITY 5	1,075,233	1,075,233	1,075,233	1,075,233
2350 ACTIVITY 6: OTHER MILITARY PERS COSTS				
2400 APPREHENSION OF MILITARY DESERTERS	615	615	615	615
2450 INTEREST ON UNIFORMED SERVICES SAVINGS	202	202	202	202
2500 DEATH GRATUITIES	6,768	6,768	6,768	6,768
2550 UNEMPLOYMENT BENEFITS	78,595	78,595	78,595	78,595
2600 SURVIVOR BENEFITS	4,098	4,098	4,098	4,098
2650 EDUCATION BENEFITS	4,268	4,268	4,268	4,268
2700 ADOPTION EXPENSES	248	248	248	248
2800 TRANSPORTATION SUBSIDY	4,365	4,365	4,365	4,365
2850 PARTIAL DISLOCATION ALLOWANCE	2,500	2,500	2,500	2,500
2950 TOTAL, BUDGET ACTIVITY 6	101,659	101,659	101,659	101,659
3000 LESS REIMBURSABLES	-287,460	-287,460	-287,460	-287,460
3200 UNOBLIGATED BALANCES	---	-209,500	-178,000	-247,750
3270 NATO MISSION SUPPORT COSTS	---	---	-87,675	-88,000
6300 TOTAL, MILITARY PERSONNEL, ARMY	29,723,472	29,507,672	29,457,797	29,381,422

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Pay and Allowances of Enlisted Personnel:		
1050	Special Pays/Selective Reenlistment Bonuses	-6,300
Undistributed:		
3200	Unobligated Balances	-247,750
3270	NATO Mission Support Costs	-88,000

MILITARY PERSONNEL, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
6350 MILITARY PERSONNEL, NAVY				
6400 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
6450 BASIC PAY	3,160,423	3,160,423	3,160,423	3,160,423
6500 RETIRED PAY ACCRUAL	869,116	869,116	869,116	869,116
6550 DEFENSE HEALTH PROGRAM ACCRUAL	289,527	289,527	289,527	289,527
6600 BASIC ALLOWANCE FOR HOUSING	915,574	915,574	915,574	915,574
6650 BASIC ALLOWANCE FOR SUBSISTENCE	116,645	116,645	116,645	116,645
6700 INCENTIVE PAYS	205,214	205,214	205,214	205,214
6750 SPECIAL PAYS	267,224	267,224	267,224	267,224
6800 ALLOWANCES	77,403	77,403	77,403	77,403
6850 SEPARATION PAY	26,518	26,518	26,518	26,518
6900 SOCIAL SECURITY TAX	240,344	240,344	240,344	240,344
7000 TOTAL, BUDGET ACTIVITY 1	6,167,988	6,167,988	6,167,988	6,167,988
7050 ACTIVITY 2: PAY AND ALLOW OF ENLISTED PERS				
7100 BASIC PAY	8,016,715	8,016,715	8,016,715	8,016,715
7150 RETIRED PAY ACCRUAL	2,204,596	2,204,596	2,204,596	2,204,596
7200 DEFENSE HEALTH PROGRAM ACCRUAL	1,686,914	1,686,914	1,686,914	1,686,914
7250 BASIC ALLOWANCE FOR HOUSING	2,555,677	2,555,677	2,555,677	2,555,677
7300 INCENTIVE PAYS	110,276	110,276	110,276	110,276
7350 SPECIAL PAYS	870,069	860,269	858,069	858,069
7400 ALLOWANCES	448,187	448,187	448,187	448,187
7450 SEPARATION PAY	165,017	165,017	165,017	165,017
7550 SOCIAL SECURITY TAX	608,278	608,278	608,278	608,278
7650 TOTAL, BUDGET ACTIVITY 2	16,665,729	16,655,929	16,653,729	16,653,729

	(In thousands of dollars)			
	Budget	House	Senate	Conference
7700 ACTIVITY 3: PAY AND ALLOW OF MIDSHIPMEN				
7750 MIDSHIPMEN	52,840	52,840	52,840	52,840
7800 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERS				
7850 BASIC ALLOWANCE FOR SUBSISTENCE	613,780	613,780	613,780	613,780
7900 SUBSISTENCE-IN-KIND	394,575	394,575	394,575	394,575
7950 FAMILY SUBSISTENCE SUPPLEMENTAL ALLOWANCE	500	500	500	500
8050 TOTAL, BUDGET ACTIVITY 4	1,008,855	1,008,855	1,008,855	1,008,855
8100 ACTIVITY 5: PERMANENT CHANGE OF STATION				
8150 ACCESSION TRAVEL	53,895	53,895	53,895	53,895
8200 TRAINING TRAVEL	77,715	77,715	77,715	77,715
8250 OPERATIONAL TRAVEL	212,056	212,056	212,056	212,056
8300 ROTATIONAL TRAVEL	330,555	330,555	330,555	330,555
8350 SEPARATION TRAVEL	96,996	96,996	96,996	96,996
8400 TRAVEL OF ORGANIZED UNITS	29,934	29,934	29,934	29,934
8450 NON-TEMPORARY STORAGE	12,151	12,151	12,151	12,151
8500 TEMPORARY LODGING EXPENSE	14,126	14,126	14,126	14,126
8550 OTHER	7,622	7,622	7,622	7,622
8560 PERMANENT CHANGE OF STATION REDUCTION	---	---	-86,636	-60,000
8650 TOTAL, BUDGET ACTIVITY 5	835,050	835,050	748,414	775,050
8700 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
8750 APPREHENSION OF MILITARY DESERTERS	825	825	825	825
8800 INTEREST ON UNIFORMED SERVICES SAVINGS	209	209	209	209
8850 DEATH GRATUITIES	3,036	3,036	3,036	3,036
8900 UNEMPLOYMENT BENEFITS	59,943	59,943	59,943	59,943
8950 SURVIVOR BENEFITS	1,721	1,721	1,721	1,721
9000 EDUCATION BENEFITS	1,370	1,370	1,370	1,370
9050 ADOPTION EXPENSES	246	246	246	246
9150 TRANSPORTATION SUBSIDY	3,951	3,951	3,951	3,951
9200 OTHER	2,200	2,200	2,200	2,200
9300 TOTAL, BUDGET ACTIVITY 6	73,501	73,501	73,501	73,501
9350 LESS REIMBURSABLES	-344,006	-344,006	-344,006	-344,006
9550 UNOBLIGATED BALANCES	---	-34,000	-25,000	-34,000
9625 NATO MISSION SUPPORT COSTS	---	---	-6,150	-6,150
11350 TOTAL, MILITARY PERSONNEL, NAVY	24,459,957	24,416,157	24,330,171	24,347,807

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Pay and Allowances of Enlisted Personnel:	
7350 Special Pays/Selective Reenlistment Bonuses	-12,000
Budget Activity 5: Permanent Change of Station:	
8560 Permanent Change of Station Reduction	-60,000
Undistributed:	
9550 Unobligated Balances	-34,000
9625 NATO Mission Support Costs	-6,150

MILITARY PERSONNEL, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
11400 MILITARY PERSONNEL, MARINE CORPS				
11450 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
11500 BASIC PAY	1,079,187	1,079,187	1,079,187	1,079,187
11550 RETIRED PAY ACCRUAL	296,778	296,778	296,778	296,778
11600 DEFENSE HEALTH PROGRAM ACCRUAL	100,083	100,083	100,083	100,083
11650 BASIC ALLOWANCE FOR HOUSING	266,245	266,245	266,245	266,245
11700 BASIC ALLOWANCE FOR SUBSISTENCE	39,474	39,474	39,474	39,474
11750 INCENTIVE PAYS	47,368	47,368	47,368	47,368
11800 SPECIAL PAYS	3,680	3,680	3,680	3,680
11850 ALLOWANCES	22,819	22,819	22,819	22,819
11900 SEPARATION PAY	9,351	9,351	9,351	9,351
11950 SOCIAL SECURITY TAX	82,558	82,558	82,558	82,558
12050 TOTAL, BUDGET ACTIVITY 1	1,947,543	1,947,543	1,947,543	1,947,543
12100 ACTIVITY 2: PAY AND ALLOW OF ENLISTED PERS				
12150 BASIC PAY	3,549,705	3,549,705	3,549,705	3,549,705
12200 RETIRED PAY ACCRUAL	973,916	973,916	973,916	973,916
12250 DEFENSE HEALTH PROGRAM ACCRUAL	835,058	835,058	835,058	835,058
12300 BASIC ALLOWANCE FOR HOUSING	787,328	787,328	787,328	787,328
12350 INCENTIVE PAYS	8,360	8,360	8,360	8,360
12400 SPECIAL PAYS	117,855	113,055	117,855	113,055
12450 ALLOWANCES	172,769	172,769	172,769	172,769
12500 SEPARATION PAY	66,804	66,804	66,804	66,804
12600 SOCIAL SECURITY TAX	271,710	271,710	271,710	271,710
12700 TOTAL, BUDGET ACTIVITY 2	6,783,505	6,778,705	6,783,505	6,778,705

(In thousands of dollars)

	Budget	House	Senate	Conference
12750 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
12800 BASIC ALLOWANCE FOR SUBSISTENCE	281,739	281,739	281,739	281,739
12850 SUBSISTENCE-IN-KIND	222,529	222,529	222,529	222,529
12900 FAMILY SUBSISTENCE SUPPLEMENTAL ALLOWANCE	750	750	750	750
13000 TOTAL, BUDGET ACTIVITY 4	505,018	505,018	505,018	505,018
13050 ACTIVITY 5: PERMANENT CHANGE OF STATION				
13100 ACCESSION TRAVEL	39,988	39,988	39,988	39,988
13150 TRAINING TRAVEL	9,614	9,614	9,614	9,614
13200 OPERATIONAL TRAVEL	95,439	95,439	95,439	95,439
13250 ROTATIONAL TRAVEL	126,018	126,018	126,018	126,018
13300 SEPARATION TRAVEL	44,523	44,523	44,523	44,523
13350 TRAVEL OF ORGANIZED UNITS	1,593	1,593	1,593	1,593
13400 NON-TEMPORARY STORAGE	5,403	5,403	5,403	5,403
13450 TEMPORARY LODGING EXPENSE	12,723	12,723	12,723	12,723
13500 OTHER	2,557	2,557	2,557	2,557
13510 PERMANENT CHANGE OF STATION REDUCTION	---	---	-28,134	-10,000
13600 TOTAL, BUDGET ACTIVITY 5	337,858	337,858	309,724	327,858
13650 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
13700 APPREHENSION OF MILITARY DESERTERS	1,606	1,606	1,606	1,606
13750 INTEREST ON UNIFORMED SERVICES SAVINGS	16	16	16	16
13800 DEATH GRATUITIES	984	984	984	984
13850 UNEMPLOYMENT BENEFITS	44,216	44,216	44,216	44,216
13900 SURVIVOR BENEFITS	1,489	1,489	1,489	1,489
13950 EDUCATION BENEFITS	2,797	2,797	2,797	2,797
14000 ADOPTION EXPENSES	82	82	82	82
14100 TRANSPORTATION SUBSIDY	1,047	1,047	1,047	1,047
14150 OTHER	655	655	655	655
14250 TOTAL, BUDGET ACTIVITY 6	52,892	52,892	52,892	52,892
14300 LESS REIMBURSABLES	-30,914	-30,914	-30,914	-30,914
16250 TOTAL, MILITARY PERSONNEL, MARINE CORPS	9,595,902	9,591,102	9,567,768	9,581,102

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Pay and Allowances of Enlisted Personnel:	
12400 Special Pays/Selective Reenlistment Bonuses	-4,800
Budget Activity 5: Permanent Change of Station:	
13510 Permanent Change of Station Reduction	-10,000

MILITARY PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

		(In thousands of dollars)			
		Budget	House	Senate	Conference
16300	MILITARY PERSONNEL, AIR FORCE				
16350	ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
16400	BASIC PAY	4,205,163	4,205,163	4,205,163	4,205,163
16450	RETIRED PAY ACCRUAL	1,156,421	1,156,421	1,156,421	1,156,421
16500	DEFENSE HEALTH PROGRAM ACCRUAL	374,546	374,546	374,546	374,546
16550	BASIC ALLOWANCE FOR HOUSING	976,064	976,064	976,064	976,064
16600	BASIC ALLOWANCE FOR SUBSISTENCE	153,282	153,282	153,282	153,282
16650	INCENTIVE PAYS	333,678	333,678	333,678	333,678
16700	SPECIAL PAYS	223,726	223,726	223,726	223,726
16750	ALLOWANCES	76,783	76,783	76,783	76,783
16800	SEPARATION PAY	96,728	96,728	96,728	96,728
16850	SOCIAL SECURITY TAX	319,659	319,659	319,659	319,659
16950	TOTAL, BUDGET ACTIVITY 1	7,916,050	7,916,050	7,916,050	7,916,050
17000	ACTIVITY 2: PAY AND ALLOW OF ENLISTED PERS				
17050	BASIC PAY	7,685,649	7,685,649	7,685,649	7,685,649
17100	RETIRED PAY ACCRUAL	2,113,554	2,113,554	2,113,554	2,113,554
17150	DEFENSE HEALTH PROGRAM ACCRUAL	1,554,279	1,554,279	1,554,279	1,554,279
17200	BASIC ALLOWANCE FOR HOUSING	2,034,706	2,034,706	2,034,706	2,034,706
17250	INCENTIVE PAYS	34,889	34,889	34,889	34,889
17300	SPECIAL PAYS	403,043	355,043	321,043	313,043
17350	ALLOWANCES	452,134	452,134	452,134	452,134
17450	SEPARATION PAY	109,767	109,767	109,767	109,767
17500	SOCIAL SECURITY TAX	587,952	587,952	587,952	587,952
17600	TOTAL, BUDGET ACTIVITY 2	14,975,973	14,927,973	14,893,973	14,885,973

(In thousands of dollars)

	Budget	House	Senate	Conference
17650 ACTIVITY 3: PAY AND ALLOWANCES OF CADETS				
17700 ACADEMY CADETS	51,398	51,398	51,398	51,398
17750 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERS				
17800 BASIC ALLOWANCE FOR SUBSISTENCE	717,436	717,436	717,436	717,436
17850 SUBSISTENCE-IN-KIND	173,774	173,774	173,774	173,774
17900 FAMILY SUBSISTENCE SUPPLEMENTAL ALLOWANCE	1,254	1,254	1,254	1,254
18000 TOTAL, BUDGET ACTIVITY 4	892,464	892,464	892,464	892,464
18050 ACTIVITY 5: PERMANENT CHANGE OF STATION				
18100 ACCESSION TRAVEL	88,253	88,253	88,253	88,253
18150 TRAINING TRAVEL	85,083	85,083	85,083	85,083
18200 OPERATIONAL TRAVEL	156,508	156,508	156,508	156,508
18250 ROTATIONAL TRAVEL	428,284	428,284	428,284	428,284
18300 SEPARATION TRAVEL	161,308	161,308	161,308	161,308
18350 TRAVEL OF ORGANIZED UNITS	7,761	7,761	7,761	7,761
18400 NON-TEMPORARY STORAGE	28,009	28,009	28,009	28,009
18450 TEMPORARY LODGING EXPENSE	34,306	34,306	34,306	34,306
18550 TOTAL, BUDGET ACTIVITY 5	989,512	989,512	989,512	989,512
18600 ACTIVITY 6: OTHER MILITARY PERS COSTS				
18650 APPREHENSION OF MILITARY DESERTERS	100	100	100	100
18700 INTEREST ON UNIFORMED SERVICES SAVINGS	595	595	595	595
18750 DEATH GRATUITIES	2,964	2,964	2,964	2,964
18800 UNEMPLOYMENT BENEFITS	29,044	29,044	29,044	29,044
18850 SURVIVOR BENEFITS	4,009	4,009	4,009	4,009
18900 EDUCATION BENEFITS	4,141	4,141	4,141	4,141
18950 ADOPTION EXPENSES	800	800	800	800
19050 TRANSPORTATION SUBSIDY	9,481	9,481	9,481	9,481
19100 OTHER	15,812	15,812	15,812	15,812
19200 TOTAL, BUDGET ACTIVITY 6	66,946	66,946	66,946	66,946
19250 LESS REIMBURSABLES	-381,532	-381,532	-381,532	-381,532
19620 UNOBLIGATED BALANCES	---	-171,400	-172,000	-172,000
19625 B-52 ATTRITION RESERVE	---	---	3,700	2,600
19640 REDUCED ACCESSIONS	---	---	-95,500	-95,500
22550 TOTAL, MILITARY PERSONNEL, AIR FORCE	24,510,811	24,291,411	24,165,011	24,155,911

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Pay and Allowances of Enlisted Personnel:		
17300	Special Pays/Selective Reenlistment Bonuses	-90,000
Undistributed:		
19620	Unobligated Balances	-172,000
19625	B-52 Attrition Reserve	2,600
19640	Reduced Accessions	-95,500

NATIONAL GUARD AND RESERVE FORCES

The conferees agree to provide $16,264,916,000 in Reserve personnel appropriations, $14,573,676,000 in Reserve operation and maintenance appropriations, and $350,000,000 in the National Guard and Reserve Equipment appropriation. These funds support a Selected Reserve end strength of 860,900 as shown below.

Selected Reserve End Strength
(Fiscal Year 2005)

	Budget	Conference	Conference vs. Budget
Selected Reserve:			
Army Reserve..............	205,000	205,000	---
Navy Reserve	83,400	83,400	---
Marine Corps Reserve.....	39,600	39,600	---
Air Force Reserve	76,100	76,100	---
Army National Guard......	350,000	350,000	---
Air National Guard.........	106,800	106,800	---
Total	860,900	860,900	---
AGR/TARS:			
Army Reserve	14,970	14,970	---
Navy Reserve	14,152	14,152	---
Marine Corps Reserve......	2,261	2,261	---
Air Force Reserve	1,900	1,900	---
Army National Guard......	26,476	26,602	+126
Air National Guard.........	12,225	12,253	+28
Total	71,984	72,138	+154
Technicians:			
Army Reserve	8,094	8,094	---
Air Force Reserve	10,044	10,044	---
Army National Guard	26,676	26,676	---
Air National Guard	23,306	23,306	---
Total	68,120	68,120	---

RESERVE PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
22600 RESERVE PERSONNEL, ARMY				
22650 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
22700 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	931,352	931,352	931,352	931,352
22750 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY).........	43,414	43,414	43,414	43,414
22800 PAY GROUP F TRAINING (RECRUITS)......................	175,891	175,891	175,891	175,891
22850 PAY GROUP P TRAINING (PIPELINE RECRUITS).............	7,010	7,010	7,010	7,010
22900 DEFENSE HEALTH PROGRAM ACCRUAL........................	595,142	595,142	595,142	595,142
23050 TOTAL, BUDGET ACTIVITY 1............................	1,752,809	1,752,809	1,752,809	1,752,809
23100 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
23150 MOBILIZATION TRAINING................................	17,559	17,559	17,559	17,559
23200 SCHOOL TRAINING......................................	132,965	132,965	132,965	132,965
23250 SPECIAL TRAINING.....................................	166,698	166,698	166,698	166,698
23300 ADMINISTRATION AND SUPPORT...........................	1,358,184	1,358,184	1,358,184	1,358,184
23350 EDUCATION BENEFITS...................................	40,751	40,751	40,751	40,751
23400 ROTC - SENIOR, JUNIOR................................	121,549	121,549	121,549	121,549
23450 HEALTH PROFESSION SCHOLARSHIP	40,769	40,769	40,769	40,769
23500 DEFENSE HEALTH PROGRAM ACCRUAL.......................	77,971	77,971	77,971	77,971
23550 OTHER PROGRAMS	24,335	24,335	24,335	24,335
23650 TOTAL, BUDGET ACTIVITY 2............................	1,980,781	1,980,781	1,980,781	1,980,781
23900 UNOBLIGATED BALANCES.................................	---	-11,500	---	-11,500
23950 RESERVES COST AVOIDANCE..............................	---	-2,100	-58,200	-58,200
24000 TOTAL RESERVE PERSONNEL, ARMY......................	3,733,590	3,719,990	3,675,390	3,663,890

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Undistributed:

23900	Unobligated Balances	-11,500
23950	Reserves Cost Avoidance	-58,200

RESERVE PERSONNEL, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
24050 RESERVE PERSONNEL, NAVY				
24100 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
24150 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	716,763	716,763	716,763	716,763
24200 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY)	4,670	4,670	4,670	4,670
24250 PAY GROUP F TRAINING (RECRUITS)	2,555	2,555	2,555	2,555
24300 DEFENSE HEALTH PROGRAM ACCRUAL	221,457	221,457	221,457	221,457
24450 TOTAL, BUDGET ACTIVITY 1	945,445	945,445	945,445	945,445
24500 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
24550 MOBILIZATION TRAINING	6,789	6,789	6,789	6,789
24600 SCHOOL TRAINING	23,182	23,182	23,182	23,182
24650 SPECIAL TRAINING	63,527	63,527	65,527	65,527
24700 ADMINISTRATION AND SUPPORT	982,747	982,747	982,747	982,747
24750 EDUCATION BENEFITS	873	873	873	873
24800 ROTC - SENIOR, JUNIOR	37,712	37,712	37,712	37,712
24850 HEALTH PROFESSION SCHOLARSHIP	34,405	34,405	34,405	34,405
24900 DEFENSE HEALTH PROGRAM ACCRUAL	76,952	76,952	76,952	76,952
25050 TOTAL, BUDGET ACTIVITY 2	1,226,187	1,226,187	1,228,187	1,228,187
25300 UNOBLIGATED BALANCES	---	-48,400	---	-48,400
25370 RESERVES COST AVOIDANCE	---	-15,000	-41,200	-41,200
25450 TOTAL, RESERVE PERSONNEL, NAVY	2,171,632	2,108,232	2,132,432	2,084,032

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Other Training and Support:		
24650	Special Training/Gulf Coast Littoral Surveillance System	2,000
Undistributed:		
25300	Unobligated Balances	-48,400
25370	Reserves Cost Avoidance	-41,200

RESERVE PERSONNEL, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
25500 RESERVE PERSONNEL, MARINE CORPS				
25550 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
25600 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	185,661	185,661	185,661	185,661
25650 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY).........	21,184	21,184	21,184	21,184
25700 PAY GROUP F TRAINING (RECRUITS)......................	77,011	77,011	77,011	77,011
25750 PAY GROUP P TRAINING (PIPELINE RECRUITS)............	187	187	187	187
25800 DEFENSE HEALTH PROGRAM ACCRUAL........................	116,658	116,658	116,658	116,658
25950 TOTAL, BUDGET ACTIVITY 1............................	400,701	400,701	400,701	400,701
26000 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
26050 MOBILIZATION TRAINING................................	2,403	2,403	2,403	2,403
26100 SCHOOL TRAINING......................................	11,450	11,450	11,450	11,450
26150 SPECIAL TRAINING.....................................	34,891	34,891	34,891	34,891
26200 ADMINISTRATION AND SUPPORT...........................	157,640	157,640	157,640	157,640
26250 EDUCATION BENEFITS...................................	17,821	17,821	17,821	17,821
26300 ROTC - SENIOR, JUNIOR................................	5,213	5,213	5,213	5,213
26350 DEFENSE HEALTH PROGRAM ACCRUAL.......................	12,289	12,289	12,289	12,289
26400 OTHER PROGRAMS	12,565	12,565	12,565	12,565
26500 TOTAL, BUDGET ACTIVITY 2............................	254,272	254,272	254,272	254,272
26600 UNOBLIGATED BALANCES.................................	---	-1,900	---	-1,900
26650 RESERVES COST AVOIDANCE..............................	---	---	-30,000	-30,000
26750 TOTAL, RESERVE PERSONNEL, MARINE CORPS.............	654,973	653,073	624,973	623,073

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Undistributed:		
26600	Unobligated Balances	-1,900
26650	Reserves Cost Avoidance	-30,000

RESERVE PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
26800 RESERVE PERSONNEL, AIR FORCE				
26850 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
26900 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	500,780	500,780	500,780	500,780
26950 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY).........	97,025	97,025	97,025	97,025
27000 PAY GROUP F TRAINING (RECRUITS)......................	37,304	37,304	37,304	37,304
27050 PAY GROUP P TRAINING (PIPELINE RECRUITS).............	113	113	113	113
27100 DEFENSE HEALTH PROGRAM ACCRUAL.......................	233,399	233,399	233,399	233,399
27200 TOTAL, BUDGET ACTIVITY 1............................	868,621	868,621	868,621	868,621
27250 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
27300 MOBILIZATION TRAINING................................	1,800	1,800	1,800	1,800
27350 SCHOOL TRAINING......................................	92,858	92,858	92,858	92,858
27400 SPECIAL TRAINING.....................................	178,366	178,366	178,366	178,366
27450 ADMINISTRATION AND SUPPORT...........................	172,866	172,866	172,866	172,866
27500 EDUCATION BENEFITS...................................	13,500	13,500	13,500	13,500
27550 ROTC - SENIOR, JUNIOR................................	83,111	83,111	83,111	83,111
27600 HEALTH PROFESSION SCHOLARSHIP........................	29,269	29,269	29,269	29,269
27650 DEFENSE HEALTH PROGRAM ACCRUAL.......................	9,597	9,597	9,597	9,597
27700 OTHER PROGRAMS.......................................	14,062	14,062	14,062	14,062
27800 TOTAL, BUDGET ACTIVITY 2........	595,429	595,429	595,429	595,429
27900 UNOBLIGATED BALANCES.................................	---	-10,300	---	-10,300
27910 RESERVES COST AVOIDANCE..............................	---	-5,400	-5,400	-5,400
27930 932ND AIRLIFT WING PERSONNEL.........................	---	3,600	---	3,600
28150 TOTAL, RESERVE PERSONNEL, AIR FORCE................	1,464,050	1,451,950	1,458,650	1,451,950

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Undistributed:

27900	Unobligated Balances	-10,300
27910	Reserves Cost Avoidance	-5,400
27930	932nd Airlift Wing Personnel	3,600

NATIONAL GUARD PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
28200 NATIONAL GUARD PERSONNEL, ARMY				
28250 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
28300 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	1,688,571	1,688,571	1,688,571	1,688,571
28350 PAY GROUP F TRAINING (RECRUITS)	291,670	291,670	291,670	291,670
28400 PAY GROUP P TRAINING (PIPELINE RECRUITS)	36,893	36,893	36,893	36,893
28450 DEFENSE HEALTH PROGRAM ACCRUAL	1,007,258	1,007,258	1,007,258	1,007,258
28600 TOTAL, BUDGET ACTIVITY 1	3,024,392	3,024,392	3,024,392	3,024,392
28650 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
28700 SCHOOL TRAINING	218,603	218,603	218,603	218,603
28750 SPECIAL TRAINING	252,337	252,337	252,337	252,337
28800 ADMINISTRATION AND SUPPORT	2,218,432	2,218,432	2,234,932	2,234,332
28850 EDUCATION BENEFITS	98,171	98,171	98,171	98,171
28900 DEFENSE HEALTH PROGRAM ACCRUAL	138,794	138,794	138,794	138,794
29050 TOTAL, BUDGET ACTIVITY 2	2,926,337	2,926,337	2,942,837	2,942,237
29350 UNOBLIGATED BALANCES	---	-10,500	---	-10,500
29410 RESERVES COST AVOIDANCE	---	-25,000	-55,700	-55,700
29435 LEWIS AND CLARK BICENTENNIAL ACTIVITIES	---	---	1,800	1,300
29500 TOTAL, NATIONAL GUARD PERSONNEL, ARMY	5,950,729	5,915,229	5,913,329	5,901,729

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 2: Other Training and Support:		
28800	Administration and Support/Civil Support Teams AGRs	12,600
28800	Administration and Support/Ground-Based Midcourse Missile Defense AGRs	3,300
Undistributed:		
29350	Unobligated Balances	-10,500
29410	Reserves Cost Avoidance	-55,700
29435	Lewis and Clark Bicentennial Activities	1,300

NATIONAL GUARD PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
29550 NATIONAL GUARD PERSONNEL, AIR FORCE				
29600 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
29650 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	807,509	807,509	810,259	808,909
29700 PAY GROUP F TRAINING (RECRUITS)	68,031	68,031	68,031	68,031
29750 PAY GROUP P TRAINING (PIPELINE RECRUITS)	1,380	1,380	1,380	1,380
29800 DEFENSE HEALTH PROGRAM ACCRUAL	296,724	296,724	296,724	296,724
29950 TOTAL, BUDGET ACTIVITY 1	1,173,644	1,173,644	1,176,394	1,175,044
30000 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
30050 SCHOOL TRAINING	155,195	155,195	155,195	155,195
30100 SPECIAL TRAINING	187,640	187,640	187,640	187,640
30150 ADMINISTRATION AND SUPPORT	936,252	936,252	938,352	938,352
30200 EDUCATION BENEFITS	29,935	29,935	29,935	29,935
30250 DEFENSE HEALTH PROGRAM ACCRUAL	63,776	63,776	63,776	63,776
30400 TOTAL, BUDGET ACTIVITY 2	1,372,798	1,372,798	1,374,898	1,374,898
30550 UNOBLIGATED BALANCES	---	-2,200	---	-2,200
30600 RESERVES COST AVOIDANCE	---	-7,500	-7,400	-7,500
30750 TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE	2,546,442	2,536,742	2,543,892	2,540,242

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Unit and Individual Training:		
29650	Pay Group A Training/166th Information Operations Squadron	1,400
Budget Activity 2: Other Training and Support:		
30150	Administration and Support/Civil Support Teams AGRs	2,100
Undistributed:		
30550	Unobligated Balances	-2,200
30600	Reserves Cost Avoidance	-7,500

TITLE II-OPERATION AND MAINTENANCE

The conference agreement on items addressed by either the House or the Senate is as follows:

		(In thousands of dollars)			
		Budget	House	Senate	Conference
50000	RECAPITULATION				
50050	O & M, ARMY	26,133,411	25,820,311	25,705,109	25,764,634
50150	O & M, NAVY	29,789,190	29,570,090	29,591,679	29,687,245
50250	O & M, MARINE CORPS	3,632,115	3,605,815	3,617,473	3,629,901
50300	O & M, AIR FORCE	28,471,260	27,994,110	28,282,160	28,113,533
50400	O & M, DEFENSE-WIDE	17,494,076	17,346,411	17,552,314	17,449,619
50500	O & M, ARMY RESERVE	2,008,128	1,976,128	1,979,038	1,991,128
50550	O & M, NAVY RESERVE	1,240,038	1,233,038	1,244,838	1,237,638
50600	O & M, MARINE CORPS RESERVE	188,696	187,196	188,696	187,196
50650	O & M, AIR FORCE RESERVE	2,239,790	2,227,190	2,200,790	2,242,590
50700	O & M, ARMY NATIONAL GUARD	4,440,686	4,376,886	4,372,436	4,442,386
50750	O & M, AIR NATIONAL GUARD	4,422,838	4,438,738	4,454,238	4,472,738
50790	OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT	30,000	5,000	30,000	10,000
50800	UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES	10,825	10,825	10,825	10,825
50850	ENVIRONMENTAL RESTORATION, ARMY	400,948	400,948	566,948	400,948
50900	ENVIRONMENTAL RESTORATION, NAVY	266,820	266,820	447,820	266,820
50950	ENVIRONMENTAL RESTORATION, AIR FORCE	397,368	397,368	397,368	397,368
51000	ENVIRONMENTAL RESTORATION, DEFENSE-WIDE	23,684	26,684	23,684	23,684
51050	ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES	216,516	216,516	276,516	266,516
51200	OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID	59,000	59,000	59,000	59,000
51300	FORMER SOVIET UNION THREAT REDUCTION ACCOUNT	409,200	409,200	409,200	409,200
51600	GRAND TOTAL, O & M	121,874,589	120,568,274	121,410,132	121,062,969

CORROSION CONTROL

In a recent General Accounting Office (GAO) report entitled "Opportunities Exist to Improve Implementation of Department of Defense's Long-Term Corrosion Strategy," the GAO identified a number of shortcomings with the Defense Department's corrosion control strategy and provided several recommendations to enhance its effectiveness. The conferees concur with GAO's overall assessment and direct the Department to comply with the recommendations provided in the report. Specifically, the conferees direct the Department to establish a specific, separate program element or budget line to ensure that sustained and adequate funding is available for the corrosion control projects that have the best potential to provide maximum benefit across the Department.

In addition, the conferees are concerned about the potential for corrosion damage to pre-positioned stocks, which are frequently located in highly corrosive environments. Such corrosion could degrade readiness to respond to contingencies and be very costly to fix. The conferees agree that GAO is best suited to conduct a review of this concern. The conferees, therefore, encourage GAO, instead of the Department of Defense Inspector General as proposed by the Senate, to conduct a review of the impact of corrosion on pre-position assets, and recommend policy, management or funding changes to mitigate that corrosion.

Finally, the conferees commend the Department of Defense in its establishment of an Office of Corrosion Policy and Oversight (CPO) for focused management attention on corrosion control. The conferees reiterate the importance of continuing to maintain within a central office, as directed by section 2228 of title 10, United States Code, the integration of oversight for both equipment and infrastructure. The conferees believe such integration is essential to ensuring that anti-corrosion benefits are fully realized across the installation and equipment communities.

OPERATION AND MAINTENANCE, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
100 OPERATION AND MAINTENANCE, ARMY				
150 BUDGET ACTIVITY 1: OPERATING FORCES				
200 LAND FORCES				
250 DIVISIONS	1,520,706	1,536,706	1,530,706	1,537,306
300 CORPS COMBAT FORCES	472,692	472,692	473,892	473,692
350 CORPS SUPPORT FORCES	445,344	445,344	445,344	445,344
400 ECHELON ABOVE CORPS SUPPORT FORCES	515,730	508,730	515,730	507,730
450 LAND FORCES OPERATIONS SUPPORT	1,197,822	1,187,822	1,211,822	1,204,122
500 LAND FORCES READINESS				
550 FORCE READINESS OPERATIONS SUPPORT	1,787,147	1,787,147	1,817,847	1,810,247
600 LAND FORCES SYSTEMS READINESS	537,567	537,067	544,567	541,867
650 LAND FORCES DEPOT MAINTENANCE	1,031,105	1,031,105	1,046,105	1,043,105
700 LAND FORCES READINESS SUPPORT				
750 BASE OPERATIONS SUPPORT	5,609,973	5,587,973	5,627,573	5,616,573
800 FAC SUSTAINMENT, RESTORATION & MOD (OP FORCES)	1,956,128	1,957,128	1,969,928	1,967,028
850 MANAGEMENT & OPERATIONAL HEADQUARTERS	251,474	251,474	255,374	254,774
900 UNIFIED COMMANDS	94,850	94,850	98,850	97,650
950 MISCELLANEOUS ACTIVITIES	1,057,943	1,057,943	1,062,143	1,062,143
1045 TOTAL, BUDGET ACTIVITY 1	16,478,481	16,455,981	16,599,881	16,561,581
1050 BUDGET ACTIVITY 2: MOBILIZATION				
1100 MOBILITY OPERATIONS				
1200 STRATEGIC MOBILIZATION	327,345	327,345	327,345	327,345
1250 ARMY PREPOSITIONED STOCKS	126,163	126,163	126,163	126,163
1300 INDUSTRIAL PREPAREDNESS	8,491	8,491	14,991	13,091
1350 TOTAL, BUDGET ACTIVITY 2	461,999	461,999	468,499	466,599

	(In thousands of dollars)			
	Budget	House	Senate	Conference
1400 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
1450 ACCESSION TRAINING				
1500 OFFICER ACQUISITION	107,554	107,554	107,554	107,554
1550 RECRUIT TRAINING	20,766	20,766	20,766	20,766
1600 ONE STATION UNIT TRAINING	41,961	41,961	41,961	41,961
1650 SENIOR RESERVE OFFICERS' TRAINING CORPS	234,308	225,308	236,308	230,308
1800 BASIC SKILL/ ADVANCE TRAINING				
1850 SPECIALIZED SKILL TRAINING	506,557	515,557	510,057	513,757
1900 FLIGHT TRAINING	575,406	577,406	575,406	575,406
1950 PROFESSIONAL DEVELOPMENT EDUCATION	102,832	103,832	103,832	104,832
2000 TRAINING SUPPORT	618,519	610,619	622,519	607,119
2150 RECRUITING/OTHER TRAINING				
2200 RECRUITING AND ADVERTISING	461,157	461,157	461,157	461,157
2250 EXAMINING	131,206	131,206	131,206	131,206
2300 OFF-DUTY AND VOLUNTARY EDUCATION	296,311	296,311	296,311	296,311
2350 CIVILIAN EDUCATION AND TRAINING	111,003	113,003	113,503	114,303
2400 JUNIOR RESERVE OFFICERS' TRAINING CORPS	137,331	138,331	137,331	138,331
2500 TOTAL, BUDGET ACTIVITY 3	3,344,911	3,343,011	3,357,911	3,343,011

(In thousands of dollars)

	Budget	House	Senate	Conference
2550 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
2600 SECURITY PROGRAMS				
2650 SECURITY PROGRAMS	883,510	887,510	896,710	899,960
2700 LOGISTICS OPERATIONS				
2750 SERVICEWIDE TRANSPORTATION	570,923	570,923	570,923	570,923
2800 CENTRAL SUPPLY ACTIVITIES	490,261	498,761	490,261	496,161
2850 LOGISTICS SUPPORT ACTIVITIES	439,466	445,466	457,466	457,666
2900 AMMUNITION MANAGEMENT	356,607	356,607	356,607	356,607
2950 SERVICEWIDE SUPPORT				
3000 ADMINISTRATION	702,719	700,219	702,719	698,719
3050 SERVICEWIDE COMMUNICATIONS	610,866	614,866	611,289	614,689
3100 MANPOWER MANAGEMENT	267,365	267,365	267,365	267,365
3150 OTHER PERSONNEL SUPPORT	191,686	191,686	191,686	191,686
3200 OTHER SERVICE SUPPORT	848,391	850,291	852,891	856,491
3250 ARMY CLAIMS	115,453	115,453	115,453	115,453
3300 REAL ESTATE MANAGEMENT	60,633	60,633	60,633	60,633
3550 SUPPORT OF OTHER NATIONS				
3600 INTERNATIONAL MILITARY HEADQUARTERS	250,026	250,026	250,026	250,026
3650 MISC. SUPPORT OF OTHER NATIONS	60,114	61,114	60,114	61,114
3700 TOTAL, BUDGET ACTIVITY 4	5,848,020	5,870,920	5,884,143	5,897,493
3730 REPAIRS AT FT. BAKER	---	2,500	---	1,900
3970 UNOBLIGATED BALANCES	---	-80,000	---	---
4100 ADMINISTRATION AND SERVICEWIDE ACTIVITIES	---	-88,000	---	-54,000
4110 CIVILIAN PAY OVERSTATEMENT	---	-66,100	-66,100	-66,100
4130 MILITARY TO CIVILIAN CONVERSIONS	---	-80,000	-52,375	-65,000
4137 NATO MISSION SUPPORT COSTS	---	---	-320,850	-320,850
4139 ENVIRONMENTAL ADJUSTMENT	---	---	-166,000	---
4180 TOTAL, OPERATION AND MAINTENANCE, ARMY	26,133,411	25,820,311	25,705,109	25,764,634

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
250 Ultra Lightweight Camouflage Net System (ULCANS)	2,500
250 Modular General Purpose Tent System (MGPTS)	2,600
250 Tactical Operations Centers (ELAMS/IMECCS) for USASOC and 4th Infantry Division	4,500
250 Basic Hydration on the Move	1,400
250 Fleece Insulated Liners (for ECWCS)	5,600
300 USAARMC FCS Support Cell at Fort Knox	1,000
400 Modernized Equipment Support Cost Unjustified Growth	−10,000
400 Leak Proof Transmission Drip Pans	2,000
450 Rotational Training Unjustified Cost Growth	−5,000
450 Forward Osmosis Water Filtration	5,300
450 USARPAC SBCT C4 Infrastructure	6,000
550 Advanced Combat Helmet	14,000
550 Pacific Deployable C4 Package	1,700
550 USARPAC C4 Information Infrastructure	7,400
600 Tactical Exploitation System	−4,000
600 Vehicle Integrated Primary Electrical Resource	3,000
600 AFATDS Regional Training Team	5,300
650 M1A1 Transmission Maintenance	12,000
750 Base Operating Support Unjustified Growth	−14,000
750 Renewal of Sunshine Road Ammunition Transportation Route, Fort Benning	2,000
750 Upgrade Telecommunications Infrastructure, Fort Monmouth	1,000
750 Army Conservation and Ecosystem Management	3,000
750 Fort Hood Offsite Conservation Program	850
750 Fort Knox Crossroad Cluster Communities MOUT Site	750
750 Fort Richardson Biathalon Trail Upgrade	1,000
750 Restore Woody Island and Historic Structures	1,000
750 USARAK Road Repairs	11,000
800 Rock Island Arsenal Wash Bay—Transferred to Weapons and Tracked Combat Vehicles, Army, Line 38	0
800 Rock Island Arsenal Laser Cutting Machine—Transferred to Weapons and Tracked Combat Vehicles, Army, Line 38	0
800 Rock Island Arsenal Titanium Welding Cell—Transferred to Weapons and Tracked Combat Vehicles, Army, Line 38	0
800 Fort Wainwright Utilidor Repairs	8,500
800 Rockfall Mitigation below Tripler AMC	2400
850 PACMERS	3,300
900 Specialty Containers (Quadcons)	2,800
950 WMD–CSTs	4,200
Budget Activity 2:	
1300 Industrial Mobilization Capacity	4,600
Budget Activity 3: Training and Recruiting:	
1650 ROTC Cadre and Support Costs Unjustified Growth	−6,000
1650 Air Battle Captain Program	2,000
1850 Satellite Communications for Learning (SCOLA), DLI Foreign Language Center	3,000
1850 Virtual Reality Spray Paint Simulator System and Training Program	1,500
1850 Video Interctive Training and Assessment System	1,700
1850 Military Police MCTFT Joint Training	1,000
1950 Leadership for Leaders at CGSC/CAL and KSU	1,000
1950 Management Training	1,000
2000 Training Support and Doctrine Development Unjustified Growth	−20,000
2000 Training Instrumentation for Air and Missile Defense Units, Fort Bliss	3,500
2000 DLIFLC Global Language On-line Support System (GLOSS) Project	1,700
2000 DLIFLC Persian-Farsi Curriculum Development—Semester 2	1,400
2000 Joint Training Exercise Experimentation Project	2,000
2350 Online Technology Training Program, Fort Lewis	1,900
2350 Online Technology Training Program	1,400
2400 Philadelphia Military Academy	1,000
Budget Activity 4: Administration and Servicewide Activities:	
2650 Security Programs Classified Adjustment	16,450
2800 NATO 9T AGM Batteries	1,900
2800 Pulse Technology—Army Battery Management Program	2,800
2800 Integrated Digital Environments Pilot Program for Army Aviation Fleet Logistics Management	1,200
2850 Integrated Digital Environments (IDE) PEO Ground Combat Systems	1,000
2850 Sense and Respond Logistics 2	2,400
2850 Controlled Humidity Preservation Program, Soft Portable Tunnels	1,000
2850 Army Ground Systems Integrated Lean Enterprise (AGILE)	4,200
2850 Corrosion Prevention and Control	6,800
2850 Field Pack Up System	2,800
3000 OASA (CW) transfer to Energy and Water Subcommittee	−4,000
3050 Army Knowledge Online (AKO)	3,400
3050 Infrastructure Upgrades at Camp Carroll	423
3200 One Soul: Holocaust Education Exhibit	1,000
3200 Memorial Day	900
3200 Army Legacy Logistics Systems Modernization	4,900
3200 Centralized Range Residue Recycling Facility (CRRRF)	1,300
3650 Center for Disaster Management and Humanitarian Assistance	1,000
Undistributed:	
3730 Repairs at Fort Baker	1,900
4100 Administration and Servicewide Activities	−54,000
4110 Civilian Pay Overstatement	−66,100
4130 Military to Civilian Conversions	−65,000
4137 NATO Mission Support Costs	−320,850

ARMY CONSERVATION AND ECOSYSTEM MANAGEMENT

The conferees provide an additional $3,000,000 to continue the Army Conservation and Ecosystem Management program. The conferees recommend $1,000,000 be used to support projects such as Kahuku flooding, Salt Lake sediment run-off, and Helemanu water transmission.

M1A1 TRANSMISSION MAINTENANCE

The conferees provide an additional $12,000,000 for M1A1 Transmission Maintenance. The conferees recognize that the Army is committed to address the transmission industrial base but remain concerned about the implementation and funding of the Transmission Enterprise Program. According to the Army's report to Congress on future plans to sustain the operational readiness of tank transmissions for the Abrams fleet, the funding shortfall to sustain the business base exceeds the additional funding provided. Therefore, the conferees direct the Department of the Army to develop a plan to sustain this industrial base through fiscal year 2005. This plan is to be submitted to the congressional defense committees before submission of the fiscal year 2006 budget request and include funding strategies to address this shortfall through the future years defense program.

OPERATION AND MAINTENANCE, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
4250 OPERATION AND MAINTENANCE, NAVY				
4300 BUDGET ACTIVITY 1: OPERATING FORCES				
4350 AIR OPERATIONS				
4400 MISSION AND OTHER FLIGHT OPERATIONS	3,002,769	3,002,769	3,002,769	3,002,769
4450 FLEET AIR TRAINING	1,066,452	1,066,452	1,066,452	1,066,452
4500 INTERMEDIATE MAINTENANCE	66,565	66,565	66,565	66,565
4550 AIR OPERATIONS AND SAFETY SUPPORT	111,146	111,146	111,146	111,146
4560 AIR SYSTEMS SUPPORT	498,508	474,508	498,508	475,508
4600 AIRCRAFT DEPOT MAINTENANCE	995,596	995,596	995,596	995,596
4650 AIRCRAFT DEPOT OPERATIONS SUPPORT	67,980	69,480	67,980	71,280
4800 SHIP OPERATIONS				
4850 MISSION AND OTHER SHIP OPERATIONS	2,604,963	2,619,963	2,604,963	2,612,463
4900 SHIP OPERATIONAL SUPPORT AND TRAINING	622,119	622,119	622,119	622,119
5000 SHIP DEPOT MAINTENANCE	3,910,439	3,910,439	3,925,439	3,921,739
5050 SHIP DEPOT OPERATIONS SUPPORT	1,113,910	1,118,410	1,076,310	1,078,410
5200 COMBAT OPERATIONS/SUPPORT				
5250 COMBAT COMMUNICATIONS	379,929	379,929	379,929	379,929
5300 ELECTRONIC WARFARE	16,946	16,946	16,946	16,946
5350 SPACE SYSTEMS & SURVEILLANCE	136,231	136,231	136,231	136,231
5400 WARFARE TACTICS	266,032	266,032	266,032	266,032
5450 OPERATIONAL METEOROLOGY & OCEANOGRAPHY	256,003	256,003	264,403	263,403
5500 COMBAT SUPPORT FORCES	1,362,179	1,337,179	1,362,179	1,347,179
5550 EQUIPMENT MAINTENANCE	186,658	187,658	186,658	187,658
5600 DEPOT OPERATIONS SUPPORT	3,214	3,214	3,214	3,214

	(In thousands of dollars)			
	Budget	House	Senate	Conference
5750 WEAPONS SUPPORT				
5800 CRUISE MISSILE	155,731	155,731	155,731	155,731
5850 FLEET BALLISTIC MISSILE	830,393	830,393	830,393	830,393
5900 IN-SERVICE WEAPONS SYSTEMS SUPPORT	51,043	51,043	67,043	65,043
5950 WEAPONS MAINTENANCE	447,327	437,327	447,327	447,327
6200 BASE SUPPORT				
6210 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,330,363	1,332,863	1,331,338	1,333,288
6220 BASE SUPPORT	3,195,350	3,197,350	3,171,350	3,174,250
6230 TOTAL, BUDGET ACTIVITY 1	22,677,846	22,645,346	22,656,621	22,630,671
6250 BUDGET ACTIVITY 2: MOBILIZATION				
6300 READY RESERVE AND PREPOSITIONING FORCES				
6350 SHIP PREPOSITIONING AND SURGE	548,199	548,199	548,199	548,199
6400 ACTIVATIONS/INACTIVATIONS				
6450 AIRCRAFT ACTIVATIONS/INACTIVATIONS	7,619	7,619	7,619	7,619
6500 SHIP ACTIVATIONS/INACTIVATIONS	212,393	213,393	222,393	219,393
6550 MOBILIZATION PREPAREDNESS				
6600 FLEET HOSPITAL PROGRAM	26,119	26,119	26,119	26,119
6650 INDUSTRIAL READINESS	1,523	1,523	1,523	1,523
6700 COAST GUARD SUPPORT	17,185	17,185	17,185	17,185
6750 TOTAL, BUDGET ACTIVITY 2	813,038	814,038	823,038	820,038
6800 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
6850 ACCESSION TRAINING				
6900 OFFICER ACQUISITION	120,835	120,835	120,835	120,835
6950 RECRUIT TRAINING	7,716	7,716	7,716	7,716
7000 RESERVE OFFICERS TRAINING CORPS	102,336	102,336	102,336	102,336
7150 BASIC SKILLS AND ADVANCED TRAINING				
7200 SPECIALIZED SKILL TRAINING	434,374	437,374	434,374	436,374
7250 FLIGHT TRAINING	420,829	420,829	423,829	422,329
7300 PROFESSIONAL DEVELOPMENT EDUCATION	116,770	123,770	118,770	122,270
7350 TRAINING SUPPORT	238,246	238,246	240,246	239,246

		(In thousands of dollars)			
		Budget	House	Senate	Conference
7500	RECRUITING, AND OTHER TRAINING AND EDUCATION				
7550	RECRUITING AND ADVERTISING	282,526	282,526	282,526	282,526
7600	OFF-DUTY AND VOLUNTARY EDUCATION	146,508	147,508	146,508	147,508
7650	CIVILIAN EDUCATION AND TRAINING	67,556	67,556	67,556	67,556
7700	JUNIOR ROTC	39,900	42,900	41,900	42,600
7850	TOTAL, BUDGET ACTIVITY 3	1,977,596	1,991,596	1,986,596	1,991,296
7900	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
7950	SERVICEWIDE SUPPORT				
8000	ADMINISTRATION	773,940	773,940	773,940	773,940
8050	EXTERNAL RELATIONS	3,893	3,893	3,893	3,893
8100	CIVILIAN MANPOWER & PERSONNEL MGT	110,614	110,614	110,614	110,614
8150	MILITARY MANPOWER & PERSONNEL MGT	198,465	198,465	198,465	198,465
8200	OTHER PERSONNEL SUPPORT	317,284	317,284	317,284	317,284
8250	SERVICEWIDE COMMUNICATIONS	605,415	605,415	605,415	605,415
8450	LOGISTICS OPERATIONS AND TECHNICAL SUPPORT				
8500	SERVICEWIDE TRANSPORTATION	189,634	189,634	189,634	189,634
8550	PLANNING, ENGINEERING & DESIGN	252,972	256,972	260,972	262,972
8600	ACQUISITION AND PROGRAM MANAGEMENT	840,666	843,666	840,666	842,166
8700	HULL, MECHANICAL & ELECTRICAL SUPPORT	55,505	55,505	55,505	55,505
8750	COMBAT/WEAPONS SYSTEMS	51,683	51,683	51,683	51,683
8800	SPACE & ELECTRONIC WARFARE SYSTEMS	70,166	70,166	70,166	70,166
8950	SECURITY PROGRAMS				
9000	SECURITY PROGRAMS	839,870	855,870	868,370	869,725
9150	SUPPORT OF OTHER NATIONS				
9200	INTERNATIONAL HDQTRS & AGENCIES	10,603	10,603	10,603	10,603
9250	TOTAL, BUDGET ACTIVITY 4	4,320,710	4,343,710	4,357,210	4,362,065
9440	UNOBLIGATED BALANCES	---	-86,000	---	---
9550	ADMINISTRATION AND SERVICEWIDE ACTIVITIES	---	-91,600	---	-61,000
9570	CIVILIAN PAY OVERSTATEMENT	---	-13,300	-13,300	-13,300
9580	MILITARY TO CIVILIAN CONVERSIONS	---	-19,300	-11,661	-17,000
9590	CIVILIAN SEPARATION INCENTIVE	---	-14,400	-14,800	-14,500
9612	NATO MISSION SUPPORT COSTS	---	---	-11,025	-11,025
9615	ENVIRONMENTAL ADJUSTMENT	---	---	-181,000	---
9750	TOTAL, OPERATION AND MAINTENANCE, NAVY	29,789,190	29,570,090	29,591,679	29,687,245

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
4560 Publications Costs and Maintenance Trends Analysis Unjustified Growth	-15,000
4560 Navy Air Logistics Data Analysis	-8,000
4650 Naval Aviation Depot (NADEP) Support of the FRP	1,200
4650 Simulation Modeling Analytical Support System (SMASS) Program	1,000
4650 CAT & RADCOM Test Program Sets Life Extension Program	5,100
4650 Navy Converged ERP Program Reduction	-5,000
4650 Low Observability Coatings and Materials Maintenance, COE	1,000
4850 Pierside and Organizational Maintenance U.S.S. Eisenhower	7,500
5000 Ship Depot Maintenance	11,300
5050 Single Torpedo Maintenance Facility	1,100
5050 Engineering Technician, Apprentice, Coop Program, NUWC Keyport	1,100
5050 Improved Engineering Design Process	1,100
5050 Cruiser Conversion	-43,100
5050 Manufacturing Technical Assistance and Production Program	2,800
5050 Naval Shipyard Apprenticeship Program	1,500
5450 Center of Excellence for Disaster Management and Humanitarian Assistance	4,500
5450 PACOM Theater Joint C4	2,900
5500 Excessive Growth for JFCOM	-15,000
5550 Manual Reverse Osmosis Desalinator (MROD) Testing, Repair and Replacement	1,000
5900 Mk 45 5 Inch Gun Depot Overhauls	14,000
6210 Toledo Shipyard Improvement Plan	1,500
6210 Education, Childhood Development, Groton Navy Submarine Base	975
6210 Seal Beach Naval Weapons Station Bridge Removal	450
6220 Base Operating Support Unjustified Growth	-7,500
6220 Naval Integrated Security System, Naval Station San Diego	2,800
6220 Navy Region Northwest—Navy Shore Infrastructure Transformation (NSIT)	4,600
6220 Navy Region Southeast—Integrated Safety Management System (ISMS) Completion	2,200
6220 Combating Terrorism Database System (CDTS) Remote Data Repository (RDR) Project	1,200
6220 Annual Savings from NSRR Disestablishment	-30,000
6220 Flood Mitigation at Lualualei	2,600
6220 PMRF Flood Control	3,000
Budget Activity 2: Mobilization:	
6500 Ship Disposal Program	7,000
Budget Activity 3: Training and Recruiting:	
7200 Near Pier-Side Tactical and Simulation Training	1,000
7200 Blended Learning Initiative	1,000
7250 Night Vision Goggles in Advanced Helicopter Training	1,500
7300 Navy Advanced Education Demonstration Project	500
7300 Center for Defense Technology and Education for the Military Services (CDTEMS)	4,000
7300 Navy Professional Military Education	1,000
7350 Vital Learning Recruitment/Retention Screening Test Program	1,000
7600 Continuing Education Distance Learning	1,000
7700 Naval Sea Cadet Corps	1,700
7700 Naval Junior ROTC Marine Science Research Program	1,000
Budget Activity 4: Administration and Servicewide Activities:	
8550 Stainless Steel Sanitary Spaces	3,000
8550 Knowledge Management and Decision Support System	6,000
8550 RFID	1,000
8600 Active Data-Rich RFID AIT for Navy In-Transit Visibility Infrastructure	1,500
9000 Local Situational Assessment Segment, NAS Lemoore	3,000
9000 Navy Integrated Security System (NISS)	3,400
9000 Security Programs Classified Adjustment	23,455
Undistributed:	
9550 Administration and Servicewide Activities	-61,000
9570 Civilian Pay Overstatement	-13,300
Military to Civilian Conversions	-17,000
9590 Civilian Separation Incentive	-14,500
9612 NATO Mission Support Costs	-11,025

U.S. Naval Sea Cadet Corps

The conferees include an additional $1,700,000 for the U.S. Naval Sea Cadet Corps and urge the Navy to fund this program in the fiscal year 2006 budget request.

Navy Region Northwest-Navy Shore Infrastructure Transformation (NSIT)

The conferees have included $4,600,000 for the Navy Shore Infrastructure Transformation (NSIT) program at Navy Region Northwest. The conferees support the efforts underway at Navy Region Northwest to improve and make more efficient the efforts for environmental protection and environmental training as well as base security in this region. The conferees further direct that from within these funds, $500,000 is available only to continue the Navy Region Northwest's Science Education Alliance program at the Naval Undersea Museum during the 2004–2005 academic year.

Critical Asset Vulnerability Assessment

The fiscal year 2004 Defense Appropriations Act included $1,400,000 within Operation and Maintenance, Navy for a program known as Critical Asset Vulnerability Assessment, Navy Region Northwest. This funding was intended to identify and address significant issues relating to the security of major assets in the Navy's Northwest region. The conferees note that the Navy has in fact developed plans to address these issues, and direct that the Navy may use the fiends provided to continue risk assessments, conduct technology evaluations, and mitigate vulnerabilities.

Global Hawk Maritime Demonstration

The conferees agree that the Navy should retain its Global Hawk High Altitude Endurance Unmanned Aerial Vehicle as proposed in the President's budget. The conferees encourage the Navy to expand its current demonstration project to include forward deployed forces in the theater of operations of the United States Central Command. The conferees further encourage the Navy to compile the lessons learned in conducting the demonstration program, specifically in that area of responsibility, and incorporate those lessons into the development of concepts of operations for unmanned aerial vehicles.

Naval Shipyard Apprentice Program

The conferees provide an additional $1,500,000 for the Shipyard Apprentice Program and direct the Navy to induct classes of no fewer than 150 apprentices at each of the naval shipyards during fiscal year 2005. Further, the conferees direct the Navy to include the costs of the fiscal year 2006 class of apprentices in the fiscal year 2006 budget estimate.

Naval Installations

The conferees have been advised by senior Navy leadership of their intention to address the concerns raised by the Senate to include restoring funding reduced for sustainment, restoration and maintenance projects. Therefore, the conferees will not offer any additional guidance on this subject. However, the Committees on Appropriations will continue to monitor the recommendations and activities of the Naval Installation Command to ensure that all regions are treated equitably and that sufficient funding is allocated for Navy bases.

OPERATION AND MAINTENANCE, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
9900 OPERATION AND MAINTENANCE, MARINE CORPS				
9950 BUDGET ACTIVITY 1: OPERATING FORCES				
10000 EXPEDITIONARY FORCES				
10050 OPERATIONAL FORCES	633,914	666,914	650,214	664,814
10100 FIELD LOGISTICS	367,293	365,793	371,293	370,093
10150 DEPOT MAINTENANCE	102,085	102,085	102,085	102,085
10200 BASE SUPPORT	1,026,795	1,022,795	1,049,607	1,038,995
10250 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	451,012	451,012	451,012	451,012
10300 USMC PREPOSITIONING				
10350 MARITIME PREPOSITIONING	72,128	71,128	72,128	71,128
10400 NORWAY PREPOSITIONING	7,763	7,763	7,763	7,763
10450 TOTAL, BUDGET ACTIVITY 1	2,660,990	2,687,490	2,704,102	2,705,890
10500 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
10550 ACCESSION TRAINING				
10600 RECRUIT TRAINING	10,539	10,539	10,539	10,539
10650 OFFICER ACQUISITION	351	351	351	351
10800 BASIC SKILLS AND ADVANCED TRAINING				
10850 SPECIALIZED SKILLS TRAINING	45,155	45,155	45,155	45,155
10900 FLIGHT TRAINING	174	174	174	174
10950 PROFESSIONAL DEVELOPMENT EDUCATION	8,972	8,972	8,972	8,972
11000 TRAINING SUPPORT	134,241	134,241	134,241	134,241

(In thousands of dollars)

	Budget	House	Senate	Conference
11150 RECRUITING AND OTHER TRAINING EDUCATION				
11200 RECRUITING AND ADVERTISING	113,988	113,988	113,988	113,988
11250 OFF-DUTY AND VOLUNTARY EDUCATION	34,336	34,336	34,336	34,336
11300 JUNIOR ROTC	13,270	13,270	13,270	13,270
11350 BASE SUPPORT	162,579	162,579	162,579	162,579
11400 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	68,553	68,553	68,553	68,553
11450 TOTAL, BUDGET ACTIVITY 3	592,158	592,158	592,158	592,158
11500 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
11550 SERVICEWIDE SUPPORT				
11650 SPECIAL SUPPORT	274,508	274,508	274,508	274,508
11700 SERVICEWIDE TRANSPORTATION	37,300	37,300	37,300	37,300
11750 ADMINISTRATION	45,271	45,271	45,271	45,271
11800 BASE SUPPORT	18,697	18,697	18,697	18,697
11850 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	3,191	4,691	3,191	4,191
11900 TOTAL, BUDGET ACTIVITY 4	378,967	380,467	378,967	379,967
12010 UNOBLIGATED BALANCES	---	-8,000	---	---
12050 ADMINISTRATION AND SERVICEWIDE ACTIVITIES	---	-17,200	---	-13,000
12060 MILITARY TO CIVILIAN CONVERSIONS	---	-29,100	-57,640	-35,000
12067 NATO MISSION SUPPORT COSTS	---	---	-114	-114
12300 TOTAL, OPERATION AND MAINTENANCE, MARINE CORPS	3,632,115	3,605,815	3,617,473	3,629,901

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces	
10050 All Purpose Environmental Clothing System (APECS)	7,500
10050 Marine Corps Mountain/Cold Weather Clothing and Equipment	2,800
10050 Modular General Purpose Tent System (MGPTS)	1,800
10050 EMI Hardened Fluorescent Stringable Tent Lighting System	2,000
10050 Range Enhancements for JNTC MOUT Facility at Twentynine Palms	13,000
10050 Ultra-Light Camouflage Net System	3,800
10100 Life Cycle Sustainment Software Maintenance Unjustified Growth	-1,500
10100 Transportation CLS Replacement and Ammunition Rework Unjustified Growth	-2,000
10100 NATO 9T AGM Batteries	1,900
10100 Pulse Technology - USMC Battery Management Program	1,000
10100 Corrosion Prevention and Control	3,400
10200 Defense Motor Vehicle Safety Demonstration Program	1,000
10200 Anti-Oxidant Micronutrients Program	2,700
10200 MARFORPAC BOS	8,500
10350 Contract Maintenance and Training Exercise Unjustified Growth	-1,000
Budget Activity 4: Administration and Servicewide Activities	
11850 MCLB Albany Sewer Line Replacement	1,000
Undistributed:	
12050 Administration and Servicewide Activities	-13,000
12060 Military to Civilian Conversions	-35,000
12067 NATO Mission Support Costs	-114

OPERATION AND MAINTENANCE, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
12450 OPERATION AND MAINTENANCE, AIR FORCE				
12500 BUDGET ACTIVITY 1: OPERATING FORCES				
12550 AIR OPERATIONS				
12600 PRIMARY COMBAT FORCES	3,275,334	3,276,234	3,310,334	3,301,234
12650 PRIMARY COMBAT WEAPONS	331,333	331,333	331,333	331,333
12700 COMBAT ENHANCEMENT FORCES	346,322	346,322	346,322	346,322
12750 AIR OPERATIONS TRAINING	1,274,599	1,259,599	1,274,599	1,259,599
12775 DEPOT MAINTENANCE	2,085,761	2,046,461	2,053,336	2,051,936
12800 COMBAT COMMUNICATIONS	1,318,159	1,308,159	1,318,159	1,308,159
12850 BASE SUPPORT	1,995,494	1,995,994	2,014,094	2,015,144
12900 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,017,301	1,017,301	1,071,301	1,067,801
12950 COMBAT RELATED OPERATIONS				
13000 GLOBAL C3I AND EARLY WARNING	1,147,163	1,120,163	1,147,163	1,127,163
13050 NAVIGATION/WEATHER SUPPORT	204,543	204,543	208,143	207,743
13100 OTHER COMBAT OPS SUPPORT PROGRAMS	622,524	594,524	622,524	603,924
13150 JCS EXERCISES	32,756	32,756	32,756	32,756
13200 MANAGEMENT/OPERATIONAL HEADQUARTERS	240,380	245,380	240,380	244,680
13250 TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	340,102	340,102	340,102	340,102
13300 SPACE OPERATIONS				
13350 LAUNCH FACILITIES	343,565	343,565	343,565	343,565
13400 LAUNCH VEHICLES	100,135	103,635	100,135	103,135
13450 SPACE CONTROL SYSTEMS	237,995	237,995	237,995	237,995
13500 SATELLITE SYSTEMS	68,655	68,655	68,655	68,655
13550 OTHER SPACE OPERATIONS	258,376	258,376	258,376	258,376
13600 BASE SUPPORT	528,332	528,332	528,332	528,332
13650 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	171,469	172,069	171,469	172,069
13700 TOTAL, BUDGET ACTIVITY 1	15,940,298	15,831,498	16,019,073	15,950,023

	(In thousands of dollars) Budget	House	Senate	Conference
13750 BUDGET ACTIVITY 2: MOBILIZATION				
13800 MOBILITY OPERATIONS				
13850 AIRLIFT OPERATIONS	1,919,987	1,923,987	1,921,987	1,922,987
13900 AIRLIFT OPERATIONS C3I	51,824	51,824	51,824	51,824
13950 MOBILIZATION PREPAREDNESS	170,623	170,623	170,623	170,623
13975 DEPOT MAINTENANCE	410,679	371,179	371,379	371,179
14050 BASE SUPPORT	537,718	537,718	537,718	537,718
14100 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	200,928	200,928	200,928	200,928
14150 TOTAL, BUDGET ACTIVITY 2	3,291,759	3,256,259	3,254,459	3,255,259
14200 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
14250 ACCESSION TRAINING				
14300 OFFICER ACQUISITION	73,788	73,788	73,788	73,788
14350 RECRUIT TRAINING	6,034	6,034	6,034	6,034
14400 RESERVE OFFICER TRAINING CORPS (ROTC)	84,381	84,381	84,381	84,381
14450 BASE SUPPORT (ACADEMIES ONLY)	71,777	71,777	71,777	71,777
14500 FAC SUSTAINMENT, RESTORATION & MODERNIZATION	85,892	85,892	85,892	85,892
14550 BASIC SKILLS AND ADVANCED TRAINING				
14600 SPECIALIZED SKILL TRAINING	336,818	339,318	337,518	339,418
14650 FLIGHT TRAINING	775,819	776,819	775,819	776,819
14700 PROFESSIONAL DEVELOPMENT EDUCATION	158,967	158,967	158,967	158,967
14750 TRAINING SUPPORT	108,450	109,450	109,450	111,450
14775 DEPOT MAINTENANCE	12,914	12,914	12,914	12,914
14800 BASE SUPPORT (OTHER TRAINING)	584,857	584,857	584,857	584,857
14850 FAC SUSTAINMENT, RESTORATION & MODERNIZATION	190,592	190,592	190,592	190,592
14900 RECRUITING, AND OTHER TRAINING AND EDUCATION				
14950 RECRUITING AND ADVERTISING	143,369	143,369	120,369	120,369
15000 EXAMINING	3,281	3,281	3,281	3,281
15050 OFF DUTY AND VOLUNTARY EDUCATION	159,129	159,129	159,129	159,129
15100 CIVILIAN EDUCATION AND TRAINING	158,738	162,738	158,738	162,738
15150 JUNIOR ROTC	50,108	50,108	50,108	50,108
15200 TOTAL, BUDGET ACTIVITY 3	3,004,914	3,013,414	2,983,614	2,992,514

(In thousands of dollars)

	Budget	House	Senate	Conference
15250 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
15300 LOGISTICS OPERATIONS				
15350 LOGISTICS OPERATIONS	883,478	883,478	887,478	886,878
15400 TECHNICAL SUPPORT ACTIVITIES	432,323	434,323	432,323	434,023
15450 SERVICEWIDE TRANSPORTATION	171,501	171,501	171,501	171,501
15475 DEPOT MAINTENANCE	105,158	105,158	105,158	105,158
15500 BASE SUPPORT	1,072,242	1,072,242	1,072,242	1,072,242
15550 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	260,580	261,580	260,580	261,580
15600 SERVICEWIDE ACTIVITIES				
15650 ADMINISTRATION	299,617	299,617	299,617	299,617
15700 SERVICEWIDE COMMUNICATIONS	377,574	377,574	377,574	377,574
15750 PERSONNEL PROGRAMS	262,281	262,281	262,281	262,281
15800 RESCUE AND RECOVERY SERVICES	129,437	129,437	129,437	129,437
15900 ARMS CONTROL	41,645	41,645	41,645	41,645
15950 OTHER SERVICEWIDE ACTIVITIES	728,942	730,942	728,942	730,342
16000 OTHER PERSONNEL SUPPORT	39,457	40,457	39,457	40,457
16050 CIVIL AIR PATROL CORPORATION	21,722	21,722	21,722	21,722
16100 BASE SUPPORT	345,170	351,920	345,170	351,020
16150 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	12,848	12,848	12,848	12,848
16200 SECURITY PROGRAMS				
16250 SECURITY PROGRAMS	1,024,129	1,024,129	1,026,129	1,035,629
16300 SUPPORT TO OTHER NATIONS				
16350 INTERNATIONAL SUPPORT	26,185	26,185	26,185	26,185
16400 TOTAL, BUDGET ACTIVITY 4	6,234,289	6,247,039	6,240,289	6,260,139
16630 UNOBLIGATED BALANCES	---	-71,000	---	---
16710 ADMINISTRATION AND SERVICEWIDE ACTIVITIES	---	-138,400	---	-94,000
16720 BASE OPERATIONS SUPPORT	---	-43,000	---	-21,500
16730 CIVILIAN PAY OVERSTATEMENT	---	-12,500	-12,500	-12,500
16780 MILITARY TO CIVILIAN CONVERSIONS	---	-48,500	-29,273	-38,500
16790 CIVILIAN SEPARATION INCENTIVE	---	-40,700	-32,100	-36,500
16805 NATO MISSION SUPPORT COSTS	---	---	-141,402	-141,402
16910 TOTAL, OPERATION AND MAINTENANCE, AIR FORCE	28,471,260	27,994,110	28,282,160	28,113,533

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
12600 Maintain 52 F-117 Aircraft	7,900
12600 Forward Osmosis Water Filtration Devices	1,000
12600 F-15E Oxygen Concentrator Reliability Improvement Program	1,000
12600 Combat Air Systems Activities, 480th Intel Squadron	−9,000
12600 B-52 Attrition Reserve	25,000
12750 JNTC Distributed Mission Operations Unjustified Growth	−15,000
12775 Transfer to O&M, Air National Guard	−39,300
12775 Oxygen Repair Facility	600
12775 Rack Mounted Improved AIS	3,900
12775 Relational Extraction Server	475
12775 Aircraft Defect Detection and Performance Application	500
12800 Air Operations Centers Unjustified Growth	−10,000
12850 Fairchild AFB Force Protection Rail Relocation	500
12850 11th Air Force Range Power and Fiber Upgrades	5,100
12850 Alaska Land Mobile Radio	3,200
12850 Elmendorf AFB Community Center Enhancements	700
12850 PACAF IT Consolidation/Storage Area Network	6,900
12850 Andersen AFB Invasive Species Pilot Project	250
12850 Acquisition of Native Allotment F-14589	2,500
12850 Force Protection—Ellsworth AFB	500
12900 Building 9480 Renovation	13,500
12900 COPE THUNDER Facilities Renovation	6,000
12900 Eielson AFB Utilidor Repairs	8,500
12900 Engineering and Environmental Assessment for Stryker Railroad Extension	14,000
12900 PARC Upgrade—ACTS Ranges Phase 2	8,500
13000 C31 Operations and Sustainment Unjustified Growth	−20,000
13050 Sooner Drop Zone Extension	600
13050 University Partnership for Operational Support	2,600
13100 Engineering, Installation Support, and Expanded Space Operations School Unjustified Growth	−20,000
13100 Contaminant Air Processing System (CAPS)	1,400
13200 Management Support for Air Force Battle Labs	4,300
13400 Maintenance and Upkeep of Rocket Engine Test Stands at Edwards AFB	3,000
13690 Repair Jump Tower at Kirtland AFB	600
Budget Activity 2: Mobilization:	
13850 Scot Joint Combined Aircrew System Tester (JCAST)	2,000
13850 Active Noise Reduction Headsets	1,000
13975 Transfer to O&M Air National Guard	−39,500
Budget Activity 3: Training and Recruiting:	
14600 Pavement Equipment Operator Course Consolidation Whiteman Air Force Base	1,900
14600 National Airborne Operations Center (NAOC)	700
14650 AWACS Communications Training	1,000
14750 Geospatial Distant Learning and Higher Education Development	1,000
14750 Simulation Training for WMD Emergency Response Programs	1,000
14750 Center of Excellence for Learning Technology	1,000
14950 Reduced Recruiting Goals	−23,000
15100 Online Technology Training Program McChord AFB	1,000
15100 Online Technology Training Program Nellis AFB	1,000
15100 Online Technology Training Program MacDill AFB	2,000
Budget Activity 4: Administration and Servicewide Activities:	
15350 Hickam AFB Alternative Fuel Vehicle Program	3,400
15400 Engine Health Management Data Repository Center	1,700
15550 Wright-Patterson AFB Civil Engineering Critical Infrastructure Data Set Development	1,000
15950 Joint Personnel Recovery Agency	1,400
16000 Demonstration Project for Contractors Employing Persons with Disabilities	1,000
16100 William Lehman Aviation Center	750
16100 Defense Installation Spatial Data Infrastructure (DISDI)	5,100
16250 Security Programs Classified Adjustment	11,500
Undistributed:	
16710 Administration and Servicewide Activities	−94,000
16720 Base Operations Support	−21,500
16730 Civilian Pay Overstatement	−12,500
16780 Military to Civilian Conversions	−38,500
16790 Civilian Separation Incentive	−36,500
16805 NATO Mission Support Costs	−141,402

OPERATION AND MAINTENANCE, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
16950 OPERATION AND MAINTENANCE, DEFENSE-WIDE				
17000 BUDGET ACTIVITY 1: OPERATING FORCES				
17050 JOINT CHIEFS OF STAFF	243,062	193,062	243,062	203,062
17100 SPECIAL OPERATIONS COMMAND	1,992,613	1,984,613	1,937,771	1,966,313
17150 TOTAL, BUDGET ACTIVITY 1	2,235,675	2,177,675	2,180,833	2,169,375
17200 BUDGET ACTIVITY 2: MOBILIZATION				
17250 DEFENSE LOGISTICS AGENCY	40,599	40,599	40,599	40,599
17350 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
17375 AMERICAN FORCES INFORMATION SERVICE	14,050	14,050	14,050	14,050
17460 DEFENSE ACQUISITION UNIVERSITY	103,532	103,532	103,532	103,532
17465 DEFENSE CONTRACT AUDIT AGENCY	5,296	5,296	5,296	5,296
17480 DEFENSE HUMAN RESOURCES ACTIVITY	56,067	61,067	56,067	61,067
17490 DEFENSE SECURITY SERVICE	7,343	7,343	7,343	7,343
17510 DEFENSE THREAT REDUCTION AGENCY	5,968	5,968	5,968	5,968
17600 SPECIAL OPERATIONS COMMAND	96,244	96,244	96,244	96,244
17610 NATIONAL DEFENSE UNIVERSITY	90,263	95,863	90,263	94,963
17650 TOTAL, BUDGET ACTIVITY 3	378,763	389,363	378,763	388,463
17700 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
17725 AMERICAN FORCES INFORMATION SERVICE	110,528	110,528	110,528	110,528
17750 CIVIL MILITARY PROGRAMS	101,389	101,889	126,389	120,589
17800 DEFENSE CONTRACT AUDIT AGENCY	368,119	368,119	368,119	368,119
17825 DEFENSE CONTRACT MANAGEMENT AGENCY	1,029,592	1,029,592	1,029,217	1,029,592
17850 DEFENSE FINANCE AND ACCOUNTING SERVICE	4,310	4,310	4,310	4,310
17875 DEFENSE HUMAN RESOURCES ACTIVITY	318,940	312,540	318,940	312,540

(In thousands of dollars)

	Budget	House	Senate	Conference
17900 DEFENSE INFORMATION SYSTEMS (SERVICES) AGENCY.........	1,090,558	1,041,558	1,090,558	1,066,558
17925 DEFENSE LOGISTICS AGENCY.............................	265,379	282,379	285,943	296,082
17950 DEFENSE LEGAL SERVICES AGENCY........................	25,484	25,484	25,484	25,484
17975 DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION...........	1,761,852	1,793,752	1,802,852	1,788,952
18000 DEFENSE POW /MISSING PERSONS OFFICE..................	15,964	15,964	15,964	15,964
18025 DEFENSE SECURITY COOPERATION AGENCY..................	83,922	83,922	83,922	83,922
18050 DEFENSE SECURITY SERVICE.............................	277,100	227,100	277,100	252,100
18075 DEFENSE THREAT REDUCTION AGENCY......................	319,483	320,783	319,483	320,783
18100 OFFICE OF ECONOMIC ADJUSTMENT........................	44,756	73,756	80,756	91,631
18125 OFFICE OF THE SECRETARY OF DEFENSE...................	805,813	738,563	795,513	729,613
18150 SPECIAL OPERATIONS COMMAND...........................	142,457	142,457	142,457	142,457
18200 JOINT CHIEFS OF STAFF................................	278,884	278,884	278,884	278,884
18225 WASHINGTON HEADQUARTERS SERVICES.....................	447,166	447,166	447,166	447,166
18250 DEFENSE TECHNOLOGY SECURITY ADMINISTRATION...........	20,456	20,456	20,456	20,456
18950 TOTAL, BUDGET ACTIVITY 4.............................	7,512,152	7,419,202	7,624,041	7,505,730
19010 IMPACT AID...	---	35,000	---	30,000
19015 IMPACT AID FOR CHILDREN WITH DISABILITIES............	---	---	---	5,000
19020 OTHER PROGRAMS.......................................	7,326,887	7,339,672	7,328,078	7,310,452
19042 UNOBLIGATED BALANCES.................................	---	-55,100	---	---
19450 TOTAL, OPERATION AND MAINTENANCE, DEFENSE-WIDE......	17,494,076	17,346,411	17,552,314	17,449,619

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
17050 TJS—CJCS Exercise Program	−40,000
17100 SOCOM—Completion of Knowledge Superiority for Transitional Warfighter	1,000
17100 SOCOM—Decreased Airlift requirements	−10,000
17100 SOCOM—NATO Mission Support Costs	−2,300
17100 SOCOM—SOCOM Unjustified Growth	−15,000
Budget Activity 3: Training and Recruiting:	
17480 DHRA—DLAMP Program Growth	−5,000
17480 DHRA—Joint Advertising Market Research and Studies Program	10,000
17610 NDU—Continuing Education	1,500
17610 NDU—NDU Integrated Strategic Education	1,000
17610 NDU—Joint Staff Infrastructure	1,200
17610 NDU—Commissioned Officer Education Assistance	1,000
Budget Activity 4: Administration and Servicewide Activities:	
17750 CMP—Outdoor Odyssey	500
17750 CMP—Innovative Readiness Training	8,500
17750 CMP—National Guard Youth Challenge Program	7,200
17750 CMP—Operation Walking Shield Program	3,000
17875 DHRA—Defense Business Fellow	−4,400
17875 DHRA—Business Systems	−2,000
17900 DISA—Program Growth	−25,000
17900 DISA—Transaction Monitoring Improvement Project	1,000
17925 DLA—Passive RFID Prototype Project	1,000
17925 DLA—Commercial Technologies for Maintenance Activities	12,750
17925 DLA—Alaska Logistics Center	7,650
17925 DLA—NATO Mission Support Costs	−1,600
17925 DLA—Procurement Technical Assistance Cooperative Agreement Program	7,403
17925 DLA—RFID	3,500
17975 DODEA—Family Advocacy Program	17,000
17975 DODEA—Office of Victims Advocate	1,800
17975 DODEA—Professional Development Project—Instruction for Dyslexic Students	1,000
17975 DODEA—Lewis Center for Educational Research	2,550
17975 DODEA—Internet Safety and Education	1,000
17975 DODEA—DoDEA Facilities SRM	12,750
17975 DODEA—DoDEA Mathematics and Technology Teachers Development	1,000
17975 DODEA—DoDEA Unjustified Certification Program	−10,000
18050 DSS—Unjustified Program	−25,000
18075 DTRA—Export Control Database	1,300
18100 OEA—March Joint Powers Authority—Arnold Heights Reuse Project	1,500
18100 OEA—Davids Island—Fort Slocum Remediation	2,600
18100 OEA—McClellan AFB—Sewer Remediation	2,000
18100 OEA—Bayonne Military Ocean Terminal	5,000
18100 OEA—Cecil Field	1,000
18100 OEA—Hunters Point Naval Shipyard	2,250
18100 OEA—Norton AFB	4,250
18100 OEA—George AFB	1,700
18100 OEA—Adak Airport Operations Improvements	3,400
18100 OEA—Fort Benjamin Harrison Relocation Project	−2,000
18100 OEA—Port of Anchorage Army Deployment Staging Area	5,000
18100 OEA—Port of Anchorage Intermodal Marine Facility Project	7,375
18100 OEA—UCHSC–DCH Fitzsimmons Medical Center	6,500
18100 OEA—Program for Citizen-Soldier Support	1,800
18100 OEA—Thorium/Magnesium Excavation—Blue Island	500
18125 OSD—BMMP	−7,000
18125 OSD—BMMP Domains	−15,000
18125 OSD—Logistics System Modernization	−4,000
18125 OSD—Net Assessment	−4,000
18125 OSD—DoD CIO	−2,500
18125 OSD—OSD Study Program	−4,000
18125 OSD—OSD Contract and Support	−5,000
18125 OSD—Public Affairs	−11,500
18125 OSD—Readiness and Range Initiative	−7,500
18125 OSD—Training Transformation	−5,000
18125 OSD—Comptroller Initiatives	−6,500
18125 OSD—Defense Procurement and Acquisition Policy	−7,500
18125 OSD—Study on Internet and Wireless Technology	1,000
18125 OSD—Middle East Regional Security Program	1,250
18125 OSD—National Strategic Seaport Model	1,500
18125 OSD—Military Leadership and Rule of Law Program	1,000
18125 OSD—National Dedicated Fiber Optic Network Program	1,000
18125 OSD—Center for Foreign Language Study	1,000
18125 OSD—Command Information Superiority Architectures	1,000
18125 OSD—Clinic for Legal Assistance to Service Member	750
18125 OSD—Information Technology Organizational Composition Project	1,300
18125 OSD—Norm Mineta Internship Immersion Program	2,550
18125 OSD—Asia Pacific Regional Initiative	14,000
18125 OSD—Capital Security Cost Share Program	−27,300
18125 OSD—Information Assurance Scholarship Program	2,250
18125 OSD—Beyond Goldwater-Nichols Study	1,000
18125 OSD—Foreign Disclosure On-Line Training, Education and Certification	500
18125 OSD—DoD Center for Child Protection	500
Undistributed:	
19010 Impact Aid	30,000
19015 Impact Aid for Children with Disabilities	5,000
19020 Other Programs	−16,435

BEYOND GOLDWATER-NICHOLS STUDY

Last year the conferees directed the Department to undertake a review of reform initiatives going beyond the Goldwater-Nichols reforms of the mid-1980's. The conferees note that further work is now needed on regional command structures, the future of the Guard and Reserve Components, and the acquisition process. The conferees provide $1,000,000 to continue this work.

CENTER FOR CHILD PROTECTION

The conferees agree to provide $500,000 to the Office of the Secretary of Defense (OSD) to fund operational costs of the Center for Child Protection. This Center, formerly funded by the Navy's National Medical Center in Bethesda, Maryland, is more appropriately funded and overseen by OSD, given the breadth of the Center's activities.

PENTAGON CHILD CARE FACILITY

The conferees are concerned about the closure of the Pentagon Child Development Center, noting that most of the parents were caught off guard by the announcement and are having trouble making alternate arrangements. The conferees understand the Department is aiding families in finding placement in alternate centers; however, many of those locations have limited spaces available and are not convenient for many Pentagon employees. The conferees are also aware that the Department intends to execute a military construction project in fiscal year 2006 to expand the child care facilities at Fort Myer to be the permanent facility for Pentagon employees. Since it could take up to three years to complete such a project, the conferees are deeply concerned about the impact this will have on parents and their families. Therefore, prior to closure of the Center, the conferees direct the Department to report to the congressional defense committees on its plans to satisfy the child care needs of Pentagon employees. The report shall address the use of alternate locations with minimal adverse impact to families as well as a timeline and plan for a replacement facility.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
19500 OPERATION AND MAINTENANCE, ARMY RESERVE				
19510 BUDGET ACTIVITY 1: OPERATING FORCES				
19520 LAND FORCES				
19530 DIVISION FORCES	7,640	7,640	10,640	9,940
19540 CORPS COMBAT FORCES	34,607	34,607	34,607	34,607
19550 CORPS SUPPORT FORCES	318,411	318,411	318,411	318,411
19560 ECHELON ABOVE CORPS FORCES	150,421	150,421	150,421	150,421
19570 LAND FORCES OPERATIONS SUPPORT	459,134	459,134	464,134	459.134
19630 LAND FORCES READINESS				
19640 FORCES READINESS OPERATIONS SUPPORT	153.475	153.475	153.475	153,475
19650 LAND FORCES SYSTEM READINESS	65,202	65,202	65,202	65,202
19660 DEPOT MAINTENANCE	71,548	71.548	71.548	71.548
19670 LAND FORCES READINESS SUPPORT				
19680 BASE SUPPORT	379,112	379,112	379,822	379,112
19690 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	201,141	201,141	201,141	201,141
19700 ADDITIONAL ACTIVITIES	7,627	7.627	7,627	7,627
19900 TOTAL, BUDGET ACTIVITY 1	1,848,318	1.848,318	1.857,028	1,850,618
19950 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
19960 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
19980 ADMINISTRATION	52,180	52,180	52,180	52,180
19990 SERVICEWIDE COMMUNICATIONS	9,116	9,116	9,116	9,116
20000 PERSONNEL/FINANCIAL ADMIN (MANPOWER MGT)	8,201	8,201	8,201	8,201
20010 RECRUITING AND ADVERTISING	90,313	90,313	90,313	90,313
20075 TOTAL, BUDGET ACTIVITY 4	159,810	159,810	159,810	159,810

	(In thousands of dollars)			
	Budget	House	Senate	Conference
20180 ALL TERRAIN MILITARY UTILITY VEHICLES.................	---	5,500	---	5,000
20190 MILITARY TECHNICIANS COST AVOIDANCE...................	---	-34,200	-37,800	-20,000
20200 CONTROLLED HUMIDITY PROTECTION........................	---	4,000	---	3,400
20220 UNOBLIGATED BALANCES..................................	---	-8,800	---	-8,800
20230 US ARMY RESERVE IT CONSOLIDATION......................	---	1,500	---	1,100
20700 TOTAL, OPERATION AND MAINTENANCE, ARMY RESERVE......	2,008,128	1,976,128	1,979,038	1,991,128

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Operating Forces		
19530	Division Forces/Extended Cold Weather Clothing System	2,300
Undistributed:		
20180	All Terrain Military Utility Vehicles	5,000
20190	Military Technicians Cost Avoidance	-20,000
20200	Controlled Humidity Protection	3,400
20220	Unobligated Balances	-8,800
20230	Army Reserve IT Consolidation	1,100

OPERATION AND MAINTENANCE, NAVY RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
20850 OPERATION AND MAINTENANCE, NAVY RESERVE				
20900 BUDGET ACTIVITY 1: OPERATING FORCES				
20950 RESERVE AIR OPERATIONS				
21000 MISSION AND OTHER FLIGHT OPERATIONS	483,526	483,526	483,526	483,526
21100 INTERMEDIATE MAINTENANCE	16,494	16,494	16,494	16,494
21150 AIR OPERATION AND SAFETY SUPPORT	1,592	1,592	1,592	1,592
21200 AIRCRAFT DEPOT MAINTENANCE	131,607	131,607	131,607	131,607
21250 AIRCRAFT DEPOT OPS SUPPORT	384	384	384	384
21400 RESERVE SHIP OPERATIONS				
21450 MISSION AND OTHER SHIP OPERATIONS	59,127	59,127	59,127	59,127
21500 SHIP OPERATIONAL SUPPORT AND TRAINING	531	531	531	531
21600 SHIP DEPOT MAINTENANCE	92,787	92,787	92,787	92,787
21650 SHIP DEPOT OPERATIONS SUPPORT	3,596	3,596	3,596	3,596
21700 RESERVE COMBAT OPERATIONS SUPPORT				
21720 COMBAT COMMUNICATIONS	6,732	6,732	6,732	6,732
21800 COMBAT SUPPORT FORCES	224,589	224,589	229,389	229,189
21950 RESERVE WEAPONS SUPPORT				
22000 WEAPONS MAINTENANCE	5,548	5,548	5,548	5,548
22020 BASE SUPPORT				
22030 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	73,410	73,410	73,410	73,410
22040 BASE SUPPORT	108,863	108,863	108,863	108,863
22090 TOTAL, BUDGET ACTIVITY 1	1,208,786	1,208,786	1,213,586	1,213,386

	(In thousands of dollars) Budget	House	Senate	Conference
22100 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
22150 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
22200 ADMINISTRATION	6,930	6,930	6,930	6,930
22300 MILITARY MANPOWER & PERSONNEL	8,797	8,797	8,797	8,797
22350 SERVICEWIDE COMMUNICATIONS	3,347	3,347	3,347	3,347
22400 COMBAT/WEAPONS SYSTEM	5,667	5,667	5,667	5,667
22450 OTHER SERVICEWIDE SUPPORT	6,511	6,511	6,511	6,511
22600 TOTAL, BUDGET ACTIVITY 4	31,252	31,252	31,252	31,252
22680 UNOBLIGATED BALANCES	---	-7,000	---	-7,000
23150 TOTAL, OPERATION AND MAINTENANCE, NAVY RESERVE	1,240,038	1,233,038	1,244,838	1,237,638

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustment to the budget activities is as follows:

(In thousands of dollars)

Budget Activity 1: Operating Forces:		
21800	Combat Support Forces/Gulf Coast Littoral Surveillance System	4,600
Undistributed:		
22680	Unobligated Balances	-7,000

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
23300 OPERATION AND MAINTENANCE, MARINE CORPS RESERVE				
23350 BUDGET ACTIVITY 1: OPERATING FORCES				
23400 MISSION FORCES				
23450 OPERATING FORCES	72,940	72,940	72,940	72,940
23500 DEPOT MAINTENANCE	12,132	12,132	12,132	12,132
23550 BASE SUPPORT	33,370	33,370	33,370	33,370
23600 TRAINING SUPPORT	25,544	25,544	25,544	25,544
23650 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	12,126	12,126	12,126	12,126
23700 TOTAL, BUDGET ACTIVITY 1	156,112	156,112	156,112	156,112
23750 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
23800 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
23850 SPECIAL SUPPORT	8,948	8,948	8,948	8,948
23900 SERVICEWIDE TRANSPORTATION	580	580	580	580
23950 ADMINISTRATION	10,407	10,407	10,407	10,407
24000 BASE SUPPORT	4,636	4,636	4,636	4,636
24050 RECRUITING AND ADVERTISING	8,013	8,013	8,013	8,013
24100 TOTAL, BUDGET ACTIVITY 4	32,584	32,584	32,584	32,584
24150 UNOBLIGATED BALANCES	---	-1,500	---	-1,500
24600 TOTAL, O&M, MARINE CORPS RESERVE	188,696	187,196	188,696	187,196

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustment to the budget activities is as follows:

(In thousands of dollars)

Undistributed:	
24150 Unobligated Balances	-1,500

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

		Budget	House	Senate	Conference
24750	OPERATION AND MAINTENANCE, AIR FORCE RESERVE				
24800	BUDGET ACTIVITY 1: OPERATING FORCES				
24850	AIR OPERATIONS				
24900	PRIMARY COMBAT FORCES	1,329,717	1,329,717	1,329,717	1,329,717
24950	MISSION SUPPORT OPERATIONS	74,077	74,077	74,077	74,077
24970	DEPOT MAINTENANCE	410,893	410,893	410,893	410,893
25000	BASE SUPPORT	264,425	264,425	264,425	264,425
25050	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	53,056	53,056	53,056	53,056
25150	TOTAL, BUDGET ACTIVITY 1	2,132,168	2,132,168	2,132,168	2,132,168
25200	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
25250	ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
25300	ADMINISTRATION	60,270	60,270	60,270	60,270
25350	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	25,485	25,485	25,485	25,485
25400	RECRUITING AND ADVERTISING	14,516	14,516	14,516	14,516
25450	OTHER PERSONNEL SUPPORT	6,707	6,707	6,707	6,707
25500	AUDIOVISUAL	644	644	644	644
25520	TOTAL, BUDGET ACTIVITY 4	107,622	107,622	107,622	107,622
25660	MILITARY TECHNICIANS COST AVOIDANCE	---	-35,400	-39,000	-20,000
25665	932ND AIRLIFT WING OPERATIONS AND TRAINING	---	8,300	---	8,300
25680	UNOBLIGATED BALANCES	---	-7,900	---	-7,900
25682	932ND AIRLIFT WING SITE ACTIVATION	---	16,600	---	16,600
25692	932ND AIRLIFT WING TECHNICIANS	---	5,800	---	5,800
25950	TOTAL, OPERATION AND MAINTENANCE, AIR FORCE RESERVE	2,239,790	2,227,190	2,200,790	2,242,590

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Undistributed:

25660	Military Technicians Cost Avoidance	-20,000
25665	932nd Airlift Wing Operations and Training	8,300
25680	Unobligated Balances	-7,900
25682	932nd Airlift Wing Site Activation	16,600
25692	932nd Airlift Wing Technicians	5,800

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
26100 OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD				
26120 BUDGET ACTIVITY 1: OPERATING FORCES				
26140 LAND FORCES				
26180 DIVISIONS	558,168	558,168	564,818	563,268
26200 CORPS COMBAT FORCES	629,062	629,062	629,062	629,062
26220 CORPS SUPPORT FORCES	333,393	333,393	333,393	333,393
26240 ECHELON ABOVE CORPS FORCES	615,838	615,838	615,838	615,838
26260 LAND FORCES OPERATIONS SUPPORT	20,786	20,786	20,786	20,786
26280 LAND FORCES READINESS				
26320 FORCE READINESS OPERATIONS SUPPORT	180,163	180,163	180,163	180,163
26340 LAND FORCES SYSTEMS READINESS	142,914	142,914	142,914	142,914
26350 LAND FORCES DEPOT MAINTENANCE	230,567	230,567	230,567	230,567
26370 LAND FORCES READINESS SUPPORT				
26420 BASE OPERATIONS SUPPORT	577,028	577,028	579,928	579,228
26440 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	384,044	384,044	384,044	384,044
26460 MANAGEMENT & OPERATIONAL HEADQUARTERS	451,167	451,167	451,167	451,167
26480 MISCELLANEOUS ACTIVITIES	59,356	59,356	69,156	69,156
26580 TOTAL, BUDGET ACTIVITY 1	4,182,486	4,182,486	4,201,836	4,199,586
26600 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
26620 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
26660 STAFF MANAGEMENT (ADMINISTRATION)	110,669	110,669	124,269	119,069
26680 INFORMATION MANAGEMENT (SERVICEWIDE COMMUNICATIONS)	26,341	26,341	35,541	31,841
26720 PERSONNEL ADMINISTRATION (MANPOWER MANAGEMENT)	35,376	35,376	35,376	35,376
26740 RECRUITING AND ADVERTISING	85,814	85,814	85,814	85,814
26760 TOTAL, BUDGET ACTIVITY 4	258,200	258,200	281,000	272,100

(In thousands of dollars)

		Budget	House	Senate	Conference
26820	ANGEL GATE ACADEMY	---	---	---	2,000
26830	NATIONAL EMERGENCY AND DISASTER INFORMATION CENTER	---	3,500	---	3,000
26890	JOINT TRAINING AND EXPERIMENTATION PROGRAM	---	5,000	---	4,300
26940	RURAL ACCESS TO BROADBAND TECHNOLOGY	---	4,000	---	3,400
26970	NATIONAL GUARD GLOBAL EDUCATION PROJECT	---	500	---	500
27090	NATIONAL RESPONSE CENTER WMD FACILITY	---	1,000	---	3,000
27100	ADV EMERGENCY MEDICAL RESPONSE TRAINING PROGRAM	---	2,500	---	1,300
27110	HOMELAND OPERATIONAL PLANNING SYSTEM	---	8,000	---	6,800
27140	ADVANCED INFORMATION TECHNOLOGY SERVICES (C4ISR)	---	1,000	---	1,000
27310	MILITARY TECHNICIAN COST AVOIDANCE	---	-94,600	-110,400	-55,000
27341	NATIONAL GUARD MOTOR POOL PARTS TRACKING SYSTEM	---	2,000	---	1,700
27345	UNOBLIGATED BALANCES	---	-21,900	---	-21,900
27350	ERP FOR ARMY GUARD INSTALLATIONS	---	1,000	---	1,000
27360	OMEGA 36 BATTLE EFFECTS SIMULATOR	---	3,000	---	1,500
27365	REGIONAL GEOSPATIAL SERVICE CENTER	---	1,000	---	1,000
27370	AVCRAD REPLACEMENT EQUIPMENT	---	3,000	---	1,500
27381	COMMUNITY EMERG RESPONSE/INFO ANALYSIS CENTER	---	2,500	---	1,700
27382	TACTICAL OPERATIONS CENTER (ELAMS/MECCS)	---	1,500	---	1,300
27383	STRATEGIC BIODEFENSE INITIATIVE	---	10,000	---	8,500
27384	ADVANCED STARTING SYSTEMS	---	500	---	500
27385	INFANTRY HELMET LINER RETROFIT (BLISS KIT)	---	2,500	---	2,200
27386	DISTRICT OF COLUMBIA NG TUITION ASSISTANCE	---	200	---	200
27387	ASSET CONSOLIDATION AND DECISION-MAKING TECHNOLOGY	---	---	---	1,200
		============	============	============	============
27390	TOTAL, O & M, ARMY NATIONAL GUARD	4,440,686	4,376,886	4,372,436	4,442,386

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
26180 Divisions/Cannon Bore Cleaning	1,300
26180 Divisions/Extended Cold Weather Clothing System	3,800
26420 Base Operations Support/Communicator-Automated Emergency Notification System	2,200
26480 Miscellaneous Activities/WMD-Civil Support Teams	9,800
Budget Activity 4: Administration and Servicewide Activities:	
26660 Staff Management/Base Wide Protection and Facilities Monitoring System	4,800
26660 Staff Management/CBRA	1,000
26660 Staff Management/Civil Support Team Trainer	2,000
26660 Staff Management/Lewis and Clark Bicentennial Commemoration Support	600
26680 Information Management/Information Operations Training and Operations	2,800
26680 Information Management/Readiness and Regional Technology Enhancements	1,000
26680 Information Management/Real-Time Security Program	1,700
Undistributed:	
26820 Angel Gate Academy	2,000
26830 National Emergency and Disaster Information System	3,000
26890 Joint Training and Experimentation Program	4,300
26940 Rural Access to Broadband Technology	3,400
26970 National Guard Global Education Project	500
27090 National Response Center WMD Facility	3,000
27100 Adv Emergency Medical Response Training Program	1,300
27110 Homeland Operational Planning System	6,800
27140 Advanced Information Technology Services (C4ISR)	1,000
27310 Military Technician Cost Avoidance	−55,000
27341 National Guard Motor Pool Parts Tracking System	1,700
27345 Unobligated Balances	−21,900
27350 ERP for Army Guard Installations	1,000
27360 Omega 36 Battle Effects Simulator	1,500
27365 Regional Geospatial Service Center	11,000
27370 AVCRAD Replacement Equipment	1,500
27381 Community Emergency Response/Info Analysis Center	1,700
27380 Tactical Operations Center (ELAMS/MECCS)	1,300
27383 Strategic Biodefense Initiative	8,500
27384 Advanced Starting Systems	500
27385 Infantry Helmet Liner Retrofit (BLISS Kit)	2,200
27386 District of Columbia NG Tuition Assistance	200
27387 Asset Consolidation and Decision-Making Technology	1,200

DISTRIBUTIVE TRAINING TECHNOLOGY PROJECT (DTTP)/RESERVE COMPONENT AUTOMATION SYSTEM (RCAS)

The conferees provide the full amount requested for Distributive Training Technology Project (DTTP) and the Reserve Component Automation System (RCAS). The conferees expect that these funds will be expended in accordance with the detailed program descriptions included with the fiscal year 2005 President's Budget submission.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
27500 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD				
27550 BUDGET ACTIVITY 1: OPERATING FORCES				
27600 AIR OPERATIONS				
27650 AIRCRAFT OPERATIONS	2,685,471	2,685,471	2,685,471	2,685,471
27700 MISSION SUPPORT OPERATIONS	362,114	363,114	372,714	371,014
27750 BASE SUPPORT	431,076	431,076	436,076	434,376
27800 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	230,642	230,642	230,642	230,642
27850 DEPOT MAINTENANCE	676,647	755,447	755,447	755,447
27900 TOTAL, BUDGET ACTIVITY 1	4,385,950	4,465,750	4,480,350	4,476,950
27950 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
28000 SERVICEWIDE ACTIVITIES				
28050 ADMINISTRATION	27,490	27,490	27,490	27,490
28100 RECRUITING AND ADVERTISING	9,398	9,398	9,398	9,398
28110 TOTAL, BUDGET ACTIVITY 4	36,888	36,888	36,888	36,888
28160 NATIONAL GUARD STATE PARTNERSHIP PROGRAM	---	1,000	---	1,000
28290 MILITARY TECHNICIANS COST AVOIDANCE	---	-57,200	-63,000	-30,000
28310 IT CONSOLIDATION	---	3,000	---	1,100
28320 UNOBLIGATED BALANCES	---	-17,900	---	-17,900
28330 EXTENDED COLD WEATHER CLOTHING SYSTEM	---	1,000	---	---
28340 LRC 21 LAPTOP MISSION TRAINERS	---	1,500	---	1,100
28350 AATTC MOBILITY EQUIPMENT AND TRAINING	---	500	---	500
28360 SENIOR SCOUT MISSION	---	2,000	---	1,200
28375 AUTOMATIC FLIGHT FOLLOWING SYSTEM	---	2,000	---	1,700
28380 DISTRICT OF COLUMBIA NG TUITION ASSISTANCE	---	200	---	200
28550 TOTAL, O&M, AIR NATIONAL GUARD	4,422,838	4,438,738	4,454,238	4,472,738

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

(In thousands of dollars)

Budget Activity 1: Operating Forces:		
27700	Mission Support Operations/Surveying Systems	1,000
27700	Mission Support Operations/166th Information Operations Squadron	1,000
27700	Mission Support Operations/Extended Cold Weather Clothing System	1,700
27700	Mission Support Operations/Information Assurance Activities	2,100
27700	Mission Support Operations/Regional Geospatial Service	3,100
27750	Base Support/IT Consolidation/Storage Area Network	3,300
27850	Depot Maintenance/Transfer from active duty	78,800
Undistributed:		
28160	National Guard State Partnership Program	1,000
28290	Military Technicians Cost Avoidance	-30,000
28310	IT Consolidation	1,100
28320	Unobligated Balances	-17,900
28340	LRC 21 Laptop Mission Trainers	1,100
28350	AATTC Mobility Equipment and Training	500
28360	Senior Scout Mission	1,200
28375	Automatic Flight Following System	1,700
28380	District of Columbia NG Tuition Assistance	200

OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

The conference agreement provides $10,000,000 for the Overseas Contingency Operations Transfer Account.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

The conference agreement provides $10,825,000 for the United States Court of Appeals for the Armed Forces.

ENVIRONMENTAL RESTORATION, ARMY

The conference agreement provides $400,948,000 for Environmental Restoration, Army, instead of $566,948,000 as proposed by the Senate.

ENVIRONMENTAL RESTORATION, NAVY

The conference agreement provides $266,820,000 for Environmental Restoration, Navy, instead of $447,820,000 as proposed by the Senate.

ENVIRONMENTAL RESTORATION, AIR FORCE

The conference agreement provides $397,368,000 for Environmental Restoration, Air Force.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

The conference agreement provides $23,684,000 for Environmental Restoration, Defense-Wide, instead of $26,684,000 as proposed by the House.

The conferees have transferred Perchlorate Destruction by UV Catalyzed Iron Reaction to Research, Development, Test and Evaluation, Defense-Wide, Line 62.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

The conference agreement provides $266,516,000 for Environmental Restoration, Formerly Used Defense Sites, instead of $216,516,000 as proposed by the House and $276,516,000 as proposed by the Senate.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

The conference agreement provides $59,000,000 for Overseas Humanitarian, Disaster, and Civic Aid.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

The conference agreement provides $409,200,000 for the Former Soviet Union Threat Reduction Account.

TITLE III-PROCUREMENT

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
SUMMARY				
ARMY				
AIRCRAFT	2,658,241	3,107,941	2,653,241	2,854,541
MISSILES	1,398,321	1,327,000	1,378,321	1,307,000
WEAPONS, TRACKED COMBAT VEHICLES	1,639,695	2,773,695	1,698,695	2,467,495
AMMUNITION	1,556,902	1,608,302	1,606,502	1,590,952
OTHER	4,240,896	4,868,371	4,685,846	4,955,296
TOTAL, ARMY	11,494,055	13,685,309	12,022,605	13,175,284
NAVY				
AIRCRAFT	8,767,867	8,841,824	8,899,367	8,912,042
WEAPONS	2,101,529	1,993,754	2,222,620	2,114,720
AMMUNITION	858,640	885,340	881,140	888,340
SHIPS	9,962,027	10,189,327	10,171,643	10,427,443
OTHER	4,834,278	4,980,325	4,797,025	4,875,786
MARINE CORPS	1,190,103	1,462,703	1,266,803	1,432,203
TOTAL, NAVY	27,714,444	28,353,273	28,238,598	28,650,534
AIR FORCE				
AIRCRAFT	13,163,174	13,289,984	13,547,524	13,648,304
MISSILES	4,718,313	4,425,013	4,609,213	4,458,113
AMMUNITION	1,396,457	1,346,557	1,353,859	1,327,459
OTHER	13,283,557	13,199,607	13,284,897	13,071,297
TOTAL, AIR FORCE	32,561,501	32,261,161	32,795,493	32,505,173
DEFENSE-WIDE				
DEFENSE-WIDE	2,883,302	3,028,033	2,867,303	2,956,047
NATIONAL GUARD AND RESERVE EQUIPMENT	---	---	500,000	350,000
DEFENSE PRODUCTION ACT PURCHASES	9,015	27,015	42,515	42,765
TOTAL PROCUREMENT	74,662,317	77,354,791	76,466,514	77,679,803

CONGRESSIONAL SPECIAL INTEREST ITEMS

Items for which additional funds have been provided as shown in the project level tables or in paragraphs using the phrase "only for" or "only to" in this report are congressional interest items for the purpose of the Base for Reprogramming (DD 1414). Each of these items must be carried on the DD Form 1414 at the stated amount, or a revised amount if changed during conference or if otherwise specifically addressed in the conference report. These items remain special interest items whether or not they are repeated in a subsequent conference report.

GROUND FORCES RECAPITALIZATION

The conference agreement provides a total of $1,528,400,000 for ground forces recapitalization as described in the House-passed fiscal year 2005 Department of Defense Appropriations bill. The table below provides a summary of the funding included in the conference agreement.

[in thousands of dollars]

Aircraft Procurement, Army	
UH-60 Additional aircraft (6) ARNG	63,600
CH-47 Additional Aircraft (4)	143,000
Total, Aircraft Procurement, Army	206,600
Procurement of Weapons and Tracked Combat Vehicles, Army:	
ODS+ Additional Vehicles	114,000
Bradley Integrated Modernization Program (BIM)	34,000
Bradley Fighting Vehicle reactive armor tiles	17,500
Additional Stryker Brigade Funding	600,000
Fielding Costs additional Stryker Brigade	25,000
M113 Carrier MOD	10,500
Total, Procurement of Weapons and Tracked Combat Vehicles, Army	801,000
Procurement of Ammunition, Army:	
Radford AAP	16,000
Holston AAP RDX/HDX production	3,000
Lake City AAP	19,400
Lone Star AAP	6,500
Kansas AAP Flexible LAP Modern Munitions Enterprise	6,500
Total, Procurement of Ammunition, Army	51,400
Other Procurement, Army:	
HMMWV Recapitalization (A0 to A2)	33,150
HMMWV Additional vehicles (M1113)	42,500

HMMWV Additional vehicles (M1113 for AR and ARNG)	55,250
FMTV Additional vehicles	38,250
FMTVAdditional vehicles (AR)	51,000
HEMTT Additional Vehicles	38,250
HEMTT Additional Vehicles (AR and ARNG)	42,500
PLS Additional Vehicles	8,500
PLS Additional Vehicles (AR)	8,500
M915A3 Family of Military Vehicles (ARNG)	15,000
Total, Other Procurement, Army	332,900
Procurement, Marine Corps:	
Assault Amphibious Vehicle (AAV) RAM/RS Upgrades	63,000
LAV PIP Upgrades and Components	21,500
LW 155MM Howitzer	52,000
Total Procurement, Marine Corps	136,500
TOTAL GROUND FORCES RECAPITALIZATION	1,528,400

AIRCRAFT PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
AIRCRAFT				
FIXED WING				
UTILITY F/W (MR) AIRCRAFT	11,967	11,967	11,967	11,967
ROTARY				
HELICOPTER, KIOWA WARRIOR REPLACEMENT	24,000	12,000	24,000	12,000
HELICOPTER, LIGHT UTILITY	45,000	23,000	45,000	23,000
UH-60 BLACKHAWK (MYP)	279,737	406,937	279,737	343,337
UH-60 BLACKHAWK (MYP) (AP-CY)	34,723	34,723	34,723	34,723
HELICOPTER NEW TRAINING	13,100	13,100	13,100	13,100
TOTAL, AIRCRAFT	408,527	501,727	408,527	438,127
MODIFICATION OF AIRCRAFT				
GUARDRAIL MODS (TIARA)	2,195	2,195	2,195	2,195
AH-64 MODS	37,201	40,201	37,201	40,601
CH-47 CARGO HELICOPTER MODS	703,450	1,039,450	683,450	848,950
CH-47 CARGO HELICOPTER MODS (AP-CY)	23,832	23,832	23,832	23,832
UTILITY/CARGO AIRPLANE MODS	10,093	10,093	10,093	10,093
AIRCRAFT LONG RANGE MODS	754	754	754	754
LONGBOW	654,460	654,460	654,460	654,460
UH-60 MODS	142,889	148,889	146,889	149,289
UH-60 MODS (AP-CY)	6,130	6,130	6,130	6,130
KIOWA WARRIOR	39,276	39,276	39,276	39,276
AIRBORNE AVIONICS	49,091	49,091	49,091	49,091
GATM ROLLUP	61,259	61,259	61,259	61,259
SPARE PARTS (AIR)	10,857	10,857	10,857	10,857
TOTAL, MODIFICATION OF AIRCRAFT	1,741,487	2,086,487	1,725,487	1,896,787

	(In thousands of dollars)			
	Budget	House	Senate	Conference
SUPPORT EQUIPMENT AND FACILITIES				
GROUND SUPPORT AVIONICS				
AIRCRAFT SURVIVABILITY EQUIPMENT	7,319	7,319	17,319	12,319
ASE INFRARED CM	272,166	272,166	272,166	272,166
OTHER SUPPORT				
AIRBORNE COMMAND & CONTROL	26,603	28,603	26,603	27,603
AVIONICS SUPPORT EQUIPMENT	5,140	5,140	5,140	5,140
COMMON GROUND EQUIPMENT	55,543	55,543	56,543	56,543
AIRCREW INTEGRATED SYSTEMS	28,609	30,609	28,609	29,809
AIR TRAFFIC CONTROL	55,449	55,449	55,449	55,449
INDUSTRIAL FACILITIES	45,216	45,216	45,216	45,216
LAUNCHER, 2.75 ROCKET	2,413	2,413	2,413	2,413
AIRBORNE COMMUNICATIONS	9,769	17,269	9,769	12,969
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	508,227	519,727	519,227	519,627
TOTAL, AIRCRAFT PROCUREMENT, ARMY	2,658,241	3,107,941	2,653,241	2,854,541

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
2	**HELICOPTER, KIOWA WARRIOR REPLACEMENT**	24,000	12,000	24,000	12,000
	Funding ahead of need		-12,000		-12,000
3	**HELICOPTER, LIGHT UTILITY**	45,000	23,000	45,000	23,000
	Funding ahead of need		-22,000		-22,000
5	**UH-60 BLACKHAWK (MYP)**	279,737	406,937	279,737	343,337
	Additional aircraft (6) ARNG		+127,200		+63,600
10	**AH-64 MODS**	37,201	40,201	37,201	40,601
	Vibration Management Enhancement Program (VMEP) for AH-64		+3,000		+1,500
	Modern Signal Processing Unit (Note: transferred from AP,A line 34)				+1,900
11	**CH-47 CARGO HELICOPTER MODS**	703,450	1,039,450	683,450	848,950
	Additional Aircraft (4)		+336,000		+168,000
	Production efficiencies			-25,000	-25,000
	Second source qualification of CH-47 components			+5,000	+2,500
18	**UH-60 MODS**	142,889	148,889	146,889	149,289
	Crashworthy External Fuel System for Blackhawk Helo		+2,000		+1,000
	Combat Search and Rescue equipment for the 1st BN, 159th Army Reserve Aviation Regiment		+4,000		+3,400
	MEDEVAC thermal imaging upgrades			+4,000	+2,000
25	**AIRCRAFT SURVIVABILITY EQUIPMENT**	7,319	7,319	17,319	12,319
	Additional AVR-2B			+10,000	+5,000
27	**AIRBORNE COMMAND & CONTROL**	26,603	28,603	26,603	27,603
	Army Airborne Command and Control Systems (A2C2S)		+2,000		+1,000
29	**COMMON GROUND EQUIPMENT**	55,543	55,543	56,543	56,543
	AVIM Shop Set Plus Shelters			+1,000	+1,000
30	**AIRCREW INTEGRATED SYSTEMS**	28,609	30,609	28,609	29,809
	Cockpit Air Bag System		+2,000		+1,200
34	**AIRBORNE COMMUNICATIONS**	9,769	17,269	9,769	12,969
	AN/ARS-6 Personnel Locator		+3,000		+2,200
	Modern Signal Processing Unit (Note: transferred to AP,A line 10)		+2,500		0
	AN/ARC 220 Airborne Communications		+2,000		+1,000

MISSILE PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
OTHER MISSILES				
SURFACE-TO-AIR MISSILE SYSTEM				
PATRIOT SYSTEM SUMMARY	489,253	489,253	489,253	489,253
SURFACE-LAUNCHED AMRAAM SYSTEM SUMMARY:	2,449	2,449	2,449	2,449
AIR-TO-SURFACE MISSILE SYSTEM				
HELLFIRE SYS SUMMARY	108,475	108,475	108,475	108,475
APKWS (ADVANCED PRECISION KILL WEAPON SYSTEM)	755	755	755	755
ADVANCE PROCUREMENT (CY)	6,124	6,124	6,124	6,124
ANTI-TANK/ASSAULT MISSILE SYSTEM				
JAVELIN (AAWS-M) SYSTEM SUMMARY	117,803	117,803	117,803	117,803
LINE OF SIGHT ANTI-TANK (LOSAT) SYSTEM SUM	86,321	15,000	86,321	15,000
TOW 2 SYSTEM SUMMARY	12,867	12,867	12,867	12,867
TOW 2 ADVANCE PROCUREMENT (CY)	13,375	13,375	13,375	13,375
GUIDED MLRS ROCKET (GMLRS)	112,302	112,302	112,302	112,302
MLRS REDUCED RANGE PRACTICE ROCKETS (RRPR)	6,627	6,627	6,627	6,627
MLRS LAUNCHER SYSTEMS	41,200	41,200	21,200	21,200
HIMARS LAUNCHER	169,249	169,249	169,249	169,249
ARMY TACTICAL MSL SYS (ATACMS) - SYS SUM	61,484	61,484	61,484	61,484
TOTAL, OTHER MISSILES	1,228,284	1,156,963	1,208,284	1,136,963
MODIFICATION OF MISSILES				
MODIFICATIONS				
PATRIOT MODS	87,948	87,948	87,948	87,948
ITAS/TOW MODS	9,784	9,784	9,784	9,784
MLRS MODS	18,970	18,970	18,970	18,970
HIMARS MODIFICATIONS: (NON AAO)	474	474	474	474
HELLFIRE MODIFICATIONS	9,770	9,770	9,770	9,770
TOTAL, MODIFICATION OF MISSILES	126,946	126,946	126,946	126,946

	(In thousands of dollars)			
	Budget	House	Senate	Conference
SPARES AND REPAIR PARTS	33,779	33,779	33,779	33,779
SUPPORT EQUIPMENT AND FACILITIES				
AIR DEFENSE TARGETS	5,843	5,843	5,843	5,843
ITEMS LESS THAN $5.0M (MISSILES)	10	10	10	10
PRODUCTION BASE SUPPORT	3,459	3,459	3,459	3,459
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	9,312	9,312	9,312	9,312
TOTAL, MISSILE PROCUREMENT, ARMY	1,398,321	1,327,000	1,378,321	1,307,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
9	**LINE OF SIGHT ANTI-TANK (LOSAT) SYSTEM SUMMARY**	**86,321**	**15,000**	**86,321**	**15,000**
	Program Termination		-71,321		-71,321
14	**MLRS LAUNCHER SYSTEMS**	**41,200**	**41,200**	**21,200**	**21,200**
	Fielding and Delivery Cost Growth			-20,000	-20,000

HELLFIRE MISSILE

The conferees are aware of Army operational needs to purchase various configurations of Hellfire missile warheads. Accordingly, the conferees agree to provide flexibility to the Army to acquire not more than 1,135 Hellfire missile warheads of any type.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROCUREMENT OF W&TCV, ARMY				
TRACKED COMBAT VEHICLES				
ABRAMS TRNG DEV MOD	3,643	3,643	3,643	3,643
BRADLEY BASE SUSTAINMENT	71,378	245,378	78,378	224,278
BRADLEY FVS TRAINING DEVICES (MOD)	2,454	2,454	2,454	2,454
ABRAMS TANK TRAINING DEVICES	3,624	3,624	3,624	7,024
STRYKER	905,074	1,855,074	905,074	1,530,074
MODIFICATION OF TRACKED COMBAT VEHICLES				
CARRIER, MOD	---	---	15,000	10,500
FIST VEHICLE (MOD)	1	1	1	1
MOD OF IN-SVC EQUIP, FIST VEHICLE	670	670	670	670
BFVS SERIES (MOD)	55,424	65,424	80,424	81,424
HOWITZER, MED SP FT 155MM M109A6 (MOD)	18,350	18,350	18,350	18,350
FAASV PIP TO FLEET	7,294	7,294	7,294	7,294
M1 ABRAMS TANK (MOD)	116,917	116,917	116,917	116,917
SYSTEM ENHANCEMENT PGM: SEP M1A2	292,152	292,152	292,152	292,152
SUPPORT EQUIPMENT AND FACILITIES				
ITEMS LESS THAN $5.0M (TCV-WTCV)	407	407	407	407
PRODUCTION BASE SUPPORT (TCV-WTCV)	10,278	10,278	10,278	10,278
TOTAL, TRACKED COMBAT VEHICLES	1,487,666	2,621,666	1,534,666	2,305,466

	(In thousands of dollars)			
	Budget	House	Senate	Conference
WEAPONS AND OTHER COMBAT VEHICLES				
INTEGRATED AIR BURST WEAPON SYSTEM FAMILY	500	500	500	500
ARMOR MACHINE GUN, 7.62MM M240 SERIES	25,249	25,249	25,249	25,249
MACHINE GUN, 5.56MM (SAW)	80	80	80	80
MORTAR SYSTEMS	5,258	5,258	5,258	5,258
XM107, CAL. 50, SNIPER RIFLE	8,871	8,871	8,871	8,871
5.56 CARBINE M4	9,376	9,376	9,376	9,376
HOWITZER LT WT 155MM (T)	37,209	37,209	37,209	37,209
MOD OF WEAPONS AND OTHER COMBAT VEH				
MARK-19 MODIFICATIONS	4,236	4,236	4,236	4,236
M4 CARBINE MODS	13,777	13,777	13,777	13,777
SQUAD AUTOMATIC WEAPON (MOD)	3,382	3,382	3,382	3,382
MEDIUM MACHINE GUNS (MODS)	3,409	3,409	3,409	3,409
HOWITZER, TOWED, 155MM, M198 (MODS)	779	779	779	779
M16 RIFLE MODS	2,345	2,345	2,345	2,345
MODIFICATIONS LESS THAN $5.0M (WOCV-WTCV)	3,245	3,245	3,245	3,245
SUPPORT EQUIPMENT AND FACILITIES				
ITEMS LESS THAN $5.0M (WOCV-WTCV)	486	486	486	486
PRODUCTION BASE SUPPORT (WOCV-WTCV)	6,620	6,620	6,620	6,620
INDUSTRIAL PREPAREDNESS	2,629	2,629	14,629	12,629
SMALL ARMS (SOLDIER ENH PROG)	3,492	3,492	3,492	3,492
REF SMALL ARMS	998	998	998	998
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	131,941	131,941	143,941	141,941
SPARES AND REPAIR PARTS (WTCV)	20,088	20,088	20,088	20,088
TOTAL, PROCUREMENT OF W&TCV, ARMY	1,639,695	2,773,695	1,698,695	2,467,495

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
2	**BRADLEY BASE SUSTAINMENT**	**71,378**	**245,378**	**78,378**	**224,278**
	ODS+ Additional Vehicles		+134,000		+114,000
	Bradley Integtrated Modernization Program (BIM)		+40,000		+34,000
	Bradley A3 vehicle diagnostics			+7,000	+4,900
4	**ABRAMS TANK TRAINING DEVICES**	**3,624**	**3,624**	**3,624**	**7,024**
	.50 Caliber Inbore Sub-Caliber Training Devices (Note: only for use in providing realistic and efficient sub-caliber live fire tank gunnery training for Abrams tank crews. Transferred from PA,A line 12.)				+3,400
5	**STRYKER**	**905,074**	**1,855,074**	**905,074**	**1,530,074**
	Additional Stryker Brigade Funding		+900,000		+600,000
	Fielding Costs additional Stryker Brigade		+50,000		+25,000
6	**CARRIER, MOD**	**0**	**0**	**15,000**	**10,500**
	M113 Carrier MOD			+15,000	+10,500
9	**BFVS SERIES (MOD)**	**55,424**	**65,424**	**80,424**	**81,424**
	Common Remotely Operated Weapons Station (CROWS) (Note: only for rapid fielding of LRIP CROWS units.)		+10,000		+8,500
	Bradley Fighting Vehicle reactive armor tiles			+25,000	+17,500
38	**INDUSTRIAL PREPAREDNESS**	**2,629**	**2,629**	**14,629**	**12,629**
	Arsenal Support Program Initiative			+12,000	+9,000
	Rock Island Arsenal Industrial Preparedness Items (Note: only for wash bay, laser cutting machine and titanium welding cell for Rock Island Arsenal. Transferred from O&M,A)				+1,000

FULL FUNDING OF STRYKER BRIGADES

The conferees understand that the equipment deployed with the 3rd Brigade, 2nd Infantry Division Stryker Brigade Combat Team, now in Iraq, allows Stryker vehicle commanders to seamlessly review situational awareness and vehicle sensor data in a heads-up mode while the vehicle is on the move, greatly enhancing force protection. The conferees direct that any Stryker vehicle procured, modified or upgraded shall be equipped to provide all Stryker vehicle commanders the same level of access to the data provided by the equipment currently deployed with the 3rd Brigade, 2nd Infantry Division.

PROCUREMENT OF AMMUNITION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
AMMUNITION				
SMALL/MEDIUM CAL AMMUNITION				
CTG, 5.56MM, ALL TYPES	173,550	173,550	173,550	173,550
CTG, 7.62MM, ALL TYPES	45,062	45,062	45,062	45,062
CTG, 9MM, ALL TYPES	5,078	5,078	5,078	5,078
CTG, .50 CAL, ALL TYPES	59,810	59,810	59,810	59,810
CTG, 25MM, ALL TYPES	21,600	21,600	21,600	21,600
CTG, 30MM, ALL TYPES	9,726	9,726	9,726	9,726
CTG, 40MM, ALL TYPES	119,658	119,658	119,658	119,658
MORTAR AMMUNITION				
60MM MORTAR, ALL TYPES	38,436	40,936	38,436	39,686
81MM MORTAR, ALL TYPES	4,597	4,597	6,597	5,597
CTG, MORTAR, 120MM, ALL TYPES	50,316	50,316	52,816	52,066
TANK AMMUNITION				
CTG TANK 105MM: ALL TYPES	27,419	27,419	27,419	27,419
120MM TANK TRAINING, ALL TYPES	139,718	143,718	139,718	139,718
CTG, TANK, 120MM TACTICAL, ALL TYPES	49,845	49,845	49,845	49,845
ARTILLERY AMMUNITION				
CTG ARTY 105MM M927	33,286	33,286	33,286	33,286
CTG, ARTY, 155MM, ALL TYPES	132,668	133,668	108,668	109,668
PROJ, 155MM EXTENDED RANGE XM982	---	---	8,060	---
PROJ ARTY 155MM HE M107	16,960	16,960	---	16,960
MODULAR ARTILLERY CHARGE SYSTEM (MACS), ALL T	65,807	75,807	65,807	74,307

(In thousands of dollars)

	Budget	House	Senate	Conference
ARTILLERY FUZES				
ARTILLERY FUZES, ALL TYPES	40,796	40,796	40,796	41,396
MINES				
MINE, TRAINING, ALL TYPES	527	527	527	527
MINES (CONVENTIONAL), ALL TYPES	4,242	4,242	4,242	4,242
MINE, CLEARING CHARGE, ALL TYPES	1,020	1,020	1,020	1,020
ANTIPERSONNEL LANDMINE ALTERNATIVES	15,222	15,222	15,222	15,222
ROCKETS				
SHOULDER FIRED ROCKETS, ALL TYPES	15,414	24,414	15,414	23,064
ROCKET, HYDRA 70, ALL TYPES	164,689	121,689	164,689	121,689
OTHER AMMUNITION				
DEMOLITION MUNITIONS, ALL TYPES	29,193	30,193	32,193	31,693
GRENADES, ALL TYPES	52,857	52,857	52,857	52,857
SIGNALS, ALL TYPES	26,276	26,276	26,276	26,276
SIMULATORS, ALL TYPES	20,165	20,165	20,165	20,165
MISCELLANEOUS				
AMMO COMPONENTS, ALL TYPES	8,550	8,550	8,550	8,550
NON-LETHAL AMMUNITION, ALL TYPES	5,534	5,534	5,534	5,534
CAD/PAD ALL TYPES	3,884	3,884	3,884	3,884
ITEMS LESS THAN $5 MILLION	11,398	11,398	11,398	11,398
AMMUNITION PECULIAR EQUIPMENT	4,898	4,898	16,498	12,398
FIRST DESTINATION TRANSPORTATION (AMMO)	10,700	10,700	10,700	10,700
CLOSEOUT LIABILITIES	80	80	80	80
TOTAL, AMMUNITION	1,408,981	1,393,481	1,395,181	1,373,731
AMMUNITION PRODUCTION BASE SUPPORT				
PRODUCTION BASE SUPPORT				
PROVISION OF INDUSTRIAL FACILITIES	40,746	103,646	90,746	100,646
LAYAWAY OF INDUSTRIAL FACILITIES	2,315	2,315	2,315	2,315
MAINTENANCE OF INACTIVE FACILITIES	4,745	4,745	4,745	4,745
CONVENTIONAL AMMO DEMILITARIZATION	95,372	99,372	108,772	104,772
ARMS INITIATIVE	4,743	4,743	4,743	4,743
TOTAL, AMMUNITION PRODUCTION BASE SUPPORT	147,921	214,821	211,321	217,221
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	1,556,902	1,608,302	1,606,502	1,590,952

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
8	**60MM MORTAR, ALL TYPES**	**38,436**	**40,936**	**38,436**	**39,686**
	M768 60mm Mortar Ammunition with PD Fuze		+2,500		+1,250
9	**81MM MORTAR, ALL TYPES**	**4,597**	**4,597**	**6,597**	**5,597**
	Cartridge, Mortar, 81mm, Infrared Illum, M816			+2,000	+1,000
10	**CTG, MORTAR, 120MM, ALL TYPES**	**50,316**	**50,316**	**52,816**	**52,066**
	Cartridge, Mortar, 120mm, Illum, w/MTSQ FZ, M930			+2,500	+1,750
12	**120MM TANK TRAINING, ALL TYPES**	**139,718**	**143,718**	**139,718**	**139,718**
	.50 Caliber Inbore Sub-Caliber Training Devices (Note: Only for use in providing realistic and efficient sub-caliber live fire tank gunnery training for Abrams tank crews. Transferred to WTCV,A line 4)		+4,000		0
16	**CTG, ARTY, 155MM, ALL TYPES**	**132,668**	**133,668**	**108,668**	**109,668**
	M110 155mm WP Smoke Projectile		+1,000		+1,000
	M864 Program Delay			-24,000	-24,000
17	**PROJ 155MM EXTENDED RANGE XM 982 (EXCALIBUR)**	**16,960**	**16,960**	**8,060**	**16,960**
	Excalibur			-8,900	0
18	**MODULAR ARTILLERY CHARGE SYSTEM (MACS), ALL TYPES**	**65,807**	**75,807**	**65,807**	**74,307**
	MACS		+10,000		+8,500
19	**ARTILLERY FUZES, ALL TYPES**	**40,796**	**40,796**	**40,796**	**41,396**
	M762A1/M767A1 Electronic Time Fuzes				+600
25	**SHOULDER FIRED ROCKETS, ALL TYPES**	**15,414**	**24,414**	**15,414**	**23,064**
	Shoulder-Launched Multipurpose Assault Weapon - Disposable (SMAW-D)		+4,000		+3,400
	M72 Lightweight Attack Weapon System (LAW)		+5,000		+4,250
26	**ROCKET, HYDRA 70, ALL TYPES**	**164,689**	**121,689**	**164,689**	**121,689**
	Training rounds--procuring ahead of need		-43,000		-43,000
27	**DEMOLITION MUNITIONS, ALL TYPES**	**29,193**	**30,193**	**32,193**	**31,693**
	Modernization Demolition Initiators (MDI)		+1,000		+1,000
	Blast Cap, Non-Electric, M19, M21 & M23			+3,000	+1,500
35	**AMMUNITION PECULIAR EQUIPMENT**	**4,898**	**4,898**	**16,498**	**12,398**
	Advanced Controlled Flexible Ammunition Distribution Module			+3,000	+1,500
	Hydrolysis Demilitarization Demonstration Program - Tooele AD			+7,600	+5,000
	Optimized Desert Peculiar Equipment			+1,000	+1,000

P-1		Budget Request	House	Senate	Conference
38	**PROVISION OF INDUSTRIAL FACILITIES**	**40,746**	**103,646**	**90,746**	**100,646**
	Lake City Ammunition Plant upgrades		+22,400	+15,000	+19,400
	Radford Army Ammunition Plant Acid Production for Small Arms Propellant		+16,000	+16,000	+16,000
	Holston Army Ammunition Plant RDX and HDX production		+3,500		+3,000
	Insensitive Munitions Production – Holston Army Ammunition Plant			+2,000	+1,500
	Lone Star Army Ammunition Plant LAP modernization		+10,000		+6,500
	Flexible LAP Modern Munitions Enterprise Kansas AAP		+6,000	+10,000	+6,500
	Riverbank Army Ammunition Plant Flexible Manufacturing Facility		+5,000		+2,500
	Flexible LAP for 120mm Mortar Family of Extended Range Ammunition			+2,000	+1,000
	Insensitive Munitions Flexible Artillery Manufacturing System			+5,000	+3,500
41	**CONVENTIONAL AMMO DEMILITARIZATION**	**95,372**	**99,372**	**108,772**	**104,772**
	Missile Recycling Capability - Anniston Munitions Center		+1,000	+3,000	+2,100
	Accelerated Propelling Charge Demil Program (Note: only for the Accelerated Propelling Charge Demilitarization Program to be performed at the Fort Wingate Demilitarization Facility)		+3,000		+1,500
	Accelerated Propellant Charge Demilitarization			+6,000	+3,600
	Additional Funding for Conventional Munitions Demilitarization			+4,400	+2,200

OTHER PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OTHER PROCUREMENT, ARMY				
TACTICAL AND SUPPORT VEHICLES				
TACTICAL VEHICLES				
TACTICAL TRAILERS/DOLLY SETS	11,940	11,940	10,440	10,440
SEMITRAILERS, FLATBED:	9,242	9,242	9,242	9,242
SEMITRAILERS, TANKERS	667	667	667	667
HI MOB MULTI-PURP WHLD VEH (HMMWV)	303,692	457,692	303,692	434,592
TRUCK, DUMP, 20T (CCE)	---	---	4,500	3,200
FAMILY OF MEDIUM TACTICAL VEH (FMTV)	505,664	610,664	507,664	595,914
FIRETRUCKS & ASSOCIATED FIREFIGHTING EQUIPMEN	2,198	2,198	18,448	13,598
FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)	84,038	212,538	189,038	207,588
ARMORED SECURITY VEHICLES (ASV)	---	8,000	---	4,800
TRUCK, TRACTOR, LINE HAUL, M915/M916	15,314	30,314	30,314	30,314
HVY EXPANDED MOBILE TACTICAL TRUCK EXT SERV P	19,204	19,204	19,204	19,204
MODIFICATION OF IN SVC EQUIP	25,848	25,848	25,848	25,848
ITEMS LESS THAN $5.0M (TAC VEH)	247	247	247	247
TOWING DEVICE-FIFTH WHEEL	1,907	1,907	1,907	1,907
NON-TACTICAL VEHICLES				
HEAVY ARMORED SEDAN	196	196	196	196
PASSENGER CARRYING VEHICLES	197	197	197	197
NONTACTICAL VEHICLES, OTHER	196	196	196	196
TOTAL, TACTICAL AND SUPPORT VEHICLES	980,550	1,391,050	1,121,800	1,358,150

	(In thousands of dollars)			
	Budget	House	Senate	Conference
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
COMM - JOINT COMMUNICATIONS				
JCSE EQUIPMENT (USREDCOM)	4,550	4,550	4,550	4,550
COMM - SATELLITE COMMUNICATIONS				
DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPAC	99,775	99,775	105,175	103,575
SHF TERM	30,621	30,621	26,621	26,621
SAT TERM, EMUT (SPACE)	3,371	3,371	3,371	3,371
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)	40,067	40,067	48,067	43,867
SMART-T (SPACE)	73,354	73,354	71,654	71,654
SCAMP (SPACE)	600	600	600	600
MILSTAR COMPONENTS (SPACE)	25,282	25,282	25,282	25,282
GLOBAL BRDCST SVC - GBS	12,664	12,664	12,664	12,664
MOD OF IN-SVC EQUIP (TAC SAT)	198	198	198	198
COMM - C3 SYSTEM				
ARMY GLOBAL CMD & CONTROL SYS (AGCCS)	19,790	19,790	19,790	19,790
COMM - COMBAT COMMUNICATIONS				
ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)	34,435	42,435	41,435	41,435
JTRS CLUSTER 1	121,452	121,452	111,452	111,452
RADIO TERMINAL SET, MIDS LVT(2)	3,223	3,223	3,223	3,223
SINCGARS FAMILY	48,614	50,114	63,014	55,814
MULTI-PURPOSE INFORMATION OPERATIONS SYSTEMS	7,776	11,276	7,776	9,576
JOINT TACTICAL AREA COMMAND SYSTEMS	843	843	843	843
ACUS MOD PROGRAM	81,317	88,317	81,317	91,617
COMMS-ELEC EQUIP FIELDING	8,889	11,889	8,889	11,689
SOLDIER ENHANCEMENT PROGRAM COMM/ELECTRONICS	25,952	25,952	25,952	25,952
COMBAT SURVIVOR EVADER LOCATOR (CSEL)	28,767	33,767	28,767	31,767
RADIO, IMPROVED HF FAMILY	6,948	21,948	6,948	16,948
MEDICAL COMM FOR CBT CASUALTY CARE (MC4)	4,662	4,662	4,662	4,662
COMM - INTELLIGENCE COMM				
CI AUTOMATION ARCHITECTURE	1,279	1,279	1,279	1,279
INFORMATION SECURITY				
TSEC - ARMY KEY MGT SYS (AKMS)	2,834	2,834	2,834	2,834
INFORMATION SYSTEM SECURITY PROGRAM-ISSP	114,124	115,624	114,124	115,124

	(In thousands of dollars)			
	Budget	House	Senate	Conference
COMM - LONG HAUL COMMUNICATIONS				
TERRESTRIAL TRANSMISSION	23,421	23,421	23,421	23,421
BASE SUPPORT COMMUNICATIONS	40,564	41,564	69,864	68,264
ARMY DISN ROUTER	6,133	6,133	6,133	6,133
ELECTROMAG COMP PROG (EMCP)	469	469	469	469
WW TECH CON IMP PROG (WWTCIP)	2,698	2,698	2,698	2,698
COMM - BASE COMMUNICATIONS				
INFORMATION SYSTEMS	268,940	268,940	275,940	272,440
DEFENSE MESSAGE SYSTEM (DMS)	12,296	12,296	12,296	12,296
LOCAL AREA NETWORK (LAN)	84,820	84,820	84,820	84,820
PENTAGON INFORMATION MGT AND TELECOM	14,671	14,671	14,671	14,671
ELECT EQUIP - NAT FOR INT PROG (NFIP)				
ELECT EQUIP - TACT INT REL ACT (TIARA)				
ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)	15,979	15,979	15,979	15,979
JTT/CIBS-M (TIARA)	13,993	13,993	13,993	13,993
PROPHET GROUND (TIARA)	17,692	24,692	20,692	25,642
TUAV	100,456	109,231	149,056	134,156
DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIARA)	9,138	9,138	9,138	9,138
TACTICAL EXPLOITATION SYSTEM (TIARA)	14,094	14,094	15,094	15,094
DCGS-A UNIT OF EMPLOYMENT (JMIP)	9,575	9,575	9,575	9,575
TROJAN (TIARA)	5,840	5,840	5,840	5,840
MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)	2,594	2,594	2,594	2,594
CI HUMINT INFO MANAGEMENT SYSTEM (CHIMS) (TIA	2,924	2,924	2,924	2,924
ITEMS LESS THAN $5.0M (TIARA)	4,287	4,287	7,287	6,387
ELECT EQUIP - ELECTRONIC WARFARE (EW)				
ELECT EQUIP - TACTICAL SURV. (TAC SURV)				
SENTINEL MODS	7,487	7,487	7,487	7,487
NIGHT VISION DEVICES	102,325	107,325	110,325	109,725
LONG RANGE ADVANCED SCOUT SURVEILLANCE SYSTEM	49,176	49,176	49,176	49,176
LTWT VIDEO RECON SYSTEM (LWVRS)	---	1,500	---	1,100
NIGHT VISION, THERMAL WPN SIGHT	54,809	54,809	54,809	54,809
ARTILLERY ACCURACY EQUIP	---	3,000	---	1,500
MOD OF IN-SVC EQUIP (MMS)	461	461	461	461
MOD OF IN-SVC EQUIP (MVS)	280	280	280	280
PORTABLE INDUCTIVE ARTILLERY FUZE SETTER	1,985	1,985	1,985	1,985

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROFILER	4,963	5,963	8,363	7,563
MOD OF IN-SVC EQUIP (TAC SURV)	17,444	20,444	21,444	20,944
FORCE XXI BATTLE CMD BRIGADE & BELOW (FBCB2)	120,073	120,073	120,073	120,073
LIGHTWEIGHT LASER DESIGNATOR/RANGEFINDER (LLD	12,339	12,339	12,339	12,339
MORTAR FIRE CONTROL SYSTEM	14,633	14,633	14,633	14,633
INTEGRATED MET SYS SENSORS (IMETS) - TIARA	346	346	346	346
ENHANCED SENSOR & MONITORING SYSTEM	1,456	1,456	1,456	1,456
ELECT EQUIP - TACTICAL C2 SYSTEMS				
TACTICAL OPERATIONS CENTERS	50,692	50,692	50,692	50,692
ADV FA TAC DATA SYS / EFF CTRL SYS (AFATDS/EC	26,922	26,922	26,922	26,922
MOD OF IN-SVC EQUIP, AFATDS	3,990	3,990	3,990	3,990
LIGHT WEIGHT TECH FIRE DIRECTION SYS (LWT	2,018	2,018	2,018	2,018
CMBT SVC SUPT CONTROL SYS (CSSCS)	11,909	11,909	11,909	11,909
FAAD C2	12,873	12,873	12,873	12,873
AIR & MSL DEFENSE PLANNING & CONTROL SYS (AMD	6,400	6,400	6,400	6,400
FORWARD ENTRY DEVICE / LIGHTWEIGHT FED (FED/L	2,045	2,045	2,045	2,045
KNIGHT FAMILY	2,236	2,236	2,236	2,236
LIFE CYCLE SOFTWARE SUPPORT (LCSS)	1,827	1,827	1,827	1,827
LOGTECH	24,416	24,416	32,416	33,516
TC AIMS II	16,376	16,376	16,376	16,376
JOINT NETWORK MANAGEMENT SYSTEM (JNMS)	12,587	12,587	18,087	12,587
TACTICAL INTERNET MANAGER	11,363	11,363	11,363	11,363
MANEUVER CONTROL SYSTEM (MCS)	29,136	29,136	29,136	29,136
STAMIS TACTICAL COMPUTERS (STACOMP)	54,581	55,581	54,581	57,581
ELECT EQUIP - AUTOMATION				
ARMY TRAINING MODERNIZATION	5,377	5,377	5,377	5,377
AUTOMATED DATA PROCESSING EQUIP	146,184	154,184	151,184	152,084
RESERVE COMPONENT AUTOMATION SYS (RCAS)	48,467	61,967	50,467	61,367
ELECT EQUIP - AUDIO VISUAL SYS (A/V)				
AFRTS	1,801	1,801	1,801	1,801
ITEMS LESS THAN $5.0M (A/V)	1,624	1,624	1,624	1,624
ITEMS LESS THAN $5M (SURVEYING EQUIPMENT)	2,298	2,298	2,298	2,298
ELECT EQUIP - SUPPORT				
PRODUCTION BASE SUPPORT (C-E)	434	434	434	434
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	2,315,304	2,412,579	2,462,204	2,473,254

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OTHER SUPPORT EQUIPMENT				
CHEMICAL DEFENSIVE EQUIPMENT				
SMOKE & OBSCURANT FAMILY: SOF (NON AAO ITEM)..........	3,863	3,863	3,863	3,863
BRIDGING EQUIPMENT				
TACTICAL BRIDGING....................................	34,137	34,137	34,137	34,137
TACTICAL BRIDGE, FLOAT-RIBBON........................	17,360	17,360	32,360	27,110
ENGINEER (NON-CONSTRUCTION) EQUIPMENT				
HANDHELD STANDOFF MINEFIELD DETECTION SYS-HST.........	6,906	6,906	6,906	6,906
KIT, STANDARD TELEOPERATING..........................	3,023	3,023	3,023	3,023
GRND STANDOFF MINE DETECTION SYSTEM (GSTAMIDS.........	2,001	2,001	2,001	2,001
ROBOTIC COMBAT SUPPORT SYSTEM (RCSS).................	1,038	1,038	1,038	1,038
EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD EQPMT).........	12,670	12,670	12,670	12,670
ITEMS LESS THAN $5M, COUNTERMINE EQUIPMENT...........	680	680	7,080	5,180
COMBAT SERVICE SUPPORT EQUIPMENT				
HEATERS AND ECU'S....................................	17,554	17,554	17,554	17,554
LAUNDRIES, SHOWERS AND LATRINES......................	2,020	2,020	2,020	2,020
SOLDIER ENHANCEMENT..................................	7,275	7,275	12,275	9,775
LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)..............	30	30	10,030	7,530
LAND WARRIOR...	8,896	8,896	8,896	8,896
FIELD FEEDING EQUIPMENT..............................	20,063	20,063	20,063	20,063
AIR DROP PROGRAM.....................................	14,288	14,288	14,288	14,288
ITEMS LESS THAN $5.0M (ENG SPT EQ)...................	6,546	9,546	6,546	7,546
ITEMS LESS THAN $5.0M (CSS EQ).......................	---	---	4,500	3,400
PETROLEUM EQUIPMENT				
DISTRIBUTION SYSTEMS, PETROLEUM & WATER..............	38,091	38,091	38,091	38,091
WATER EQUIPMENT				
WATER PURIFICATION SYSTEMS...........................	12,581	12,581	12,581	12,581
MEDICAL EQUIPMENT				
COMBAT SUPPORT MEDICAL...............................	11,743	17,743	21,743	24,593
MAINTENANCE EQUIPMENT				
SHOP EQ CONTACT MAINTENANCE TRK MTD (MYP)............	9,427	9,427	9,427	9,427
ITEMS LESS THAN $5.0M (MAINT EQ).....................	5,439	5,439	5,439	5,439
CONSTRUCTION EQUIPMENT				
MISSION MODULES - ENGINEERING........................	5,863	6,063	5,863	6,063
LOADERS..	10,202	10,202	10,202	10,202
CRANES...	3,812	3,812	3,812	3,812
HIGH MOBILITY ENGINEER EXCAVATOR (HMEE)..............	8,675	8,675	8,675	8,675

	(In thousands of dollars)			
	Budget	House	Senate	Conference
CONST EQUIP ESP..	5,310	27,310	15,310	32,710
ITEMS LESS THAN $5.0M (CONST EQUIP)..................	7,192	8,192	7,192	8,192
RAIL FLOAT CONTAINERIZATION EQUIPMENT				
LOGISTIC SUPPORT VESSEL (LSV)..........................	---	2,000	2,000	2,000
THEATER SUPPORT VESSEL (TSV)..........................	---	3,000	---	1,000
ITEMS LESS THAN $5.0M (FLOAT/RAIL)....................	3,465	3,465	3,465	3,465
GENERATORS				
GENERATORS AND ASSOCIATED EQUIP......................	54,397	55,397	58,397	57,397
MATERIAL HANDLING EQUIPMENT				
ALL TERRAIN LIFTING ARMY SYSTEM........................	1,315	1,315	1,315	1,315
ITEMS LESS THAN $5.0M (MHE)...........................	---	---	6,000	4,500
TRAINING EQUIPMENT				
COMBAT TRAINING CENTERS (CTC) SUPPORT................	86,421	91,421	86,421	90,671
TRAINING DEVICES, NONSYSTEM..........................	241,946	293,446	300,846	308,346
CLOSE COMBAT TACTICAL TRAINER.........................	61,811	61,811	61,811	61,811
AVIATION COMBINED ARMS TACTICAL TRAINER (AVCA.........	40,803	54,803	55,803	54,803
TEST MEASURE AND DIG EQUIPMENT (TMD)				
INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)...........	4,054	11,054	4,054	10,654
TEST EQUIPMENT MODERNIZATION (TEMOD).................	5,214	5,214	5,214	5,214
OTHER SUPPORT EQUIPMENT				
RAPID EQUIPPING SOLDIER SUPPORT EQUIPMENT............	13,510	13,510	13,510	13,510
PHYSICAL SECURITY SYSTEMS (OPA3).....................	68,044	68,044	78,044	73,044
BASE LEVEL COM'L EQUIPMENT...........................	7,197	7,197	7,197	7,197
MODIFICATION OF IN-SVC EQUIPMENT (OPA-3).............	10,457	10,457	10,457	10,457
PRODUCTION BASE SUPPORT (OTH)........................	2,655	2,655	2,655	2,655
SPECIAL EQUIPMENT FOR USER TESTING...................	9,905	13,905	9,905	11,905
MA8975..	2,447	2,447	2,447	2,447
TOTAL, OTHER SUPPORT EQUIPMENT......................	890,326	1,010,026	1,047,126	1,069,176
SPARE AND REPAIR PARTS				
INITIAL SPARES - C&E..................................	44,102	44,102	44,102	44,102
INITIAL SPARES - OTHER SUPPORT EQUIP..................	1,260	1,260	1,260	1,260
TOTAL, SPARE AND REPAIR PARTS.......................	45,362	45,362	45,362	45,362
CLASSIFIED PROGRAMS..................................	9,354	9,354	9,354	9,354
TOTAL, OTHER PROCUREMENT, ARMY......................	4,240,896	4,868,371	4,685,846	4,955,296

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**TACTICAL TRAILERS/DOLLY SETS**	11,940	11,940	10,440	10,440
	Unjustified Cost Growth			-1,500	-1,500
4	**HI MOB MULTI-PURP WHLD VEH (HMMWV)**	303,692	457,692	303,692	434,592
	HMMWV Recapitalization (A0 to A2)		+39,000		+33,150
	Additional vehicles (M1113)		+50,000		+42,500
	Additional vehicles (M1113 for AR and ARNG)		+65,000		+55,250
5	**TRUCK, DUMP, 20T (CCE)**	0	0	4,500	3,200
	Heli-Basket Module Technology for the National Guard			+4,500	+3,200
6	**FAMILY OF MEDIUM TACTICAL VEH (FMTV)**	505,664	610,664	507,664	595,914
	Additional vehicles		+45,000		+38,250
	Additional vehicles (AR)		+60,000		+51,000
	M100 GMENS Navigation System for Family of Medium Tactical Vehicles			+2,000	+1,000
7	**FIRETRUCKS & ASSOCIATED FIREFIGHTING EQUIPMENT**	2,198	2,198	18,448	13,598
	Tactical Fire Fighting Equipment for Army National Guard and Reserve			+16,250	+11,400
8	**FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)**	84,038	212,538	189,038	207,588
	Palletized Load System Trucks and Trailers for the MD ARNG		+500		+500
	HEMTT Additional Vehicles		+45,000		+38,250
	HEMTT Additional Vehicles (AR and ARNG)		+50,000		+42,500
	PLS Additional Vehicles		+10,000		+8,500
	PLS Additional Vehicles (AR)		+10,000		+8,500
	HEMTT & Palletized Load Sysem (PLS)			+75,000	0
	HEMTT and PLS Trucks and Trailers		+5,000		+4,300
	Movement Tracking System (MTS)		+8,000	+30,000	+21,000
9	**ARMORED SECURITY VEHICLES (ASV)**	0	8,000	0	4,800
	Armored Security Vehicle		+8,000		+4,800
10	**TRUCK, TRACTOR, LINE HAUL, M915/M916**	15,314	30,314	30,314	30,314
	M915A3 Family of Military Vehicles (ARNG)		+15,000	+15,000	+15,000
22	**DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE)**	99,775	99,775	105,175	103,575
	Satellite-based Interoperable Network Communications System			+5,400	+3,800
23	**SHF TERM**	30,621	30,621	26,621	26,621
	Unjustified cost growth			-4,000	-4,000
25	**NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)**	40,067	40,067	48,067	43,867
	Defense Advanced GPS Receiver (DAGR) program			+5,000	+3,800
	PRC-112D Search and Rescue Upgrade Kits (Note: transferred to OP,A line 41)			+3,000	0
26	**SMART-T (SPACE)**	73,354	73,354	71,654	71,654
	Unjustified cost growth			-1,700	-1,700
32	**ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)**	34,435	42,435	41,435	41,435
	Enhanced Position Location Reporting System (EPLRS) for Army National Guard		+8,000	+7,000	+7,000

P-1		Budget Request	House	Senate	Conference
33	**JTRS CLUSTER 1**	**121,452**	**121,452**	**111,452**	**111,452**
	Excessive management costs			-10,000	-10,000
35	**SINCGARS FAMILY**	**48,614**	**50,114**	**63,014**	**55,814**
	SINCGARS Radio SAASM/TBMS Upgrade for the Army National Guard		+1,500	+4,400	+2,200
	SINCGARS Radios for the Army National Guard			+10,000	+5,000
36	**MULTI-PURPOSE INFORMATION OPERATIONS SYSTEMS**	**7,776**	**11,276**	**7,776**	**9,576**
	U.S. Army Sustainment Center - Integration of Open Architecture (Note: only for COTS technology for JTAC systems.)		+3,500		+1,800
38	**ACUS MOD PROGRAM**	**81,317**	**88,317**	**81,317**	**91,617**
	Joint Force Wireless Redundant Communications for the National Guard (Note: transferred from OP,A line 104)				+2,800
	ACUS Mod HMDA				+2,500
	AN/UXC-10 Digital Facsimile (TS-21 Blackjack Army)		+7,000		+5,000
39	**COMMS-ELEC EQUIP FIELDING**	**8,889**	**11,889**	**8,889**	**11,689**
	Satellite Multi-Modal Collaborative Crisis & Training Network for MN Army Guard		+1,000		+1,000
	Wireless Backhaul Free Base Station		+2,000		+1,800
41	**COMBAT SURVIVOR EVADER LOCATOR (CSEL)**	**28,767**	**33,767**	**28,767**	**31,767**
	PRC-112D Search and Rescue Radio Kit Upgrades		+5,000		+3,000
42	**RADIO, IMPROVED HF FAMILY**	**6,948**	**21,948**	**6,948**	**16,948**
	AN/PRC-150C High Frequency Radio for ARNG and AR		+15,000		+10,000
46	**INFORMATION SYSTEM SECURITY PROGRAM-ISSP**	**114,124**	**115,624**	**114,124**	**115,124**
	Critical Army Systems-Cyber Attack Technology (CAS-CAT)		+1,500		+1,000
48	**BASE SUPPORT COMMUNICATIONS**	**40,564**	**41,564**	**69,864**	**68,264**
	Base Support Communications - upgrades to the telecommunications infrastructure, Ft. Lewis, Washington		+1,000		+1,000
	PACMERS			+9,500	+8,100
	USARPAC C4 Information Infrastructure			+1,000	+1,000
	Pacific Deployable C4 package			+1,000	+1,000
	Alaska Land Mobile Radio			+13,800	+13,800
	Emergency Response System - Rock Island Arsenal			+4,000	+2,800
52	**INFORMATION SYSTEMS**	**268,940**	**268,940**	**275,940**	**272,440**
	Palmtop Emergency Action for Chemical (PEAC) Tool			+7,000	+3,500
60	**PROPHET GROUND (TIARA)**	**17,692**	**24,692**	**20,692**	**25,642**
	Multi-Sensor SIGINT system (Note: only to procure additional AN/MLQ-40V(3) Prophet Block I systems for the Army National Guard)		+2,000		+1,400
	Prophet Block I		+5,000		+4,250
	Prophet Block I Enhancements			+3,000	+2,300

P-1		Budget Request	House	Senate	Conference
61	**TUAV**	**100,456**	**109,231**	**149,056**	**134,156**
	Additional Shadow 200 UAVs for USMC		+8,775		0
	Shadow Tactical Unmanned Aerial Vehicle (TUAV)			+25,600	+12,800
	Predator			+11,000	+11,000
	RQ-5A Hunter Unmanned Aerial Vehicle (UAV)			+5,000	+5,000
	Tactical Unmanned Aerial Vehicle Common Data Link			+2,000	+1,400
	Shadow TUAV components			+5,000	+3,500
65	**TACTICAL EXPLOITATION SYSTEM (TIARA)**	**14,094**	**14,094**	**15,094**	**15,094**
	Tacticomp			+1,000	+1,000
70	**ITEMS LESS THAN $5 MILLION (TIARA)**	**4,287**	**4,287**	**7,287**	**6,387**
	National Guard virtual, low-cost infrastructure pilot program			+3,000	+2,100
75	**NIGHT VISION DEVICES**	**102,325**	**107,325**	**110,325**	**109,725**
	MX-2 Mini-IR Thermal Imager for 18th Airborne Corps		+5,000	+1,000	+2,500
	Small Tactical Optical Rifle Mounted Micro-LASER Range Finding System			+5,000	+3,500
	AN/PEM-1 LASER Borelight System (LBS)			+2,000	+1,400
77	**LTWT VIDEO RECON SYSTEM (LWVRS)**	**0**	**1,500**	**0**	**1,100**
	Lightweight Video Reconnaissance System		+1,500		+1,100
79	**ARTILLERY ACCURACY EQUIP**	**0**	**3,000**	**0**	**1,500**
	SFK-646, Night - High-Efficiency Artillery Targeting (Night HEAT) Kits		+3,000		+1,500
83	**PROFILER**	**4,963**	**5,963**	**8,363**	**7,563**
	Meteorological Measuring Set - Profiler (MMS-P)		+1,000	+3,400	+2,600
84	**MOD OF IN-SVC EQUIP (TAC SURV)**	**17,444**	**20,444**	**21,444**	**20,944**
	AN/TPQ-36(V)8 Radar Processor Upgrade (Anti-Obsolescence) Program		+3,000	+4,000	+3,500
100	**LOGTECH**	**24,416**	**24,416**	**32,416**	**33,516**
	Standard Army Retail Supply System In-Transit Visibility (NOTE: transferred from OP,A line 110)				+3,500
	Rock Island, Pine Bluff, Anniston AIT Automation Initiative			+8,000	+5,600
104	**JOINT NETWORK MANAGEMENT SYSTEM (JNMS)**	**12,587**	**12,587**	**18,087**	**12,587**
	Joint Force Wireless Redundant Communications for the National Guard (Note: transferred to OP,A line 38)			+5,500	0
107	**STAMIS TACTICAL COMPUTERS (STACOMP)**	**54,581**	**55,581**	**54,581**	**57,581**
	Army Legacy Logistics Systems Modernization (Note: only for Unit Level Logistics System – Ground (ULLS-G) and the Standard Army Maintenance Systems (SAMS) 1 & 2)		+1,000		+3,000
110	**AUTOMATED DATA PROCESSING EQUIP**	**146,184**	**154,184**	**151,184**	**152,084**
	Active Data-Rich RFID for In-Transit Visibility		+1,000		+1,000
	Arsenal/Depot AIT (AD-AIT) Initiative		+3,000		+1,500
	Virtual Mission Preparation		+4,000		+3,400
	Standard Army Retail Supply System In-Transit Visibility (Note: transferred to OP,A line 100)			+5,000	0

P-1		Budget Request	House	Senate	Conference
111	**RESERVE COMPONENT AUTOMATION SYS (RCAS)**	48,467	61,967	50,467	61,367
	Advanced Information Technology Services (AITS)		+5,500		+4,700
	Distributive Training Technology Project (DTTP) for Army under AITS contract (Note: only to field additional priority DTTP training facilities and upgrade operating systems under the AITS contract.)		+8,000		+6,800
	Regional Medical Distributive Learning			+2,000	+1,400
118	**TACTICAL BRIDGE, FLOAT-RIBBON**	17,360	17,360	32,360	27,110
	Common Bridge Transporter for the Army National Guard			+15,000	+9,750
126	**ITEMS LESS THAN $5 MILLION, COUNTERMINE EQUIPMENT**	680	680	7,080	5,180
	Buffalo Mine Clearance Vehicles			+6,400	+4,500
130	**SOLDIER ENHANCEMENT**	7,275	7,275	12,275	9,775
	Kevlar Helmet retrofit suspension system			+5,000	+2,500
131	**LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)**	30	30	10,030	7,530
	LME			+10,000	+7,500
137	**ITEMS LESS THAN $5 MILLION (ENG SPT EQ)**	6,546	9,546	6,546	7,546
	Army 2kW Military Tactical Generators for Engineering Support Constrcution Teams (Note: transferred to OP,A line 165)		+1,000		0
	Mobi-Mat Helipad System		+2,000		+1,000
138	**ITEMS LESS THAN $5 MILLION (CSS EQ)**	0	0	4,500	3,400
	RI-2200 and RI-2400 Long Arm High Intensity Flashlights			+4,500	+3,400
143	**COMBAT SUPPORT MEDICAL**	11,743	17,743	21,743	24,593
	Life Support for Trauma and Transport (LSTAT)		+5,000		+4,300
	Combat Support Hospitals				+1,550
	Chitosan Hemorrhage Control Dressing		+1,000	+10,000	+7,000
149	**MISSION MODULES - ENGINEERING**	5,863	6,063	5,863	6,063
	Engineer Mission Modules for the Palletized Load System for the MD NG		+200		+200
159	**CONST EQUIP ESP**	5,310	27,310	15,310	32,710
	Service Life Extension Program		+15,000		+15,000
	Construction Equipment ESP		+7,000		+4,900
	Construction Equipment SLEP - ARNG/USAR			+10,000	+7,500
160	**ITEMS LESS THAN $5 MILLION (CONST EQUIP)**	7,192	8,192	7,192	8,192
	Laser Leveling System		+1,000		+1,000
161	**LOGISTIC SUPPORT VESSEL (LSV)**	0	2,000	2,000	2,000
	Logistics Support Vessel Service Life Extension Program		+2,000	+2,000	+2,000
162	**THEATER SUPPORT VESSEL (TSV)**	0	3,000	0	1,000
	Small Tugs CLS		+3,000		+1,000

P-1		Budget Request	House	Senate	Conference
165	**GENERATORS AND ASSOCIATED EQUIP**	**54,397**	**55,397**	**58,397**	**57,397**
	Mobile Transformers and Mobile Substations Demonstration Project (Note: transferred to RDTE,A line 53)		+1,000		0
	Army 2kW Military Tactical Generators for Engineering Support Construction Teams (Note: transferred from OP,A line 137)				+1,000
	100kW Generators			+4,000	+2,000
169	**ITEMS LESS THAN $5 MILLION (MHE)**	**0**	**0**	**6,000**	**4,500**
	Modular Causeway System			+6,000	+4,500
170	**COMBAT TRAINING CENTERS (CTC) SUPPORT**	**86,421**	**91,421**	**86,421**	**90,671**
	The National Training Center Range Communications System (NTC RCS) (Note: only for NTC RCS add-on to be common and compatible with NTC RCS currently being installed for operational use.)		+5,000		+4,250
171	**TRAINING DEVICES, NONSYSTEM**	**241,946**	**293,446**	**300,846**	**308,346**
	Bullet Sensor Livefire Trainer		+1,000		+1,000
	Military Operations in Urban Terrain (MOUT) Instrumentation--Ft. Bragg		+1,000	+2,400	+1,700
	Military Skills Engagement Trainer		+2,000		+1,500
	Engagement Skills Trainer		+4,000		+2,000
	Combat Arms Training System Modernization for ARNG		+4,000	+7,500	+4,000
	Deployable Instrumentation Training System (DITS)		+2,000		+1,000
	Joint Readiness Training Center (JRTC) Instrumentation System (IS)		+6,000		+5,000
	Targetry Equipment for a Defensive Live Fire Range at Fort Drum, NY		+500		+500
	AB-FIST Crew Gunnery Trainers (Note: for ARNG only for AB-FIST gunnery trainers for M2A2 and M2A2ODS Bradley Fighting Vehicle Crews.)		+3,000		+1,500
	Up-Armored HMMWV and Tactical Truck Crew Trainers		+2,000	+10,000	+5,000
	Tabletop Gunnery Trainers and Tabletop Full-fidelity Trainers		+3,000		+2,100
	Digital Deployed Training Campus Program-ARNG (Note: only to prepare home station training for receiving the 6th Stryker Brigade using DDTC with integral DLMTS application)		+10,000		+6,500
	Laser Marksmanship Training System (LMTS) Fielding Program for ARNG		+5,000	+5,000	+5,000
	Laser Marksmanship Training System (LMTS) for the Army Reserve		+8,000		+4,000
	172nd SIB range improvement plan			+15,000	+12,000
	USARPAC SBCT C4 infrastructure			+6,000	+6,000
	USARPAC live instrumented training			+3,000	+2,600
	Call For Fire Trainer/Joint Fires and Effects Trainer System (Note: only to be used to establish the Joint Fires Trainer System and Center, Fort Sill, Oklahoma)			+10,000	+5,000
173	**AVIATION COMBINED ARMS TACTICAL TRAINER (AVCATT)**	**40,803**	**54,803**	**55,803**	**54,803**
	Army Aviation Combined Arms Tactical Trainer Suite (Note: only for procurement of an AVCATT-A suite to assure the combat readiness of Fort Hood Army aviation units)		+14,000	+15,000	+14,000

P-1	Budget Request	House	Senate	Conference
175 INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)	**4,054**	**11,054**	**4,054**	**10,654**
Integrated Family of Test Equipment (IFTE)		+7,000		+6,600
179 PHYSICAL SECURITY SYSTEMS (OPA3)	**68,044**	**68,044**	**78,044**	**73,044**
East Battlefield Anti-Intrusion System (BAIS)			+10,000	+5,000
183 SPECIAL EQUIPMENT FOR USER TESTING	**9,905**	**13,905**	**9,905**	**11,905**
Advanced Threat Communications Network (ATCN) Program--STRICOM		+4,000		+2,000

JOINT TACTICAL RADIO SYSTEM (JTRS)

The conferees share the view expressed in the report accompanying the Senate version of the fiscal year 2005 DoD Appropriations Bill noting that the JTRS waiver policy has created a bottleneck in meeting the needs of operational commanders. Therefore, the conferees direct that the Assistant Secretary of Defense for Networks Information Integration (ASD NII), and the Joint Staff report back to the congressional defense committees no later than January 3, 2005 on a new plan which establishes and describes a process which allows the rapid resourcing and fielding of radios, terminals, or other communications systems which are not JTRS compliant to meet the needs of units deploying in support of Operation Iraqi Freedom (OIF), Operation Enduring Freedom (OEF), and the Global War on Terrorism. Further, this report should address the option of suspending the JTRS waiver process until JTRS solutions are available for fielding. In addition, the conferees direct the Secretary of the Army to provide a report to the congressional defense committees no later than November 1, 2004 on the disposition and shortages of radios, terminals, or other communication systems which are not JTRS compliant yet needed to support units deploying in support of OIF and OEF. This report should provide a rapid resourcing and fielding plan for radios, terminals, or other communication systems that does not place the resourcing burden on the individual unit commanders, yet meets their operational needs.

AIRCRAFT PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
COMBAT AIRCRAFT				
AV-8B (V/STOL)HARRIER (MYP)	4,659	4,659	4,659	4,659
EA-18G (AP-CY)	8,243	---	8,243	8,243
F/A-18E/F (FIGHTER) HORNET (MYP)	2,907,456	2,907,456	2,907,456	2,907,456
F/A-18E/F (FIGHTER) HORNET (MYP) (AP-CY)	78,306	78,306	78,306	78,306
V-22 (MEDIUM LIFT)	846,571	846,571	846,571	846,571
V-22 (MEDIUM LIFT) (AP-CY)	71,490	71,490	71,490	71,490
UH-1Y/AH-1Z	241,792	241,792	241,792	241,792
MH-60S (MYP)	295,595	295,595	295,595	295,595
MH-60S (MYP) (AP-CY)	105,159	105,159	105,159	105,159
MH-60R	338,491	284,091	338,491	294,091
MH-60R (AP-CY)	70,604	61,204	70,604	70,604
E-2C (EARLY WARNING) HAWKEYE (MYP)	211,537	211,537	211,537	211,537
E-2C (EARLY WARNING) HAWKEYE (MYP) (AP-CY)	36,413	36,413	36,413	36,413
TOTAL, COMBAT AIRCRAFT	5,216,316	5,144,273	5,216,316	5,171,916
AIRLIFT AIRCRAFT				
UC-35	---	16,000	16,000	16,000
C-40A	65,224	65,224	65,224	65,224
C-37	53,331	53,331	106,631	106,631
TOTAL, AIRLIFT AIRCRAFT	118,555	134,555	187,855	187,855

	(In thousands of dollars)			
	Budget	House	Senate	Conference
TRAINER AIRCRAFT				
T-48 (T-39 REPLACEMENT)	52,435	---	---	---
T-45TS (TRAINER) GOSHAWK	253,589	306,024	306,024	306,024
JPATS	2,534	23,534	14,534	17,534
TOTAL, TRAINER AIRCRAFT	308,558	329,558	320,558	323,558
OTHER AIRCRAFT				
KC-130J	278,686	278,686	278,686	278,686
ADVANCE PROCUREMENT (CY)	45,531	45,531	45,531	45,531
F-5	4,487	4,487	4,487	4,487
TOTAL, OTHER AIRCRAFT	328,704	328,704	328,704	328,704
MODIFICATION OF AIRCRAFT				
EA-6 SERIES	165,702	91,402	175,402	116,277
AV-8 SERIES	20,808	23,808	26,808	26,008
ADVERSARY	5,465	5,465	5,465	5,465
F-18 SERIES	412,495	423,995	412,495	420,895
H-46 SERIES	71,179	71,179	71,179	71,179
AH-1W SERIES	2,153	2,153	7,153	5,653
H-53 SERIES	9,835	58,835	21,835	25,935
SH-60 SERIES	11,655	11,655	11,655	11,655
H-1 SERIES	3,488	8,488	8,488	8,488
EP-3 SERIES	28,339	37,339	28,339	33,739
P-3 SERIES	134,970	160,970	139,970	155,870
S-3 SERIES	1,861	1,861	1,861	1,861
E-2 SERIES	15,124	15,124	15,124	15,124
TRAINER A/C SERIES	14,040	8,040	14,040	14,040
C-2A	29,564	29,564	29,564	29,564
C-130 SERIES	15,419	17,419	20,419	17,919

(In thousands of dollars)

	Budget	House	Senate	Conference
FEWSG	579	579	579	579
CARGO/TRANSPORT A/C SERIES	8,285	8,285	8,285	8,285
E-6 SERIES	19,721	19,721	19,721	19,721
EXECUTIVE HELICOPTERS SERIES	21,800	21,800	21,800	21,800
SPECIAL PROJECT AIRCRAFT	12,415	17,415	12,415	16,615
T-45 SERIES	44,190	44,190	44,190	44,190
POWER PLANT CHANGES	24,409	24,409	24,409	24,409
JPATS SERIES	648	648	648	648
AVIATION LIFE SUPPORT MODS	7,364	7,364	7,364	7,364
COMMON ECM EQUIPMENT	43,163	54,163	43,163	53,263
COMMON AVIONICS CHANGES	167,504	167,504	167,504	167,504
ID SYSTEMS	1,575	1,575	1,575	1,575
V-22 (TILT/ROTOR ACFT) OSPREY	3,448	3,448	3,448	3,448
TOTAL, MODIFICATION OF AIRCRAFT	1,297,198	1,338,398	1,344,898	1,329,073
AIRCRAFT SPARES AND REPAIR PARTS				
SPARES AND REPAIR PARTS	925,813	967,613	925,813	975,813
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON GROUND EQUIPMENT	474,521	499,521	474,521	491,521
AIRCRAFT INDUSTRIAL FACILITIES	16,115	17,115	16,115	17,115
WAR CONSUMABLES	9,070	9,070	11,570	13,470
OTHER PRODUCTION CHARGES	9,883	9,883	9,883	9,883
SPECIAL SUPPORT EQUIPMENT	61,553	61,553	61,553	61,553
FIRST DESTINATION TRANSPORTATION	1,581	1,581	1,581	1,581
TOTAL, AIRCRAFT SUPPORT EQUIPMENT & FACILITIES	572,723	598,723	575,223	595,123
TOTAL, AIRCRAFT PROCUREMENT, NAVY	8,767,867	8,841,824	8,899,367	8,912,042

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

P-1		Budget Request	House	Senate	Conference
2	**EA-18G (AP-CY)**	**8,243**	**0**	**8,243**	**8,243**
	Advance procurement premature		-8,243		0
10	**MH-60R**	**338,491**	**284,091**	**338,491**	**294,091**
	Align production ramp more closely to 2004 production level		-54,400		-44,400
11	**MH-60R (AP-CY)**	**70,604**	**61,204**	**70,604**	**70,604**
	Advance procurement not required due to 2004 production changes		-9,400		
14	**UC-35**	**0**	**16,000**	**16,000**	**16,000**
	Additional two C-35 aircraft		+16,000	+16,000	+16,000
16	**C-37**	**53,331**	**53,331**	**106,631**	**106,631**
	Additional aircraft			+53,300	+53,300
17	**T-48 (T-39 REPLACEMENT)**	**52,435**	**0**	**0**	**0**
	Transfer to T-45 program		-52,435	-52,435	-52,435
18	**T-45TS (TRAINER) GOSHAWK**	**253,589**	**306,024**	**306,024**	**306,024**
	Transfer from T-48 program		+52,435	+52,435	+52,435
19	**JPATS**	**2,534**	**23,534**	**14,534**	**17,534**
	Additional JPATS aircraft		+21,000	+12,000	+15,000
23	**EA-6 SERIES**	**165,702**	**91,402**	**175,402**	**116,277**
	ICAP III program		-74,300		-55,725
	EA-6B ICAP III Weapons Systems Trainer			+9,700	+6,300
24	**AV-8 SERIES**	**20,808**	**23,808**	**26,808**	**26,008**
	Litening pod downlink development program (LPDD) to design, build, test and field video downlink upgrades		+2,000	+6,000	+4,200
	Fast Tactical Imagery Two (CRTIR /FTI II)		+1,000		+1,000
27	**F-18 SERIES**	**412,495**	**423,995**	**412,495**	**420,895**
	Solid state recorder conversion (ATARS)		+5,000		+4,300
	Deployable Flight Incident Recorder Set (DFIRS) (Note: only for modifications to address approaching obsolescence and maintain emergency locator beam capability)		+1,500		+1,100
	LITENING Advance Targeting (AT) pod for F/A18 D		+5,000		+3,000
29	**AH-1W SERIES**	**2,153**	**2,153**	**7,153**	**5,653**
	Super Cobra Night Targeting System			+5,000	+3,500

P-1		Budget Request	House	Senate	Conference
30	**H-53 SERIES**	9,835	18,835	21,835	25,935
	Common defense weapon system (M3M)		+9,000		+7,700
	T-64 Engine Government Reliability Improvement (moved to Title IX)		+40,000		0
	CH-53 IMD-HUMS			+12,000	+8,400
32	**H-1 SERIES**	3,488	8,488	8,488	8,488
	UH-1N Huey navigation thermal imaging system		+5,000	+5,000	+5,000
33	**EP-3 SERIES**	28,339	37,339	28,339	33,739
	JMOD Sustainment/Common Configuration initiative		+9,000		+5,400
34	**P-3 SERIES**	134,970	160,970	139,970	155,870
	ALR-95 ESM system library, integrated logistics and training support		+4,000		+3,400
	P-3C ALR-95 ESM wingtip receiver and antenna upgrade		+1,000		+1,000
	Hub Integrated Power Switching System/Propeller Balancing and Maintenance System (HIPSS/PBMS)		+1,000		+1,000
	Digital Stores Management System (DSMS) (Note: only for DSMS upgrade for the P-3C AIP aircraft weapons system)		+5,000		+3,500
	P-3C Electronic Support Measures (ESM) geolocation upgrade		+3,000		+2,600
	P-3C Commercial-off-the-shelf (COTS)-based Aircraft Health Monitoring System (AHMS) upgrade (Note: only to provide pre-production and acquisition planning for initial deployment)		+2,000		+1,400
	P-3C digital autopilot for additional aircraft upgrades		+4,000		+2,000
	Acoustic data recorder - hard drive (ADR-HD)		+3,000		+1,500
	P-3C Anti-surface warfare (ASUW) Improvement Program (AIP) (Note: only for surveillance and reconnaissance sensor software and hardware upgrades)		+1,000		+1,000
	P-3 communications upgrades for non-AIP configured aircraft		+2,000		+1,000
	P-3C AIP tactical common data link upgrade			+5,000	+2,500
37	**TRAINER A/C SERIES**	14,040	8,040	14,040	14,040
	T-38 aircraft conversion kits		-6,000		0

P-1		Budget Request	House	Senate	Conference
39	**C-130 SERIES**	15,419	17,419	20,419	17,919
	C-130 Electronic Propeller Control System (EPCS)		+2,000	+5,000	+2,500
44	**SPECIAL PROJECT AIRCRAFT**	12,415	17,415	12,415	16,615
	Advanced aircraft collection system (Blackbeard)		+5,000		+4,200
49	**COMMON ECM EQUIPMENT**	43,163	54,163	43,163	53,263
	AN/AAR-47 missile warning system		+5,000		+5,000
	AN/APR-39(V)2 for USMC CH-53 and AH-1W helicopters		+6,000		+5,100
53	**SPARES AND REPAIR PARTS**	925,813	967,613	925,813	975,813
	MH-60 initial spares		-18,200		-10,000
	Aircraft engine procurement based on agreement to not fund procurement through the Working Capital Fund		+60,000		+60,000
54	**COMMON GROUND EQUIPMENT**	474,521	499,521	474,521	491,521
	Operational Flight Trainer simulation initiative		+25,000		+17,000
55	**AIRCRAFT INDUSTRIAL FACILITIES**	16,115	17,115	16,115	17,115
	METCAL program		+1,000		+1,000
56	**WAR CONSUMABLES**	9,070	9,070	11,570	13,470
	Navy Aerial Refueling Store Advanced Power System (ARSIPS)			+2,500	+1,800
	LAU-7 Sidewinder missile replacement program (transferred from OPN line 93)				+2,600

EA-6B Program

Improved Capabilities (ICAP III)

The conferees agree to provide $116,277,000 for the EA-6B Program instead of $91,402,000 as proposed by the House and $175,402,000 as proposed by the Senate. The conferees agree to reduce the Improved Capabilities (ICAP III) program by $55,725,000. Should the Navy determine that the ICAP III program has stabilized, the Navy could submit a reprogramming request to cover program costs as necessary.

WEAPONS PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
BALLISTIC MISSILES				
TRIDENT II	73,067	73,067	73,067	73,067
MODIFICATION OF MISSILES				
TRIDENT II MODS	695,555	602,555	695,555	645,555
SUPPORT EQUIPMENT AND FACILITIES				
MISSILE INDUSTRIAL FACILITIES	1,334	1,334	1,334	2,934
TOTAL, BALLISTIC MISSILES	769,956	676,956	769,956	721,556
OTHER MISSILES				
STRATEGIC MISSILES				
TOMAHAWK	256,196	256,196	293,196	280,196
ESSM	80,313	80,313	80,313	80,313
TACTICAL MISSILES				
AMRAAM	33,914	33,914	28,914	28,914
SIDEWINDER	35,177	35,177	31,377	31,377
JSOW	139,407	143,407	144,407	143,407
STANDARD MISSILE	150,098	150,098	150,098	150,098
RAM	47,412	47,412	47,412	47,412
AERIAL TARGETS	72,686	72,686	72,686	72,686
DRONES AND DECOYS	---	---	20,000	17,000
OTHER MISSILE SUPPORT	10,385	10,385	10,385	10,385
MODIFICATION OF MISSILES				
STANDARD MISSILES MODS	51,790	51,790	51,790	51,790
SUPPORT EQUIPMENT AND FACILITIES				
WEAPONS INDUSTRIAL FACILITIES	4,037	4,037	41,037	33,337
ORDNANCE SUPPORT EQUIPMENT				
ORDNANCE SUPPORT EQUIPMENT	56,073	56,073	56,073	39,973
TOTAL, OTHER MISSILES	937,488	941,488	1,027,688	986,888

	(In thousands of dollars)			
	Budget	House	Senate	Conference
TORPEDOES AND RELATED EQUIPMENT				
TORPEDOES AND RELATED EQUIP.				
ASW TARGETS	23,973	4,473	23,973	23,973
MOD OF TORPEDOES AND RELATED EQUIP				
MK-46 TORPEDO MODS	61,413	61,413	61,413	61,413
MK-48 TORPEDO ADCAP MODS	61,185	61,185	61,185	61,185
QUICKSTRIKE MINE	2,981	2,981	2,981	2,981
SUPPORT EQUIPMENT				
TORPEDO SUPPORT EQUIPMENT	23,401	23,401	23,401	23,401
ASW RANGE SUPPORT	12,935	15,435	12,935	14,735
DESTINATION TRANSPORTATION				
FIRST DESTINATION TRANSPORTATION	3,123	3,123	3,123	3,123
TOTAL, TORPEDOES AND RELATED EQUIPMENT	189,011	172,011	189,011	190,811
OTHER WEAPONS				
GUNS AND GUN MOUNTS				
SMALL ARMS AND WEAPONS	2,195	2,195	2,195	2,195
COAST GUARD WEAPONS	5,349	5,349	---	---
MODIFICATION OF GUNS AND GUN MOUNTS				
CIWS MODS	86,128	90,128	106,128	101,128
GUN MOUNT MODS	25,858	28,858	60,858	43,358
OTHER				
TACTICAL UAV - PIONEER	8,775	---	8,775	8,775
CRUISER MODERNIZATION	8,760	8,760	---	---
TOTAL, OTHER WEAPONS	137,065	135,290	177,956	155,456
SPARES AND REPAIR PARTS	68,009	68,009	58,009	60,009
TOTAL, WEAPONS PROCUREMENT, NAVY	2,101,529	1,993,754	2,222,620	2,114,720

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

P-1		Budget Request	House	Senate	Conference
2	**TRIDENT II MODS**	695,555	602,555	695,555	645,555
	Excess program growth		-93,000		-50,000
3	**MISSILE INDUSTRIAL FACILITIES**	1,334	1,334	1,334	2,934
	Bacchus Naval Industrial Plant (moved from line 18)				+1,600
4	**TOMAHAWK**	256,196	256,196	293,196	280,196
	Tactical Tomahawk additional missiles			+37,000	+24,000
6	**AMRAAM**	33,914	33,914	28,914	28,914
	Production support continuity with USAF			-5,000	-5,000
7	**SIDEWINDER**	35,177	35,177	31,377	31,377
	Accounting/pricing inconsistencies			-3,800	-3,800
8	**JSOW**	139,407	143,407	144,407	143,407
	Additional JSOW-C missiles		+4,000	+5,000	+4,000
13	**DRONES AND DECOYS**	0	0	20,000	17,000
	ITALD			+20,000	+17,000
18	**WEAPONS INDUSTRIAL FACILITIES**	4,037	4,037	41,037	33,337
	Allegheny Ballistic Laboratory (ABL) Restoration			+34,500	+29,300
	Bacchus Naval Industrial Plant (moved to line 3)			+2,500	
19	**ORDNANCE SUPPORT EQUIPMENT**	56,073	56,073	56,073	39,973
	Classified program (moved from line 20)				-16,100
20	**ASW TARGETS**	23,973	4,473	23,973	23,973
	Classified program (moved to line 19)		-19,500		0
25	**ASW RANGE SUPPORT**	12,935	15,435	12,935	14,735
	Pacific Northwest Undersea Range support		+2,500		+1,800
28	**COAST GUARD WEAPONS**	5,349	5,349	0	0
	Lack of justification materials			-5,349	-5,349
30	**CIWS MODS**	86,128	90,128	106,128	101,128
	Phalanx 1B upgrade (Note: only for additional Block 1B kits and the remanufacture of fleet Phalanx Close-In Weapon System (CIWS) to Block 1 configuration)		+4,000	+20,000	+15,000

P-1		Budget Request	House	Senate	Conference
32	**GUN MOUNT MODS**	**25,858**	**28,858**	**60,858**	**43,358**
	MK 45 Mod 4 5" gun upgrades (Note: only to support depot remanufacture and conversion of the Mk 45 gun systems)		+3,000	+10,000	+10,000
	57mm gun qualification and test (moved to RDT&E, N line 74)			+15,000	0
	Minor caliber gun			+10,000	+7,500
33	**TACTICAL UAV - PIONEER**	**8,775**	**0**	**8,775**	**8,775**
	Pioneer upgrades		-8,775		0
34	**CRUISER MODERNIZATION**	**8,760**	**8,760**	**0**	**0**
	Program reduction			-8,760	-8,760
36	**SPARES AND REPAIR PARTS**	**68,009**	**68,009**	**58,009**	**60,009**
	Unjustified growth			-10,000	-8,000

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROCUREMENT OF AMMO, NAVY & MARINE CORPS				
PROC AMMO, NAVY				
NAVY AMMUNITION				
GENERAL PURPOSE BOMBS	181,452	181,452	181,452	181,452
JDAM	151,189	151,189	151,189	151,189
AIRBORNE ROCKETS, ALL TYPES	34,151	34,151	34,151	34,151
MACHINE GUN AMMUNITION	25,674	33,874	29,674	32,674
PRACTICE BOMBS	53,577	53,577	53,577	53,577
CARTRIDGES & CART ACTUATED DEVICES	26,182	30,182	26,182	29,582
AIRCRAFT ESCAPE ROCKETS	10,735	10,735	10,735	10,735
AIR EXPENDABLE COUNTERMEASURES	48,674	48,674	48,674	48,674
JATOS	4,502	4,502	4,502	4,502
5 INCH/54 GUN AMMUNITION	19,749	19,749	19,749	19,749
EXTENDED RANGE GUIDED MUNITIONS (ERGM)	500	500	500	500
76MM GUN AMMUNITION	1,153	1,153	1,153	1,153
OTHER SHIP GUN AMMUNITION	19,199	19,199	19,199	19,199
SMALL ARMS & LANDING PARTY AMMO	23,235	23,235	23,235	23,235
PYROTECHNIC AND DEMOLITION	10,133	10,133	10,133	10,133
AMMUNITION LESS THAN $5 MILLION	3,135	3,135	3,135	3,135
TOTAL, PROC AMMO, NAVY	613,240	625,440	617,240	623,640

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROC AMMO, MC				
MARINE CORPS AMMUNITION				
5.56 MM, ALL TYPES	35,129	35,129	35,129	35,129
7.62 MM, ALL TYPES	8,708	8,708	8,708	8,708
LINEAR CHARGES, ALL TYPES	10,286	13,286	20,286	17,786
.50 CALIBER	1,898	1,898	1,898	1,898
40 MM, ALL TYPES	23,614	23,614	25,614	25,114
60MM, ALL TYPES	10,446	12,446	12,946	12,446
81MM, ALL TYPES	24,319	24,319	25,319	25,319
120MM, ALL TYPES	15,365	15,365	15,365	15,365
CTG 25MM, ALL TYPES	3,749	3,749	3,749	3,749
9 MM ALL TYPES	7,644	7,644	7,644	7,644
GRENADES, ALL TYPES	5,042	5,042	5,042	5,042
ROCKETS, ALL TYPES	14,050	23,550	17,050	21,350
ARTILLERY, ALL TYPES	55,599	55,599	55,599	55,599
EXPEDITIONARY FIGHTING VEHICLE	2,474	2,474	2,474	2,474
DEMOLITION MUNITIONS, ALL TYPES	3,270	3,270	3,270	3,270
FUZE, ALL TYPES	13,816	13,816	13,816	13,816
NON LETHALS	1,145	1,145	1,145	1,145
AMMO MODERNIZATION	7,123	7,123	7,123	7,123
ITEMS LESS THAN $5 MILLION	1,723	1,723	1,723	1,723
TOTAL, PROC AMMO, MC	245,400	259,900	263,900	264,700
TOTAL, PROCUREMENT OF AMMO, NAVY & MARINE CORPS	858,640	885,340	881,140	888,340

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

P-1		Budget Request	House	Senate	Conference
4	**MACHINE GUN AMMUNITION**	**25,674**	**33,874**	**29,674**	**32,674**
	PGU-28 A/B, 20mm ammunition		+8,200	+4,000	+7,000
6	**CARTRIDGES & CART ACTUATED DEVICES**	**26,182**	**30,182**	**26,182**	**29,582**
	FLU-12/P life vest inflator		+4,000		+3,400
21	**LINEAR CHARGES, ALL TYPES**	**10,286**	**13,286**	**20,286**	**17,786**
	Anti-Personnel Obstacle Breaching System (APOBS)		+3,000	+6,000	+4,500
	Charge, Demolition, High Explosive (HE) Linear, M58A4			+2,000	+1,500
	Charge, Demolition, High Explosive (HE) Linear, M59A1			+2,000	+1,500
23	**40 MM, ALL TYPES**	**23,614**	**23,614**	**25,614**	**25,114**
	Cartridge, 40mm, HEDP, Linked, M430/M430A1			+2,000	+1,500
24	**60MM, ALL TYPES**	**10,446**	**12,446**	**12,946**	**12,446**
	M720A1 60mm HE Mortar Ammunition with MOF Fuze		+2,000	+2,500	+2,000
25	**81MM, ALL TYPES**	**24,319**	**24,319**	**25,319**	**25,319**
	Cartridge, Mortar, 81mm, M853A1			+1,000	+1,000
31	**ROCKETS, ALL TYPES**	**14,050**	**23,550**	**17,050**	**21,350**
	SMAW, NE Ammunition		+2,500		+1,750
	SMAW, High Explosive Dual Purpose (HEDP) Ammunition		+4,000	+3,000	+3,000
	M72-Lightweight Attack Weapon System (LAW)		+3,000		+2,550

SHIPBUILDING AND CONVERSION, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
SHIPBUILDING & CONVERSION, NAVY				
OTHER WARSHIPS				
CARRIER REPLACEMENT PROGRAM (AP-CY)	626,084	626,084	485,184	626,084
VIRGINIA CLASS SUBMARINE	1,581,143	1,581,143	1,581,143	1,581,143
VIRGINIA CLASS SUBMARINE (AP-CY)	871,864	871,864	871,864	871,864
SSGN CONVERSION	469,226	469,226	469,226	469,226
SSGN CONVERSION (AP-CY)	48,000	48,000	48,000	48,000
CVN REFUELING OVERHAULS (AP-CY)	333,061	333,061	223,061	333,061
SSN ERO (AP-CY)	19,368	19,368	19,368	19,368
SSBN ERO	262,229	262,229	262,229	262,229
SSBN REFUELING OVERHAULS (AP-CY)	72,171	63,971	72,171	63,971
DDG-51	3,444,950	3,444,950	3,444,950	3,444,950
DDG-51 (ADV PROCUREMENT)	---	125,000	---	---
DD(X) (ADV PROCUREMENT)	---	---	320,516	305,516
DDG-51 MODERNATION PROGRAM	---	100,000	---	50,000
TOTAL, OTHER WARSHIPS	7,728,096	7,944,896	7,797,712	8,075,412
AMPHIBIOUS SHIPS				
LHD-1 AMPHIBIOUS ASSAULT SHIP	236,018	236,018	236,018	236,018
LPD-17	966,559	966,559	966,559	966,559
LHA-R (AP-CY)	---	---	175,000	150,000
TOTAL, AMPHIBIOUS SHIPS	1,202,577	1,202,577	1,377,577	1,352,577

	(In thousands of dollars)			
	Budget	House	Senate	Conference
AUXILIARIES, CRAFT, AND PRIOR-YEAR PROGRAM COSTS				
AUXILIARIES, CRAFT AND PRIOR YEAR PROGRAM COST LCU (X)	25,048	25,048	25,048	25,048
OUTFITTING	399,327	403,327	349,327	351,327
SERVICE CRAFT	32,099	38,599	32,099	36,899
LCAC SLEP	90,490	90,490	90,490	90,490
COMPLETION OF PY SHIPBUILDING PROGRAMS	484,390	484,390	484,390	484,390
POWER UNIT ASSEMBLY FACILITY	---	---	15,000	11,300
TOTAL, AUXILIARIES, CRAFT, AND PRIOR-YEAR PROGRAM	1,031,354	1,041,854	996,354	999,454
TOTAL, SHIPBUILDING & CONVERSION, NAVY	9,962,027	10,189,327	10,171,643	10,427,443

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

P-1		Budget Request	House	Senate	Conference
2	**CARRIER REPLACEMENT PROGRAM (AP-CY)**	626,084	626,084	485,184	626,084
	Premature request			-140,900	0
9	**CVN REFUELING OVERHAULS (AP-CY)**	333,061	333,061	223,061	333,061
	Premature request			-110,000	0
13	**SSBN REFUELING OVERHAULS (AP-CY)**	72,171	63,971	72,171	63,971
	Transferred to OP, N P-1line 13		-8,200		-8,200
14(a)	**DDG-51 ADVANCE PROCUREMENT**	0	125,000	0	0
14(b)	**DDG-51 MODERNIZATION PROGRAM**	0	100,000	0	50,000
14(c)	**DD(X) (AP)**	0	0	320,516	305,516
	Construction - transfer from RDT&E, Navy			+221,116	+221,116
	Initial funding for second DD(X)			+99,400	+84,400
15(a)	**AMPHIBIOUS ASSAULT SHIP LHA (R)**	0	0	175,000	150,000
	Initial funding			+175,000	+150,000
19	**OUTFITTING**	399,327	403,327	349,327	351,327
	ARGOS Scheduling System (Note: only for demonstration and software support, including evaluation and assessment, at commercial and/or public shipyards to target cost reduction in manpower scheduling)		+4,000		+2,000
	Program reduction			-50,000	-50,000
20	**SERVICE CRAFT**	32,099	38,599	32,099	36,899
	Aft ramp range retriever craft (ARC) - new vessel		+6,500		+4,800
24(a)	**Power Unit Assembly Plant**	0	0	15,000	11,300

NEXT GENERATION DESTROYER (DD(X))

The conferees agree to provide a total of $305,516,000 for advance 7procurement for the DD(X) class of ships instead of $320,516,000 as proposed by the Senate and no appropriation as proposed by the House. The conferees direct the Navy to include future funding requests for the DD(X) in the Shipbuilding and Conversion, Navy appropriation.

Within the funds provided, $221,116,000 is only for design and advance procurement requirements associated with the first ship of the DD(X) class and $84,400,000 is only for design and advance procurement requirements associated with construction of the second ship at an alternative second source shipyard. The conferees direct that no funds shall be available for the procurement of long lead time material for items that are dependent upon delivery of a DD(X) key technology unless that technology has undergone testing, thereby reducing risk to overall program costs.

The conferees direct that full funding of the remaining financial requirement for these ships, not including traditional advance procurement requirements, shall be included in a future budget request.

DDG–51 MODERNIZATION PROGRAM

The conferees agree to provide $50,000,000 to accelerate a DDG–51 Modernization program, instead of $100,000,000 as proposed by the House and no appropriation as proposed by the Senate.

The conferees direct that these funds may not be obligated or expended until the Navy submits to the congressional defense committees a detailed plan on its execution of a DDG–51 Modernization program that focuses first on modernizing the new construction, near-term delivery ships and then on the in-service Fleet ships. The plan should address each element of the modernization plan, the cost-benefit of the element, and the implementation of the plan by hull number.

The conferees agree that the Navy's DDG-51 modernization plan should emphasize proven technology and modularity applications that will help increase warfighting capabilities, reduce total ownership costs and manning requirements, and expand the use of open architecture.

OTHER PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OTHER PROCUREMENT, NAVY				
SHIPS SUPPORT EQUIPMENT				
SHIP PROPULSION EQUIPMENT				
LM-2500 GAS TURBINE	9,009	9,009	9,009	9,009
ALLISON 501K GAS TURBINE	22,271	22,271	22,271	22,271
PROPELLERS				
SUBMARINE PROPELLERS	---	---	7,000	---
CVN PROPELLERS	---	2,000	---	4,900
NAVIGATION EQUIPMENT				
OTHER NAVIGATION EQUIPMENT	16,180	16,180	16,180	16,180
UNDERWAY REPLENISHMENT EQUIPMENT				
UNDERWAY REPLENISHMENT EQUIPMENT	1,530	1,530	1,530	1,530
PERISCOPES				
SUB PERISCOPES & IMAGING EQUIP	62,050	62,050	62,050	62,050
OTHER SHIPBOARD EQUIPMENT				
FIREFIGHTING EQUIPMENT	24,731	24,731	24,731	24,731
COMMAND AND CONTROL SWITCHBOARD	3,768	3,768	3,768	3,768
POLLUTION CONTROL EQUIPMENT	42,612	42,612	42,612	42,612
SUBMARINE SUPPORT EQUIPMENT	21,181	21,181	26,181	24,681
VIRGINIA CLASS SUPPORT EQUIPMENT	56,051	59,051	56,051	58,151
SUBMARINE BATTERIES	26,077	26,077	26,077	26,077
STRATEGIC PLATFORM SUPPORT EQUIP	55,166	73,366	55,166	71,866
DSSP EQUIPMENT	21,131	21,131	21,131	21,131
CG-MODERNIZATION	114,139	114,139	---	---
LCAC	8,365	8,365	8,365	8,365
MINESWEEPING EQUIPMENT	8,046	8,046	8,046	8,046
ITEMS LESS THAN $5 MILLION	148,637	164,637	161,537	165,137
CHEMICAL WARFARE DETECTORS	4,725	4,725	4,725	4,725
SUBMARINE LIFE SUPPORT SYSTEM	13,940	13,940	13,940	13,940

	(In thousands of dollars)			
	Budget	House	Senate	Conference
REACTOR PLANT EQUIPMENT				
REACTOR POWER UNITS	356,372	356,372	356,372	356,372
REACTOR COMPONENTS	217,175	217,175	217,175	217,175
OCEAN ENGINEERING				
DIVING AND SALVAGE EQUIPMENT	8,875	8,875	8,875	8,875
SMALL BOATS				
STANDARD BOATS	18,328	21,328	18,328	20,328
TRAINING EQUIPMENT				
OTHER SHIPS TRAINING EQUIPMENT	8,848	8,848	8,848	8,848
PRODUCTION FACILITIES EQUIPMENT				
OPERATING FORCES IPE	22,384	22,384	26,384	25,184
OTHER SHIP SUPPORT				
NUCLEAR ALTERATIONS	133,999	133,999	133,999	133,999
TOTAL, SHIPS SUPPORT EQUIPMENT	1,425,590	1,467,790	1,340,351	1,359,951
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
SHIP RADARS				
SPQ-9B RADAR	3,584	14,584	10,584	11,584
RADAR SUPPORT	---	35,200	---	27,400
SHIP SONARS				
AN/SQQ-89 SURF ASW COMBAT SYSTEM	---	13,000	---	11,100
SSN ACOUSTICS	225,028	229,028	228,028	230,428
UUV PROGRAM	61,253	---	---	---
UNDERSEA WARFARE SUPPORT EQUIPMENT	14,116	17,116	19,116	19,216
SONAR SWITCHES AND TRANSDUCERS	13,330	13,330	13,330	13,330
ASW ELECTRONIC EQUIPMENT				
SUBMARINE ACOUSTIC WARFARE SYSTEM	20,857	20,857	20,857	20,857
SSTD	22,273	32,273	22,273	30,773
FIXED SURVEILLANCE SYSTEM	55,325	55,325	55,325	55,325
SURTASS	7,166	7,166	7,166	7,166
ASW OPERATIONS CENTER	5,100	5,100	5,100	5,100
ELECTRONIC WARFARE EQUIPMENT				
AN/SLQ-32	18,728	18,728	18,728	18,728
INFORMATION WARFARE SYSTEMS	4,034	4,034	4,034	4,034
RECONNAISSANCE EQUIPMENT				
SHIPBOARD IW EXPLOIT	69,194	69,194	69,194	69,194
SUBMARINE SURVEILLANCE EQUIPMENT				
SUBMARINE SUPPORT EQUIPMENT PROG	78,968	78,968	88,968	85,968
OTHER SHIP ELECTRONIC EQUIPMENT				
NAVY TACTICAL DATA SYSTEM	---	15,000	---	12,700

	(In thousands of dollars)			
	Budget	House	Senate	Conference
COOPERATIVE ENGAGEMENT CAPABILITY	57,531	70,531	57,531	67,531
GCCS-M EQUIPMENT	63,363	63,363	63,363	63,363
NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS)	26,208	31,208	26,208	30,508
ATDLS	2,386	2,386	2,386	2,386
MINESWEEPING SYSTEM REPLACEMENT	77,956	63,356	68,856	53,356
NAVSTAR GPS RECEIVERS (SPACE)	11,650	11,650	11,650	11,650
ARMED FORCES RADIO AND TV	4,170	4,170	4,170	4,170
STRATEGIC PLATFORM SUPPORT EQUIP	5,265	5,265	5,265	5,265
OTHER TRAINING EQUIPMENT	42,913	42,913	42,913	42,913
AVIATION ELECTRONIC EQUIPMENT				
MATCALS	15,614	15,614	15,614	15,614
SHIPBOARD AIR TRAFFIC CONTROL	7,695	8,695	7,695	8,695
AUTOMATIC CARRIER LANDING SYSTEM	12,515	12,515	12,515	12,515
NATIONAL AIR SPACE SYSTEM	16,122	13,122	16,122	13,122
AIR STATION SUPPORT EQUIPMENT	3,640	3,640	3,640	3,640
MICROWAVE LANDING SYSTEM	7,232	7,232	7,232	7,232
FACSFAC	3,712	3,712	3,712	3,712
ID SYSTEMS	18,296	18,296	18,296	18,296
TAC A/C MISSION PLANNING SYS(TAMPS)	9,098	9,098	9,098	9,098
OTHER SHORE ELECTRONIC EQUIPMENT				
DEPLOYABLE JOINT COMMAND AND CONT	32,469	32,469	32,469	32,469
COMMON IMAGERY GROUND SURFACE SYSTEMS	53,173	57,934	45,173	49,934
RADIAC	9,087	13,087	9,087	12,487
GPETE	7,010	10,010	7,010	8,510
INTEG COMBAT SYSTEM TEST FACILITY	4,662	4,662	4,662	4,662
EMI CONTROL INSTRUMENTATION	5,872	5,872	5,872	5,872
ITEMS LESS THAN $5 MILLION	12,058	12,058	12,058	12,058
SHIPBOARD COMMUNICATIONS				
SHIPBOARD TACTICAL COMMUNICATIONS	14,077	14,077	14,077	14,077
SHIP COMMUNICATIONS AUTOMATION	159,718	162,718	159,718	161,718
COMMUNICATIONS ITEMS UNDER $5M	11,921	11,921	14,921	13,421

(In thousands of dollars)

	Budget	House	Senate	Conference
SUBMARINE COMMUNICATIONS				
SHORE LF/VLF COMMUNICATIONS	17,802	17,802	17,802	17,802
SUBMARINE COMMUNICATION EQUIPMENT	94,533	99,533	104,533	99,533
SATELLITE COMMUNICATIONS				
SATELLITE COMMUNICATIONS SYSTEMS	130,564	130,564	130,564	130,564
SHORE COMMUNICATIONS				
JCS COMMUNICATIONS EQUIPMENT	3,023	3,023	3,023	3,023
ELECTRICAL POWER SYSTEMS	1,291	2,791	1,291	2,791
NSIPS	289	289	289	289
JEDMICS	---	---	7,500	6,400
NAVAL SHORE COMMUNICATIONS	57,066	57,066	57,066	57,066
CRYPTOGRAPHIC EQUIPMENT				
INFO SYSTEMS SECURITY PROGRAM (ISSP)	88,418	93,418	88,418	90,918
CRYPTOLOGIC EQUIPMENT				
CRYPTOLOGIC COMMUNICATIONS EQUIP	26,111	26,111	26,111	26,111
OTHER ELECTRONIC SUPPORT				
COAST GUARD EQUIPMENT	7,638	7,638	7,638	7,638
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	1,721,104	1,778,712	1,688,051	1,753,312
AVIATION SUPPORT EQUIPMENT				
SONOBUOYS				
SONOBUOYS - ALL TYPES	50,081	50,081	50,081	50,081
AIRCRAFT SUPPORT EQUIPMENT				
WEAPONS RANGE SUPPORT EQUIPMENT	44,643	52,643	52,643	55,243
EXPEDITIONARY AIRFIELDS	7,527	7,527	7,527	7,527
AIRCRAFT REARMING EQUIPMENT	11,667	14,667	11,667	11,667
AIRCRAFT LAUNCH & RECOVERY EQUIPMENT	21,275	21,275	21,275	21,275
METEOROLOGICAL EQUIPMENT	20,134	20,134	20,134	20,134
OTHER PHOTOGRAPHIC EQUIPMENT	1,438	1,438	1,438	1,438
AVIATION LIFE SUPPORT	19,040	20,040	37,540	32,140
AIRBORNE MINE COUNTERMEASURES	73,081	73,081	68,681	67,181
LAMPS MK III SHIPBOARD EQUIPMENT	16,433	22,433	16,433	21,733
OTHER AVIATION SUPPORT EQUIPMENT	6,157	11,157	6,157	10,457
TOTAL, AVIATION SUPPORT EQUIPMENT	271,476	294,476	293,576	298,876

	(In thousands of dollars) Budget	House	Senate	Conference
ORDNANCE SUPPORT EQUIPMENT				
SHIP GUN SYSTEM EQUIPMENT				
NAVAL FIRES CONTROL SYSTEM	7,610	3,849	2,849	3,849
GUN FIRE CONTROL EQUIPMENT	11,481	11,481	11,481	11,481
SHIP MISSILE SYSTEMS EQUIPMENT				
NATO SEASPARROW	25,453	25,453	25,453	25,453
RAM GMLS	22,968	26,968	26,968	26,968
SHIP SELF DEFENSE SYSTEM	42,130	42,130	42,130	42,130
AEGIS SUPPORT EQUIPMENT	57,517	72,017	66,517	71,117
SURFACE TOMAHAWK SUPPORT EQUIPMENT	69,732	69,732	69,732	69,732
SUBMARINE TOMAHAWK SUPPORT EQUIP	5,469	5,469	5,469	5,469
VERTICAL LAUNCH SYSTEMS	9,829	9,829	9,829	9,829
FBM SUPPORT EQUIPMENT				
STRATEGIC MISSILE SYSTEMS EQUIP	102,073	102,073	102,073	102,073
ASW SUPPORT EQUIPMENT				
SSN COMBAT CONTROL SYSTEMS	147,481	115,481	147,481	115,481
SUBMARINE ASW SUPPORT EQUIPMENT	4,849	4,849	4,849	4,849
SURFACE ASW SUPPORT EQUIPMENT	4,539	4,539	13,039	10,939
ASW RANGE SUPPORT EQUIPMENT	7,175	7,175	7,175	7,175
OTHER ORDNANCE SUPPORT EQUIPMENT				
EXPLOSIVE ORDNANCE DISPOSAL EQUIP	25,058	25,058	29,758	28,358
ITEMS LESS THAN $5 MILLION	4,037	4,037	4,037	4,037
OTHER EXPENDABLE ORDNANCE				
ANTI-SHIP MISSILE DECOY SYSTEM	46,553	46,553	57,653	54,853
SURFACE TRAINING DEVICE MODS	6,347	6,347	6,347	6,347
SUBMARINE TRAINING DEVICE MODS	39,405	45,405	45,405	46,905
TOTAL, ORDNANCE SUPPORT EQUIPMENT	639,706	628,445	678,245	647,045

	(In thousands of dollars)			
	Budget	House	Senate	Conference
CIVIL ENGINEERING SUPPORT EQUIPMENT				
PASSENGER CARRYING VEHICLES	1,507	1,507	1,507	1,507
GENERAL PURPOSE TRUCKS	2,321	2,321	2,321	2,321
CONSTRUCTION & MAINTENANCE EQUIP	19,197	29,197	25,197	28,597
FIRE FIGHTING EQUIPMENT	12,345	13,845	12,345	13,445
TACTICAL VEHICLES	30,926	30,926	61,826	51,026
AMPHIBIOUS EQUIPMENT	11,607	11,607	11,607	11,607
POLLUTION CONTROL EQUIPMENT	11,396	11,396	11,396	11,396
ITEMS UNDER $5 MILLION	13,686	13,686	13,686	13,686
PHYSICAL SECURITY VEHICLES	1,125	1,125	1,125	1,125
TOTAL, CIVIL ENGINEERING SUPPORT EQUIPMENT	104,110	115,610	141,010	134,710
SUPPLY SUPPORT EQUIPMENT				
MATERIALS HANDLING EQUIPMENT	12,754	13,754	12,754	13,754
OTHER SUPPLY SUPPORT EQUIPMENT	11,523	15,523	19,523	17,523
FIRST DESTINATION TRANSPORTATION	5,578	5,578	5,578	5,578
SPECIAL PURPOSE SUPPLY SYSTEMS	82,158	82,158	82,158	82,158
TOTAL, SUPPLY SUPPORT EQUIPMENT	112,013	117,013	120,013	119,013
PERSONNEL AND COMMAND SUPPORT EQUIPMENT				
TRAINING DEVICES				
TRAINING SUPPORT EQUIPMENT	18,756	26,756	18,756	25,556
COMMAND SUPPORT EQUIPMENT				
COMMAND SUPPORT EQUIPMENT	20,658	22,658	30,658	27,658
EDUCATION SUPPORT EQUIPMENT	5,507	10,507	5,507	8,007
MEDICAL SUPPORT EQUIPMENT	8,459	8,459	8,459	8,459
OPERATING FORCES SUPPORT EQUIPMENT	7,826	7,826	9,826	9,226
MOBILE SENSOR PLATFORM	27,582	27,582	27,582	27,582
ENVIRONMENTAL SUPPORT EQUIPMENT	13,155	13,155	13,155	13,155
PHYSICAL SECURITY EQUIPMENT	194,214	197,214	157,714	179,114
TOTAL, PERSONNEL AND COMMAND SUPPORT EQUIPMENT	296,157	314,157	271,657	298,757
SPARES AND REPAIR PARTS	245,476	245,476	245,476	245,476
CLASSIFIED PROGRAMS	18,646	18,646	18,646	18,646
TOTAL, OTHER PROCUREMENT, NAVY	4,834,278	4,980,325	4,797,025	4,875,786

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

(In thousands of dollars)

P-1		Budget Request	House	Senate	Conference
3	**SUBMARINE PROPELLERS**	0	0	7,000	0
	CVN propeller replacement program (moved to 3a)			+7,000	0
3(a)	**CVN PROPELLERS**	0	2,000	0	4,900
	CVN propeller replacement program		+2,000		+4,900
10	**SUBMARINE SUPPORT EQUIPMENT**	21,181	21,181	26,181	24,681
	High Performance Brush Program			+5,000	+3,500
11	**VIRGINIA CLASS SUPPORT EQUIPMENT**	56,051	59,051	56,051	58,151
	Shipboard wireless mobile computing environment initiated under SBIR N99-106 (Note: only for the procurement and installation of the shipboard wireless mobile computing environment as an extension of the Non-Tactical Data Processing System (NTDPS))		+3,000		+2,100
13	**STRATEGIC PLATFORM SUPPORT EQUIP**	55,166	73,366	55,166	71,866
	Submarine common electronics equipment replacement (Q-70)		+10,000		+8,500
	SSBN modification transferred from SCN		+8,200		+8,200
15	**CG-MODERNIZATION**	114,139	114,139	0	0
	Cruiser Modernization			-114,139	-114,139
18	**ITEMS LESS THAN $5 MILLION**	148,637	164,637	161,537	165,137
	AEGIS support equipment- Frigate modernization (ECMS)		+1,000		+1,000
	Carrier smart ship weapons elevator automation		+1,000	+4,900	+3,400
	Wireless network capable application processors (NCAPs)		+5,000	+2,000	+4,200
	Integrated Condition Assessment System (ICAS)		+4,000		+2,400
	Fuel catalyst (Note: only for procurement and installation of pre-combustion fuel treatment device to improve fuel efficiency and reduce engine maintenance)		+3,000		+1,500
	Fuel and Engine Maintenance Savings System (FEMSS)		+2,000	+2,000	+2,000
	Machinery control surveillance system for gas turbine ships			+4,000	+2,000
24	**STANDARD BOATS**	18,328	21,328	18,328	20,328
	Procurement of 25-person life rafts		+3,000		+2,000
26	**OPERATING FORCES IPE**	22,384	22,384	26,384	25,184
	IPDE Enhancement and PDM interoperability			+4,000	+2,800
29	**SPQ-9B RADAR**	3,584	14,584	10,584	11,584
	AN/SPQ-9B shipboard radar transmitter upgrade		+5,000	+7,000	+5,000
	AN/SPQ-9B radar- procurement of additional radars		+6,000		+3,000

P-1		Budget Request	House	Senate	Conference
30	**RADAR SUPPORT**	0	35,200	0	27,400
	AN/SYS-2(V) 11 and 13 track management system for FFG-7		+6,200		+4,300
	AN/SPS-67 radar improvement backfit kits		+15,000		+11,200
	AN/SPS-67 radar obsolescence availability recovery (ROAR)		+8,000		+6,800
	Radar display repeater (AN/SPA-25G) technology refresh kits		+2,000		+1,700
	SPS-73 surface search radar		+4,000		+3,400
32	**AN/SQQ-89 SURF ASW COMBAT SYSTEM**	0	13,000	0	11,100
	AN/SQQ-89 modernization		+13,000		+11,100
33	**SSN ACOUSTICS**	225,028	229,028	228,028	230,428
	Submarine technology insertion SBIR (S) N96-278 and N03-049		+4,000		+3,400
	Common Depth Sounder			+3,000	+2,000
34	**UUV PROGRAM**	61,253	0	0	0
	Program restructure		-61,253	-61,253	-61,253
35	**UNDERSEA WARFARE SUPPORT EQUIPMENT**	14,116	17,116	19,116	19,216
	Distributed Engineering Center for Torpedo Defense		+3,000		+2,600
	Surface sonar windows and domes			+5,000	+2,500
38	**SSTD**	22,273	32,273	22,273	30,773
	AN/SLQ-25A torpedo countermeasure set upgrades		+10,000		+8,500
45	**SUBMARINE SUPPORT EQUIPMENT PROG**	78,968	78,968	88,968	85,968
	AN/BLQ-10 radar narrow band ESM technology refresh			+10,000	+7,000
46	**NAVY TACTICAL DATA SYSTEM**	0	15,000	0	12,700
	ACDS/SSDS technology refresh for LHA 2/4		+3,000		+2,500
	ACDS/SSDS hardware for Dam Neck and Wallops Island		+8,000		+6,800
	Fleet peripheral equipment fielding		+4,000		+3,400
47	**COOPERATIVE ENGAGEMENT CAPABILITY**	57,531	70,531	57,531	67,531
	Planar array antenna assembly backfit		+13,000		+10,000
49	**NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS)**	26,208	31,208	26,208	30,508
	Q-70 based IT-21 servers		+5,000		+4,300
51	**MINESWEEPING SYSTEM REPLACEMENT**	77,956	63,356	68,656	53,356
	MCM1 Class Engine Replacement- change in acquisition strategy		-14,600		-14,600
	Mine countermeasures sea bottom mapping project			+2,400	+1,700
	RMS- buying ahead of need			-11,700	-11,700

P-1	Budget Request	House	Senate	Conference
58 **SHIPBOARD AIR TRAFFIC CONTROL**	7,695	8,695	7,695	8,695
Tactical radio frequency environment monitor (TREX)		+1,000		+1,000
60 **NATIONAL AIR SPACE SYSTEM**	16,122	13,122	16,122	13,122
Digital Airport Surveillance Radar - program delay		-3,000		-3,000
69 **COMMON IMAGERY GROUND SURFACE SYSTEMS**	53,173	57,934	45,173	49,934
Re-align JFN/JSIPS-N (see line 102)		+4,761		+4,761
Joint Service Imagery Processing system - Migration to converged architecture			-8,000	-8,000
70 **RADIAC**	9,087	13,087	9,087	12,487
Procurement of electronic personal dosimeters		+4,000		+3,400
71 **GPETE**	7,010	10,010	7,010	8,510
Allen Telescope Array (Note: only for the purchase of additional antennas, owned by the U.S. Naval Observatory, to expand the Allen Telescope Array to establish a test bed for detection of low-observable aircraft)		+3,000		+1,500
76 **SHIP COMMUNICATIONS AUTOMATION**	159,718	162,718	159,718	161,718
SPAWAR FORCEnet Integrated Data Center		+1,000		+1,000
Bandwidth monitor and control		+2,000		+1,000
77 **COMMUNICATIONS ITEMS UNDER $5 MILLION**	11,921	11,921	14,921	13,421
Shipboard Communications upgrade			+3,000	+1,500
79 **SUBMARINE COMMUNICATION EQUIPMENT**	94,533	99,533	104,533	99,533
Submarine high data rate antenna program		+5,000	+10,000	+5,000
82 **ELECTRICAL POWER SYSTEMS**	1,291	2,791	1,291	2,791
Carrier Pier Delta shore power upgrade (Note: only for the procurement of equipment to enhance the power system on Carrier Pier Delta at Naval Station Bremerton for support of CVN operations)		+1,500		+1,500
84 **JEDMICS**	0	0	7,500	6,400
PACOM Agile Coalition Environment			+7,500	+6,400

P-1		Budget Request	House	Senate	Conference
86	**INFO SYSTEMS SECURITY PROGRAM (ISSP)**	**88,418**	**93,418**	**88,418**	**90,918**
	Navy Intelligent Agent Security Module (IASM)- for procurement of 24 units		+5,000		+2,500
91	**WEAPONS RANGE SUPPORT EQUIPMENT**	**44,643**	**52,643**	**52,643**	**55,243**
	Multi-spectral threat emitter systems for east coast training ranges		+5,000		+2,500
	Smart target threats for Southern California Offshore Range (SCORE)		+3,000		+1,500
	Joint threat emitter			+3,000	+2,300
	PMRF Equipment			+5,000	+4,300
93	**AIRCRAFT REARMING EQUIPMENT**	**11,667**	**14,667**	**11,667**	**11,667**
	LAU-7 Sidewinder missile replacement program (moved to Aircraft Procurement, Navy line 56)		+3,000		0
97	**AVIATION LIFE SUPPORT**	**19,040**	**20,040**	**37,540**	**32,140**
	MBU-23/P oxygen mask and visor		+1,000	+3,500	+2,600
	Multi-climate protection clothing system			+5,000	+3,500
	Joint technical data integration/automated maintenance equipment			+10,000	+7,000
98	**AIRBORNE MINE COUNTERMEASURES**	**73,081**	**73,081**	**68,681**	**67,181**
	AN-AQS-20 Minehunting sonar			+3,000	+1,500
	AN-AQS-20A - Buying ahead of need			-7,400	-7,400
99	**LAMPS MK III SHIPBOARD EQUIPMENT**	**16,433**	**22,433**	**16,433**	**21,733**
	AN/SRQ-4 LAMPS MK III (Note: only for the procurement of AN/SRQ-4 shipboard KU Band system)		+5,000		+4,300
	Naval aviation interoperability (Note: only to upgrade the NAWCAD Surface/Aviation Interoperability Laboratory (SAIL))		+1,000		+1,000
100	**OTHER AVIATION SUPPORT EQUIPMENT**	**6,157**	**11,157**	**6,157**	**10,457**
	Joint Aviation Logistics Technical Data Integration (JATDI) system security solution (Note: only for the extension, procurement and integration of the JEDMICS security solution to JATCI applications)		+5,000		+4,300
102	**NAVAL FIRES CONTROL SYSTEM**	**7,610**	**3,849**	**2,849**	**3,849**
	Gulf Coast Joint Harbor Operations Center (JHOC)		+1,000		+1,000
	Re-align JFN/JSIPS-N (see line 69)		-4,761	-4,761	-4,761

P-1	Budget Request	House	Senate	Conference
105 RAM GMLS	**22,968**	**26,968**	**26,968**	**26,968**
Phalanx SeaRAM (Note; only for manufacture of an initial production unit and installation on a FFG-7 class frigate)		+4,000	+4,000	+4,000
107 AEGIS SUPPORT EQUIPMENT	**57,517**	**72,017**	**66,517**	**71,117**
All-in-One wireless access points		+5,000		+4,200
AEGIS Storage Area Network System (ASAN)		+1,500		+1,100
AEGIS Integrated Bridge System (IBS)		+5,000	+9,000	+6,800
Data extraction and switching system enhancements for AEGIS Virginia land based test sites (LBTS)		+3,000		+1,500
112 SSN COMBAT CONTROL SYSTEMS	**147,481**	**115,481**	**147,481**	**115,481**
Provide for six SSN installations		-32,000		-32,000
114 SURFACE ASW SUPPORT EQUIPMENT	**4,539**	**4,539**	**13,039**	**10,939**
MK 32 Surface vessel torpedo tubes remanufacture			+8,500	+6,400
116 EXPLOSIVE ORDNANCE DISPOSAL EQUIP	**25,058**	**25,058**	**29,758**	**28,358**
SCOUT high pressure air system			+4,700	+3,300
118 ANTI-SHIP MISSILE DECOY SYSTEM	**46,553**	**46,553**	**57,653**	**54,853**
NULKA decoys			+11,100	+8,300
120 SUBMARINE TRAINING DEVICE MODS	**39,405**	**45,405**	**45,405**	**46,905**
Shipboard non-tactical application delivery interface system (SNADIS)		+5,000		+3,500
Performance-centric mission essential content delivery		+1,000		+1,000
INTERLOCKS development tool			+6,000	+3,000
124 CONSTRUCTION & MAINTENANCE EQUIP	**19,197**	**29,197**	**25,197**	**28,597**
SEABEE Construction equipment		+4,000		+3,400
Earth moving equipment- USN Construction Units		+6,000	+6,000	+6,000
125 FIRE FIGHTING EQUIPMENT	**12,345**	**13,845**	**12,345**	**13,445**
Procure additional fire trucks for Naval District of Washington		+1,500		+1,100
126 TACTICAL VEHICLES	**30,926**	**30,926**	**61,826**	**51,026**
Medium tactical vehicle replacement (MTVR) - Naval construction force			+30,900	+20,100
131 MATERIALS HANDLING EQUIPMENT	**12,754**	**13,754**	**12,754**	**13,754**
NIROP Industrial facilities materials staging area		+1,000		+1,000

P-1	Budget Request	House	Senate	Conference
132 OTHER SUPPLY SUPPORT EQUIPMENT	**11,523**	**15,523**	**19,523**	**17,523**
Serial Number Tracking System (SNTS)		+4,000	+8,000	+6,000
135 TRAINING SUPPORT EQUIPMENT	**18,756**	**26,756**	**18,756**	**25,556**
Laser marksmanship training system (LMTS) - Navy Reserve		+8,000		+6,800
136 COMMAND SUPPORT EQUIPMENT	**20,658**	**22,658**	**30,658**	**27,658**
Man Overboard Identification (MOBI) System - for procurement and installation		+2,000	+10,000	+7,000
137 EDUCATION SUPPORT EQUIPMENT	**5,507**	**10,507**	**5,507**	**8,007**
Technical Data Knowledge Management (TDKM) system		+5,000		+2,500
140 OPERATING FORCES SUPPORT EQUIPMENT	**7,826**	**7,826**	**9,826**	**9,226**
Envelope protective covers for weapon systems			+2,000	+1,400
143 PHYSICAL SECURITY EQUIPMENT	**194,214**	**197,214**	**157,714**	**179,114**
MSG and MCWG body armor		+3,000		+2,600
Sea Fox remote controlled surface vessel			+3,500	+2,300
Unjustified cost growth			-40,000	-20,000

CRUISER MODERNIZATION

The conferees agree to provide no appropriation for Cruiser Modernization as proposed by the Senate instead of the budget request as proposed by the House.

The conferees take this action reluctantly based on the need to modernize these assets. However, the Navy's plan was simply inadequate in its presentation and planned execution. Furthermore, content of the modernization program changed significantly from the proposal presented with the fiscal year 2004 budget, while program cost remained the same, calling into question the soundness of the Navy's efforts.

The conferees remain interested in ensuring a modern Naval Fleet and would encourage the Navy to continue to refine its requirements with respect to modernization of the Cruiser inventory and request funds as appropriate in a future budget request.

PHYSICAL SECURITY EQUIPMENT

The conferees agree to provide $179,114,000 for Physical Security Equipment instead of $197,214,000 as proposed by the House and $157,714,000 as proposed by the Senate. The conferees agree that of this amount, $17,900,000 may not be obligated or expended until the Secretary of the Navy submits a report to the House and Senate Committees on Appropriations that addresses how the Navy intends to execute the expenditure of the appropriated funds.

The conferees further agree with the House position which requests the Navy centralize decision-making authority for all anti-terrorism and force protection requirements.

PROCUREMENT, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
WEAPONS AND COMBAT VEHICLES				
TRACKED COMBAT VEHICLES				
AAV7A1 PIP	58,596	132,696	81,796	121,596
AAAV	67,701	67,701	52,701	52,701
LAV PIP	41,588	66,888	41,588	63,088
MODIFICATION KITS (TRKD VEH)	11,844	11,844	11,844	11,844
M1A1 FIREPOWER ENHANCEMENTS	36,873	36,873	36,873	36,873
ARTILLERY AND OTHER WEAPONS				
HIMARS	16,340	21,940	16,340	16,340
155MM LIGHTWEIGHT TOWED HOWITZER	175,445	235,545	175,445	227,445
MOD KITS (ARTILLERY)	3,248	3,248	3,248	3,248
MARINE ENHANCEMENT PROGRAM	4,024	4,024	4,024	4,024
WEAPONS AND COMBAT VEHICLES UNDER $5 MILLION	4,888	7,388	4,888	6,788
WEAPONS				
MODULAR WEAPON SYSTEM	10,051	10,051	10,051	10,051
OTHER SUPPORT				
OPERATIONS OTHER THAN WAR	1,509	1,509	1,509	1,509
TOTAL, WEAPONS AND COMBAT VEHICLES	432,107	599,707	440,307	555,507
GUIDED MISSILES AND EQUIPMENT				
GUIDED MISSILES				
EADS MOD	10,314	10,314	10,314	10,314
JAVELIN	---	---	7,900	4,000
PEDESTAL MOUNTED STINGER (PMS) (MYP)	10,004	10,004	10,004	10,004
HIMARS ROCKETS	1,325	1,325	1,325	1,325
OTHER SUPPORT				
MODIFICATION KITS	595	595	595	595
TOTAL, GUIDED MISSILES AND EQUIPMENT	22,238	22,238	30,138	26,238

(In thousands of dollars)

	Budget	House	Senate	Conference
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
VEHICLE MOUNTED RADIOS AND EQUIPMENT				
SMALL UNIT REMOTE SCOUTING SYSTEM	8,866	8,866	8,866	8,866
COMMAND AND CONTROL SYSTEMS				
UNIT OPERATIONS CENTER	35,933	39,933	29,933	32,833
GLOBAL COMBAT SUPPORT SYSTEM	21,664	21,664	26,164	25,564
MULTIPLE ROLE RADAR SYSTEM	2,283	2,283	2,283	2,283
JOINT TACTICAL RADIO SYSTEMS	26,009	26,009	26,009	26,009
TRANSITION SWITCH MODULE	9,245	9,245	9,245	9,245
COMPLIMENTARY LOW ALTITUDE WEAPON	4,412	4,412	4,412	4,412
REPAIR AND TEST EQUIPMENT				
AUTO TEST EQUIP SYS	15,823	15,823	23,323	22,223
GENERAL PURPOSE ELECTRONIC TEST EQUIP	14,495	14,495	14,495	14,495
CALIBRATION FACILITIES	2,305	2,305	2,305	2,305
RADAR + EQUIPMENT (NON-TEL)				
RADAR SET AN/TPS-59	24,466	24,466	24,466	24,466
INTELL/COMM EQUIPMENT (NON-TEL)				
TACTICAL REMOTE SENSOR SYSTEM	10,622	10,622	10,622	10,622
INTELLIGENCE SUPPORT EQUIPMENT	15,842	16,842	15,842	16,842
MOD KITS (INTEL)	9,551	9,551	9,551	9,551
REPAIR AND TEST EQUIPMENT (NON-TEL)				
GENERAL PURPOSE MECHANICAL TMDE	1,790	1,790	1,790	1,790
OTHER COMM/ELEC EQUIPMENT (NON-TEL)				
NIGHT VISION EQUIPMENT	26,100	31,100	46,000	41,800
OTHER SUPPORT (NON-TEL)				
ITEMS UNDER $5 MILLION (COMM & ELEC)	461	461	461	461
COMMON COMPUTER RESOURCES	61,989	61,989	61,989	61,989
COMMAND POST SYSTEMS	8,144	8,144	8,144	8,144
RADIO SYSTEMS	14,476	26,476	26,476	26,476
COMM SWITCHING & CONTROL SYSTEMS	26,145	31,145	26,145	30,445
COMM & ELEC INFRASTRUCTURE SUPPORT	24,778	28,778	24,778	35,078
MOD KITS MAGTF C41	984	984	7,484	4,284
AIR OPERATIONS C2 SYSTEMS	10,290	10,290	10,290	10,290
INTELLIGENCE C2 SYSTEMS	1,211	1,211	1,211	1,211
FIRE SUPPORT SYSTEM	10,215	10,215	10,215	10,215
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	388,099	419,099	432,499	441,899

(In thousands of dollars)

	Budget	House	Senate	Conference
SUPPORT VEHICLES				
ADMINISTRATIVE VEHICLES				
COMMERCIAL PASSENGER VEHICLES	1,096	1,096	1,096	1,096
COMMERCIAL CARGO VEHICLES	11,563	11,563	11,563	11,563
TACTICAL VEHICLES				
5/4T TRUCK HMMWV (MYP)	131,276	131,276	131,276	131,276
LOGISTICS VEHICLE SYSTEM REP	3,343	3,343	3,343	3,343
FAMILY OF TACTICAL TRAILERS	942	942	942	942
OTHER SUPPORT				
ITEMS LESS THAN $5 MILLION	3,598	3,598	3,598	3,598
TOTAL, SUPPORT VEHICLES	151,818	151,818	151,818	151,818
ENGINEER AND OTHER EQUIPMENT				
ENGINEER AND OTHER EQUIPMENT				
ENVIRONMENTAL CONTROL EQUIP ASSORT	2,869	2,869	2,869	2,869
COMBAT BREACHER VEHICLE	4,621	11,621	4,621	8,121
BULK LIQUID EQUIPMENT	11,524	11,524	11,524	11,524
TACTICAL FUEL SYSTEMS	5,219	10,219	8,519	10,219
DEMOLITION SUPPORT SYSTEMS	3,422	5,422	10,822	8,922
POWER EQUIPMENT ASSORTED	10,657	12,157	10,657	11,707
FAMILY OF EOD EQUIPMENT	4,724	4,724	4,724	4,724
BRIDGE BOATS	5,307	5,307	5,307	5,307
MATERIALS HANDLING EQUIPMENT				
AMPHIBIOUS RAID EQUIPMENT	15,771	15,771	15,771	15,771
PHYSICAL SECURITY EQUIPMENT	4,979	4,979	4,979	4,979
GARRISON MOBILE ENGR EQUIP	10,927	10,927	10,927	10,927
MATERIAL HANDLING EQUIP	21,190	21,190	21,190	21,190
FIRST DESTINATION TRANSPORTATION	5,715	5,715	5,715	5,715

	(In thousands of dollars)			
	Budget	House	Senate	Conference
GENERAL PROPERTY				
FIELD MEDICAL EQUIPMENT	6,027	11,527	9,527	11,377
TRAINING DEVICES	24,214	64,714	26,214	56,964
CONTAINER FAMILY	5,244	5,244	5,244	5,244
FAMILY OF CONSTRUCTION EQUIPMENT	15,067	17,067	15,067	16,817
OTHER SUPPORT				
FAMILY OF INCIDENT RESPONSE	2,804	2,804	2,804	2,804
MODIFICATION KITS	2,901	2,901	2,901	2,901
ITEMS LESS THAN $5 MILLION	5,713	16,213	5,713	11,713
TOTAL, ENGINEER AND OTHER EQUIPMENT	168,895	242,895	185,095	229,795
SPARES AND REPAIR PARTS	26,946	26,946	26,946	26,946
TOTAL, PROCUREMENT, MARINE CORPS	1,190,103	1,462,703	1,266,803	1,432,203

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**AAV7A1 PIP**	**58,596**	**+132,696**	**+81,796**	**+121,596**
	Assault Amphibious Vehicle (AAV) RAM/RS Upgrades (Ground Forces Recapitalization)		+74,100	+23,200	+63,000
2	**EXPEDITIONARY FIGHTING VEHICLE**	**67,701**	**+67,701**	**+52,701**	**+52,701**
	Industrial and Tooling Equipment - Production Facility and Execution Delays			-15,000	-15,000
3	**LAV PIP**	**41,588**	**+66,888**	**+41,588**	**+63,088**
	Upgrades and Components (Ground Force Recapitalization)		+25,300		+21,500
7	**HIMARS**	**16,340**	**+21,940**	**+16,340**	**+16,340**
	Ground Forces Recapitalization		+5,600		0
8	**155MM LIGHTWEIGHT TOWED HOWITZER**	**175,445**	**+235,545**	**+175,445**	**+227,445**
	Ground Forces Recapitalization		+60,100		+52,000
11	**WEAPONS AND COMBAT VEHICLES UNDER $5 MILLION**	**4,888**	**+7,388**	**+4,888**	**+6,788**
	M9 Pistol Modernization Through Spares (P-MTS)		+2,500		+1,900
15	**JAVELIN**	**0**	**0**	**+7,900**	**+4,000**
	Additional JAVELIN Anti-Tank Missiles			+7,900	+4,000
21	**UNIT OPERATIONS CENTER**	**35,933**	**+39,933**	**+29,933**	**+32,833**
	USMC Hitchhiker		+4,000		+3,400
	Baseline Combat Operations Center			+2,000	+1,500
	Unjustified Support Costs			-8,000	-8,000
22	**GLOBAL COMBAT SUPPORT SYSTEM**	**21,664**	**+21,664**	**+26,164**	**+25,564**
	GCSS Logistics Modernization			+4,500	+3,900
27	**AUTO TEST EQUIP SYS**	**15,823**	**+15,823**	**+23,323**	**+22,223**
	Digitization of Technical and Operations Manuals			+7,500	+6,400
32	**INTELLIGENCE SUPPORT EQUIPMENT**	**15,842**	**+16,842**	**+15,842**	**+16,842**
	USMC Terrain Analysis and Production (TAP)		+1,000		+1,000
36	**NIGHT VISION EQUIPMENT**	**26,100**	**+31,100**	**+46,000**	**+41,800**
	AM/PEQ-2A Target Pointer, Illuminator, Aiming Light		+1,000	+9,000	+6,300
	AN/PVS-17 Night Vision Sight System		+4,000	+4,100	+4,000
	AN/PVS-14 Miniature Night Vision Device			+5,800	+4,400
	Close Quarters Battle Sight			+1,000	+1,000
40	**RADIO SYSTEMS**	**14,476**	**+26,476**	**+26,476**	**+26,476**
	Lightweight Multi-Band Satellite Terminal (LMST)		+12,000	+12,000	+12,000
41	**COMM SWITCHING & CONTROL SYSTEMS**	**26,145**	**+31,145**	**+26,145**	**+30,445**
	AN/UXC-10 Digital Facsimile (TS-21 Blackjack Marine Corps)		+5,000		+4,300
42	**COMM & ELEC INFRASTRUCTURE SUPPORT**	**24,778**	**+28,778**	**+24,778**	**+35,078**
	USMC Continuity of Operations (COOP)		+4,000		+3,400
	Communications Support for USMC NOC (Note: transferred from O&M,MC)				+6,900

P-1		Budget Request	House	Senate	Conference
43	**MOD KITS MAGTF C41**	984	+984	+7,484	+4,284
	Communication Emitter Sensing and Attacking System (CESAS)			+6,500	+3,300
55	**COMBAT BREACHER VEHICLE**	4,621	+11,621	+4,621	+8,121
	Assault Breach Vehicle		+7,000		+3,500
57	**TACTICAL FUEL SYSTEMS**	5,219	+10,219	+8,519	+10,219
	Nitrile Rubber Collapsible Storage Units		+3,000	+3,300	+3,300
	Forward Area Self-Contained, Transportable-Improved Liquid Storage/Dispensing System		+2,000		+1,700
58	**DEMOLITION SUPPORT SYSTEMS**	3,422	+5,422	+10,822	+8,922
	AN/PSS-14 Handheld Standoff Mine Detection System (HSTAMIDS)		+2,000	+7,400	+5,500
59	**POWER EQUIPMENT ASSORTED**	10,657	+12,157	+10,657	+11,707
	Marine Corps 2kW Generators		+1,500		+1,050
68	**FIELD MEDICAL EQUIPMENT**	6,027	+11,527	+9,527	+11,377
	Portable Rapid Intravenous (IV) Infusion Pump		+3,000		+1,500
	Portable Low-Power Blood Cooling and Storage		+1,500		+1,100
	Individual Water Purification (IWP) Program		+1,000		+1,000
	Combat Casualty Care Equipment			+3,500	+1,750
69	**TRAINING DEVICES**	24,214	+64,714	+26,214	+56,964
	Marine Corps Live Fire Training Range Improvements		+3,500	+2,000	+2,000
	Range Enhancements for JNTC MOUT Facility at 29 Palms for OIF		+35,000		+29,750
	Common Range Instrumentation System (CRIS)		+2,000		+1,000
71	**FAMILY OF CONSTRUCTION EQUIPMENT**	15,067	+17,067	+15,067	+16,817
	Ultimate Building Machine (UBM) System Marine Corps		+2,000		+1,750
75	**ITEMS LESS THAN $5 MILLION**	5,713	+16,213	+5,713	+11,713
	Anti-Personnel Obstacle Breaching System (APOBS)		+3,000		0
	Ultra High Intensity Miniature Illumination System		+4,000		+3,000
	Single Battlefield Fuel Motorcycle		+3,500		+3,000

AIRCRAFT PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
COMBAT AIRCRAFT				
TACTICAL FORCES				
F-22 RAPTOR	3,633,769	3,603,769	3,603,769	3,603,769
F-22 RAPTOR (AP-CY)	523,187	523,187	523,187	523,187
F-15 (AP)	---	---	---	110,000
TOTAL, COMBAT AIRCRAFT	4,156,956	4,126,956	4,126,956	4,236,956
AIRLIFT AIRCRAFT				
TACTICAL AIRLIFT				
C-17A (MYP)	2,512,479	2,671,079	2,512,479	2,671,079
C-17A (MYP) (AP-CY)	381,800	381,800	381,800	381,800
C-17 ICS	945,560	786,960	979,560	979,560
OTHER AIRLIFT				
C-130J	732,505	769,171	769,205	769,171
C-130J ADVANCE PROCUREMENT (CY)	186,666	150,000	149,966	150,000
C-40C	---	225,000	---	225,000
TOTAL, AIRLIFT AIRCRAFT	4,759,010	4,984,010	4,793,010	5,176,610
TRAINER AIRCRAFT				
OPERATIONAL TRAINERS				
JPATS	307,072	307,072	307,072	307,072
INTRO TO FLIGHT/AIRMANSHIP PROGRAMS	---	---	880	880
OTHER AIRCRAFT				
HELICOPTERS				
V-22 OSPREY	305,581	305,581	305,581	305,581
V-22 OSPREY (AP-CY)	11,035	11,035	11,035	11,035
MISSION SUPPORT AIRCRAFT				
CIVIL AIR PATROL A/C	2,271	2,271	2,271	2,271

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OTHER AIRCRAFT				
TARGET DRONES	74,143	74,143	71,143	74,143
TANKER REPLACEMENT	---	---	110,000	---
HAEUAV	287,768	202,178	287,768	287,768
HAEUAV (AP-CY)	71,863	50,563	71,863	71,863
PREDATOR UAV	146,609	186,609	146,609	176,609
TOTAL, OTHER AIRCRAFT	899,270	832,380	1,006,270	929,270
MODIFICATION OF INSERVICE AIRCRAFT				
STRATEGIC AIRCRAFT				
B-2A	96,002	96,002	96,002	96,002
B-1B	8,825	8,825	8,825	8,825
B-52	92,216	92,216	121,116	112,516
F-117	13,223	23,023	13,223	23,023
TACTICAL AIRCRAFT				
A-10	53,362	53,362	53,362	53,362
F-15	181,602	195,102	337,402	211,002
F-16	336,289	336,289	374,289	352,889
F22 RAPTOR	70,087	70,087	70,087	70,087
T/AT-37	78	78	78	78
AIRLIFT AIRCRAFT				
C-5	99,601	105,601	99,601	103,101
C-9	---	6,000	---	6,000
C-17A	89,144	89,144	89,144	89,144
C-21	1,409	1,409	1,409	1,409
C-32A	187	187	187	187
C-37A	351	351	351	351
TRAINER AIRCRAFT				
T6 MODIFICATIONS	3,850	3,850	3,850	3,850
T-38	153,677	173,677	153,677	170,677
T-41 AIRCRAFT	89	89	89	89
T-43	599	599	599	599
OTHER AIRCRAFT				
KC-10A (ATCA)	37,314	25,614	31,014	37,314
C-12	19,373	19,373	19,373	19,373
C-20 MODS	449	449	449	449
VC-25A MOD	28,031	28,031	28,031	28,031

	(In thousands of dollars)			
	Budget	House	Senate	Conference
C-40	187	187	187	187
C-130	110,375	126,675	134,445	133,375
C130J MODS	36,921	36,921	36,921	36,921
C-135	51,905	51,905	64,405	60,505
C-29A MODS	15,953	15,953	15,953	15,953
DARP	101,233	87,733	101,233	91,233
E-3	36,025	36,025	36,025	36,025
E-4	101,818	101,818	101,818	101,818
E-8	45,302	45,302	45,302	45,302
H-1	6,575	6,575	6,575	6,575
H-60	95,068	95,068	95,068	97,568
OTHER AIRCRAFT	76,701	49,901	76,701	63,501
PREDATOR MODS	31,872	31,872	31,872	31,872
CV-22 MODS	275	275	275	275
OTHER MODIFICATIONS				
CLASSIFIED PROJECTS	20,880	30,880	30,380	29,380
TOTAL, MODIFICATION OF INSERVICE AIRCRAFT	2,016,848	2,046,448	2,279,318	2,138,848
AIRCRAFT SPARES AND REPAIR PARTS				
INDUSTRIAL FACILITIES	234,103	234,103	---	234,103
REPLEN SPARES/REPAIR PARTS	---	---	234,103	---
TOTAL, AIRCRAFT SPARES AND REPAIR PARTS	234,103	234,103	234,103	234,103
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON SUPPORT EQUIPMENT				
COMMON SUPPORT EQUIPMENT	223,600	205,600	208,600	206,850

(In thousands of dollars)

	Budget	House	Senate	Conference
POST PRODUCTION SUPPORT				
B-1	11,733	11,733	11,733	11,733
B-2A	6,801	6,801	6,801	6,801
B-2A	30,683	30,683	30,683	30,683
B-52	19,405	19,405	19,405	19,405
C-130	1,229	1,229	1,229	1,229
F-15 POST PRODUCTION SUPPORT	13,407	13,407	13,407	13,407
F-16 POST PRODUCTION SUPPORT	11,531	11,531	11,531	11,531
INDUSTRIAL PREPAREDNESS	21,082	21,082	21,082	21,082
WAR CONSUMABLES				
WAR CONSUMABLES	41,314	41,314	41,314	41,314
REPLEN SPARES/REPAIR PARTS	309,725	238,810	334,725	261,710
DEPOT MODERNIZATION	34,464	92,479	34,464	92,479
CLASSIFIED PROGRAMS				
DARP	64,941	64,941	64,941	64,941
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	789,915	759,015	799,915	783,165
GENERAL REDUCTION	---	---	---	-158,600
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	13,163,174	13,289,984	13,547,524	13,648,304

EXPLANATION OF PROJECT LEVEL TABLES

[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**F-22 RAPTOR**	3,633,769	3,603,769	3,603,769	3,603,769
	Program Efficiencies		-30,000	-30,000	-30,000
New	**F-15 (AP)**	0	0	0	110,000
	Advance Procurement for F-15 (Transfer from Line 26)				+110,000
3	**C-17A (MYP)**	2,512,479	2,671,079	2,512,479	2,671,079
	Full Funding for 15 Aircraft		+158,600		+158,600
5	**C-17 ICS**	945,560	786,960	979,560	979,560
	New Capability Support		-158,600		0
	C-17 Maintenance Training System			+34,000	+34,000
7	**C-130J**	732,505	769,171	769,205	769,171
	AF Requested Transfer From Line 8		+36,666	+36,700	+36,666
8	**C-130J ADVANCE PROCUREMENT (CY)**	186,666	150,000	149,966	150,000
	AF Requested Transfer To Line 7		-36,666	-36,700	-36,666
NEW	**C-40C**	0	225,000	0	225,000
NEW	**INTRO TO FLIGHT/AIRMANSHIP PROGRAMS**	0	0	880	880
	Trainer Aircraft			+880	+880
13	**TARGET DRONES**	74,143	74,143	71,143	74,143
	Excessive Management Costs			-3,000	0
NEW	**TANKER REPLACEMENT**	0	0	110,000	0
	Advance Procurement			+110,000	0
17	**HAEUAV**	287,768	202,178	287,768	287,768
	Transfer of Navy Aircraft		-85,590		0
18	**HAEUAV (AP-CY)**	71,863	50,563	71,863	71,863
	Reduction of 2 Aircraft		-21,300		0
19	**PREDATOR UAV**	146,609	186,609	146,609	176,609
	Predator UAV (Note: Only to acquire 3 fully equipped Predator B aircraft and spares)		+40,000		+30,000
23	**B-52**	92,216	92,216	121,116	112,516
	B-52 Attrition Reserve			+28,900	+20,300
24	**F-117**	13,223	23,023	13,223	23,023
	Modification of 10 Aircraft		+9,800		+9,800
26	**F-15**	181,602	195,102	337,402	211,002
	ALQ-135 Band 1.5 Jammers		+7,000	+10,000	+7,000
	IFF for 125th F-15 ANG Fighter Wing		+5,000		+4,300
	F-100 E-Kits Modifications for the National Guard		+1,500	+20,000	+14,000
	Air to Air Interrogator/Identify Friend-or-Foe for ANG F-15			+5,800	+4,100
	Advance Procurement for F-15 (Transfer to New Line)			+120,000	0

P-1	Budget Request	House	Senate	Conference
27 F-16	**336,289**	**336,289**	**374,289**	**352,889**
ANG F-16 Block 42 Re-Engining Program		+10,000	+30,000	+21,000
Budget Growth / Execution		-10,000		-10,000
F-16 Slimline V On-board Oxygen Generation System			+8,000	+5,600
30 C-5	**99,601**	**105,601**	**99,601**	**103,101**
C-5 Modernization - AMP for Active, Guard, and Reserve Components		+6,000		+3,500
31 C-9	**0**	**6,000**	**0**	**6,000**
Hushkits		+6,000		+6,000
38 T-38	**153,677**	**173,677**	**153,677**	**170,677**
T-38 Ejection Seat Upgrade Program (ESUP)		+20,000		+17,000
41 KC-10A (ATCA)	**37,314**	**25,614**	**31,014**	**37,314**
GATM Cancellation		-11,700	-6,300	0
47 C-130	**110,375**	**126,675**	**134,445**	**133,375**
AN/AAQ-24V(13) Large Aircraft Infrared Countermeasures System for the Air Force Reserve Command HC-130 Fleet		+6,000		+3,000
ASAR For 109th LC-130		+4,000		+2,000
MAFFS for Western States Fire Fighting (Note: Only to procure Modular Airborne Fire Fighting Systems and trailers, spare parts kits and contractor logistics support to support ANG fire fighting requirements in the Western United States)		+18,000		+12,000
Link 16 Development		-11,700		-11,700
SENIOR SCOUT - Intelligent Communications Exploitation			+5,000	+3,300
SENIOR SCOUT - Directional Finding and Location Upgrades			+7,500	+4,900
SENIOR SCOUT - ANG Boise, Idaho			+2,000	+1,400
APN-241 Radar ANG C-13-H2			+6,570	+6,600
T56-A-15 Engine Upgrades for the C-130E			+3,000	+1,500
49 C-135	**51,905**	**51,905**	**64,405**	**60,505**
Improved Waste Removal System			+5,500	+2,800
SCATHE Chief			+7,000	+5,300
Emergency Vision Assurance System (EVAS)				+500
51 DARP	**101,233**	**87,733**	**101,233**	**91,233**
RC-135 Rivet Joint Baseline 9 Spares - Premature Request		-13,500		-10,000
56 H-60	**95,068**	**95,068**	**95,068**	**97,568**
HH-60G Weapon System Trainer/Operation Flight Trainer (Note: Transfer from Procurement, Defense-Wide, Line 38)			+5,000	+2,500
57 OTHER AIRCRAFT	**76,701**	**49,901**	**76,701**	**63,501**
ROBE Group B Kits		-13,200		-13,200
STING (R7) Modification		-13,600		0
60 CLASSIFIED PROJECTS	**20,880**	**30,880**	**30,380**	**29,380**
Compass Call Inboard Equipment		+5,000		+2,500
Compass Call SPEAR Pods		+5,000	+9,500	+6,000

P-1		Budget Request	House	Senate	Conference
62	**COMMON SUPPORT EQUIPMENT**	**223,600**	**205,600**	**208,600**	**206,850**
	Program Growth		-20,000	-15,000	-20,000
	GL-1800 AP Truck Mounted Aircraft De-icers		+2,000	+5,000	+3,250
72	**REPLENISHMENT SPARES/REPAIR PARTS**	**309,725**	**238,810**	**334,725**	**261,710**
	STING (R7) Pods		-12,900		-10,000
	AF Requested Adjustment		-58,015		-58,015
	LITENING AT Precision Attack Targeting Pod for AFRC			+10,000	+7,000
	LITENING AT Precision Attack Targeting Pod for ANG			+15,000	+10,500
	Nellis Combat Training Range Pod Upgrade (Transfer from OPAF, Line 60)				+2,500
73	**DEPOT MODERNIZATION**	**34,464**	**92,479**	**34,464**	**92,479**
	AF Requested Adjustment		+58,015		+58,015
	General Reduction				**-158,600**

C–17 MULTIYEAR PROCUREMENT

The conferees have provided an additional $158,600,000 in funding for the procurement of 15 C–17s in fiscal year 2005. Language has also been included in "Aircraft Procurement, Air Force" requiring the Air Force to procure 15 aircraft in fiscal year 2005; provide advance procurement for 15 aircraft in 2006; and to fully fund 15 aircraft in fiscal year 2006. The conferees agree with the House language regarding the Air Force interpretation of multiyear procurement regulations in this and the C–130J program. The conference report includes a general provision amending multiyear procurement contract requirements proposed in the House bill to prevent this approach in the future.

A general reduction in funding for Aircraft Procurement, Air Force, has been included accordingly with a requirement that the reduction be applied equitably across all elements of this appropriation.

TANKER REPLACEMENT TRANSFER FUND

The conference report includes a general provision, section 8132, which provides $100,000,000 to establish the "Tanker Replacement Transfer Fund". The establishment of this fund reflects the conferees' intent that the Air Force proceed apace with replacing its fleet of aging aerial refueling aircraft. In particular, the Department of Defense should endeavor to complete as quickly as possible the ongoing analysis of tanker replacement program alternatives.

The funds provided under section 8132 may be used to implement the current tanker replacement program of record. The conferees note, however, that the fluid nature of the situation surrounding this program prohibits a definitive allocation of funds for specific activities. Thus, the conference report provides the Secretary of the Air Force with the authority to allocate these funds to Air Force operation and maintenance, procurement, or research and development accounts, allowing the Air Force to quickly implement tanker acquisition plans once a final plan is approved. In any case, the conferees strongly urge the Department of Defense to thoroughly consider the effects on the U.S. aircraft industrial base of any and all tanker replacement program alternatives.

F/A–22 INDEPENDENT COST ESTIMATE

The conferees note that several significant decision points regarding continued production of the F/A–22 lay in the not-so-distant future. The program recently entered into Initial Operational Test and Evaluation, which is scheduled to conclude in the fall. Following completion of IOT&E, the Department will consider whether to grant authority for the program to enter full rate production, whether and when to request multiyear procurement authority, and as a subtext to all of this, whether there is a need to increase the production cost cap established under authorization law.

The conferees believe this is the appropriate point in the program to recalibrate F/A–22 cost models using the latest information on current and projected costs. Accordingly, the conferees direct the Under Secretary of Defense for Acquisition Technology and Logistics to sponsor a new comprehensive F/A–22 independent cost estimate (ICE), to be conducted by a federally funded research and development center (FFRDC) with demonstrated competence in this area in coordination with the Defense Contract Audit Agency (DCAA). This analysis should: (1) determine appropriate estimates of unit costs and validate unit cost models and related assumptions to include all pertinent pricing cost data based on the latest projections of production efficiencies; (2) identify optimal yearly production profiles that can be financed under the budgetary framework contained in the 2005 Future Years Defense Plan; and, (3) determine appropriate estimates of remaining non-recurring development, test, and acquisition program oversight costs. The conferees expect that the FFRDC will be allowed to both contract the services of a private sector audit entity experienced in industry costing techniques, and coordinate the execution and review of this ICE with the DCAA. The conferees expect the F/A–22 prime contractor to provide full access and cooperation with this analytical effort to the FFRDC, DCAA, and any private sector audit agency involved under rules and procedures that adequately protect the confidentiality of proprietary financial data and manufacturing techniques. This ICE is to be transmitted to the congressional defense committees not later than August 15, 2005.

HEAVY OUTSIZED AIRLIFT CAPACITY

The conferees are aware of the on-going Mobility Capabilities Study and the probability that the current 54.5 MTM/day requirement will increase. The conferees, similar to the Air Force, recognize the value of filling whatever heavy, outsized lift requirement is validated with the most cost effective fleet structure to include better use of the Civilian Reserve Air Fleet (CRAF). The conferees direct the Secretary of the Air Force to provide the congressional defense committees no later than March 31, 2005, an assessment of options to introduce a U.S. owned, heavy, outsized airlift capability into the CRAF based on potential commercial uses of commercialized versions of U.S. heavy outsized cargo aircraft without the need for government investment or substantial involvement.

MISSILE PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
BALLISTIC MISSILES				
MISSILE REPLACEMENT EQUIPMENT - BALLISTIC				
LGM-30F/G MINUTEMAN II/III	30,143	30,143	23,643	23,643
OTHER MISSILES				
TACTICAL				
JASSM	148,161	139,861	148,161	139,861
SIDEWINDER (AIM-9X)	52,595	52,595	52,595	52,595
AMRAAM	107,354	107,354	107,354	107,354
PREDATOR HELLFIRE MISSILE	20,017	20,017	20,017	20,017
SMALL DIAMETER BOMB	29,257	29,257	29,257	29,257
INDUSTRIAL FACILITIES				
INDUSTRIAL PREPAREDNESS/POL PREVENTION	2,084	2,084	2,084	2,084
TOTAL, OTHER MISSILES	359,468	351,168	359,468	351,168
MODIFICATION OF INSERVICE MISSILES				
CLASS IV				
ADVANCED CRUISE MISSILE	4,094	4,094	4,094	4,094
MM III MODIFICATIONS	640,760	640,760	650,760	648,260
AGM-65D MAVERICK	222	222	222	222
AIR LAUNCH CRUISE MISSILE	21,154	21,154	21,154	21,154
TOTAL, MODIFICATION OF INSERVICE MISSILES	666,230	666,230	676,230	673,730

(In thousands of dollars)

	Budget	House	Senate	Conference
SPARES AND REPAIR PARTS				
OTHER AIRCRAFT				
ADVANCED CRUISE MISSILE	8,020	8,020	8,020	8,020
AIM-7E SPARROW	1,898	1,898	1,898	1,898
AIM-9 SIDEWINDER	6,273	6,273	6,273	6,273
SIDEWINDER (AIM-9X)	1,759	1,759	1,759	1,759
AGM-130 POWERED GBU-15	368	368	368	368
LGM-30F/G MINUTEMAN II/III	10,016	10,016	10,016	10,016
MM III MODIFICATIONS	12,866	12,866	12,866	12,866
AGM-65D MAVERICK	1,423	1,423	1,423	1,423
AGM-88A HARM	2,868	4,868	2,868	4,568
AIR LAUNCH CRUISE MISSILE	4,609	4,609	4,609	4,609
AMRAAM	341	341	341	341
PEACEKEEPER (M-X)	11,669	11,669	11,669	11,669
TOTAL, OTHER AIRCRAFT	62,110	64,110	62,110	63,810
OTHER SUPPORT				
SPACE PROGRAMS				
ADVANCED EHF (AP-CY)	98,590	78,590	98,590	78,590
WIDEBAND GAPFILLER SATELLITES	40,307	40,307	40,307	40,307
SPACEBORNE EQUIP (COMSEC)	9,250	9,250	9,250	9,250
GLOBAL POSITIONING (SPACE)	300,772	300,772	300,772	300,772
GLOBAL POSITIONING (SPACE) (AP-CY)	29,758	29,758	29,758	29,758
DEF METEOROLOGICAL SAT PROG(S	74,201	74,201	74,201	74,201
DEFENSE SUPPORT PROGRAM(SPACE	116,468	86,468	116,468	106,468
DEFENSE SATELLITE COMM SYSTEM	6,613	6,613	6,613	6,613
TITAN SPACE BOOSTERS(SPACE)	74,290	49,290	71,290	49,290
EVOLVED EXPENDABLE LAUNCH VEH	610,997	519,997	510,997	510,997
MEDIUM LAUNCH VEHICLE(SPACE)	102,872	71,872	97,872	82,872
SPECIAL PROGRAMS				
DEFENSE SPACE RECONN PROGRAM	332,388	332,388	332,388	332,388
SPECIAL UPDATE PROGRAMS	130,809	130,809	126,209	126,209
TOTAL, OTHER SUPPORT	1,927,315	1,730,315	1,814,715	1,747,715
CLASSIFIED PROGRAMS	1,673,047	1,583,047	1,673,047	1,598,047
TOTAL, MISSILE PROCUREMENT, AIR FORCE	4,718,313	4,425,013	4,609,213	4,458,113

EXPLANATION OF PROJECT LEVEL TABLES
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**LGM-30F/G MINUTEMAN II/III**	30,143	30,143	23,643	23,643
	Miscellaneous Equipment Cost Growth			-6,500	-6,500
3	**JASSM**	148,161	139,861	148,161	139,861
	Operational Suitability Deficiencies		-8,300		-8,300
12	**MM III MODIFICATIONS**	640,760	640,760	650,760	648,260
	Safety Enhanced Reentry Vehicle (SERV)			+10,000	+7,500
24	**AGM-88A HARM**	2,868	4,868	2,868	4,568
	HARM Upgrade (HDAM)		+2,000		+1,700
28	**ADVANCED EHF (AP-CY)**	98,590	78,590	98,590	78,590
	Excessive Amount Budgeted For AP		-20,000		-20,000
34	**DEFENSE SUPPORT PROGRAM (SPACE)**	116,468	86,468	116,468	106,468
	Excess funding for projected launch schedule		-30,000		-10,000
36	**TITAN SPACE BOOSTERS (SPACE)**	74,290	49,290	71,290	49,290
	Delay of launch activities given launch slips		-25,000	-3,000	-25,000
37	**EVOLVED EXPENDABLE LAUNCH VEHICLE**	610,997	519,997	510,997	510,997
	AF Requested Transfer		-91,000	-100,000	-100,000
38	**MEDIUM LAUNCH VEHICLE (SPACE)**	102,872	71,872	97,872	82,872
	Excess Rate Growth		-31,000	-5,000	-20,000
44	**SPECIAL UPDATE PROGRAMS**	130,809	130,809	126,209	126,209
	Classified Reduction			-4,600	-4,600

JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM)

The conferees question the assessment of the Air Force with regard to the presumed sound and proven design of JASSM. Operational Test and Evaluation results ending in April found mission reliability to be 53 percent, a figure the Air Force has identified as meeting its benchmark for effectiveness. JASSM mission reliability of 53 percent is poor in comparison to similar weapons; Javelin reliability was 100 percent, JDAM was 85 percent, JSOW–A was 95 percent, and Hellfire was 95 percent at the end of operational testing.

The conferees note that this troublesome mission success rate only continues to be validated by recent testing. As recently as June 29, 2004, a JASSM launched from an F-16 failed to transition power from batteries to engine causing the missile to crash well short of the target. In a June 8, 2004 test from a B–2, problems with the mission planning system resulted in a mission failure. The two successful launches from B–1 aircraft required mission planning time even slower than that noted in the Operational Test and Evaluation report.

The conferees restate the concerns identified in the House report and expect that improvements will be made to increase the reliability of the baseline missile program. Failure to do so will cause the conferees to reconsider their support for this program and the extended range version.

PROCUREMENT OF AMMUNITION, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, AIR FORCE				
PROCUREMENT OF AMMO, AIR FORCE				
ROCKETS	34,557	34,557	34,557	34,557
CARTRIDGES	149,100	129,100	149,100	129,100
BOMBS				
PRACTICE BOMBS	46,918	46,918	46,918	46,918
GENERAL PURPOSE BOMBS	266,489	236,589	241,489	235,089
SENSOR FUZED WEAPON	117,023	117,023	117,023	117,023
JOINT DIRECT ATTACK MUNITION	521,782	521,782	516,782	516,782
WIND CORRECTED MUNITIONS DISP	58,670	58,670	58,670	58,670
FLARE, IR MJU-7B				
CAD/PAD	20,379	20,379	20,379	20,379
EXPLOSIVE ORDINANCE DISPOSAL I1063	2,889	2,889	2,889	2,889
SPARES AND REPAIR PARTS	179	4,364	179	4,364
REPLENISHMENT SPARES	4,185	---	4,185	---
MODIFICATIONS LESS THAN $5M	202	202	202	202
ITEMS LESS THAN $5,000,000	2,798	2,798	2,798	2,798
FUZES				
FLARES	123,830	123,830	119,530	119,530
FUZES	36,507	36,507	28,209	28,209
TOTAL, PROCUREMENT OF AMMO, AIR FORCE	1,385,508	1,335,608	1,342,910	1,316,510
WEAPONS				
SMALL ARMS	10,949	10,949	10,949	10,949
TOTAL, PROCUREMENT OF AMMUNITION, AIR FORCE	1,396,457	1,346,557	1,353,859	1,327,459

EXPLANATION OF PROJECT LEVEL TABLES
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
2	**CARTRIDGES**	**149,100**	**129,100**	**149,100**	**129,100**
	Execution		-20,000		-20,000
4	**GENERAL PURPOSE BOMBS**	**266,489**	**236,589**	**241,489**	**235,089**
	Program Growth		-35,000		-35,000
	Incorrect Justification		-4,900		-4,900
	GBU-27A/B, Enhanced Paveway III		+10,000		+8,500
	MAU-169H/B Program Growth			-25,000	0
6	**JOINT DIRECT ATTACK MUNITION**	**521,782**	**521,782**	**516,782**	**516,782**
	Engineering Change Orders Execution			-5,000	-5,000
10	**SPARES AND REPAIR PARTS**	**179**	**4,364**	**179**	**4,364**
	AF Requested Transfer from Line 11		+4,185		+4,185
11	**REPLENISHMENT SPARES**	**4,185**	**0**	**4,185**	**0**
	AF Requested Transfer into Line 10		-4,185		-4,185
14	**FLARES**	**123,830**	**123,830**	**119,530**	**119,530**
	LUU-1 Program Delay			-3,000	-3,000
	MJU-39/40 Unit Cost Savings			-1,300	-1,300
15	**FUZES**	**36,507**	**36,507**	**28,209**	**28,209**
	FMU-139			-8,298	-8,298

OTHER PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE				
VEHICULAR EQUIPMENT				
PASSENGER CARRYING VEHICLES				
ARMORED VEHICLE	250	250	250	250
PASSENGER CARRYING VEHICLE	11,873	11,873	11,873	11,873
CARGO + UTILITY VEHICLES				
TRUCK, STAKE/PLATFORM	8,342	8,342	8,342	8,342
TRUCK, CARGO-UTILITY, 3/4T, 4X4	13,415	13,415	13,415	13,415
TRUCK, CARGO-UTILITY, 3/4T, 4X2	7,855	7,855	7,855	7,855
TRUCK MAINT/UTILITY/DELIVERY	9,062	9,062	9,062	9,062
TRUCK CARRYALL	4,166	4,166	4,166	4,166
FAMILY MEDIUM TACTICAL VEHICLE	15,332	15,332	15,332	15,332
HIGH MOBILITY VEHICLE (MYP)	7,555	7,555	7,555	7,555
TRUCK TRACTOR, OVER 5T	14,086	14,086	14,086	14,086
CAP VEHICLES	802	802	802	802
ITEMS LESS THAN $5M	24,734	24,734	24,734	24,734
SPECIAL PURPOSE VEHICLES				
TRUCK, TANK, 1200 GAL	5,775	5,775	5,775	5,775
TRUCK TANK FUEL R-11	14,642	14,642	14,642	14,642
HMMWV, ARMORED	2,301	2,301	2,301	2,301
TRUCK, REFUSE	549	549	549	549
HMMWV, UP-ARMORED	6,953	6,953	6,953	6,953
TRACTOR, A/C TOW, MB-4	11,127	11,127	11,127	11,127
TRACTOR, TOW, FLIGHTLINE	6,820	6,820	6,820	6,820
TRUCK HYDRANT FUEL	45	45	147	147
ITEMS LESS THAN $5M	38,839	38,839	43,737	38,737

	(In thousands of dollars)			
	Budget	House	Senate	Conference
FIRE FIGHTING EQUIPMENT				
TRUCK CRASH P-19	16,158	16,158	16,158	16,158
ITEMS LESS THAN $5M	8,372	8,372	8,372	8,372
MATERIALS HANDLING EQUIPMENT				
TRUCK, F/L 6000 LB	7,408	7,408	7,408	7,408
TRUCK, F/L 10,000 LB	18,588	25,588	18,588	25,588
HALVERSEN LOADER	---	20,000	---	17,000
ITEMS LESS THAN $5M	18,184	12,184	18,184	12,184
BASE MAINTENANCE SUPPORT				
LOADER, SCOOP	9,414	9,414	9,414	9,414
LOADER, SCOOP, W/BACKHOE	4,202	4,202	4,202	4,202
TRUCK, DUMP	10,609	10,609	10,609	10,609
RUNWAY SNOW REMOVAL & CLEANING	22,589	22,589	22,589	22,589
CRANE, 7-50 TON	5,827	5,827	5,827	5,827
MODIFICATIONS	4,474	4,474	4,474	4,474
ITEMS LESS THAN $5M	34,013	34,013	34,013	34,013
TOTAL, VEHICULAR EQUIPMENT	364,361	385,361	369,361	382,361
ELECTRONICS AND TELECOMMUNICATIONS EQUIP				
COMM SECURITY EQUIPMENT(COMSEC)				
COMSEC EQUIPMENT	46,867	46,867	34,637	34,637
MODIFICATIONS (COMSEC)	462	462	462	462
INTELLIGENCE PROGRAMS				
INTELLIGENCE TRAINING EQUIPMENT	2,902	2,902	2,902	2,902
INTELLIGENCE COMM EQUIP	1,695	1,695	1,695	1,695
ELECTRONICS PROGRAMS				
AIR TRAFFIC CTRL/LAND SYS (AT	2,949	5,949	2,949	4,449
NATIONAL AIRSPACE SYSTEM	44,354	44,354	44,354	44,354
THEATER AIR CONTROL SYS IMPRO	67,471	52,671	67,471	52,671
WEATHER OBSERVE/FORECAST	32,366	32,366	28,236	28,236
STRATEGIC COMMAND AND CONTROL	49,300	49,300	49,300	49,300
CHEYENNE MOUNTAIN COMPLEX	17,672	17,672	17,672	17,672
TAC SIGINT SUPPORT	386	386	386	386
DRUG INTERDICTION PROGRAM	404	404	404	404

	(In thousands of dollars)			
	Budget	House	Senate	Conference
SPECIAL COMM-ELECTRONICS PROJECTS				
GENERAL INFORMATION TECHNOLOGY	99,862	102,862	111,862	110,762
AF GLOBAL COMMAND & CONTROL S	17,324	17,324	17,324	17,324
MOBILITY COMMAND AND CONTROL	8,982	8,982	8,982	8,982
AIR FORCE PHYSICAL SECURITY S	93,750	94,750	93,750	95,250
COMBAT TRAINING RANGES	38,142	59,142	25,942	31,942
C3 COUNTERMEASURES	11,812	11,812	11,812	11,812
GCSS-AF FOS	18,614	18,614	18,614	18,614
THEATER BATTLE MGT C2 SYS	44,669	44,669	44,669	44,669
AIR OPERATIONS CENTER (AOC)	43,269	43,269	43,269	43,269
AIR FORCE COMMUNICATIONS				
BASE INFORMATION INFRASTRUCTURE	423,972	365,972	400,972	375,172
USCENTCOM	30,430	30,430	30,430	30,430
DEFENSE MESSAGE SYSTEM (DMS)	8,297	8,297	8,297	8,297
DISA PROGRAMS				
NAVSTAR GPS SPACE	10,272	10,272	10,272	10,272
NUDET DETECTION SYS (NDS) SPA	7,554	7,554	7,554	7,554
AF SATELLITE CONTROL NETWORK	43,882	43,882	43,882	43,882
SPACELIFT RANGE SYSTEM SPACE	101,458	103,458	106,458	104,956
MILSATCOM SPACE	19,176	19,176	15,076	15,076
SPACE MODS SPACE	16,346	16,346	16,346	16,346
ORGANIZATION AND BASE				
TACTICAL C-E EQUIPMENT	141,883	141,883	141,883	141,883
COMBAT SURVIVOR EVADER LOCATE	13,936	13,936	13,936	13,936
RADIO EQUIPMENT	8,777	12,777	13,777	12,777
TV EQUIPMENT (AFRTV)	5,112	5,112	5,112	5,112
CCTV/AUDIOVISUAL EQUIPMENT	3,271	3,271	3,271	3,271
BASE COMM INFRASTRUCTURE	118,935	125,435	118,935	121,435
ITEMS LESS THAN $5M	5,948	5,948	5,948	5,948
MODIFICATIONS				
COMM ELECT MODS	23,400	23,400	23,400	23,400
TOTAL, ELECTRONICS AND TELECOMMUNICATIONS EQUIP	1,625,901	1,593,601	1,592,241	1,559,541

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OTHER BASE MAINTENANCE AND SUPPORT EQUIP				
TEST EQUIPMENT				
BASE/ALC CALIBRATION PACKAGE	15,306	15,306	15,306	15,306
PRIMARY STANDARDS LABORATORY	1,107	1,107	1,107	1,107
ITEMS LESS THAN $5M	7,607	7,607	7,607	7,607
PERSONAL SAFETY AND RESCUE EQUIP				
NIGHT VISION GOGGLES	17,349	17,349	17,349	17,349
ITEMS LESS THAN $5M	12,997	19,997	24,497	23,997
DEPOT PLANT + MATERIALS HANDLING EQ				
MECHANIZED MATERIAL HANDLING	16,155	20,155	24,155	22,155
ITEMS LESS THAN $5M	6,503	6,503	6,503	6,503
ELECTRICAL EQUIPMENT				
FLOODLIGHTS	5,882	5,882	5,882	5,882
ITEMS LESS THAN $5M	9,876	9,876	9,876	9,876
BASE SUPPORT EQUIPMENT				
BASE PROCURED EQUIPMENT	8,401	11,401	13,401	11,401
MEDICAL/DENTAL EQUIPMENT	14,019	14,019	14,019	14,019
AIR BASE OPERABILITY	5,432	5,432	5,432	5,432
PHOTOGRAPHIC EQUIPMENT	1,424	1,424	1,424	1,424
PRODUCTIVITY ENHANCING CAPITA	5,475	5,475	5,475	5,475
MOBILITY EQUIPMENT	320,116	268,116	320,116	268,116
AIR CONDITIONERS	1,452	1,452	1,452	1,452
ITEMS LESS THAN $5M	18,811	18,811	18,811	18,811

(In thousands of dollars)

	Budget	House	Senate	Conference
SPECIAL SUPPORT PROJECTS				
TECH SURV COUNTERMEASURES EQ	4,034	4,034	4,034	4,034
DARP RC135	18,726	18,726	18,726	18,726
DARP, MRIGS	320,218	110,218	320,218	120,218
SELECTED ACTIVITIES	---	---	10,201,297	---
SPECIAL UPDATE PROGRAM	224,988	224,988	224,988	224,988
DEFENSE SPACE RECONNAISSANCE	14,264	14,264	14,264	14,264
MODIFICATIONS	195	195	195	195
FIRST DESTINATION TRANSPORTATION	5,767	5,767	5,767	5,767
TOTAL, OTHER BASE MAINTENANCE AND SUPPORT EQUIP	1,056,104	808,104	11,281,901	824,104
SPARE AND REPAIR PARTS				
SPARES AND REPAIR PARTS	41,097	41,097	41,097	41,097
REPLENISHMENT SPARES	297	297	297	297
CLASSIFIED PROGRAMS	10,195,797	10,371,147	---	10,263,897
TOTAL, OTHER PROCUREMENT, AIR FORCE	13,283,557	13,199,607	13,284,897	13,071,297

EXPLANATION OF PROJECT LEVEL TABLES

[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
26	**TRUCK HYDRANT FUEL**	45	45	147	147
	Transfer from Line 27			+102	+102
27	**ITEMS LESS THAN $5 MILLION**	38,839	38,839	43,737	38,737
	Transfer to Line 26			-102	-102
	GL-1800 AP Truck Mounted Aircraft De-icers (Transfer to APAF, Line 62)			+5,000	0
31	**TRUCK, F/L 10,000 LB**	18,588	25,588	18,588	25,588
	Material Handling Equipment		+7,000		+7,000
33	**HALVERSEN LOADER**	0	20,000	0	17,000
	Halversen Loaders		+20,000		+17,000
34	**ITEMS LESS THAN $5 MILLION**	18,184	12,184	18,184	12,184
	Execution		-6,000		-6,000
44	**COMSEC EQUIPMENT**	46,867	46,867	34,637	34,637
	KIV-7M - Unjustified Request			-12,230	-12,230
48	**AIR TRAFFIC CONTROL/LANDING SYSTEM**	2,949	5,949	2,949	4,449
	Automatic Flight Following System Pilot Project at McEntire Air Base		+3,000		+1,500
50	**THEATER AIR CONTROL SYSTEM IMPROVEMENTS**	67,471	52,671	67,471	52,671
	BCS-M Block 20 Upgrades		-15,800		-15,800
	Precision Aerial Delivery System (PADS)		+1,000		+1,000
51	**WEATHER OBSERVE/FORECAST**	32,366	32,366	28,236	28,236
	Digital Ionospheric Sounder System			-4,130	-4,130
56	**GENERAL INFORMATION TECHNOLOGY**	99,862	102,862	111,862	110,762
	EAGLE SCOUT - Advanced Compression of Tactical Sensor Information		+3,000		+1,500
	Eagle Vision			+5,000	+3,500
	Science and Engineering Lab Date Integration (SELDI)			+7,000	+4,900
	ADR - Aeronautical System Center				+1,000
59	**AIR FORCE PHYSICAL SECURITY SYSTEM**	93,750	94,750	93,750	95,250
	Force Protection Near Real Time Surveillance System		+1,000		+1,000
	Digital Network Centric Remotely Operated Weapons System				+500
60	**COMBAT TRAINING RANGES**	38,142	59,142	25,942	31,942
	UMTE Modernization		+5,000		+2,500
	Joint Threat Emitter for the ANG Alpena Combat Training Range		+7,500	+7,500	+7,500
	JTE for Poinsett Range		+5,000		+2,500
	Nellis Combat Training Range Pod Upgrade		+3,500		+1,000
	Joint Simulator Upgrades			-19,700	-19,700
66	**BASE INFORMATION INFRASTRUCTURE**	423,972	365,972	400,972	375,172
	Information Transport Systems Program Growth (CITS)		-60,000	-35,000	-60,000
	AFRC COOP (Note: Only for data storage infrastructure and force protection for AFRC IT consolidation/COOP at March AFB.)		+2,000		+1,000
	Alaska Land Mobile Radio			+12,000	+10,200

P-1		Budget Request	House	Senate	Conference
73	**SPACELIFT RANGE SYSTEM SPACE**	**101,458**	**103,458**	**106,458**	**104,958**
	National Range HF Sustainment Program (Note: Using SCOPE Command)		+2,000	+5,000	+3,500
74	**MILSATCOM SPACE**	**19,176**	**19,176**	**15,076**	**15,076**
	GBS Receive Suites			-4,100	-4,100
78	**RADIO EQUIPMENT**	**8,777**	**12,777**	**13,777**	**12,777**
	SCOPE Command High Frequency Communications Network		+4,000	+5,000	+4,000
81	**BASE COMM INFRASTRUCTURE**	**118,935**	**125,435**	**118,935**	**121,435**
	Digital Deployed Training Campus (DDTC) Fielding Program		+5,000		+2,500
	Aircrew Survival Radio Test Sets (Transfer to Line 88)		+1,500		0
88	**ITEMS LESS THAN $5 MILLION**	**12,997**	**19,997**	**24,497**	**23,997**
	Fixed Aircrew Standardized Seats		+3,000	+4,800	+3,100
	MA-16 Improved Inertia Reel Replacement Kits		+2,000		+1,000
	Replacement of Parachute Canopy Releases on ACES II Ejection Seats		+2,000		+1,000
	Aircrew Laser Eye Protection			+2,700	+2,300
	Aircrew Survival Radio Test Sets			+4,000	+2,600
	MBU-20/P Oxygen Mask and Visor				+1,000
89	**MECHANIZED MATERIAL HANDLING**	**16,155**	**20,155**	**24,155**	**22,155**
	Point of Maintenance/Combat Ammunition System (POMX/CAS) Initiative		4,000	8,000	+6,000
93	**BASE PROCURED EQUIPMENT**	**8,401**	**11,401**	**13,401**	**11,401**
	Combat Arms Training System - ANG		+3,000	+5,000	+3,000
99	**MOBILITY EQUIPMENT**	**320,116**	**268,116**	**320,116**	**268,116**
	Program Growth		-52,000		-52,000
105	**DARP, MRIGS**	**320,218**	**110,218**	**320,218**	**120,218**
	DCGS - ETP SATCOM Ground Stations (Transferred to Title IX)		-190,000		-190,000
	DCGS - Accelerated Fielding of DCGS		-20,000		-10,000
106	**SELECTED ACTIVITIES**			**10,201,297**	**0**
	Classified Adjustment (Transferred to Classified Programs)			+5,500	0
	CLASSIFIED PROGRAMS	**10,195,797**	**10,371,147**	**0**	**10,263,897**

PROCUREMENT, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE-WIDE				
MAJOR EQUIPMENT				
MAJOR EQUIPMENT, OSD/WHS				
WHS MOTOR VEHICLES	40	40	40	40
MAJOR EQUIPMENT, OSD	125,320	104,072	125,320	101,372
MAJOR EQUIPMENT, WHS	23,324	23,324	23,324	23,324
MAJOR EQUIPMENT, NSA				
INFORMATION SYSTEM SECURITY PROGRAM	10,487	30,487	30,487	30,487
MAJOR EQUIPMENT, DISA				
INFORMATION SYSTEMS SECURITY	44,827	49,827	44,827	49,077
DEFENSE MESSAGE SYSTEM	4,261	4,261	4,261	4,261
GLOBAL COMMAND AND CONTROL SYS	5,187	5,187	5,187	5,187
GLOBAL COMBAT SUPPORT SYSTEM	2,639	2,639	2,639	2,639
TELEPORTS	42,710	42,710	42,710	42,710
GLOBAL INFORMATION GRID	---	---	12,000	10,200
ITEMS LESS THAN $5M	38,217	38,217	38,217	38,217
MAJOR EQUIPMENT, DIA				
MAJOR EQUIPMENT, DLA				
MAJOR EQUIPMENT	7,874	7,874	7,874	7,874
MAJOR EQUIPMENT, DCAA				
MAJOR EQUIPMENT ITEMS LESS THAN $5M	1,496	1,496	1,496	1,496
MAJOR EQUIPMENT, TJS				
MAJOR EQUIPMENT, TJS	47,633	47,633	47,633	47,633
MAJOR EQUIPMENT, DHRA				
PERSONNEL ADMINISTRATION	7,187	7,187	7,187	7,187
NATIONAL IMAGERY AND MAPPING AGENCY				
DEFENSE THREAT REDUCTION AGENCY				
VEHICLES	80	80	80	80

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER MAJOR EQUIPMENT	23,772	23,772	23,772	23,772
MAJOR EQUIPMENT, AFIS				
MAJOR EQUIPMENT, AFIS	6,977	6,977	6,977	6,977
MAJOR EQUIPMENT, DODDE				
AUTOMATION/EDUCATIONAL SUPPORT & LOGISTICS	2,965	2,965	2,965	2,965
MAJOR EQUIPMENT, DCMA				
MAJOR EQUIPMENT	18,945	18,945	18,945	18,945
MAJOR EQUIPMENT, DTSA				
MAJOR EQUIPMENT	628	628	628	628
MAJOR EQUIPMENT, NDU				
NATIONAL DEFENSE UNIVERSITY	348	348	348	348
TOTAL, MAJOR EQUIPMENT	414,917	418,669	446,917	425,419
SPECIAL OPERATIONS COMMAND				
AVIATION PROGRAMS				
SOF ROTARY WING UPGRADES	447,272	454,272	205,019	206,019
MH-60 SLEP	---	---	71,718	82,418
MH-47 SLEP	---	---	152,835	152,835
SOF TRAINING SYSTEMS	49,192	49,192	54,192	49,192
MC-130H COMBAT TALON II	82,079	82,079	82,079	82,079
CV-22 SOF MODIFICATION	126,083	126,083	115,083	126,083
AC-130U GUNSHIP ACQUISITION	10,243	10,243	10,243	10,243
C-130 MODIFICATIONS	110,666	120,666	36,661	57,061
MH-130H AIR REFUELING SYSTEM	---	---	30,505	30,505
AIRCRAFT SUPPORT	387	387	387	387
SHIPBUILDING				
ADVANCED SEAL DELIVERY SYS	5,864	13,264	5,864	5,864
ADVANCED SEAL DELIVERY SYS (AP-CY)	34,921	---	---	---
MK VIII MOD 1 - SEAL DELIVERY VEH	1,768	1,768	1,768	1,768
AMMUNITION PROGRAMS				
SOF ORDNANCE REPLENISHMENT	34,380	34,380	34,380	34,380
SOF ORDNANGE ACQUISITION	12,166	12,166	11,666	11,666

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OTHER PROCUREMENT PROGRAMS				
COMM EQUIPMENT & ELECTRONICS	38,434	45,434	42,434	47,134
SOF INTELLIGENCE SYSTEMS	16,946	34,946	16,946	29,546
SOF SMALL ARMS & WEAPONS	8,221	40,721	21,221	38,921
MARITIME EQUIPMENT MODS	1,796	1,796	1,796	1,796
SPECIAL APPLICATIONS FOR CONTINGENCIES	16,184	16,184	16,184	16,184
SOF COMBATANT CRAFT SYSTEMS	7,297	7,297	7,297	7,297
SPARES AND REPAIR PARTS	8,369	8,369	8,369	8,369
TACTICAL VEHICLES	493	8,493	10,493	9,493
SOF MARITIME EQUIPMENT	3,449	3,449	3,449	3,449
MISCELLANEOUS EQUIPMENT	16,830	19,830	21,140	20,330
SOF PLANNING AND REHEARSAL SYSTEM	192	192	192	192
SOF OPERATIONAL ENHANCEMENTS	233,632	241,632	201,232	215,632
PSYOP EQUIPMENT	18,388	18,388	18,388	18,388
TOTAL, SPECIAL OPERATIONS COMMAND	1,285,252	1,351,231	1,181,541	1,267,231
CHEMICAL/BIOLOGICAL DEFENSE				
CBDP				
INSTALLATION FORCE PROTECTION	104,935	104,935	104,935	104,935
INDIVIDUAL PROTECTION	131,926	132,926	133,926	133,926
DECONTAMINATION	11,284	11,284	11,284	11,284
JOINT BIOLOGICAL DEFENSE PROGRAM	101,097	101,097	101,097	101,097
COLLECTIVE PROTECTION	18,394	18,394	33,394	36,144
CONTAMINATION AVOIDANCE	270,105	289,105	294,305	289,805
TOTAL, CHEMICAL/BIOLOGICAL DEFENSE	637,741	657,741	678,941	677,191
CLASSIFIED PROGRAMS	545,392	600,392	559,904	586,206
TOTAL, PROCUREMENT, DEFENSE-WIDE	2,883,302	3,028,033	2,867,303	2,956,047

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
2	**MAJOR EQUIPMENT, OSD**	125,320	104,072	125,320	101,372
	BMMP Domain Procurement Systems		-30,248		-30,248
	AHPCRC - Supercomputer Procurement		+9,000		+6,300
5	**INFORMATION SYSTEM SECURITY PROGRAM**	10,487	30,487	30,487	30,487
	Secure Wireless Cell Phones		+20,000	+20,000	+20,000
9	**INFORMATION SYSTEMS SECURITY PROGRAM**	44,827	49,827	44,827	49,077
	Vulnerability Management		+5,000		+4,250
15	**GLOBAL INFORMATION GRID**	0	0	12,000	10,200
	Global Information Grid			+12,000	+10,200
37	**SOF ROTARY WING UPGRADES**	447,272	454,272	205,019	206,019
	Infrared Engine Suppression kits for MH-47 Helicopters		+7,000	+5,000	+6,000
	MH-60 SLEP Transfer to New Line			-94,418	-94,418
	MH-47 SLEP Transfer to New Line			-152,835	-152,835
37A	**MH-60 SLEP**	0	0	71,718	82,418
	Transfer from Line 37 - Create New Line			+94,418	+94,418
	Publications			-5,000	-5,000
	Cost growth			-17,700	-7,000
37B	**MH-47 SLEP**	0	0	152,835	152,835
	Transfer from Line 37 - Create New Line			+152,835	+152,835
38	**SOF TRAINING SYSTEMS**	49,192	49,192	54,192	49,192
	HH-60G Weapon System Trainer/Operation Flight Trainer (Note: Transferred to AP,AF Line 56)			+5,000	0
40	**CV-22 SOF MODIFICATION**	126,083	126,083	115,083	126,083
	ILS Reduction (note: Conferees agree to rescind $11,000 in fiscal year 2004 funds)			-11,000	0
42	**C-130 MODIFICATIONS**	110,666	120,666	36,661	57,061
	EC-130J Fleet Conversion for 193rd SOW in PA		+10,000		+6,000
	MC-130H Air Refueling System Funding Transfer to New Line			-30,505	-30,505
	Low Band Jammer			-13,900	-13,900
	Towed Decoy			-15,200	-15,200
	Basic LAMP DIRCM-ILS			-14,400	0
42A	**MC-130 AIR REFUELING SYSTEM**	0	0	30,505	30,505
	MC-130 Air Refueling System Funding Transfer - Create New Line			+30,505	+30,505
44	**ADVANCED SEAL DELIVERY SYSTEM**	5,864	13,264	5,864	5,864
	Universal Pylon		+7,400		0
45	**ADVANCED SEAL DELIVERY SYSTEM (AP-CY)**	34,921	0	0	0
	Program Restructure		-34,921	-34,921	-34,921
48	**SOF ORDNANCE ACQUISITION**	12,166	12,166	11,666	11,666
	SLAM			-500	-500
49	**COMM EQUIPMENT & ELECTRONICS**	38,434	45,434	42,434	47,134
	Multi-band, Inter/Intra Team Radio		+5,000		+4,300

P-1	Budget Request	House	Senate	Conference
Buster Backpack UAV		+2,000		+1,400
Automatic Equipment ID			+4,000	+3,000
50 SOF INTELLIGENCE SYSTEMS	**16,946**	**34,946**	**16,946**	**29,546**
Joint Threat Warning System - Maritime SEID		+3,000		+2,600
Tagging, Tracking and Locating Devices		+15,000		+10,000
51 SOF SMALL ARMS & WEAPONS	**8,221**	**40,721**	**21,221**	**38,921**
Durable Illumination Aiming Laser		+3,500		+3,500
AN/PVS-15 Night Vision Goggles		+4,000		+2,000
Magnum Universal Night Sight (MUNS)		+2,000		+1,700
Dualband Universal Night Sight (DUNS)		+2,000		+1,700
Universal Night Sight		+1,000		+1,000
Raven Unmanned Aerial Vehicle Systems		+15,000		+7,500
Neptune Unmanned Aerial Vehicle Systems		+5,000		+4,000
M4 Mod Kits (Weapons Shot Counter)			+3,000	+2,300
MK47 Mod 0 Striker			+10,000	+7,000
59 TACTICAL VEHICLES	**493**	**8,493**	**10,493**	**9,493**
Light Weight Tactical All Terrain Vehicle		+8,000	+10,000	+9,000
62 MISCELLANEOUS EQUIPMENT	**16,830**	**19,830**	**21,140**	**20,330**
AN/PVS-21 Low Profile Night Vision Goggles		+1,500	+3,000	+2,100
Olfactory Signature Reduction Baselayer Garments (Note: Only for the moisture management baselayer garments.)		+1,500	+1,310	+1,400
64 SOF OPERATIONAL ENHANCEMENTS	**233,632**	**241,632**	**201,232**	**215,632**
Only for Digital Intelligence Situation Mapboards		+1,000		+1,000
SOF Universal ID Marking System SOFMARK (Note: Only for SOF Universal ID Marking System to provide for initial procurement and fielding.)		+1,000		+1,000
MI/M2 Gunfire/Sniper Detection Systems (GD/SDS) (Note: Only to continue the existing program and integrate onto heliborne platforms.)		+6,000		+5,100
Special Operations Logistics Support Craft			+4,600	+4,600
Classified Adjustment			-37,000	-30,000
Tandem Phoenix Bundle Canopy				+300
67 INDIVIDUAL PROTECTION	**131,926**	**132,926**	**133,926**	**133,926**
Patch Technology Project to Prevent Leaks and Hazardous Material Spill		+1,000		+1,000
Individual Protection Masks			+2,000	+1,000
70 COLLECTIVE PROTECTION.	**18,394**	**18,394**	**33,394**	**36,144**
Chem-Bio Collective Protection			+5,000	+3,500
Chemical Biological Protective Shelter (Retrofit Kits) (Note: Includes transfer from line 71)			+10,000	+14,250
71 CONTAMINATION AVOIDANCE	**270,105**	**289,105**	**294,305**	**289,805**
Chem-Bio Shelters (Retrofit Kits) (Note: Transferred to line 70)		+19,000		
JCAD Cancellation			-10,000	-10,000
Contamination Avoidance Equipment			+1,000	+1,000
M-22 Automatic Chemical Agent Alarm (ACADA)			+15,000	+10,500
WMD-CST Equipment			+18,200	+18,200
999 CLASSIFIED PROGRAMS	**545,392**	**600,392**	**559,904**	**586,206**
		+55,000	+14,512	+40,814

C–130 DIRECTIONAL INFRARED COUNTERMEASURES (DIRCM)

The conferees agree to provide $14,400,000 for the Special Operations Command C–130 DIRCM program. The conferees are aware of the mean time between failure issues associated with this equipment and are sensitive to the Command's operational requirements and as such direct that the funds provided may be only used for costs associated with refurbishment.

SPECIAL OPERATIONS COMMAND PUBLICATION COSTS

The conferees are concerned about the costs charged to Special Operations Command (SOCOM) for publications. The conferees find the publication costs associated with the MH–60 Service Life Extension Program (SLEP) particularly excessive and recommend a reduction of $5,000,000 to the budget request. The conferees direct the Command to initiate a review of the publication costs associated with its major acquisition programs and provide a report to the congressional defense committees by February 1, 2005 on actions taken to address this problem.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
NATIONAL GUARD & RESERVE EQUIPMENT				
RESERVE EQUIPMENT				
ARMY RESERVE				
MISCELLANEOUS EQUIPMENT	---	---	50,000	40,000
NAVY RESERVE				
MISCELLANEOUS EQUIPMENT	---	---	50,000	40,000
MARINE CORPS RESERVE				
MISCELLANEOUS EQUIPMENT	---	---	50,000	40,000
AIR FORCE RESERVE				
MISCELLANEOUS EQUIPMENT	---	---	50,000	40,000
TOTAL, RESERVE EQUIPMENT	---	---	200,000	160,000
NATIONAL GUARD EQUIPMENT				
ARMY NATIONAL GUARD				
MISCELLANEOUS EQUIPMENT	---	---	150,000	95,000
AIR NATIONAL GUARD				
MISCELLANEOUS EQUIPMENT	---	---	150,000	95,000
TOTAL, NATIONAL GUARD EQUIPMENT	---	---	300,000	190,000
TOTAL, NATIONAL GUARD & RESERVE EQUIPMENT	---	---	500,000	350,000

ITEMS OF SPECIAL INTERIOR INTEREST

The conferees agree that the National Guard and Reserve equipment program shall be executed by the heads of the Guard and Reserve components with priority consideration for miscellaneous equipment appropriations given to the following items: COTS Surveillance System, MTVR, Virtual Emergency Response Training System, HMMWV Convoy/Trainer, Tactical Fire Fighting Equipment, High Mobility Multipurpose Wheeled Vehicle (HMMWV), Army M249 5.56 Squad Automatic Weapon, National Guard-Paul Revere Command Information System, Life Support for Trauma and Transport (LSTAT), M-COFT XXI Program, AB-FIST Non-Systems Training Devices, Army Live Fire Ranges, Combat Arms Training System—Army National Guard, Calibration Sets Equipment Modernization, Mobile Operational Simulators (MOS), Modern Burner Unit, LITENING Targeting Pods, LAIRCM, SINCGARS, AN/PVS14, UH–60L/M, HEMTT, Small Arms, Javelin, AN/PAS–13, Movement Tracking System, EPLRS, Shortstop, TUAV, Prophet, C–130G2 APN–241 Radar, F–15 JHMCS, JSTARS AMSTE, F–16 APG–68(V)9, F–16 Color Displays, A–10 TDL, HH–60 TDL, Para rescue TDL, C/EC–130 TDL, HH60G 200 Gallon Internal Fuel Tank, HH–60G PNVG, F–15E Engine Kits, FMTV, Eagle Vision, Abrams M1A1 Fleet Embedded Diagnostics, Combo PAK, DFIRST, F–16 Block 30 MTC, HCLOSF, CSAR AR Blackhawk Equipment, Engagement Skills Trainer, M762A1/M767A1 Fuse Artillery Electronic Timer, XM879E1 81mm Mortar Full Training Cartridge, XM932 120mm Mortar Short Range Practice Cartridge, XM931 120mm Mortar Full Range Training Round, M933 120mm Mortar (HE), M–22 ACADA, PVS–14 Night Vision Goggles, Joint Threat Emitter, HH–60L Helicopter, Laser Marksmanship Training System, PRC-150D Radio, Tabletop Gunnery Trainer, Tabletop Full-fidelity Trainer, DFIRST, C–27J Medium Tactical Cargo Aircraft, Digital Deployable Training Campus, SINCGARS Radio SAASM Upgrade, ARNG Tactical Bridge Companies, UH–60 SAR Thermal Imaging Upgrades, and Sniper Advanced Targeting Pod.

DEFENSE PRODUCTION ACT PURCHASES

Defense Production Act Purchases

The conferees agree to provide a total of $42,765,000 for the Defense Production Act Purchases appropriation instead of $27,015,000 as proposed by the House and $42,515,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

Explanation of Project Level Adjustments

(In thousands of dollars)

	Budget Request	House	Senate	Conference
	9,015	**27,015**	**42,515**	**42,765**
Photomask		+2,000		+1,700
Thermal battery industrial base infrastructure		+2,000		+1,700
Military lens system fabrication and assembly		+2,000		+1,700
Beryllium supply industrial base		+4,000	+3,000	+3,000
Production capacity of T/R modules for radar systems		+2,000		+1,000
Flexible aerogel material supplier initiative		+2,000	+7,000	+3,500
Read-out Integrated Circuit Manufacturing Improvement		+4,000		+4,000
Affordable rigid rod polymeric materials initiative			+12,000	+8,400
POSS nanotechnology engineering scale-up initiative			+1,000	+1,000
Miniature compressor for electronics and personal computing			+5,000	+3,750
Carbon foam			+500	+500
Hydrogen ion implementation equipment			+5,000	+3,500

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
RECAPITULATION				
Research, Development, Test and Evaluation, Army	9,266,258	10,220,123	10,308,804	10,698,989
Research, Development, Test and Evaluation, Navy	16,346,391	16,532,361	16,748,035	17,043,812
Research, Development, Test and Evaluation, Air Force	21,114,667	21,033,622	21,002,308	20,890,922
Research, Development, Test and Evaluation, Defense-Wide	20,739,837	20,851,271	20,404,563	20,983,624
Operational Test and Evaluation, Defense	305,135	309,135	305,135	314,835
GRAND TOTAL	67,772,288	68,946,512	68,768,845	69,932,182

CONGRESSIONAL SPECIAL INTEREST ITEMS

Items for which additional funds have been provided as shown in the project level tables or in paragraphs using the phrase "only for" or "only to" in this report are congressional interest items for the purpose of the Base for Reprogramming (DD 1414). Each of these items must be carried on the DD Form 1414 at the stated amount, or a revised amount if changed during conference or if otherwise specifically addressed in the conference report. These items remain special interest items whether or not they are repeated in a subsequent conference report.

F-35 PROGRAM MANAGEMENT

In lieu of the direction provided by the House or the Senate, the conferees direct the Secretary of Defense to review current management oversight of the Joint Strike Fighter, and to report findings and recommendations to the congressional defense committees not later than December 15, 2004.

AIR FORCE AND DARPA FALCON/COMMON AERO VEHICLE PROGRAM

The conferees agree to provide $29,110,000 for the Air Force and DARPA FALCON/Common Aero Vehicle (CAV) programs. The conferees are concerned that safeguards are not in place to guarantee that nations possessing nuclear weapons capabilities would not misinterpret the intent or use of the FALCON/CAV programs. Therefore, the funds provided herein are for the development of hypersonic technologies for non-weapons related research, such as micro-satellite or other satellite launch requirements and other purposes as listed under the conferees recommendations. The conferees direct that none of the funds provided in this Act may be used to develop, integrate, or test a CAV variant that includes any nuclear or conventional weapon. The conferees further direct that none of the funds provided in this Act may be used to develop, integrate, or test a CAV for launch on any Intercontinental Ballistic Missile or Submarine Launched Ballistic Missile. The Committees on Appropriations will consider expanding the scope of this program in subsequent years if safeguards negotiated among our international partners have been put in place.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, ARMY				
BASIC RESEARCH				
IN-HOUSE LABORATORY INDEPENDENT RESEARCH	23,971	23,971	23,971	23,971
DEFENSE RESEARCH SCIENCES	131,206	163,706	163,806	168,906
UNIVERSITY RESEARCH INITIATIVES	75,133	80,633	80,533	87,633
UNIVERSITY AND INDUSTRY RESEARCH CENTERS	77,658	95,158	100,734	104,434
FORCE HEALTH PROTECTION	9,538	21,538	10,538	23,288
TOTAL, BASIC RESEARCH	317,506	385,006	379,582	408,232
APPLIED RESEARCH				
MATERIALS TECHNOLOGY	15,385	34,385	51,885	52,685
SENSORS AND ELECTRONIC SURVIVABILITY	25,629	33,629	38,129	39,579
TRACTOR HIP	6,627	6,627	6,627	6,627
AVIATION TECHNOLOGY	41,629	49,029	46,629	49,179
EW TECHNOLOGY	18,034	18,034	19,534	20,234
MISSILE TECHNOLOGY	51,993	55,793	107,293	85,943
ADVANCED WEAPONS TECHNOLOGY	16,641	27,641	23,641	26,391
ADVANCED CONCEPTS AND SIMULATION	15,041	15,041	26,841	23,641
COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	69,638	106,138	103,138	118,338
BALLISTICS TECHNOLOGY	51,301	54,801	54,101	56,601
CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY	3,476	4,976	10,576	8,076
JOINT SERVICE SMALL ARMS PROGRAM	5,739	16,239	5,739	11,739
WEAPONS AND MUNITIONS TECHNOLOGY	44,666	99,066	71,666	106,616
ELECTRONICS AND ELECTRONIC DEVICES	41,236	92,286	88,536	106,666
NIGHT VISION TECHNOLOGY	22,617	29,617	22,617	27,117

	Budget	House	Senate	Conference
	(In thousands of dollars)			
COUNTERMINE SYSTEMS	20,547	28,547	24,547	27,347
HUMAN FACTORS ENGINEERING TECHNOLOGY	16,899	22,399	16,899	21,099
ENVIRONMENTAL QUALITY TECHNOLOGY	17,026	17,026	24,526	23,126
COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY	18,604	33,104	20,604	28,104
COMPUTER AND SOFTWARE TECHNOLOGY	3,982	3,982	3,982	3,982
MILITARY ENGINEERING TECHNOLOGY	47,152	49,152	53,152	53,552
MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	15,322	15,322	16,322	15,322
LOGISTICS TECHNOLOGY	21,131	38,131	58,531	55,971
MEDICAL TECHNOLOGY	60,877	162,877	117,377	189,727
TOTAL, APPLIED RESEARCH	651,192	1,013,842	1,012,892	1,157,662
ADVANCED TECHNOLOGY DEVELOPMENT				
WARFIGHTER ADVANCED TECHNOLOGY	68,034	85,534	59,534	80,784
MEDICAL ADVANCED TECHNOLOGY	38,404	271,704	164,404	312,404
AVIATION ADVANCED TECHNOLOGY	69,549	86,549	102,749	100,249
WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	67,622	83,122	79,122	87,172
COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY	203,126	266,126	263,326	291,026
COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECHNOLOGY	9,946	9,946	9,946	9,946
MANPOWER, PERSONNEL AND TRAINING ADVANCED TECHNOLOGY	7,288	8,288	8,788	8,288
ELECTRONIC WARFARE ADVANCED TECHNOLOGY	41,760	56,760	68,760	60,360
TRACTOR HIKE	8,035	8,035	8,035	8,035
NEXT GENERATION TRAINING & SIMULATION SYSTEMS	18,072	21,072	30,072	28,072
TRACTOR ROSE	4,736	4,736	4,736	4,736
EXPLOSIVES DEMILITARIZATION TECHNOLOGY	9,706	13,706	21,106	19,206
MILITARY HIV RESEARCH	6,641	16,641	6,641	14,141
COMBATING TERRORISM, TECHNOLOGY DEVELOPMENT	3,383	8,383	9,583	8,383
GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION STRIKE TECHN	10,721	10,721	10,721	10,721
EW TECHNOLOGY	9,382	22,882	16,382	22,182
MISSILE AND ROCKET ADVANCED TECHNOLOGY	92,800	106,800	118,300	120,300
TRACTOR CAGE	13,312	13,312	13,312	13,312
LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY	25,577	31,577	32,577	34,977

	(In thousands of dollars)			
	Budget	House	Senate	Conference
JOINT SERVICE SMALL ARMS PROGRAM	5,968	5,968	11,868	10,068
NIGHT VISION ADVANCED TECHNOLOGY	50,071	100,071	88,371	106,421
ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATIONS	14,666	19,166	14,666	18,716
MILITARY ENGINEERING ADVANCED TECHNOLOGY	3,865	10,365	27,065	26,765
ADVANCED TACTICAL COMPUTER SCIENCE & SENSOR TECHNOLOGY	31,951	55,451	31,951	48,051
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	814,615	1,316,915	1,202,015	1,444,315
DEMONSTRATION & VALIDATION				
ARMY MISSILE DEFENSE SYSTEMS INTEGRATION	53,509	89,509	116,909	117,009
ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)	4,871	6,871	35,971	33,471
AIR AND MISSILE DEFENSE SYSTEMS ENGINEERING	91,713	106,713	122,713	116,313
LANDMINE WARFARE AND BARRIER - ADV DEV	11,634	11,634	18,634	16,534
SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ADV DEV	6,249	6,249	11,249	9,749
TANK AND MEDIUM CALIBER AMMUNITION	39,697	50,197	9,697	27,847
ADVANCED TANK ARMAMENT SYSTEM (ATAS)	51,892	51,892	51,892	51,892
SOLDIER SUPPORT AND SURVIVABILITY	13,810	13,810	13,810	13,810
TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ADV DEV	15,441	15,441	15,441	15,441
NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT	14,047	14,047	19,047	17,797
ENVIRONMENTAL QUALITY TECHNOLOGY	9,356	43,856	24,356	43,456
WARFIGHTER INFORMATION NETWORK-TACTICAL (DEM/VAL)	99,645	99,645	99,645	99,645
NATO RESEARCH AND DEVELOPMENT	4,801	4,801	4,801	4,801
AVIATION - ADV DEV	12,113	14,113	18,613	16,713
WEAPONS AND MUNITIONS - ADV DEV	2,382	2,382	2,382	8,682
LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV	10,485	12,485	16,485	16,685
COMBAT SERVICE SUPPORT CONTROL SYSTEM EVALUATION	6,366	6,366	6,366	6,366
MEDICAL SYSTEMS - ADV DEV	10,258	13,258	22,758	21,058
INTEGRATED BROADCAST SERVICE (JMIP/DISTP)	4,356	4,356	4,356	4,356
SCAMP BLOCK II (DEM/VAL)	10,221	10,221	10,221	10,221
MEDIUM EXTENDED AIR DEFENSE SYSTEM (MEADS) CONCEPTS	264,527	264,527	264,527	264,527
TOTAL, DEMONSTRATION & VALIDATION	737,373	842,373	889,873	916,373

	(In thousands of dollars)			
	Budget	House	Senate	Conference
ENGINEERING & MANUFACTURING DEVELOPMENT				
AIRCRAFT AVIONICS	68,857	68,857	80,827	82,827
ARMED, DEPLOYABLE OH-58D	20,000	20,000	15,000	15,000
EW DEVELOPMENT	16,879	16,879	16,879	16,879
JOINT TACTICAL RADIO	121,400	121,400	121,400	122,400
ALL SOURCE ANALYSIS SYSTEM	5,346	7,346	5,346	6,646
TRACTOR CAGE	14,149	14,149	14,149	14,149
COMMON MISSILE	152,381	102,381	152,381	117,381
INFANTRY SUPPORT WEAPONS	28,187	30,687	38,187	35,187
MEDIUM TACTICAL VEHICLES	2,854	12,554	5,854	14,654
SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ENG DEV	3,798	3,798	3,798	3,798
JAVELIN	944	944	944	944
FAMILY OF HEAVY TACTICAL VEHICLES	2,479	5,479	27,479	20,479
AIR TRAFFIC CONTROL	2,088	2,088	2,088	2,088
LIGHT TACTICAL WHEELED VEHICLES	---	12,500	10,000	10,000
ARMORED SYSTEMS MODERNIZATION (ASM)-ENG DEV	2,700,455	2,376,010	2,127,018	2,374,010
NLOS-LS	---	---	64,500	58,200
NON-LINE OF SIGHT CANNON	497,643	497,643	841,580	497,643
NIGHT VISION SYSTEMS - ENG DEV	24,693	27,693	24,693	27,243
COMBAT FEEDING, CLOTHING, AND EQUIPMENT	115,093	99,093	115,093	102,893
NON-SYSTEM TRAINING DEVICES - ENG DEV	51,694	51,694	51,694	51,694
TERRAIN INFORMATION - ENG DEV	3,199	3,199	3,199	3,199
INTEGRATED METEOROLOGICAL SUPPORT SYSTEM	2,485	2,485	2,485	2,485
AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE -ENG DEV	27,376	27,376	27,376	27,376
CONSTRUCTIVE SIMULATION SYSTEMS DEVELOPMENT	42,869	42,869	42,869	42,869
AUTOMATIC TEST EQUIPMENT DEVELOPMENT	4,713	7,713	7,213	9,113
DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) -ENGINEER	26,985	30,485	26,985	29,985
TACTICAL SURVEILLANCE SYSTEMS - ENG DEV	21,821	21,821	21,821	21,821
ARMY TACTICAL MISSILE SYSTEM (ATACMS)	21	21	---	1,821
BRILLIANT ANTI-ARMOR SUBMUNITION (BAT)	---	---	2,521	---

(In thousands of dollars)

	Budget	House	Senate	Conference
POSITIONING SYSTEMS DEVELOPMENT (SPACE)	2,048	2,048	2,048	2,048
COMBINED ARMS TACTICAL TRAINER (CATT) CORE	23,849	19,109	23,849	19,109
JOINT NETWORK MANAGEMENT SYSTEM	10,726	10,726	10,726	10,726
AVIATION - ENG DEV	2,378	2,378	3,378	3,378
WEAPONS AND MUNITIONS - ENG DEV	125,885	159,385	149,885	161,085
LOGISTICS AND ENGINEER EQUIPMENT - ENG DEV	89,151	165,051	96,151	94,451
COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - ENG DEV	219,790	219,790	227,790	227,790
MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE EQUIPMENT	11,727	14,227	15,727	20,127
LANDMINE WARFARE/BARRIER - ENG DEV	51,045	61,045	51,045	59,545
ARTILLERY MUNITIONS - EMD	133,297	142,297	133,297	139,197
COMBAT IDENTIFICATION	6,994	6,994	14,994	12,594
ARMY TACTICAL COMMAND & CONTROL HARDWARE & SOFTWARE	68,110	68,110	68,110	68,110
LOSAT	22,628	22,628	22,628	22,628
RADAR DEVELOPMENT	6,107	6,107	6,107	6,107
FIREFINDER	18,516	20,016	24,516	22,716
ARTILLERY SYSTEMS - EMD	9,550	12,550	12,550	12,550
PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION	64,178	64,178	64,178	64,178
INFORMATION TECHNOLOGY DEVELOPMENT	95,261	102,261	95,261	99,811
TOTAL, ENGINEERING & MANUFACTURING DEVELOPMENT	4,919,649	4,706,064	4,875,619	4,758,934
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT	22,101	25,101	31,701	30,701
TARGET SYSTEMS DEVELOPMENT	11,017	15,017	11,017	13,817
MAJOR T&E INVESTMENT	57,987	60,987	57,987	61,487
RAND ARROYO CENTER	20,012	20,012	24,012	22,812
ARMY KWAJALEIN ATOLL	143,921	146,421	143,921	145,721
CONCEPTS EXPERIMENTATION PROGRAM	22,727	23,727	24,727	25,227
ARMY TEST RANGES AND FACILITIES	181,114	181,114	201,114	197,114
ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS	52,433	57,433	61,933	62,683
SURVIVABILITY/LETHALITY ANALYSIS	44,648	44,648	50,648	48,848

(In thousands of dollars)

	Budget	House	Senate	Conference
DOD HIGH ENERGY LASER TEST FACILITY	15,725	15,725	15,725	15,725
AIRCRAFT CERTIFICATION	3,485	3,485	3,485	3,485
METEOROLOGICAL SUPPORT TO RDT&E ACTIVITIES	8,711	8,711	8,711	8,711
MATERIEL SYSTEMS ANALYSIS	18,000	18,000	18,000	18,000
EXPLOITATION OF FOREIGN ITEMS	4,740	4,740	4,740	4,740
SUPPORT OF OPERATIONAL TESTING	71,239	72,239	71,239	72,239
ARMY EVALUATION CENTER	62,209	62,209	62,209	62,209
SIMULATION & MODELING FOR ACQ, RQTS, & TNG (SMART)	1,935	1,935	1,935	1,935
PROGRAMWIDE ACTIVITIES	59,368	59,368	59,368	59,368
TECHNICAL INFORMATION ACTIVITIES	27,713	27,713	30,713	29,213
MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY	14,611	36,611	36,111	39,811
ENVIRONMENTAL QUALITY TECHNOLOGY MGMT SUPPORT	4,527	4,527	4,527	4,527
MANAGEMENT HEADQUARTERS (RESEARCH AND DEVELOPMENT)	11,575	11,575	11,575	11,575
TOTAL, RDT&E MANAGEMENT SUPPORT	859,798	901,298	935,398	939,948
OPERATIONAL SYSTEMS DEVELOPMENT				
MLRS PRODUCT IMPROVEMENT PROGRAM	97,422	112,422	97,422	110,172
AEROSTAT JOINT PROJECT OFFICE	81,514	84,514	81,514	83,014
DOMESTIC PREPAREDNESS AGAINST WEAPONS OF MASS DESTRUCT	---	1,000	5,000	---
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	17,994	17,994	17,994	17,994
COMBAT VEHICLE IMPROVEMENT PROGRAMS	15,952	23,952	15,952	17,952
MANEUVER CONTROL SYSTEM	24,753	24,753	24,753	24,753
AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS	242,853	253,853	222,853	250,053
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	2,427	2,427	12,427	7,427
DIGITIZATION	24,506	24,506	24,506	26,506
FORCE XXI BATTLE COMMAND, BRIGADE AND BELOW (FBCB2)	23,510	23,510	23,510	23,510
MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM	31,690	31,690	31,690	33,690
OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS	4,863	4,863	4,863	4,863
TRACTOR RUT	3,321	3,321	3,321	3,321
TRACTOR CARD	9,023	9,023	9,023	9,023
JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)	18,177	18,177	18,177	18,177

	(In thousands of dollars)			
	Budget	House	Senate	Conference
JOINT TACTICAL GROUND SYSTEM	9,967	9,967	9,967	9,967
SECURITY AND INTELLIGENCE ACTIVITIES	---	14,000	4,000	14,600
INFORMATION SYSTEMS SECURITY PROGRAM	24,725	24,725	30,725	29,825
GLOBAL COMBAT SUPPORT SYSTEM	94,215	94,215	94,215	94,215
SATCOM GROUND ENVIRONMENT (SPACE)	51,959	54,959	51,959	54,059
WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM	19,204	19,204	19,204	19,204
TACTICAL UNMANNED AERIAL VEHICLES	45,627	48,627	55,127	54,377
AIRBORNE RECONNAISSANCE SYSTEMS	5,128	5,128	11,328	8,228
DISTRIBUTED COMMON GROUND SYSTEMS	43,254	55,254	50,254	54,904
AVIONICS COMPONENT IMPROVEMENT PROGRAM	997	997	997	997
END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	67,236	83,236	86,836	91,886
NATO JOINT STARS	595	595	595	595
DEFENSE LANGUAGE INSTITUTE FOREIGN LEARNING CENTER	---	2,500	---	5,000
TOTAL, OPERATIONAL SYSTEMS DEVELOPMENT	960,912	1,049,412	1,008,212	1,068,312
CLASSIFIED PROGRAMS	5,213	5,213	5,213	5,213
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, ARMY	9,266,258	10,220,123	10,308,804	10,698,989

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

R-1		Budget Request	House	Senate	Conference
2	**DEFENSE RESEARCH SCIENCES**	**131,206**	**163,706**	**163,806**	**168,906**
	Advanced Carbon Nanotechnology Program		+4,000		+2,000
	Advanced Deployable Nano-Sensors			+1,000	+1,000
	Advanced Research and Technology Initiative			+4,000	+2,800
	Army Knowledge Management Fusion Center		+3,000	+1,000	+1,500
	Bioterrorists Agents in Military Drinking Water Systems			+1,000	+1,000
	Brain Imaging research			+5,600	+3,900
	Center for Advanced Research and Technology (CART) (Note: only to continue Nanometrology Laboratory development to maximize the effectiveness of a high-resolution analytical transmission electron microscope)		+4,000		+2,000
	Desert Terrain Analysis for Enhancing Military Operations			+4,000	+3,000
	Functionally Integrated Reactive Surface Technology Program (FIRST) Program		+3,000	+1,000	+1,800
	Low Temperature Research (Note: transferred to RDTE,A line 3)			+2,000	0
	National Prion Research Program (NPRP) (Note: transferred to DHP title VI)		+1,500		0
	Optical Technologies Research			+3,000	+2,100
	Perpetually Assailable and Secure Information Systems Research, Training and Education (PASIS)		+15,000	+1,000	+10,000
	Prediction of Land-Atmosphere Interactions			+2,000	+1,400
	Prometheus Spectrometer			+7,000	+3,500
	Technology Commercialization and Management Network (Note: only for the development of an integrated technology transfer network and service management center at CSUSB)		+2,000		+1,700
3	**UNIVERSITY RESEARCH INITIATIVES**	**75,133**	**80,633**	**80,533**	**87,633**
	Low Temperature Research Center		+2,500		+2,000
	Institute of Bioengineering and Nanoscience in Advanced Medicine		+2,000		+1,000
	Desert Environmental Research (Note: only for the University-based GIS program using sensor technology, long distance sampling, special analysis techniques to monitor desert tortoise populations related to the expansion for NTC Ft. Irwin and coursework development for environmental security)		+1,000		+1,000
	Army force protection			+3,000	+1,500
	Laboratory for Engineered Human Protection				+1,000
	MEMS Sensors for Rolling Element Bearing (Note: transferred from RDTE,D-W line 3)				+1,000
	Smart Responsive Nancomposite Systems (Note: transferred from RDTE,D-W line 3)				+2,000
	Cognitive Wireless Networks (Note: transferred from RDTE,D-W line 3)				+1,000
	Global Infrasound Monitoring of the Atmosphere (Note: transferred to RDTE,A line 55)				0
	Bioinformatics research (Note: transferred from RDTE,DW line 15)			+2,400	+2,000

R-1		Budget Request	House	Senate	Conference
4	**UNIVERSITY AND INDUSTRY RESEARCH CENTERS**	**77,658**	**95,158**	**100,734**	**104,434**
	Basic Research for Infrastructure Protection From Terrorists Attacks		+2,000		+1,000
	Center for Advanced Sensors		+3,000		+1,500
	Center for Ferroelectric Electronic-Photonic Nanodevices		+2,000	+3,000	+2,000
	Center for Nano-Materials Research		+1,500		+1,000
	Center of Excellence--HBCU/MI		+3,000		+2,250
	Composite Materials research			+826	+826
	Electronic Engineering Technology Program		+1,000		+1,000
	Eye and Sensor Protection Against Laser Sources		+2,000		+1,000
	Info Assurance Research			+1,500	+1,200
	Interactive Training tools to promote emergency procedures in high-rise buildings and mitigate disasters from attacks, fires, or other threats		+1,000		+1,000
	Nanotubes		+1,000		+1,000
	National Infotonics research			+5,000	+2,500
	National Security Network Testbed				+1,000
	Next Generation Joining Technology Research Initiative			+2,000	+1,500
	NOLES Composite Materials			+3,000	+1,500
	Partnership for a Next Generation of Vehicles/TACOM			+1,000	+1,000
	Rapidly Deployable Visualization for Training and Simulation in Urban Terrains		+1,000	+1,000	+1,000
	Small Trailer Corrosion Prevention Program			+750	+750
	University Based Automotive Research			+5,000	+3,750
5	**FORCE HEALTH PROTECTION**	**9,538**	**21,538**	**10,538**	**23,288**
	Biomedical Engineering Initiative		+3,000		+1,500
	ALS Therapy Development for Gulf War Research		+4,000		+2,000
	Extramural Gulf War Illness Research on Chronic Physiological Brain Effects (Low Level Chemical Exposure)				+5,000
	Gulf War Illness and Chemical Agent Exposure Program			+1,000	+1,000
	Rural Health Center for Remote and Medically Under-Served Areas		+5,000		+4,250
6	**MATERIALS TECHNOLOGY**	**15,385**	**34,385**	**51,885**	**52,685**
	Advanced Materials for Mine Detection and Blast Mitigation			+5,000	+2,500
	Advanced Materials Processing for Future Combat Systems			+7,000	+7,000
	Ballistic Shields Program		+2,000		+1,000
	Composite Materials Technology for FCS			+4,000	+2,000
	Design and Manufacturing Process Technology for High Performance Polymer Nano-composites			+2,000	+1,300
	Development of Manufacturing Science for Lightweight Ceramic Armor		+1,000		+1,000
	Engineered Surfaces for Weapons Systems Life Extension			+4,000	+2,800
	Future Affordable Multi-Utility (FAMU) Materials for the Army FCS			+2,500	+1,800
	Future Affordable Multi-Utility Materials		+1,000		+1,000
	Materials Joining for Army Weapons Systems			+4,000	+2,600
	MEMS Sensors for Rolling Elements Bearings (Note: only for development of a one chip solution for the determination of temperature, vibration, strain, and angular rotation in a rolling element)		+2,000		+1,300
	Micro-Laminate Ceramic Armor		+3,000		+2,600

R-1		Budget Request	House	Senate	Conference
	Molecular Design of Polymer Nanocomposites		+2,000		+1,200
	On-Demand Micro-Electronics Manufacturing and Qualification			+4,000	+2,000
	Precision Polishing of Large Optics (Note: only for the continued development of MRF and RAP finishing of large optics)		+4,000		+3,400
	Tactical Armor Manufacturing Technology (Note: only for a materials processing technology program for a unique polycrystalline ceramic with superior armor and optics qualities compared to present state-of-the-art materials)		+2,000	+4,000	+2,800
	Ultrasonic Consolidation of Metal Matrix Composites		+2,000		+1,000
7	**SENSORS AND ELECTRONIC SURVIVABILITY**	**25,629**	**33,629**	**38,129**	**39,579**
	Disposable Sensors for Battlefield and Urban Warfare		+3,000		+1,500
	Optical Combat Identification System prototype development and testing		+5,000		+5,000
	Portable Chemical-Biological Agent Detection System			+3,500	+1,750
	Digital Radio Frequency Tags (DRaFT)			+6,000	+4,200
	Small Airship Surveillance System - Lite Remotely Piloted System			+3,000	+1,500
9	**AVIATION TECHNOLOGY**	**41,629**	**49,029**	**46,629**	**49,179**
	Composite Small Main Rotor Blades		+1,000		+500
	Center for Rotorcraft Innovation		+5,000		+2,500
	Mono Tiltrotor/Army Rotorcraft		+1,400		+1,050
	Xenon Light Source for Non-Lethal Deterrence from Small UAVs				+1,000
	Silver Fox UAV			+5,000	+2,500
10	**EW TECHNOLOGY**	**18,034**	**18,034**	**19,534**	**20,234**
	Biometric Signatures Research			+1,500	+1,200
	Subterranean Target Identification Program (Note: transferred from general provision Sec. 8148)				+1,000
11	**MISSILE TECHNOLOGY**	**51,993**	**55,793**	**107,293**	**85,943**
	National Aerospace Initiative		-8,700		-7,700
	Agile MEMS/Nano-Technology for Wireless Security & Defense Applications		+1,000		+1,000
	MARIAH II Hypersonic Wind Tunnel Development Program		+6,000	+15,000	+10,500
	Microelectromechanical Systems (MEMS) and Nanotechnology		+5,500		+2,750
	Army Flight Test			+2,000	+1,500
	Unmanned Systems Initiative at AMRDEC			+10,000	+7,000
	Hypersonic Army Missile Technology			+21,300	+15,000
	Maneuver Air Defense System (MADS)			+2,000	+1,400
	LENS X Hypervelocity Ground Testing			+5,000	+2,500
12	**ADVANCED WEAPONS TECHNOLOGY**	**16,641**	**27,641**	**23,641**	**26,391**
	Rapid Target Acquisition and Tracking System (RTATS)		+6,000	+7,000	+6,500
	Army Missile and Space Technology Initiative		+5,000		+3,250
13	**ADVANCED CONCEPTS AND SIMULATION**	**15,041**	**15,041**	**26,841**	**23,641**
	Joint Unmanned Systems Test and Research (JOUSTER)			+6,800	+5,100
	University Photonics research			+5,000	+3,500

R-1		Budget Request	House	Senate	Conference
14	**COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY**	**69,638**	**106,138**	**103,138**	**118,338**
	Advanced Electric Drive			+3,000	+1,500
	Advanced Energy and Manufacturing Technology			+3,000	+2,200
	Advanced High Power Rechargeable Stored Energy Technology			+10,000	+7,500
	Affordable, Low Temperature, High Performance Advanced Rechargeable Stored Energy Device Technologies for Future Army Combat Hybrid Electric Vehicles (Note: only to develop and demonstrate a modular hybrid electric vehicle power train using the lithium-ion batteries and ultracapacitors that use affordable, low temperature, high performance carbide, nitride, and metal alloy nanocomposite materials with the appropriate power electronics)		+2,000		+1,000
	Advanced Vehicle Life Consumption and Maintenance Prognostics System				+1,000
	Army Trailer Technology Insertion (TTI)		+3,000		+2,550
	CALSTART Defense Advanced Transportation Technology Program		+2,000		+1,000
	Compact Pulsed Power for Defense Applications		+1,000		+1,000
	Distributed Transportable Synthetic Fuel Manufacturing Modules		+3,000		+1,500
	Flexible JP-8 (Single Battlefield Fuel) Pilot Plant Program Phase III (Note: transferred from RDTE,DW line 41)			+6,000	+4,500
	Future Hybrid Vehicle Systems		+3,000		+1,500
	Light Utility Vehicle (Note: only to apply previous research in Light Utility Vehicle technology done for the National Automotive Center to designing a new Light Utility Vehicle (LUV))		+3,000		+2,250
	Military Wheeled Vehicle Electronic Architecture Integration		+3,000		+2,600
	Mobile Thermal Perimeter Surveillance System		+2,000		+1,000
	Multipurpose Utility Vehicle - Reconfigurable			+2,000	+1,400
	Nano-Engineered Materials for High Performance Armor		+5,000		+4,000
	Nano-Engineered Multi-Functional Transparent Armor		+4,000		0
	Rapid Prototyping			+2,000	+1,500
	SmarTruck			+5,000	+4,300
	Stoichiometric Explosive Detector System		+1,500		+1,000
	The Center for Tribology and Coatings		+2,000		+1,500
	Unmanned Vehicle Control Technologies			+2,500	+1,900
	Unmanned Vehicles Surveillance and Sensor System		+1,000		+1,000
	Wireless Sensors for Vehicle Maintenance		+1,000		+1,000
15	**BALLISTICS TECHNOLOGY**	**51,301**	**54,801**	**54,101**	**56,601**
	Guardian Angel		+1,000		+1,000
	Advanced Tungsten Penetrators and Ballistic Materials		+2,500		+2,200
	Structural Reliability of Electronic Components for Munitions & Lt Wt Structures			+2,800	+2,100

R-1		Budget Request	House	Senate	Conference
16	**CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY**	**3,476**	**4,976**	**10,576**	**8,076**
	Biotechnology Education Initiative		+1,500		+1,000
	Rapid Response Deployable Vaporous Hydrogen Peroxide Bio-Chem (Note: transferred from RDTE,DW line 15)			+7,100	+3,600
17	**JOINT SERVICE SMALL ARMS PROGRAM**	**5,739**	**16,239**	**5,739**	**11,739**
	New Metal Coating Technology for Greaseless Weapons		+5,500		+2,750
	Anti-Material Sniper Rifle (AMSR) (Note: only to develop technologies to upgrade individual and crew-served weapons to create a smaller ground footprint and lighter weapons utilizing breech locking design, improved muzzle/break suppressor, sight saving mounting base, multi-functional rechargeable power source and a recoil absorption system)		+5,000		+3,250
18	**WEAPONS AND MUNITIONS TECHNOLOGY**	**44,666**	**99,066**	**71,666**	**106,616**
	Acoustic Counter Battery System (ACBS)		+3,000		+2,600
	Active Coating Technology			+4,000	+2,000
	Active Coatings Technology		+3,000		+2,100
	Advanced Integrated Digital Camera Rifle Scope (ADCRS)		+1,000		+1,000
	Advanced Technology Lightweight Armament System-Rarefaction Wave Gun			+2,000	+1,000
	Alloy Tungsten Armor Piercing Ammunition		+2,400		+2,100
	Amorphous Metal Manufacturing Technology for Military Applications			+1,000	+1,000
	Applied Research Integration		+2,500		+1,800
	Applied Research Program for Advanced Materials and Processes for Armament Structures Program		+4,000		+4,000
	Armament Systems Engineering and Integration Initiative (ASEI2)		+6,000		+4,200
	Armaments Systems Info Assurance		+3,000		+2,100
	Army Excellence in Acoustics research			+5,000	+3,500
	Army Welding Deployment Initiative				+1,000
	Deep Digger			+1,000	+1,000
	Dynamic Pulse Detonation		+1,000		+1,000
	Electroconversion of Energetic Materials			+5,000	+2,500
	Generation 2 Warhead		+1,500		+1,100
	Green Armaments Technology Initiative (GAT)		+4,000	+3,000	+3,500
	Hazardous Materials Management and Technology Development		+1,000		+1,000
	Integrated Emergency Operations Capabilities (IEOC) (Note: transferred from RDTE,A line 24)				+1,700
	Less than Lethal and Layered Protection Systems		+3,000		+2,000
	Micro-Laminate Ceramic Armor			+3,000	+1,800
	Perimeter Defense Technologies		+3,000		+2,200
	Polymer Cased Ammunition--5.56mm (Note: only to Support PEO Soldier requirements related to XM8 Light Weight Assault Weapon program)		+2,000		+1,000
	RangeSafe Technology Demonstration Initiative		+3,000	+3,000	+3,000
	Research Authority Active Coatings Technology (ACT) Program		+2,000		+1,000
	Scram-jet Powered Munitions for Future Combat System		+1,000		+1,000
	Seamless Data to Display		+5,000		+3,500

R-1		Budget Request	House	Senate	Conference
	System of Systems Security Integration Initiative (Note: only to support the integration of advanced communications and process technologies of the Southeastern United States into the Army ARDEC System of Systems Security (SOSSEC) Integration Initiative Program)				+4,000
	Strategic Materials/Strategic Manufacturing Initiative (SM2i)		+3,000		+2,250
19	**ELECTRONICS AND ELECTRONIC DEVICES**	**41,236**	**92,286**	**88,536**	**106,666**
	Advanced Power Component Technologies		+1,000		+1,000
	Advanced High-Energy Rechargeable Lithium Air Battery				+2,000
	Advanced Simplified Hybrid Fuel Cell/LiON Battery Program for the Objective Force Warrior		+1,000		+1,000
	Battery Returns in Error Advanced Vehicle Battery Management Program (Phase II)			+1,000	+1,000
	CFX Electrochemical Systems for Safe Soldier Power		+2,000		+1,000
	Conformal Lithium Ion Polymer Belt Battery		+2,000		+1,000
	Cylindrical Zinc Air Battery for Future Soldier Communication Systems			+1,000	+1,000
	Direct Diode Electro-Optical Source			+7,800	+5,500
	Dry Polymer Electrolyte Development for Safe Soldier		+3,800		+3,230
	E-Beam Reticle and Lithography Inspection		+7,500		+6,400
	Flexible Display Initiative: High performance displays for Military applications		+3,000	+8,000	+5,600
	Flexible Polymer Multilaminate Packaging		+2,000	+2,000	+2,000
	High Power Solid State Lasers			+1,000	+1,000
	Integrated Methanol Fuel Cell/Reformer		+1,000		+1,000
	JP-8 Solider Fuel Cell		+2,000		+1,000
	Liquid Silicone Lithium Rechargeable Battery		+3,000		+1,500
	Lithium Metal Air Battery		+750		+750
	Low Cost Power Generation Platforms and Electric Power Control Hybrid Vehicles		+2,000		+1,700
	Metal Oxide Cathode - 1.5 Volt Alkaline		+2,500	+1,000	+1,250
	Nanofluidic Electronic Sensor Technologies for Defense Applications		+3,000		+1,500
	Novel Zinc Air Power Sources for Military Applications		+1,000		+1,000
	ONAMI Miniature Tactical Energy Systems Development			+5,000	+2,500
	PEM Fuel Cell Quiet Tactical Generators			+1,000	+1,000
	Portable Reforming on the Battlefield		+1,000		+1,000
	Rapid recharge, lithium-ion battery pack			+3,000	+2,600
	Rechargeable Cylindrical Cell Systems - Lithium Ion/Nickel Metal Hydride		+3,000	+1,000	+1,500
	Ring Extruder		+5,000		+2,500
	Software Defined Radio Communications Interoperability Initiative			+3,000	+1,500
	Soldier Fuel Cell System		+1,500		+1,050
	Soldier Portable Fuel Cell Power			+3,500	+2,450
	State of Charge Battery Life Indicator		+1,000	+2,500	+1,600
	Transcritical CO2 Environmental Control Unit			+5,500	+3,600
	Universal Radio Frequency Identification (RFID) Monitoring Device			+1,000	+1,000
	Weapons of Mass Destruction Marking Set		+2,000		+1,700

R-1		Budget Request	House	Senate	Conference
20	**NIGHT VISION TECHNOLOGY**	**22,617**	**29,617**	**22,617**	**27,117**
	Miniaturized Sensors for Small and Tactical Unmanned Aerial Vehicles		+2,000		+1,000
	Enhanced Micro-Image Display Technology				+1,000
	Third Generation Focal Plane Array (FPA) for Army Target Acquisition		+5,000		+2,500
21	**COUNTERMINE SYSTEMS**	**20,547**	**28,547**	**24,547**	**27,347**
	Acoustic Technology for Landmine Detection		+4,000		+2,800
	Polymer Based Landmine Detection		+4,000	+4,000	+4,000
22	**HUMAN FACTORS ENGINEERING TECHNOLOGY**	**16,899**	**22,399**	**16,899**	**21,099**
	MANPRINT		+5,500		+4,200
23	**ENVIRONMENTAL QUALITY TECHNOLOGY**	**17,026**	**17,026**	**24,526**	**23,126**
	Hawthorne Army Depot			+6,000	+5,000
	Biological/Chemical Materials Environmental Modeling			+1,500	+1,100
24	**COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY**	**18,604**	**33,104**	**20,604**	**28,104**
	Portable Flexible Communication Display Device		+3,000	+2,000	+2,000
	Enhanced Wireless Digital Communications for Urban First Responders		+7,000		+6,000
	Integrated Emergency Operations Capabilities (IEOC) (Note: transferred to RDTE,A line 18)		+2,000		0
	All Digital Transceiver (ADT) Development		+2,500		+1,500
26	**MILITARY ENGINEERING TECHNOLOGY**	**47,152**	**49,152**	**53,152**	**53,552**
	Distribute Transportable Synthetic Fuel Manufacturing Modules		+1,000		+1,000
	Modeling and Analysis of the Response of Structures		+1,000		+1,000
	University Partnership for Operational Support			+3,000	+2,600
	Geosciences/Atmospheric Research			+3,000	+1,800
27	**MANPOWER/PERSONNEL/TRAINING TECHNOLOGY**	**15,322**	**15,322**	**16,322**	**15,322**
	Dermal phase meter (Note: transferred to RDTE,A line 29)			+1,000	0
28	**LOGISTICS TECHNOLOGY**	**21,131**	**38,131**	**58,531**	**55,971**
	Advanced Antimicrobial Technology		+3,000		+1,500
	Aviation Inflatable Maintenance Shelter (AIMS) Test and Evaluation		+2,000		+1,700
	Field Evaluation and Manufacturing Improvements on Flexible Monolithically Integrated Solar Panels		+2,000		+1,000
	Flexible Monolithically Integrated Solar Panels on a Polymer Substrate			+3,200	+2,240
	Improved Shelf-Life in fresh fruits and vegetables			+5,000	+3,250
	Integrated, Unbreakable, Flexible Visible and Infared Lighting Surfaces			+3,500	+2,500
	Mobile Hydrogen Infrastructure (MHI) (Note: transferred to RDTE,A line 34)		+4,000		0
	NBC Integrated Protection Membrane-Shelters (NBCIPM-S)			+4,500	+3,900
	Next Generation Chemical/Biological Agent Protective			+2,500	+1,250
	Self-Decontaminating Selectively Permeable Membranes			+3,500	+2,500
	Smart Apparel for Warriors		+2,000		+1,000
	Soldier Systems Center		+1,000		+1,000
	Special Operations Precision Airdrop Technology		+1,000		+1,000

R-1		Budget Request	House	Senate	Conference
	Supplemental body armor research			+7,000	+5,300
	US Army research on advanced structures and composites in construction		+2,000	+5,000	+4,500
	Warfighter technology			+3,200	+2,200
29	**MEDICAL TECHNOLOGY**	**60,877**	**162,877**	**117,377**	**189,727**
	Bioactive Products Program for Breast Cancer		+2,000		+1,000
	Biomedical strategies for the prevention, treatment, assessment and predications of the health effects of ionizing radiation		+1,500		+1,000
	Bone Health and Military Medical Readiness		+1,000		+1,000
	Center for Advanced Surgical and Interventional Technology		+1,000		+1,000
	Chitosan Hemorrhage Control Dressing		+2,000	+5,000	+3,500
	Chronic Wounds (Non-Healing) Research (Note: transferred from DHP title VI)				+1,000
	Clinical Trials using a Piezoelectric Dry Powder Inhalation Device		+4,000		+4,000
	Collaborative Program in Rehabilitation and Engineering Research		+1,000		+1,000
	Comprehensive Reproductive System Care Program (Note: only for the continued coordination between WRAMC, a rural non-profit medical research institute, and a non-profit medical foundation, to provide a program for reproductive systems risk assessment, diagnosis, treatment, and cutting-edge research. Transferred from DHP title VI.)				+11,900
	Dermal phase meter (Note: transferred from RDTE,A line 27)				+1,000
	Diabetes Research Project (Note: only for Type I Diabetes Research)		+7,000		+6,000
	Diagnostics in Traumatic Brain Injury-Blood Based		+1,000		+3,000
	Elgen Gene Delivery Technology		+2,000		+1,000
	Enhanced Research in Trauma Prevention, Treatment and Rehabilitation		+4,000		+2,000
	Gynecological Cancer Center (Note: transferred from DHP title VI)				+2,100
	High-Speed MEMS Electromagnetic Cell Sorter		+3,000		+1,500
	Improving Soldier Performance		+3,000		+1,800
	Maternal-Fetal Health Informatics and Outreach Program		+2,000		+1,000
	Medical Area Network for Virtual Technology (MANVT)		+6,000		+5,100
	Molecular and Clinical-Based Comprehensive Cardiac Care (Integrative Cardiac Health Program) (Note: only for the continued coordination between WRAMC, a non-profit biomedical research institute, non-profit medical foundation, and a rural primary healthcare center)		+6,000		+5,100
	Molecular Genetics and Musculoskeletal Research Program		+10,000		+11,500
	Nanofabricated Bioartificial Kidney		+3,000		+1,950
	Neutron Therapy		+900		+900
	Non-Invasive Medical Sensors		+1,000		+1,000
	Preventive Medicine Research Institute		+2,000		+1,500
	Protein Hydrogel		+1,000		+1,000

R-1		Budget Request	House	Senate	Conference
	Synchrotron-Based Scanning Research (Note: $6.5 million only to continue Synchrotron-Based technology enhancement for scanning of breast and lung cancer patients and diagnostic development to maximize Synchrotron-Based proton therapy and $2 million for continued mass-casualty incident center demonstration)		+10,000		+8,500
	Rapid Identification of Biological Agents		+1,300		+1,000
	Sleep Deprivation Research at WRAMC (Note: only to continue existing program)		+5,000		+3,500
	Spinal Muscular Atrophy Research Program		+3,000		+2,250
	Targeted Nano-Therapeutics for Advanced Breast and Prostate Cancers		+1,000		+1,000
	Texas Training and Technology for Trauma and Terrorism (T5)		+11,000	+11,000	+11,000
	Tissue Replacement and Repair for Battlefield Injuries		+4,000	+4,000	+4,000
	Transportable Pathogen Reduction & Blood Safety System		+2,000	+3,500	+2,000
	Veterinary Manpower Development		+300		+300
	Predictive Tools for Post-Traumatic Stress Disorder (PTSD)			+2,000	+1,000
	USAMRIID Anthrax Research			+3,000	+2,250
	National Behavioral Genomics Research (Note: transferred to line 31 RDTE,A)			+2,000	0
	Combat Casualty Care for Battlefield Wounds			+4,000	+2,800
	Reserve Component Medical Skills Readiness Training			+3,000	+1,500
	Comprehensive Bioactive Products Program for Breast Cancer			+1,000	+1,000
	Automated Medical Emergency Intravascular Access (AuthCath)			+2,000	+1,000
	Shock Trauma Research			+3,000	+2,100
	International Rehabilitation Network			+5,000	+5,000
	Military Biomaterials Research (CEMBR)			+5,000	+2,500
	Computational Proteomics			+3,000	+2,600
	HSDI			+5,000	+4,300
	Anti-Microbial Coatings for Medical Devices (Note: transferred from general provision)				+1,400
	Authorized reduction			-5,000	-5,000
30	**WARFIGHTER ADVANCED TECHNOLOGY**	**68,034**	**85,534**	**59,534**	**80,784**
	Common Navigation Interface Unit (CNIU) for Joint Precision Aerial Delivery System (JPADS)		+3,000		+2,600
	Joint Precision Airdrop Systems (JPADS) - Rapid Fielding of 2K lb Resupply Requirements		+3,000		+1,500
	Antimicrobial/Medical Base Layer Garment Technology		+1,000	+1,000	+1,000
	Electro-Textiles		+500		+500
	Ration Packaging Materials and Systems for Meals-Ready-to-Eat		+6,000	+2,000	+5,100
	Multifunctional Protective Packaging Technology		+3,000	+1,500	+2,550
	Integrated Headgear		+1,000		+1,000
	Technology and Human Systems Integration Program			+2,000	+1,000
	Small Business Development and Transition (Note: transferred from general provision)				+2,500
	Land Warrior/Future Force Warrior consolidation			-15,000	-5,000

R-1		Budget Request	House	Senate	Conference
31	**MEDICAL ADVANCED TECHNOLOGY**	**38,404**	**271,704**	**164,404**	**312,404**
	Advance of Non-Invasive Glucose Monitoring		+1,000		+1,000
	Advanced Image Processing Techniques for Biomedical Informatics		+1,000		+1,000
	Advanced Proteomics		+3,000		+1,500
	Advances in Breast Cancer Care Therapy		+1,500		+1,300
	Alliance for Nanohealth (Note: transferred from DHP title VI)		+4,000		+2,800
	Angiogenesis and Tissue Engineering Research				+1,000
	Battlefield Respirator and Ventilator (BRAV)		+2,500		+1,900
	Behavioral Genomics Sleep Apnea Research (Note: transferred from line 29 RDTE,A)		+1,000		+1,000
	Biology, Education, Screening, Chemoprevention and Treatment (BESCT) Lung Cancer Research Program (MDACC)		+9,500		+9,500
	Blood Safety and Decontamination Technology		+8,000		+4,800
	Brain, Biology and Machine		+2,000	+6,000	+3,000
	Cancer Vaccine (Note: only for continued development of molecular switching vaccines using genetically modified Listera for cancer, infectious disease and bio-defense)		+4,000		+3,400
	Center for Integration of Medicine and Innovative Technology		+13,000		+12,000
	Center for Proteomics and Nanotechnologies		+5,000		+4,300
	Collaborative in Advanced Emergency Medical Response with the Army Guard (Note: transferred from RDTE,DW line 15)		+2,500		+2,500
	Compact, Lightweight, Full-featured Patient Monitor with Defibrillator		+3,000		+1,500
	Comparative Functional Genomics and Computational Sequencing: Novel Genetic Targets		+4,000		+2,600
	Diagnostic and Therapeutic cancer care equipment		+10,000		+7,500
	Emergency Eye Care Program		+2,000		+1,000
	Genomic Medicine Project and Gene Therapy (Note: only to continue the pilot clinical program targeted at cardiovascular disease and neurodegenerative disorders that gravely affect veterans)		+4,000	+2,500	+3,400
	Gynecologic Disease Program (Note: only for the establishment of a public/private effort, in coordination with an appropriate non-profit medical foundation, to provide programs in gynecologic diseases that will facilitate the early detection, prevention, and treatment strategies)		+5,000		+4,300
	Hands Free Electronic Health Record		+1,000		+1,000
	Institute for Research and Education		+5,000		+3,750
	Joint US-Norwegian Telemedicine Program		+2,500		+1,800
	Joslin Diabetes		+5,000		+5,000
	Mapping the Human Brain for Combat Trauma Research		+1,800		+1,800
	Medical Enterprise Management for the US Army		+1,000		+1,000
	Medical Training Technology Enhancement Initiative		+1,000		+1,000
	MedVizer Secure Telemedicine Program				+1,000
	Military Low Vision Research		+2,000	+4,000	+2,000
	Military Surgeon Training Initiative		+1,000		+1,000
	Minimally Invasive Approaches to Surgery		+3,000		+2,100
	Minimally Invasive Surgery Modeling and Simulation		+1,500	+1,500	+1,500
	National Functional Genomics Center		+11,000		+8,500
	Neurofibromatosis Research Program (NF)		+25,000		+25,000
	Neurology Gallo Center-Alcoholism Research		+5,000		+3,750

R-1	Budget Request	House	Senate	Conference
Neurotoxin Exposure Treatment Research Program (NETRP) Parkinsons & neurological disorders		+26,000		+26,000
Operating Room of the Future		+4,000	+4,500	+4,000
Orphan Disease Drug Discovery Program		+2,000	+2,000	+2,000
Pain Management Initiative (Note: only for the public/private effort among DoD Medical Treatment Facilities, an appropriate not-for-profit medical foundation, and a rural primary health care center to provide a comprehensive program in pain management including treatment for acute pain using regional anesthesia techniques as well as a holistic approach to chronic pain)		+7,000		+6,000
Pediatric Brian Tumor and Neurological Disease Program		+3,000		+1,500
Picture Archiving and Communications System (PACS)		+2,000		+1,400
Plasma Sterilizer		+2,000		+1,400
Project Collaboration		+1,000		+1,000
Prostate Cancer Research-Gallo Center		+1,000		+1,000
PROPHET for Combat Casualty Care				+500
Proton Beam Therapy (Note: only to continue a civilian-military collaborative proton beam therapy initiative on the East Coast of the United States in conjunction with WRAMC to provide state-of-the-art radiation treatment as well as clinical and non-clinical research)		+12,000		+10,200
Rare Blood Program		+1,000		+1,000
SEAtreat		+3,500		+3,000
SuperQR Powder Development		+1,000		+1,000
Surgical Wound Disinfection and Biological Agents Decontamination Project		+2,000		+1,400
Technologies for Metabolic Monitoring		+3,000	+1,000	+2,600
Universal Medical and Surgical Product Catalog		+5,000		+2,500
Universal Vaccine Development for Bioterrorism		+2,000		+1,000
Untethered Healthcare Program		+4,000	+2,000	+4,000
Mobile I.V. system			+3,000	+2,600
Advanced Clinical Education Institute / Surgery Interactive System			+2,000	+1,000
Comprehensive Medical Imaging research			+7,000	+6,900
National Bioterrorism Civilian Medical Response (CIMERC)			+2,000	+1,400
Center for Prostate Disease Research (WRAMC)			+5,000	+4,300
National Tissue Engineering Center			+2,500	+2,500
Medical Modeling and Simulation through Synthetic Digital Genes			+2,500	+1,500
Fort Detrick Technology Transfer Initiative			+1,000	+1,000
Fibrinogen Bandages for Battlefield Wounds			+7,000	+3,500
Pennington Biomedical			+4,000	+2,600
Smart Shelf Chain of Custody and Control of Medical Records (Note: transferred to DHP title VI)			+8,800	0
SEAmed Oral Health Project			+2,500	+1,900
Human Polymerized Pyridoxilated Hemoglobin-Based Oxygen Carriers			+2,000	+1,400
Accelerated Diagnosis-Digital Imaging Pattern Recognition			+4,000	+2,800
Study of Human Operator Performance (C-SHOP)			+5,000	+2,500
Light Based Self,Treatment for Pseudofolliculitis Barbae (PFB)			+3,000	+1,500
Soldier-mounted Eye-Tracking and Control Systems			+2,000	+1,500
Vascular Graft Research for Combat Settings			+2,600	+1,800
Leishmaniasis Prevention, Treatment & Diagnosis			+10,000	+7,500
Malaria Prevention, Treatment & Diagnosis			+10,000	+7,500

R-1		Budget Request	House	Senate	Conference
	Weight Measurements and Standards for Military Personnel			+3,000	+1,900
	Electronic Textiles for Combat Casualty Care			+3,000	+1,500
	Extra corporeal membrane oxygenation at Tripler			+6,000	+6,000
	Tissue development on elastin biomatrixes			+5,600	+4,800
	Tripler Army Medical Center eICU remote critical care			+4,000	+4,000
	Improved Lung Cancer Management - Advanced Imaging Technology (Note: transferred from RDTE,A line 32)				+2,100
	Authorized reduction			-5,000	-5,000
32	**AVIATION ADVANCED TECHNOLOGY**	**69,549**	**86,549**	**102,749**	**100,249**
	Locust USA Heavy Fuel Burning Engines for UAVs		+6,000		+3,000
	Process Technologies for Replacement Part Production (Note: only for Process Technologies for Replacement Parts Production)		+6,000	+6,000	+6,000
	Wideband Network Enhancement for Joint Ground Force Interoperability		+5,000		+4,300
	Excalibur Tact UCAV			+8,000	+6,000
	Reconfigurable Tooling Systems			+1,700	+1,300
	Wiring Traceout for Joint Aviation Technical Data Integration			+2,000	+1,300
	UAV and Micro Air Vehicle Dynamometer			+7,000	+4,900
	VTDP Compound Helicopter Technology Flight Demonstration			+5,500	+3,900
	Improved Lung Cancer Management - Advanced Imaging Technology (Note: transferred to RDTE,A line 31)			+3,000	0
33	**WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY**	**67,622**	**83,122**	**79,122**	**87,172**
	Rapid Prototyping for Special Projects		+8,000		+5,600
	Development Mission Integration		+2,000		+1,400
	Micro-electromechanical Systems Reliability Assessment Program		+1,000		+1,000
	Technology Demonstration for the Prevention of Material Degradation		+2,500		+2,200
	Future Laser Neutralization System (LNS)		+1,000		+1,000
	Electromagnetic Gun Initiative		+1,000	+1,000	+1,000
	Tungsten Penetrator			+4,000	+2,800
	Main Rotor and Anti-Torque Blade Erosion Resistant Ceramic Coating			+3,500	+2,450
	Compressor Blades Wear-Resistant Ceramic Coating			+3,000	+2,100
34	**COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY**	**203,126**	**266,126**	**263,326**	**291,026**
	Advanced Army Modular Composite Bridge		+3,000	+8,000	+5,600
	Advanced Power Trains and Intelligent Control Systems for M-Gators			+2,100	+1,500
	Advanced Thermal Management System (Note: only for oil and air technologies to improve thermal management systems on additional platforms including heavy duty, medium duty, light, light armored, fuel cell, commercial auto, light truck, transit and hybrid diesel engines)		+4,000	+3,500	+2,600
	All Composite Military Vehicle		+5,000		+4,500
	Aluminum Lightweight Structures Initiative (ALSI)		+6,000		+5,100
	Armored Composite Cab Development Program			+5,000	+2,500
	Army Lightweight Structures Initiative (ALSI)			+4,000	+2,800
	Battery Charging Technology (Note: only to continue development of advanced battery charging algorithms for Hybrid-Electric Vehicle applications)		+1,000		+1,000

R-1		Budget Request	House	Senate	Conference
	CAV Technology Transition			+5,000	+3,500
	Combat Vehicle Research		+5,000		+4,250
	Development of Logistical Fuel Processors to Meet Army TARDEC and TACOM Needs		+3,000		+3,000
	Digital Humans and Virtual Reality			+1,000	+1,000
	Electrochromic Material Windows			+4,000	+2,000
	Fastening and Joining Research			+2,000	+1,500
	FREEDOM Software Environment		+1,000		+1,000
	Fuel Cell Ground Support Equipment Demonstration		+3,500	+6,100	+4,600
	High Strength, Powder Metal Gears for Vehicle Transmissions		+2,000		+1,000
	IMPACT - Concept Modeling Tool Suite Development/Sensitivity Analysis for Military Trucks (CMTSD/SAMT)			+1,000	+1,000
	Innovative Materials for Infrastructure Security			+3,000	+2,200
	International Commercially Based Logistical Support Trucks		+3,000		+2,100
	In-Theater Systems Development		+3,500		+2,450
	Military Vehicle Technologies			+4,000	+2,800
	Mobile Hydrogen Infrastructure (MHI) (Note: transferred to RDTE,A line 28)				+2,000
	Modular logistics transport technology			+1,000	+1,000
	Next Generation Non-Tactical Vehicle Propulsion			+3,500	+2,600
	N-STEP Enabled Manufacturing Cell for FCS		+4,000	+5,000	+3,250
	Opposed Piston, Opposed Cylinder (OPOC) Engine for use in an Auxiliary Power Unit (APU)		+1,000		+1,000
	Pacific Rim Corrosion Research Program			+2,000	+1,700
	Rapid Optimization of Commercial Knowledge (ROCK) Program		+2,000		+3,500
	Rapid Prototyping TACOM-UMD		+3,000		+1,500
	Rotary, Multi-Fuel, Auxiliary Power Unit (RMF-FPU)			+3,000	+2,100
	Secure Pervasive Computing (PvC) for Advanced Combat Vehicles		+5,000		+3,500
	Tactical Vehicle Design Tools			+2,000	+1,500
	UAV Weaponization		+1,000		+1,000
	US Army Hybrid Vehicle Test and Maintenance Infrastructure		+5,000		+4,250
	Virtual Systems Integration Lab		+2,000		+1,000
	Future Tactical Truck			-5,000	0
36	**MANPOWER, PERSONNEL AND TRAINING ADVANCED TECHNOLOGY**	**7,288**	**8,288**	**8,788**	**8,288**
	Battle Command Team Training (BCTT) Program		+1,000	+1,500	+1,000
37	**ELECTRONIC WARFARE ADVANCED TECHNOLOGY**	**41,760**	**56,760**	**68,760**	**60,360**
	Applied Communications and Information Networking (ACIN) Program		+10,000	+12,000	+11,000
	Portable and Mobile Emergency Broadband System		+2,000	+2,000	+2,000
	Networking Environment for C3 Mobile Services (NECMS) facility		+3,000	+8,000	+5,600
	Rapid Optimization of Commercial Knowledge (Note: transferred to RDTE,A line 34)			+5,000	0
39	**NEXT GENERATION TRAINING & SIMULATION SYSTEMS**	**18,072**	**21,072**	**30,072**	**28,072**
	Combat Trauma Patient Simulator System		+3,000		+1,500
	Institute for Creative Technologies - joint fires and effects training system			+5,000	+2,500
	CAVE Automatic Virtual Environment			+7,000	+6,000

R-1		Budget Request	House	Senate	Conference
41	**EXPLOSIVES DEMILITARIZATION TECHNOLOGY**	9,706	13,706	21,106	19,206
	Sierra Army Depot Cryofracture/Plasma Arc Demilitarization Program		+4,000	+5,000	+4,500
	Missile Recycling			+2,000	+1,400
	Munitions demilitarization			+2,000	+1,500
	Thin Layer Chromatography			+2,400	+2,100
42	**MILITARY HIV RESEARCH**	6,641	16,641	6,641	14,141
	Test, Treatment and Preventive Vaccines		+10,000		+7,500
43	**COMBATING TERRORISM TECHNOLOGY DEVELOPMEN**	3,383	8,383	9,583	8,383
	Advanced Mobile Micro Grid Program		+5,000	+6,200	+5,000
45	**EW TECHNOLOGY**	9,382	22,882	16,382	22,182
	US Army Tactical ELINT for Ground Maneuver Forces		+5,500		+3,850
	Multifunctional Intelligence and Remote Sensor System Advanced Technology		+1,000		+1,000
	Portable Level I Fusion Tool Set		+3,500		+3,000
	Aerial Canopy Sensor Delivery System (ACSDS)		+3,500		+1,450
	Ground Combat Vehicle Laser Warning			+2,000	+1,000
	Shortstop Electronic Protection System			+5,000	+2,500
46	**MISSILE AND ROCKET ADVANCED TECHNOLOGY**	92,800	106,800	118,300	120,300
	Volumetrically Controlled Manufacturing (Note: only to continue existing University-based research on Volumetrically Controlled Manufacturing to expand the pre-existing basic science from mechanical applications to thermal, electro-magnetic, acoustic, and optic applications)		+1,000		+1,000
	Multi-Controlled UAV Plug-n-Play Sensor		+2,000		+900
	Persistent Protective Surveillance for the Survivability of Rotary Wing Aircraft		+3,000		+1,800
	Micro-Factories for Precision Parts Program		+2,000		+1,000
	Smart Energetics Architecture for Missile Systems		+2,000		+1,000
	Compact Kinetic Energy Missile (CKEM) Stabilized Mobile Launcher (Note: only to demonstrate CKEM launch capabilities off a Light Combat Vehicle)		+1,000		+1,000
	Waterside Wide Area Tactical Coverage & Homing (WaterWATCH)		+3,000		+1,800
	Long-Range Aviation Missile (LRAM)			+2,000	+1,200
	Warfighter Protection and Homeland Security Lab			+5,000	+4,800
	Missile Simulation Technology			+11,000	+7,700
	Close-in Active Protection Systems (CIAPS)			+7,500	+5,300
48	**LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY**	25,577	31,577	32,577	34,977
	SCANJACK Mine Clearing System		+1,000		+1,000
	EDIT Advanced Landmine Detection		+1,000	+2,000	+1,400
	Forward Looking Synthetic Aperture Stepped-Frequency Ground Penetrating RADAR (FLGPSAR)		+1,000		+3,000
	Landmine Detection System using Terahertz Radiation		+3,000		+1,500
	Light-Weight Rapidly Deployable Modular Hardened Shelters			+5,000	+2,500
49	**JOINT SERVICE SMALL ARMS PROGRAM**	5,968	5,968	11,868	10,068
	Advanced Demining Technology			+5,900	+4,100

R-1		Budget Request	House	Senate	Conference
51	**NIGHT VISION ADVANCED TECHNOLOGY**	**50,071**	**100,071**	**88,371**	**106,421**
	Buster Backpack UAV		+10,000	+12,500	+12,500
	Advanced Passive Millimeter Wave Imager			+6,000	+4,200
	Camera Assisted Monitoring System (CAMS) (Note: only to continue development and transition of CAMS to a type classified standard system)		+3,000		+1,500
	Cerberus Sensor Suite Program - K70		+4,000		+2,000
	Cost Effective Targeting System (CETS)			+4,800	+2,400
	IED locating low-cost, long-endurance UAVs			+5,000	+3,300
	MCAD for TUAV		+2,000		+1,400
	Multi-Color, Multi-Function Focal Plane Array for Targeting and Fire Control		+1,000		+1,000
	Night Vision Advanced Technology (NAS Project)		+5,000		+5,000
	Night Vision Fusion Research and Development		+7,000	+5,000	+6,000
	Personal Miniature Thermal Vision System		+3,000		+1,500
	Sensor Technology for Force Protection		+11,000		+9,350
	Soldier Mobility and Rifle Targeting System (SMaRTS)			+1,000	+1,000
	Virtual Event Perimeter (VEP) Digital Video Surveillance Program		+2,000		+1,000
	Warfighter/Firefighter Position, Location, and Tracking (PLT) Sensor			+4,000	+2,800
	Wire Detection and Obstacle Avoidance for helicopters		+2,000		+1,400
52	**ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATIONS**	**14,666**	**19,166**	**14,666**	**18,716**
	Ft. Ord Lead Based Paint and Wood Recycling Initiative		+3,000		+3,000
	Commercialization of Technologies to Lower Defense Costs		+1,500		+1,050
53	**MILITARY ENGINEERING ADVANCED TECHNOLOGY**	**3,865**	**10,365**	**27,065**	**26,765**
	1 Megawatt Molten Carbonate Fuel Cell Demonstrator		+3,000		+1,500
	Mobile Transformers and Mobile Substations Demonstration Project (Note: transferred from OP,A line 165)				+1,000
	Integration of Commercial GIS Capabilities into Army C4ISR (TEC) (Note: only to investigate and improve integration and exploitation of commercial Geographic Information System capabilities of the Commercial Joint Mapping Toolkit into C4ISR components of Army tactical systems, to be conducted by the Army's Topographic Engineering Center of the Engineering Research and Development Center)		+3,500		+3,000
	Defense Application of Stationary Carbonate Fuel Cells				+2,000
	Ramgen/Fuel Cell Hybrid System			+5,000	+4,300
	US Army Advanced Structures and Composites in Construction research			+5,000	+2,500
	Solid Oxide Fuel Cell (SOFC) Development for Defense Applications			+5,000	+3,500
	Battlefield Production of Hydrogen for Fuel Cell Vehicles			+1,000	+1,000
	Advanced Mobile Microgrid Program			+6,200	+3,100
	Defense Applications for Thermo-Electric Power Generation Devices			+1,000	+1,000

R-1		Budget Request	House	Senate	Conference
54	**ADVANCED TACTICAL COMPUTER SCIENCE AND SENS TECHNOLOGY**	**31,951**	**55,451**	**31,951**	**48,051**
	Dominant Military Operations on Urbanized Terrain (MOUT) Viewer (DMV)		+2,000		+1,300
	ASAS Light RDTE Development (Note: only to provide coalition interoperability, generic sensor interfaces and IBS broadcast integration)		+2,000		+1,000
	Distributed Scalable C2 Communication System		+1,000		+1,000
	MVMNT Program for Simulation Based Operation		+2,000		+1,000
	Digital Array Radar Technology Development		+2,000		+1,000
	Weather Intelligence Sensor System		+1,000		+1,000
	Blast and Damage Assessment Risk Analysis and Mitigation Application (BADARAMA)		+2,000		+1,700
	PING Wideband FR Target ID System (Note: only to accelerate the development of a PING field unit for urban warfare operations)		+2,500		+2,200
	Radar Tags (Note: only for the Communications and Electronics Research, Development and Engineering Center's radar tags program for combat identification)		+4,000		+3,400
	LCMR-Capabilities Enhancement (LCMR-CE) (Note: only to support further development of LCMR-CE to enhance the capabilities of this manportable radar system)		+5,000		+2,500
55	**ARMY MISSILE DEFENSE SYSTEMS INTEGRATION**	**53,509**	**89,509**	**116,909**	**117,009**
	Advanced Battery Technology		+3,000		+2,600
	Advanced Laser Electric Power (ALEP) Program (Note: only to carry out a collaborative advanced laser electric power (ALEP) program initiative with the private sector and the U.S. Army Space and Missile Defense Command)		+3,000		+1,500
	Advanced Strap-Down Seeker (ASDS)			+4,900	+3,500
	Anti-Stealth Research--Passive Surveillance System			+2,000	+1,400
	Ballute Technology Development (Note: only to address technical issues with ballute inflation loads and kill vehicle dynamics, selection of ballute materials, flight dynamics, stability and control, weight and stowed volume of the ballute system)		+2,000		+1,000
	C4ISR Visualization		+1,000		+1,000
	Carbon Foam, Missile Defense Agency			+3,500	+3,000
	Composite Chassis		+1,000		+1,000
	Credible Threat Prediction Capability Development		+4,000		+2,400
	DESS - Dielectric Enhanced Sensor System		+2,000		+1,400
	Eagle Eyes Nuclear Detection Program			+1,000	+1,000
	Global Infrasound Monitoring of the Atmosphere			+2,000	+1,400
	Integrated Composite Airframe Structure Program			+5,000	+2,500
	Low Cost Avionics			+1,000	+1,000
	Mobile Tactical High Energy Laser (MTHEL)			+15,000	+8,000
	Modeling and Simulation Activities			+3,000	+2,100
	Multiple Component Army Flight Test		+3,000		+2,600
	Nanoscience Initiative			+4,000	+3,000
	Next Generation Hardware-in-the-loop (HWIL) Tool (NGHT)			+15,000	+10,500
	NGPS - Next Generation Passive sensors		+3,000	+3,000	+3,000
	P3 Power Systems (Note: transferred to RDTE,A line 56)			+3,000	0
	Remote Sensor Monitoring Technology Research Program to Characterize NCB Species		+5,000		+2,500

R-1		Budget Request	House	Senate	Conference
	Spectral Operations Resources Center (SORC)		+3,000		+2,600
	Ultra Light UAV Sensor Platform		+4,000		+3,000
	Vertical Integration for Missile Defense Data		+2,000	+1,000	+1,500
56	**ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)**	**4,871**	**6,871**	**35,971**	**33,471**
	P3 Power System		+2,000		+2,000
	Low Cost Interceptor (LCI)			+15,000	+10,500
	Radar Power Technology Research Program			+1,000	+1,000
	Telecommunication upgrades at Kodiak Launch Complex			+9,300	+9,300
	Kodiak Range upgrades - KLC safety upgrades			+5,800	+5,800
57	**AIR AND MISSILE DEFENSE SYSTEMS ENGINEERING**	**91,713**	**106,713**	**122,713**	**116,313**
	Geospatial Information Decision Support for Single Integrated Air Picture		+7,000	+2,000	+5,300
	SituSpace Single Integrated Space Picture (SISP)		+3,000	+9,000	+4,500
	ASMD Architecture Analysis (A3) Program		+2,000		+1,000
	Future Army Attack and Missile Defense System (FAAMDS)		+3,000		+1,800
	E-STRIKE Technology Enhancement for the Maneuver Air Defense Capability			+10,000	+5,000
	Hybrid-Electric Technology Demonstrator			+4,000	+2,800
	Air and Missile Defense Architecture Analysis (A3) Program			+6,000	+4,200
58	**LANDMINE WARFARE AND BARRIER - ADV DEV**	**11,634**	**11,634**	**18,634**	**16,534**
	MVMNT Program for Simulation Based Operation			+7,000	+4,900
59	**SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ADV DEV**	**6,249**	**6,249**	**11,249**	**9,749**
	Advanced Laser Electric Program			+1,000	+1,000
	Thermo-Acoustic Piezo Energy Conversion			+1,000	+1,000
	Standoff Hazardous Agent Detection and Evaluation System Research			+3,000	+1,500
60	**TANK AND MEDIUM CALIBER AMMUNITION**	**39,697**	**50,197**	**9,697**	**27,847**
	GPS Interference Suppression Unit		+4,500		+3,150
	Mid-Range Munition (MRM)		+6,000		0
	MRM			-30,000	-15,000
65	**NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT**	**14,047**	**14,047**	**19,047**	**17,797**
	Night Vision Systems Advanced Development (FIRRE)			+5,000	+3,750
66	**ENVIRONMENTAL QUALITY TECHNOLOGY DEM/VAL**	**9,356**	**43,856**	**24,356**	**43,456**
	Aberdeen Proving Ground Asbestos Conversion Facility		+1,500		+1,200
	Environmental Management System Demonstration		+1,000		+1,000
	Environmental Security Technical Certification Program (Note: only for a demonstration project of remediation technologies in the eastern portion of the Bunker Hill Basin served by the East Valley Water District)				+1,000
	Transportable Detonation Chamber		+7,000		+4,200
	Military Environmental Information Exchange Program		+5,000		+2,500
	Nanometric Arsenic Removal (Note: only to continue the ongoing program)				+2,000
	Vanadium Technology Partnership		+3,500	+3,000	+3,000
	Demonstration of Technologies to reduce the costs associated with Base Redevelopment		+2,500		+2,200

R-1		Budget Request	House	Senate	Conference
	NDCEE Joint Service Initiative		+8,000		+6,800
	Sustainable Installations		+2,000		+1,700
	Casting Emission Reduction Program (CERP)		+4,000	+3,500	+3,500
	Waste Minimization and Pollution Prevention			+1,000	+1,000
	Wellhead Treatment of Perchlorate Contaminated Wells			+5,000	+2,500
	Environmental Management System Pilot in the Defense Department			+2,500	+1,500
69	**AVIATION - ADV DEV**	**12,113**	**14,113**	**18,613**	**16,713**
	Virtual Cockpit Optimization Program (VCOP)		+2,000	+5,500	+3,600
	Rapid Response Chem-Bio Decon, Liquid and Dry (Decon Green)			+1,000	+1,000
70	**WEAPONS AND MUNITIONS - ADV DEV**	**2,382**	**2,382**	**2,382**	**8,682**
	XM25 Air Burst Weapon System (Note: transferred from RDTE,A line 114)				+6,300
71	**LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV**	**10,485**	**12,485**	**16,485**	**16,685**
	US Army/Army Reserve Performance Support System Phase II		+2,000		+1,700
	Mobile Parts Hospital			+6,000	+4,500
73	**MEDICAL SYSTEMS - ADV DEV**	**10,258**	**13,258**	**22,758**	**21,058**
	Portable Battery Operated Solid-State Electrochemical Oxygen Generator		+2,000		+1,000
	Electrosomotic Pain Therapy System for Adjustable Rate Implantable Drug Delivery		+1,000		+1,000
	Future Medical Shelter System			+7,500	+5,300
	Combat Medical Material-Advanced Development			+5,000	+3,500
78	**AIRCRAFT AVIONICS**	**68,857**	**68,857**	**80,827**	**82,827**
	Fly-By-Wire Upgrades (Note: transfer from RDTE,DW)			+11,970	+11,970
	Army Airborne Avionics Improvement Data Modem				+2,000
79	**ARMED, DEPLOYABLE OH-58D**	**20,000**	**20,000**	**15,000**	**15,000**
	Lack of justification			-5,000	-5,000
82	**JOINT TACTICAL RADIO**	**121,400**	**121,400**	**121,400**	**122,400**
	Logistics Waveform Feasibility Study				+1,000
83	**ALL SOURCE ANALYSIS SYSTEM**	**5,346**	**7,346**	**5,346**	**6,646**
	All Source Analysis System (ASAS) Analysis Control Element (ACE) Light (ASAS ACE Light)		+2,000		+1,300
85	**COMMON MISSILE**	**152,381**	**102,381**	**152,381**	**117,381**
	Funding ahead of need		-50,000		-35,000
86	**INFANTRY SUPPORT WEAPONS**	**28,187**	**30,687**	**38,187**	**35,187**
	XM312 .50 Caliber Advanced Crew Served Weapon		+2,500	+10,000	+7,000
87	**MEDIUM TACTICAL VEHICLES**	**2,854**	**12,554**	**5,854**	**14,654**
	Medium Tactical Vehicle Development		+9,700		+9,700
	FMTV Weight/Cost Reduction Initiative			+3,000	+2,100

R-1		Budget Request	House	Senate	Conference
90	**FAMILY OF HEAVY TACTICAL VEHICLES**	**2,479**	**5,479**	**27,479**	**20,479**
	Mobile Parts Hospital Advanced Development (Note: transferred to RDTE,A line 71)		+3,000		0
	HEMTT A3 SDD			+10,000	+7,000
	Heavy Equipment Transport System (HETS) recap program			+3,000	+2,100
	Palletized Load System (PLS) recap program			+2,000	+1,400
	21st Century Truck and Future Tactical Truck System			+10,000	+7,500
93	**LIGHT TACTICAL WHEELED VEHICLES**	**0**	**12,500**	**10,000**	**10,000**
	PM Program for Bloc Improvement Program (HMMWV)		+12,500	+10,000	+10,000
94	**ARMORED SYSTEMS MODERNIZATION (ASM)-ENG DEV**	**2,700,455**	**2,376,010**	**2,127,018**	**2,374,010**
	Program Overhead/Excess Management Reserve		-248,000	-150,000	-250,000
	NLOS-LS		-76,445		-76,445
	Transfer to 0604646			-79,500	0
	Transfer to 0604647			-343,937	0
NEW	**NON LINE OF SIGHT LAUNCH SYSTEMS**	**0**	**0**	**64,500**	**58,200**
	Transfer from 0604645			79,500	+58,200
	LAM			-15,000	0
95	**NON-LINE OF SIGHT CANNON**	**497,643**	**497,643**	**841,580**	**497,643**
	Transfer from 0604645			+343,937	0
97	**NIGHT VISION SYSTEMS - ENG DEV**	**24,693**	**27,693**	**24,693**	**27,243**
	Multi-Platform Replacement Sight (MRS)		+3,000		+2,550
98	**COMBAT FEEDING, CLOTHING, AND EQUIPMENT**	**115,093**	**99,093**	**115,093**	**102,893**
	Mounted Warrior Nomad Command and Control Head Up Display (C2HUD)		+4,000		+2,800
	Land Warrior/Future Force Warrior consolidation		-20,000		-15,000
105	**AUTOMATIC TEST EQUIPMENT DEVELOPMENT**	**4,713**	**7,713**	**7,213**	**9,113**
	Integrated Family of Test Equipment (IFTE)		+3,000		+2,600
	Integrated Family of Test Equipment - Base Shop Test			+2,500	+1,800
106	**DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - ENGI**	**26,985**	**30,485**	**26,985**	**29,985**
	Rock Drill--Commander's Battlefield Planning Tool		+2,000		+1,700
	Dynamic Re-Addressing and Management for Army (DRAMA)		+1,500		+1,300
108	**ARMY TACTICAL MISSILE SYSTEM (ATACMS)**	**21**	**21**	**21**	**1,821**
	Viper Strike (Note: moved from BAT program line)				+1,800
	BRILLIANT ANTI-ARMOR SUBMUNITION (BAT)	**0**	**0**	**2,521**	**0**
	Viper Strike (Note: moved to RDTE,A line 108)			+2,521	0
111	**COMBINED ARMS TACTICAL TRAINER (CATT) CORE**	**23,849**	**19,109**	**23,849**	**19,109**
	Comanche IOT&E Funding		-4,740		-4,740
113	**AVIATION - ENG DEV**	**2,378**	**2,378**	**3,378**	**3,378**
	Advanced Ballistic Protection			+1,000	+1,000

R-1		Budget Request	House	Senate	Conference
114	**WEAPONS AND MUNITIONS - ENG DEV**	125,885	159,385	149,885	161,085
	Precision Guided Mortar Munition		+1,500		0
	Precision Guided Mortar Munition (PGMM)		+6,000	+10,000	+8,500
	Mortar Anti-Personnel/Materiel (MAPAMS)		+1,000	+4,000	+4,000
	XM25 Air Burst Weapon System (Note: transferred to RDTE,A line 70)		+7,500		0
	Advanced Cannon Artillery Ammunition Program ACA2P		+13,000		+13,000
	Hybrid Propellant for medium and large caliber ammunition		+4,500		+2,700
	Distributed Aperture Semi Active Laser Seeker (DASALS)			+5,000	+3,500
	Common Remotely-Operated Weapons Station (CROWS)			+5,000	+3,500
115	**LOGISTICS AND ENGINEER EQUIPMENT - ENG DEV**	89,151	165,051	96,151	94,451
	Marine Oriented Logistics--Theater Support Vessel (TSV) (Note: only to provide full funding for Army R&D vessel)		+75,900		0
	Rapidly Installed Fuel Transfer System (RIFTS)			+7,000	+5,300
116	**COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - ENG DEV**	219,790	219,790	227,790	227,790
	Standoff Sensor for Radionuclide ID (SSRID)			+8,000	+8,000
117	**MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE EQUIPMENT**	11,727	14,227	15,727	20,127
	LSTAT Medical Technology		+2,500		+1,800
	Chitosan bandage component			+2,500	+2,100
	Bioterrorism Education (Note: transferred from RDTE,A line 154)				+1,000
	Chemical-Biological Casualty Treatment (Note: transferred from RDTE,A line 154)				+2,500
	Cartledge Infuser			+1,500	+1,000
118	**LANDMINE WARFARE/BARRIER - ENG DEV**	51,045	61,045	51,045	59,545
	Magneto Inductive Remote Activation Munition System (MI-RAMS) (Note: only to accelerate MI-RAMS engineering and development and for LRIP)		+10,000		+8,500
119	**ARTILLERY MUNITIONS - EMD**	133,297	142,297	133,297	139,197
	Excalibur XM982 Life Cycle Improvements		+4,000		+3,400
	BONUS Compliance Program (BCP) (Note: only for development and implementation of U.S. Army (PM CAS) BONUS compliance program)		+5,000		+2,500
120	**COMBAT IDENTIFICATION**	6,994	6,994	14,994	12,594
	Integrated Battlefield Combat Situational Awareness			+8,000	+5,600
124	**FIREFINDER**	18,516	20,016	24,516	22,716
	Phoenix AN/TPQ-47		+1,500	+6,000	+4,200
125	**ARTILLERY SYSTEMS - EMD**	9,550	12,550	12,550	12,550
	Paladin-Excalibur Integration		+3,000	+3,000	+3,000

R-1	Budget Request	House	Senate	Conference
127 INFORMATION TECHNOLOGY DEVELOPMENT	**95,261**	**102,261**	**95,261**	**99,811**
Rock Island Arsenal-Information Technology Development (Note: only for a pilot field location for Redstone Arsenal's Integrated Force Protection simulation design work to be located at the Midwest Logistics Operations Center of the Army Field Logistics Command and Joint Munitions Command)		+4,000		+2,000
Knowledge Management System		+3,000		+2,550
Electronic Commodity Project			[1,000]	[1,000]
128 THREAT SIMULATOR DEVELOPMENT	**22,101**	**25,101**	**31,701**	**30,701**
Army Threat Signals Intelligence Program		+3,000		+1,800
RF/SAM Threat Simulator Program			+9,600	+6,800
129 TARGET SYSTEMS DEVELOPMENT	**11,017**	**15,017**	**11,017**	**13,817**
Unmanned Air Vehicle Improved Altitude Control		+4,000		+2,800
130 MAJOR T&E INVESTMENT	**57,987**	**60,987**	**57,987**	**61,487**
Vehicle Durability Simulator		+3,000		+2,500
Network Centric Warfare Digital Battlefield Instrumentation (NCW-DBI)				+1,000
131 RAND ARROYO CENTER	**20,012**	**20,012**	**24,012**	**22,812**
RAND Arroyo Center			+4,000	+2,800
132 ARMY KWAJALEIN ATOLL	**143,921**	**146,421**	**143,921**	**145,721**
Replacement Dome Housing for US Army Kwajalein Atoll		+2,500		+1,800
133 CONCEPTS EXPERIMENTATION PROGRAM	**22,727**	**23,727**	**24,727**	**25,227**
Handwritten Optical Character Recognition Software		+1,000		+1,000
Technology Management and Collaboration Initiative			+2,000	+1,500
135 ARMY TEST RANGES AND FACILITIES	**181,114**	**181,114**	**201,114**	**197,114**
Cold Regions Test Center - hybrid electric infrastructure			+10,000	+9,000
Big Crow Program Office (BCPO)			+10,000	+7,000
136 ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS	**52,433**	**57,433**	**61,933**	**62,683**
White Sands Missile Range (WSMR) Test Modernization		+5,000		+4,250
Chemical-Biological Defense Material Test and Evaluation Initiative			+1,500	+1,000
Advanced Digital Radar System (ADRS)			+3,000	+1,500
White Sands Missile Range Film Elimination			+5,000	+3,500
137 SURVIVABILITY/LETHALITY ANALYSIS	**44,648**	**44,648**	**50,648**	**48,848**
Decision Related Structures			+6,000	+4,200
143 SUPPORT OF OPERATIONAL TESTING	**71,239**	**72,239**	**71,239**	**72,239**
MATTRACKS - Track conversion systems for lightweight wheeled vehicles		+1,000		+1,000
147 TECHNICAL INFORMATION ACTIVITIES	**27,713**	**27,713**	**30,713**	**29,213**
Army High Performance Computing Research			+3,000	+1,500

R-1		Budget Request	House	Senate	Conference
148	**MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY**	**14,611**	**36,611**	**36,111**	**39,811**
	Advanced Cluster Energetics (ACE) Manufacturing Technology		+2,500	+3,000	+2,500
	Advanced Technology Center		+1,500		+1,050
	Aluminum Matrix Composite Technology Partnership - Munitions			+5,000	+2,500
	CZT Detectors for Automated Munitions Inspections and Surveillance		+1,500		+1,050
	Excalibur Life Cycle Improvements (Note: transferred to RDTE,A line 119)			+5,000	0
	Fuel Cells for Munitions		+1,000		+1,000
	Manufacturing Research and Development for Nanotechnologies and Energetic Materials		+1,500		+1,100
	MEMS IMU Technology Capability		+3,000		+1,500
	MEMS Nano Consortium		+2,000		+1,400
	Micro Electrical Mechanical Systems (MEMS) Technology Applications			+1,000	+1,000
	Mid Range Munition (MRM) Life Cycle Improvements			+5,000	+3,500
	Mid-Range Munition		+1,000		+1,000
	Munitions Life Cycle Pilot Processes		+2,000		+1,400
	Munitions Public Private Partnerships (Energetics, Sensors, Seekers)		+3,500		+2,500
	Nanoparticle Development for Energetic Materials		+2,000		+1,700
	Nanotechnology Technologies for Defense Applications			+2,000	+1,500
	OMEGA 60 Battle Effect Simulators		+500	+500	+500
152	**MLRS PRODUCT IMPROVEMENT PROGRAM**	**97,422**	**112,422**	**97,422**	**110,172**
	GMLRS Unitary		+15,000		+12,750
153	**AEROSTAT JOINT PROJECT OFFICE**	**81,514**	**84,514**	**81,514**	**83,014**
	MEMS Demonstration Radar System (MEMS DRS)		+3,000		+1,500
154	**DOMESTIC PREPAREDNESS AGAINST WEAPONS OF MASS DESTRUCTION**	**0**	**1,000**	**5,000**	**0**
	Bioterrorism Education (Note: transferred to RDTE,A line 117)		+1,000		0
	Chemical-Biological Casualty Treatment (Note: transferred to RDTE,A line 117)			+5,000	0
156	**COMBAT VEHICLE IMPROVEMENT PROGRAMS**	**15,952**	**23,952**	**15,952**	**17,952**
	Digitization Support to Ft. Hood (University XXI) (Note: transferred to RDTE,A line 160)		+4,000		0
	Combat Vehicle Electronics for Future and Current Programs (Note: only to develop next generation electronics for current and future combat vehicles, and to accelerate standardization of their vetronic architecture)		+4,000		+2,000
158	**AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS**	**242,853**	**253,853**	**222,853**	**250,053**
	Maintenance Analysis Safety and Training (MAST) program		+5,000		+2,500
	Helicopter Autonomous Landing System (HALS) Prototype Sensor		+4,000		+2,000
	Army Distributed Mission Training System		+2,000		+1,700
	IMD-HUMS, UH-60L Army Demonstration			+30,000	+21,000
	ACS Contract award delay			-50,000	-20,000

R-1		Budget Request	House	Senate	Conference
159	**AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM**	**2,427**	**2,427**	**12,427**	**7,427**
	FADEC for Kiowa Warrior & Mission Enhanced Little Bird			+10,000	+5,000
160	**DIGITIZATION**	**24,506**	**24,506**	**24,506**	**26,506**
	Digitization Support to Ft. Hood (University XXI) (Note: transferred from RDTE,A line 156)				+2,000
162	**MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM**	**31,690**	**31,690**	**31,690**	**33,690**
	Advanced Composite Radome (Note: transferred from general provision Sec. 8154)				+2,000
171	**SECURITY AND INTELLIGENCE ACTIVITIES**	**0**	**14,000**	**4,000**	**14,600**
	Information Dominance Center-Mobile Agent Technology		+6,000		+4,200
	Automated Communications Support System for WARFIGHTERS, Intelligence Community and Analysts		+1,000		+1,000
	Global Anti-Terrorist Activity Analysis Capability at the INSCOM Information Dominance Center		+3,000		+2,100
	Portable Iris Enrollment and Recognition (PIER) Device (Note: only for continued development of the PIER and the associated multi-modal platform)		+4,000		+2,000
	Security Command - Information and Dominance Center (Note: transferred from general provision)				+2,300
	Document Exploitation			+4,000	+3,000
172	**INFORMATION SYSTEMS SECURITY PROGRAM**	**24,725**	**24,725**	**30,725**	**29,825**
	Biometrics – testing of technology			+6,000	+5,100
174	**SATCOM GROUND ENVIRONMENT (SPACE)**	**51,959**	**54,959**	**51,959**	**54,059**
	KaSAT		+3,000		+2,100
177	**TACTICAL UNMANNED AERIAL VEHICLES**	**45,627**	**48,627**	**55,127**	**54,377**
	Army I-GNAT ER Unmanned Aircraft		+3,000		+2,100
	Small Platform Modern Signal Communications Intelligence (COMINT)			+9,500	+6,650
178	**AIRBORNE RECONNAISSANCE SYSTEMS**	**5,128**	**5,128**	**11,328**	**8,228**
	Hyperspectral Longwave Imager for the Tactical Environment (HYLITE)			+6,200	+3,100
179	**DISTRIBUTED COMMON GROUND SYSTEMS**	**43,254**	**55,254**	**50,254**	**54,904**
	ASAS Light		+2,000		+1,400
	Intelligence Data Exchange for Execution and Planning, Distributed Common Ground Systems		+3,000		+2,550
	Joint Visualization System (JVS)		+2,000		+1,700
	Automatic Target Cueing System		+5,000		+2,500
	Intelligence Data Exchange for Execution and Planning (I-DEEP) DCGS			+7,000	+3,500

R-1		Budget Request	House	Senate	Conference
181	**END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES**	**67,236**	**83,236**	**86,836**	**91,886**
	Free Form Low Cost Fabrication using titanium			+2,000	+1,400
	High Temperature Structural Ceramic Materials		+3,000		+1,800
	Laser Engineered Net Shaping (LENS) Manufacturing Qualification			+2,500	+1,800
	Laser Peening		+1,000		+1,000
	Laser System Development for Turbine Engine Applications			+3,000	+1,500
	LEAN Munitions Program		+3,000		+1,500
	Manufacturing Metrology for Weapon System Production & Sustainment			+1,600	+1,000
	Manufacturing Systems Demonstration			+2,500	+1,900
	National Center for Defense Manufacturing & Machining		+4,000		+3,400
	Packaging and Interconnection Technology			+5,000	+2,500
	Reactive Armor Plasma (RAP) Processing		+3,000		+2,550
	Six Sigma Lean Enterprise		+1,000		+1,000
	Third Generation Dual Band Infrared Imagers		+1,000		+1,000
	Virtual Parts			+3,000	+2,300
DCF	**Defense Language Institute**	**0**	**2,500**	**0**	**5,000**
	Satellite Communications for Learning (SCOLA)		+2,500		+2,000
	Broadband Language Training System				+3,000

Future Combat System

The conferees direct that the Army adhere to the following funding structure in execution of appropriations provided for fiscal year 2005, and in preparation of the fiscal year 2006 budget request.

0604645A: Armored Systems Modernization	$2,374,010,000
—System of Systems (SoS) Engineering and Program Management, Family of Systems Analysis and Integration, Network Software, Systems Integration Platforms-Management, SoS Test and Evaluation, Government Cost, Other Contract Cost	1,570,610,000
—Sustainment	53,600,000
—UAV Reconnaissance & Sensors	154,200,000
—Unmanned Ground Vehicles	137,100,000
—Manned Ground Vehicles	429,000,000
—Unattended Ground Sensors.	29,500,000
New P.E.: Non-Line of Sight Launch System	58,200,000
0604647A: Non Line of Sight Cannon (NLOS–C)	497,643,000
Total	2,929,853,000

The projects identified within program element 0604645A, Armored Systems Modernization, are congressional special interest items for the purpose of prior approval reprogrammings as discussed elsewhere in this report. Funds provided in a new program element for the Non Line of Sight Launch System (NLOS–LS) are subject to normal prior approval reprogramming procedures as described elsewhere in this report.

The conferees direct that the Secretary of the Army provide a report to the congressional defense committees not later than November 1, 2004, that outlines the program definition including missile configurations for NLOS–LS.

Non Line of Sight Cannon

The conferees agree with the guidance provided in the House report accompanying the fiscal year 2005 DoD Appropriations bill concerning the Non Line of Sight Cannon and Resupply Vehicle (NLOS-C). Accordingly, the conference agreement includes a general provision (Sec. 8109) that directs the Army to program and budget for NLOS–C for fielding in 2010. The conferees direct that fielding shall be conducted as defined by Army Regulation 700–142.

As noted elsewhere in the report, the budget request includes $497,643,000 for NLOS–C. The conferees recognize that $93,686,000 of this amount was requested explicitly for the purpose of developing mission equipment unique to NLOS–C. Accordingly, the conferees direct that this amount is a congressional special interest item for the purpose of prior approval reprogrammings.

Land Warrior and Future Force Warrior

The conferees direct the Secretary of the Army to submit to the congressional defense committees a plan, not later than January 31, 2005, to consolidate the Land Warrior and Future Force Warrior programs into a single program, benefiting from the efficiencies of each. The conferees also recommend a reduction to the Future Force Warrior program of $5,000,000 and a reduction to the Land Warrior program of $15,000,000, as a result of anticipated efficiencies gained through consolidation of these two programs. The consolidated program should take on the focus of the Army's Future Combat System (FCS) and provide the Army with a FCS dismounted capability for the individual soldier. Further, the conferees understand that it is possible to field a dismounted capability immediately to the Stryker Brigades currently deployed in combat. Therefore, the conferees recommend that the combined program re-focus its procurement strategy to incorporate these emerging capabilities, such as the Commanders Digital Assistant (CDA) and hand-held EPLRS capabilities, into the Stryker brigades immediately.

Aerial Common Sensor

The Aerial Common Sensor (ACS) program, when fielded, will be the Army's premier multi-intelligence, precision targeting airborne intelligence, surveillance and reconnaissance (ISR) capability. This state of the art platform will replace the Army's Guardrail Common Sensor and Airborne Reconnaissance Low systems. The conferees note that the fiscal year 2005 budget request included $149,000,000 to initiate this critical intelligence modernization program based on an anticipated award date of January, 2004. Unfortunately, the Army has yet to make any contract award. The revised estimate of the award date is at least 8 months beyond the date briefed to Congress. For this reason, the Senate bill reduced the program by $50,000,000. The conferees remain concerned with the pace of this program and in particular, note that it is a critical program whose delay only sets back the Army's ISR mission. The conference agreement provides $129,000,000 for the Aerial Common Sensor program, a reduction of $20,000,000.

Patriot PAC–3/Medium Extended Air Defense System (MEADS)

The conferees support the view expressed in the report accompanying the House version of the fiscal year 2005 Department of Defense Appropriations bill that DoD should continue its plans to merge the PAC–3 and MEADS programs under Army cognizance. The conferees are also concerned about the delays in implementing this management structure, and their potential effect. Accordingly, the conferees direct the Secretary of the Army to develop a plan to merge these programs as directed by the April 2003 Acquisition Decision Memorandum, and provide a report to the congressional defense committees on this plan not later than February 15, 2005.

Guided Multiple Launch Rocket System (GMLRS)-Unitary

The conferees provide an additional $12,750,000 above the budget request of $97,422,000 for the Multiple Launch Rocket System (MLRS) Product Improvement program, for a total of $112,422,000 to accelerate development and fielding of the GMLRS-Unitary munition to US forces in high-risk locations by fiscal year 2006. The conferees direct that this total amount is a congressional special interest item for the purpose of prior approval reprogrammings.

Land Mine Alternatives

The conferees direct the Secretary of the Army to submit a report on land mine alternatives as directed by the Senate to the congressional defense committees by no later than January 3, 2005.

Broadband Language Training Programs

The conferees support the development of Broadband Language Training programs and, accordingly, provide $3,000,000 to advance Broadband Language Training Systems at the Defense Language Institute (DLI) within the newly established DLI program element as described elsewhere in this report. The conferees understand that issues have arisen delaying the execution of the fiscal year 2004 funding for this program. Accordingly, the conferees recommend a rescission of $4,000,000 from Research, Development, Test and Evaluation, Army funds made available in fiscal year 2004.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, NAVY				
BASIC RESEARCH				
UNIVERSITY RESEARCH INITIATIVES	83,508	95,008	87,008	92,208
IN-HOUSE LABORATORY INDEPENDENT RESEARCH	17,664	17,664	20,164	19,564
DEFENSE RESEARCH SCIENCES	375,812	385,812	380,312	384,212
TOTAL, BASIC RESEARCH	476,984	498,484	487,484	495,984
APPLIED RESEARCH				
POWER PROJECTION APPLIED RESEARCH	98,831	125,831	127,831	137,331
FORCE PROTECTION APPLIED RESEARCH	96,269	113,769	150,269	145,069
MARINE CORPS LANDING FORCE TECHNOLOGY	35,398	36,398	36,898	37,398
HUMAN SYSTEMS TECHNOLOGY	---	2,000	---	1,500
MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY	---	5,500	---	4,000
COMMON PICTURE APPLIED RESEARCH	60,134	72,634	97,634	103,134
WARFIGHTER SUSTAINMENT APPLIED RESEARCH	63,726	117,926	112,526	131,026
RF SYSTEMS APPLIED RESEARCH	49,151	56,651	65,151	65,351
OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH	48,482	73,982	55,482	67,682
UNDERSEA WARFARE APPLIED RESEARCH	64,060	73,560	84,060	85,260
MINE AND EXPEDITIONARY WARFARE APPLIED RESEARCH	48,016	48,016	48,016	48,016
TOTAL, APPLIED RESEARCH	564,067	726,267	777,867	825,767

(In thousands of dollars)

	Budget	House	Senate	Conference
ADVANCED TECHNOLOGY DEVELOPMENT				
POWER PROJECTION ADVANCED TECHNOLOGY	92,359	125,859	125,359	140,459
FORCE PROTECTION ADVANCED TECHNOLOGY	82,130	166,230	135,480	183,530
COMMON PICTURE ADVANCED TECHNOLOGY	79,521	80,521	83,521	83,921
WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY	61,103	83,603	91,103	95,203
RF SYSTEMS ADVANCED TECHNOLOGY	44,046	60,046	63,046	72,446
MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)	58,222	77,222	79,222	89,422
NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM	167,626	170,626	167,626	169,126
WARFIGHTER PROTECTION ADVANCED TECHNOLOGY	16,719	70,719	29,319	67,519
UNDERSEA WARFARE ADVANCED TECHNOLOGY	26,515	28,515	33,015	33,415
JOINT WARFARE EXPERIMENTS	26	26	26	26
NAVY WARFIGHTING EXPERIMENTS AND DEMONSTRATIONS	16,006	16,006	16,006	16,006
MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOLOGY	32,899	34,899	32,899	34,599
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	677,172	914,272	856,622	985,672
DEMONSTRATION & VALIDATION				
AIR/OCEAN TACTICAL APPLICATIONS	24,431	25,931	24,431	25,431
AVIATION SURVIVABILITY	10,820	34,020	31,820	39,820
DEPLOYABLE JOINT COMMAND AND CONTROL	42,394	42,394	42,394	42,394
ASW SYSTEMS DEVELOPMENT	4,541	12,541	15,541	18,041
TACTICAL AIRBORNE RECONNAISSANCE	6,448	6,448	6,448	6,448
ADVANCED COMBAT SYSTEMS TECHNOLOGY	67,605	67,605	67,605	67,605
SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	103,308	104,308	94,841	100,808
SURFACE SHIP TORPEDO DEFENSE	46,896	54,896	50,896	54,296
CARRIER SYSTEMS DEVELOPMENT	157,479	164,979	162,479	164,679
SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	18,993	33,493	41,993	45,693
PILOT FISH	78,223	78,223	78,223	78,223
RETRACT LARCH	82,532	82,532	82,532	82,532
RETRACT JUNIPER	36,915	36,915	36,915	36,915
RADIOLOGICAL CONTROL	946	946	946	946
SURFACE ASW	17,633	17,633	21,433	20,033

	(In thousands of dollars)			
	Budget	House	Senate	Conference
SSGN CONVERSION	19,970	19,970	19,970	19,970
ADVANCED SUBMARINE SYSTEM DEVELOPMENT	81,160	78,160	93,160	89,260
SUBMARINE TACTICAL WARFARE SYSTEMS	5,957	5,957	5,957	5,957
SHIP CONCEPT ADVANCED DESIGN	3,723	10,723	21,723	16,323
ADVANCED NUCLEAR POWER SYSTEMS	169,733	169,733	169,733	169,733
ADVANCED SURFACE MACHINERY SYSTEMS	---	4,000	---	3,400
CHALK EAGLE	47,786	47,786	47,786	47,786
LITTORAL COMBAT SHIP (LCS)	352,089	409,089	352,089	457,089
COMBAT SYSTEM INTEGRATION	80,840	81,340	112,540	100,140
CONVENTIONAL MUNITIONS	34,151	34,151	34,151	34,151
MARINE CORPS ASSAULT VEHICLES	236,969	237,969	249,969	245,669
MARINE CORPS MINE/COUNTERMEASURES SYSTEMS - ADV DEV	4,522	4,522	4,522	4,522
MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	22,440	27,440	39,140	35,240
JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	18,047	18,047	18,047	18,047
COOPERATIVE ENGAGEMENT	103,452	103,452	103,452	103,452
OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	26,232	29,732	26,232	28,832
ENVIRONMENTAL PROTECTION	24,641	26,891	27,641	28,391
NAVY ENERGY PROGRAM	1,494	3,494	9,494	7,794
FACILITIES IMPROVEMENT	1,621	1,621	7,621	4,621
CHALK CORAL	58,467	49,367	58,467	58,467
NAVY LOGISTIC PRODUCTIVITY	7,421	26,921	7,421	19,621
RETRACT MAPLE	275,407	262,407	275,407	273,907
LINK PLUMERIA	112,997	104,097	112,997	112,997
RETRACT ELM	48,130	48,130	48,130	48,130
SHIP SELF DEFENSE (DEM/VAL)	9,493	9,493	9,493	9,493
LINK EVERGREEN	63,346	63,346	63,346	63,346
SPECIAL PROCESSES	44,232	44,232	44,232	44,232
NATO RESEARCH AND DEVELOPMENT	10,151	10,151	10,151	10,151
LAND ATTACK TECHNOLOGY	82,049	88,586	73,386	101,286
NONLETHAL WEAPONS (DEM/VAL)	43,321	46,321	43,321	45,871

	(In thousands of dollars)			
	Budget	House	Senate	Conference
ALL SERVICE COMBAT IDENTIFICATION EVALUATION TEAM.....	13,626	13,626	13,626	13,626
JOINT PRECISION APPROACH AND LANDING SYSTEMS (DEM/VAL)	32,391	32,391	32,391	32,391
SINGLE INTEGRATED AIR PICTURE (SIAP) SYSTEM ENGINEER..	20,252	20,252	20,252	20,252
TACTICAL AIR DIRECTIONAL INFRARED COUNTERMEASURES (TAD	---	3,000	7,000	7,200
DISRUPTIVE TECHNOLOGY OPPORTUNITIES FUND (DTOF).......	---	6,000	---	5,100
COUNTER-DRUG RDT&E PROJECTS...........................	---	---	3,000	3,800
SPACE & ELECTRONIC WARFARE (SEW) ARCHITECTURE/ENGINE..	25,943	25,943	25,943	25,943
JOINT WARFARE TRANSFORMATION PROGRAMS.................	22,450	22,450	22,450	22,450
TOTAL, DEMONSTRATION & VALIDATION..................	2,803,667	2,953,654	2,972,737	3,122,504
ENGINEERING & MANUFACTURING DEVELOPMENT				
OTHER HELO DEVELOPMENT................................	186,970	186,970	186,970	186,970
AV-8B AIRCRAFT - ENG DEV..............................	12,284	13,284	12,284	13,284
STANDARDS DEVELOPMENT.................................	57,675	66,175	57,675	61,875
MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT..........	78,757	82,757	78,757	82,157
AIR/OCEAN EQUIPMENT ENGINEERING.......................	4,506	4,506	4,506	4,506
P-3 MODERNIZATION PROGRAM.............................	9,554	15,554	10,554	13,554
WARFARE SUPPORT SYSTEM................................	5,201	5,201	5,201	5,201
TACTICAL COMMAND SYSTEM...............................	49,180	65,180	49,180	61,480
E-2C RADAR MODERNIZATION..............................	597,015	597,015	597,015	597,015
H-1 UPGRADES..	90,389	132,389	132,389	132,389
ACOUSTIC SEARCH SENSORS...............................	13,363	15,363	13,363	14,763
V-22A...	304,164	253,164	297,164	266,164
AIR CREW SYSTEMS DEVELOPMENT..........................	8,838	18,838	12,838	16,638
EA-18...	357,502	357,502	357,502	357,502
EW DEVELOPMENT..	48,956	48,956	51,456	50,256
VHXX EXECUTIVE HELO DEVELOPMENT.......................	777,398	557,398	557,398	557,398
JOINT TACTICAL RADIO SYSTEM - NAVY (JTRS-NAVY)........	78,624	83,624	78,624	80,624
SC-21 TOTAL SHIP SYSTEM ENGINEERING...................	1,431,585	1,182,785	1,210,469	1,176,469
SURFACE COMBATANT COMBAT SYSTEM ENGINEERING...........	146,463	162,963	146,463	159,963

	(In thousands of dollars)			
	Budget	House	Senate	Conference
LPD-17 CLASS SYSTEMS INTEGRATION	8,988	8,988	8,988	8,988
TRI-SERVICE STANDOFF ATTACK MISSILE	27,047	27,047	27,047	27,047
SMALL DIAMETER BOMB (SDB)	9,961	9,961	9,961	9,961
STANDARD MISSILE IMPROVEMENTS	99,022	110,022	112,022	112,022
AIRBORNE MCM	50,514	50,514	50,514	51,514
SSN-688 AND TRIDENT MODERNIZATION	75,359	103,359	84,959	96,159
AIR CONTROL	13,102	13,102	20,102	16,602
ENHANCED MODULAR SIGNAL PROCESSOR	1,075	1,075	1,075	1,075
SHIPBOARD AVIATION SYSTEMS	28,631	28,631	30,131	29,631
COMBAT INFORMATION CENTER CONVERSION	8,228	11,228	8,228	10,728
NEW DESIGN SSN	143,270	141,270	208,370	173,170
SSN-21 DEVELOPMENTS	3,020	3,020	3,020	3,020
SUBMARINE TACTICAL WARFARE SYSTEM	43,404	46,904	49,404	49,004
SHIP CONTRACT DESIGN/ LIVE FIRE T&E	130,908	86,728	148,908	137,908
NAVY TACTICAL COMPUTER RESOURCES	2,381	13,381	2,381	8,381
MINE DEVELOPMENT	6,123	6,123	6,123	6,123
LIGHTWEIGHT TORPEDO DEVELOPMENT	9,965	9,965	12,965	11,465
JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	8,081	12,081	8,081	12,481
PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS	3,005	3,005	3,005	3,005
BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM	17,981	32,481	19,481	30,281
JOINT STANDOFF WEAPON SYSTEMS	9,531	11,531	9,531	11,231
SHIP SELF DEFENSE (DETECT & CONTROL)	48,154	53,154	68,154	66,754
SHIP SELF DEFENSE (ENGAGE: HARD KILL)	51,213	51,213	51,213	51,213
SHIP SELF DEFENSE (ENGAGE: SOFT KILL/EW)	28,233	40,233	36,233	43,433
MEDICAL DEVELOPMENT	6,942	52,042	32,942	51,292
NAVIGATION/ID SYSTEM	28,104	28,104	28,104	28,104
DISTRIBUTED SURVEILLANCE SYSTEM	7,776	9,776	13,776	12,676
JOINT STRIKE FIGHTER (JSF) - EMD	2,264,507	2,168,507	2,264,507	2,168,507
SMART CARD	695	695	695	695
INFORMATION TECHNOLOGY DEVELOPMENT	9,301	9,301	9,301	9,301

	(In thousands of dollars)			
	Budget	House	Senate	Conference
INFORMATION TECHNOLOGY DEVELOPMENT	109,543	113,043	106,293	122,543
MULTI-MISSION MARITIME AIRCRAFT (MMA)	496,029	496,029	496,029	496,029
TOTAL, ENGINEERING & MANUFACTURING DEVELOPMENT	8,008,517	7,602,137	7,791,351	7,698,551
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT	23,866	23,866	23,866	23,866
TARGET SYSTEMS DEVELOPMENT	35,677	35,677	35,677	35,677
MAJOR T&E INVESTMENT	39,787	43,287	42,787	42,987
STUDIES AND ANALYSIS SUPPORT - NAVY	2,183	2,183	2,183	2,183
CENTER FOR NAVAL ANALYSES	43,982	43,982	43,982	43,982
FLEET TACTICAL DEVELOPMENT	2,338	2,338	2,338	2,338
TECHNICAL INFORMATION SERVICES	696	12,196	20,696	26,396
MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT	31,407	31,407	31,407	31,407
STRATEGIC TECHNICAL SUPPORT	3,493	3,493	3,493	3,493
RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	66,117	66,117	62,317	62,317
RDT&E INSTRUMENTATION MODERNIZATION	19,370	19,370	19,370	19,370
RDT&E SHIP AND AIRCRAFT SUPPORT	81,308	81,308	81,308	81,308
TEST AND EVALUATION SUPPORT	255,926	258,426	255,926	258,026
OPERATIONAL TEST AND EVALUATION CAPABILITY	13,044	13,044	13,044	13,044
NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT	2,941	2,941	2,941	2,941
SEW SURVEILLANCE/RECONNAISSANCE SUPPORT	12,160	13,160	12,160	13,160
MARINE CORPS PROGRAM WIDE SUPPORT	19,701	28,101	27,701	31,401
TOTAL, RDT&E MANAGEMENT SUPPORT	653,996	680,896	681,196	693,896
OPERATIONAL SYSTEMS DEVELOPMENT				
STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	108,782	96,782	107,782	100,682
SSBN SECURITY TECHNOLOGY PROGRAM	43,408	43,408	43,408	43,408
SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	8,453	13,453	8,453	11,453
NAVY STRATEGIC COMMUNICATIONS	31,391	31,391	31,391	31,391
RAPID TECHNOLOGY TRANSITION (RTT)	14,630	14,630	14,630	14,630
F/A-18 SQUADRONS	134,580	136,580	136,580	138,280

	(In thousands of dollars)			
	Budget	House	Senate	Conference
E-2 SQUADRONS	6,055	9,555	16,055	18,755
FLEET TELECOMMUNICATIONS (TACTICAL)	19,784	22,784	21,284	23,184
TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC)	28,776	31,776	36,776	32,776
INTEGRATED SURVEILLANCE SYSTEM	16,965	23,965	21,965	25,165
AMPHIBIOUS TACTICAL SUPPORT UNITS	2,604	4,104	2,604	3,704
CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	21,644	24,644	21,644	23,644
CRYPTOLOGIC DIRECT SUPPORT	1,460	1,460	1,460	1,460
ELECTRONIC WARFARE (EW) READINESS SUPPORT	12,139	12,139	12,139	12,139
HARM IMPROVEMENT	163,371	168,371	163,371	167,271
TACTICAL DATA LINKS	18,977	18,977	18,977	18,977
SURFACE ASW COMBAT SYSTEM INTEGRATION	10,612	22,612	13,612	21,012
MK-48 ADCAP	21,620	21,620	21,620	21,620
AVIATION IMPROVEMENTS	62,635	82,635	64,635	78,935
NAVY SCIENCE ASSISTANCE PROGRAM	3,821	3,821	7,821	7,221
OPERATIONAL NUCLEAR POWER SYSTEMS	64,554	64,554	64,554	64,554
MARINE CORPS COMMUNICATIONS SYSTEMS	268,638	297,638	267,278	286,788
MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS	44,828	48,828	48,978	51,928
MARINE CORPS COMBAT SERVICES SUPPORT	10,731	10,731	10,731	11,731
TACTICAL AIM MISSILES	4,061	1,561	4,061	4,061
ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	9,085	9,085	9,085	9,085
SATELLITE COMMUNICATIONS (SPACE)	573,092	470,592	473,092	468,992
INFORMATION SYSTEMS SECURITY PROGRAM	18,676	18,676	30,676	26,776
COBRA JUDY	80,694	80,694	93,694	93,694
NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (METOC)	4,215	4,215	4,215	6,215
JOINT C4ISR BATTLE CENTER (JBC)	43,569	43,569	43,569	44,669
JOINT MILITARY INTELLIGENCE PROGRAMS	4,746	4,746	4,746	4,746
TACTICAL UNMANNED AERIAL VEHICLES	53,439	65,439	83,439	80,239
ENDURANCE UNMANNED AERIAL VEHICLES	113,438	83,438	113,438	98,438
AIRBORNE RECONNAISSANCE SYSTEMS	10,191	11,191	14,191	14,591
MANNED RECONNAISSANCE SYSTEMS	20,203	28,203	20,203	27,003

	(In thousands of dollars)			
	Budget	House	Senate	Conference
DISTRIBUTED COMMON GROUND SYSTEMS	3,635	21,298	6,635	13,235
AERIAL COMMON SENSOR (ACS) (JMIP)	24,909	24,909	24,909	24,909
MODELING AND SIMULATION SUPPORT	7,262	7,262	24,762	19,962
INDUSTRIAL PREPAREDNESS	56,565	61,565	58,565	60,365
MARITIME TECHNOLOGY (MARITECH)	10,265	10,265	10,265	10,265
TOTAL, OPERATIONAL SYSTEMS DEVELOPMENT	2,158,503	2,153,166	2,177,293	2,217,953
CLASSIFIED PROGRAMS	1,003,485	1,003,485	1,003,485	1,003,485
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, NAVY	16,346,391	16,532,361	16,748,035	17,043,812

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
(In thousands of dollars)

R-1		Budget Request	House	Senate	Conference
1	**UNIVERSITY RESEARCH INITIATIVES**	**83,508**	**95,008**	**87,008**	**92,208**
	Defense Commercialization Research Initiative (Note: only for the continued development of the Technology Research, Education and Commercialization Center)		+4,000		+4,000
	Center for microwave ferrites and multi-functional integrated circuits		+1,000		+1,000
	National Security Training		+1,500		+1,000
	Center for Southeastern Tropical Advanced Remote Sensing (CSTARS)		+5,000		+2,500
	Nanoparticle materials research			+1,500	+1,100
	Neural engineering research			+1,500	+1,000
	Nanoscience research			+3,000	+1,500
	Remote sensing research			+1,000	+1,000
	Multifunctional materials for Naval structures			+2,500	+1,600
	University research instrumentation program growth			-6,000	-6,000
2	**IN-HOUSE LABORATORY INDEPENDENT RESEARCH**	**17,664**	**17,664**	**20,164**	**19,564**
	Navy S&T outreach			+2,500	+1,900
3	**DEFENSE RESEARCH SCIENCES**	**375,812**	**385,812**	**380,312**	**384,212**
	Facial recognition technology research and development		+3,000		+1,600
	Intelligent Autonomous Networks & Systems (AINS) (Note: only for Phase III STTR (N02-T015) demonstration and validation of the ad-hoc data communications system for the AINS program)		+1,000		+1,000
	Brain-based intelligent system (Note: only for the development of an embedded low-power self-instructive computer system)		+4,000		+2,000
	Hydrogen for fuel cells		+2,000		+1,000
	Academy for Closing and Avoiding Achievement Gaps			+1,000	+1,000
	UNOLS Research Vessel			+3,500	+1,800

R-1		Budget Request	House	Senate	Conference
4	**POWER PROJECTION APPLIED RESEARCH**	**98,831**	**125,831**	**127,831**	**137,331**
	Firelider- a non-thermal means of seeing through fire and smoke		+2,000		+1,700
	Kill Assist Adverse-Weather Targeting System (KAATS)		+2,000		+1,700
	Device integration of WBG semiconductors and crystalline oxides		+2,000		+1,700
	Millimeter/terahertz imaging arrays		+2,500		+2,100
	Advanced reactive-material-enhanced nanocomposite warheards (ARMENW)		+3,000		+2,600
	Advanced high-energy thermobaric warhead development		+1,000		+1,000
	Unattended imaging sensor network (UISN)		+1,000		+1,000
	Interrogator for high-speed retro-reflector covert communications		+4,000		+2,000
	Advanced hybrid stored energy devices for affordable air weaponry		+3,000		+1,500
	Hypersonic weapons enabling capability		+2,000		+1,000
	Advanced smart optical sensor payload technology for surveillance		+2,000		+1,000
	Integrated personnel protection system		+2,500		+1,200
	Integrated Biological Warfare Technology Platform			+7,000	+3,500
	Silver Fox Unmanned Aerial Vehicle (UAV)			+5,000	+2,500
	Aircraft Carrier Surveillance System			+4,000	+2,800
	Combustion Light Gas Gun			+5,000	+4,200
	Mobile On-Scene Sensor Aircraft C4I Center				+1,000
	Thermal Management Systems for High Density Electronics			+8,000	+6,000

R-1		Budget Request	House	Senate	Conference
5	**FORCE PROTECTION APPLIED RESEARCH**	**96,269**	**113,769**	**150,269**	**145,069**
	Battery charging technology (Note: only to continue and expand the existing program to develop advanced battery charging algorithms)		+2,500		+2,100
	Lightweight Ship Structures (LSS) (Note: only for an initiative to focus on optimizing and qualifying a family of high strength scandium containing marine grade aluminum alloys)		+1,000		+1,000
	Composite repair of metal structures		+1,000		+1,000
	High efficiency quiet electric drive		+1,000		+1,000
	Blast resistant anechoic sprayable elastomeric coatings for Navy ships		+2,000		+1,000
	Low-cost rapid prototype/production technology for polymeric aircraft components initiative (Note: only for completion of this initiative)		+2,000	+4,500	+2,300
	Center for critical infrastructure protection		+8,000		+6,800
	ADPICAS			+1,500	+1,500
	Structural Reliability of FRP Composites in Ship Assemblies			+1,000	+1,000
	Hyperspectral Data Fusion			+4,000	+3,400
	Unmanned Sea Surface Vehicles for Maritime Missions			+5,000	+3,500
	Miniature Autonomous Vehicles (MAVs)			+3,000	+1,800
	Integrated Fuel Processor - Fuel Cell System			+3,000	+2,000
	Corrosion Modeling Software Project - NAVAIR			+6,000	+4,200
	Small Watercraft Propulsion Demonstrator			+3,000	+1,500
	Mark V Patrol Boat Replacement Craft Prototype			+3,000	+1,500
	PMRF Force Protection Lab			+8,000	+8,000
	Project Endeavor			+2,000	+1,700
	Composites Development for Navy Low Rise Construction			+3,000	+1,500
	Lithium Ion Joint Unmanned Combat Air System Battery (moved to RDT&E, DW, line 34)			+3,000	0
	Theater Support Vessel Hull Material Development			+4,000	+2,000
6	**MARINE CORPS LANDING FORCE TECHNOLOGY**	**35,398**	**36,398**	**36,898**	**37,398**
	Expeditionary Force Infrastructure Initiative (EFI)		+1,000		+1,000
	Advanced Lead Acid Battery Development for Military Vehicles			+1,500	+1,000
8	**HUMAN SYSTEMS TECHNOLOGY**	**0**	**2,000**	**0**	**1,500**
	Human Systems Integration/SEAPRINT		+2,000		+1,500

R-1		Budget Request	House	Senate	Conference
9	**MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY**	0	5,500	0	4,000
	Porous materials (Note: only to continue ongoing research into porous material characterization)		+1,500		+1,500
	DoD Agile Manufacturing Center for Castings Technology at NUWC Keyport		+1,000		+1,000
	Formable aligned carbon thermosets (FACTS)		+3,000		+1,500
10	**COMMON PICTURE APPLIED RESEARCH**	60,134	72,634	97,634	103,134
	National Center for Advanced Secure Systems Research		+5,000		+5,000
	SEAdeep		+3,500		+2,500
	Web-based technology insertion (Note: only for the Expeditionary Warfare Testbed, NSWC, Panama City)		+1,000		+1,000
	Common Sensor Module (COSM)		+3,000		+1,800
	AIREP			+12,500	+11,600
	Testing, Evaluation and Demonstration of Webster			+3,000	+1,500
	M2C2			+7,000	+6,000
	NAIF			+6,000	+6,000
	Theater Undersea Warfare Initiative			+9,000	+7,600

R-1		Budget Request	House	Senate	Conference
11	**WARFIGHTER SUSTAINMENT APPLIED RESEARCH**	**63,726**	**117,926**	**112,526**	**131,026**
	Hydrate desalination technology		+2,500		+2,100
	Atmospheric water harvesting		+1,000		+1,000
	Novel materials synthesis and characterization		+5,000		+3,500
	National Unmanned Undersea Vehicle (UUV) Test and Evaluation Center		+9,000		+5,900
	Aluminum fabrication utilizing three-dimensional printing		+2,000		+1,400
	Integrated WMD detection and collection system (Note: only to perform applied research, development, test and evaluation to integrate a nuclear, chemical and bio-detection system for multiple mobile applications associated with the Dragon Eye-Advanced Tactical Reconnaissance Program)		+1,000		+1,000
	Naval training, performance and expertise		+1,000		+1,000
	High performance long lasting LO materials for Navy stealth applications		+5,000		+3,000
	Marine Mammal research program		+2,200		+1,100
	Cutting tools for aerospace materials		+4,000		+3,400
	Biosensors for Defense Applications - autonomous sensor platforms for biosensing		+2,000	+3,000	+2,000
	Advanced reinforced materials and new materials research for aircraft tires		+1,000		+1,000
	Human systems technology		+2,000		+1,000
	Advanced fouling and corrosion control coatings for Naval vessels		+2,000	+8,000	+5,600
	SensorNet- common data highway for comprehensive incident management for CBRNE threats		+3,000	+15,000	+12,000
	Durability of composite materials and structures		+2,500		+1,300
	Partnership Simulation Lab for health professions education		+5,000		+2,500
	Virtual Clinical Learning Lab (VCLL) for Nursing and other health professions		+4,000		+2,000
	Coating and Polymeric Films for Naval Applications			+1,400	+1,000
	Agile Vaccinology Research			+4,000	+3,000
	Micro-System Fuze/Safe and Arm Devices			+2,000	+1,000
	Titanium Based Liquidmetal Alloy For Advanced Aerospace Applications			+2,000	+1,400
	Titanium Matrix Composites			+1,900	+1,600
	Rapid Detection and Response Systems for Biodefense			+3,000	+2,100
	Optimizing Adaptive Warrior Performance			+3,000	+2,100
	Advanced Materials and Intelligent Processing Center			+3,000	+2,100
	Motion Coupled Visual Environment (MOCOVE) for Motion Sickness Relief (Transferred from Title IV-DHP)				+1,000
	Rapid and Highly Sensitive Detector of Biowarfare Agents			+2,500	+1,200

R-1		Budget Request	House	Senate	Conference
12	**RF SYSTEMS APPLIED RESEARCH**	49,151	56,651	65,151	65,351
	Wide bandgap materials for power electronics		+2,000		+1,700
	Novel silicon carbide technology development		+2,000		+1,000
	RF vacuum electronics power amplifiers		+2,000		+1,000
	Radar/video fusion vessel and port security demonstration		+1,500		+1,000
	Advanced Microwave Ferrite Research for RF Systems			+2,000	+1,200
	Gallium Nitrate RF Power Technology			+4,000	+2,000
	Pacific Theater Data Fusion Testbed			+3,000	+2,500
	High Brightness Electronics			+2,000	+1,500
	Maritime Synthetic Range			+5,000	+4,300
13	**OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH**	48,482	73,982	55,482	67,682
	Carbon Nanotube-based radiation hard non-volatile RAM		+6,000		+4,500
	Coastal environmental effects (Note: only for the development of a program for the exploitation of basic research in marine biosciences, molecular sciences and proteomics to evolve and field a new generation of hypersensitive detectors for deployment as a part of a wide area environmental signatures collection strategy)		+6,000		+4,200
	South-East Atlantic Coastal Ocean Observing Systems (SEACOOS) (Note: only to continue the development of an integrated sustained ocean observing system to support safe navigation, maritime operations, and characterization of environmental conditions for training exercises and homeland security)		+5,000	+6,000	+5,000
	Oceanographic Sensors for Mine Countermeasures/ Autonomous Marine Sensors (Note: only for continuation of applied research in autonomous marine sensors)		+5,000		+2,500
	Bioluminescence Truth Data Management and Signature Detection - expansion of the database of bioluminescence measurements		+1,500		+1,000
	Extended Capability Underwater Optic Imaging (Note: only to provide an innovative capability that will support underwater Intelligence, Surveillance and Reconnaissance, Homeland Defense, and environmental assessment)		+2,000		+1,000
	Integrated Littoral Sensor Network			+1,000	+1,000
14	**UNDERSEA WARFARE APPLIED RESEARCH**	64,060	73,560	84,060	85,260
	Anti-torpedo Torpedo (6.75 inch diameter) multi-mission undersea weapon		+6,000		+5,100
	Micro-detonics for miniature weapons		+1,500	+4,000	+2,800
	Galfenol alloys		+2,000		+1,200
	Micro Electro Mechanical Systems-Inertial Measurement Units (MEMS-IMU)			+4,000	+2,800
	Magnetorestrictive Transduction Research			+5,000	+4,000
	Acoustic Glider			+5,000	+4,300
	High Powered Ultrasonics/Ship Waste Treatment			+2,000	+1,000

R-1		Budget Request	House	Senate	Conference
16	**POWER PROJECTION ADVANCED TECHNOLOGY**	**92,359**	**125,859**	**125,359**	**140,459**
	Advanced thin film coatings		+2,000		+1,700
	LADAR- Laser Radar		+2,500		+2,100
	High operating temperature midwave infrared sensors		+2,000		+1,700
	Ultra-short pulse laser micromachining		+2,000		+1,700
	Multi-functional, high-performance dual band imaging		+2,000		+1,700
	Advanced technologies for printed wiring assembly fabrication (PWB-HVPC)		+4,000		+3,400
	Low-power mega-performance UAV processing engines		+4,000		+2,000
	Low cost terminal imaging seeker (Note: only to develop and test guidance and control strategies and seeker signal processing algorithms in a simulation environment)		+5,000		+4,500
	DP-2 vectored thrust aircraft program		+10,000		+7,500
	Advanced Lifting Body Research Program			+5,000	+5,000
	Articulated Stable Ocean Platform			+1,000	+1,000
	Quiet High Speed Propulsion			+6,000	+3,600
	Free Electron Laser			+3,000	+2,200
	Space Surveillance Technology			+5,000	+3,500
	Advanced Electric Drives			+3,000	+1,500
	High Speed Anti-Radiation Demonstration (HSAD)			+10,000	+5,000

R-1		Budget Request	House	Senate	Conference
17	**FORCE PROTECTION ADVANCED TECHNOLOGY**	**82,130**	**166,230**	**135,480**	**183,530**
	Dock Shock -- a ship shock test system (Note: only to mature the Dock Shock concept to conduct near shore ship shock testing)		+5,000		+4,300
	Strategic mobility-21 deployment technology (Note: only for the Agile Port and High Speed Ship technology)		+5,000		+4,300
	TADIRCM-- antimissile technology		+8,000		+6,800
	Unmanned force augmentation system		+1,000		+1,000
	Non-line of sight (NLOS) for unmanned systems		+5,000		+4,300
	Unmanned systems technologies for explosive ordnance disposal		+5,000		+4,300
	Extreme terrain medical evacuation vehicle pilot (Note: only for the development and testing of the Zeus-MEV)		+2,000		+1,700
	Missile warning sensor		+3,000		+2,500
	Aviation ground navigation system (AGNAS)		+1,000		+1,000
	Future Naval capabilities- crew modeling and simulation (FNC-CMS)		+3,000		+2,600
	Technologies for future naval capabilities		+1,500		+1,300
	Electromagnetic (EM) rail gun test munition (Note: only for the development of an instrumented test munition that will characterize the test projectile designs being developed for the EM rail gun)		+1,500		+1,100
	Smart Sensor Web Advanced Technology (Note: only for Phase III of the Smart Sensor Web Advanced Technology Program)		+2,500		+1,800
	Superconducting DC homopolar motor		+5,000		+3,700
	Project M		+2,500		+1,900
	Multi-mission warhead for ultra-light torpedo		+3,000		+2,300
	Sandwich panel construction		+5,000	+4,000	+4,000
	Development of sulfur tolerant copper-based solid oxide fuel cell (SOFC) auxiliary power unit prototype that operates with current military logistics fuel		+2,000	+1,000	+1,000
	Deployable fiber optic force protection system		+3,000		+1,800
	High speed permanent magnet generator		+1,000	+10,000	+6,500
	AC synchronous high-temperature superconductor (HTS) electric motor (Note: to design, fabricate, and deliver one 36.5 MW HTS motor as a key component of an integrated HTS based propulsion system)		+3,000	+7,000	+3,500
	Advanced development and demonstration of electric actuator technology (Note: only for the development of shipboard-qualified prototype electric actuators and demonstrate their satisfactory performance in shipboard applications)		+1,000		+1,000
	At-sea decontamination platform development and conceptual design		+1,000		+1,000
	Affordable, intermediate modulus commercial off the shelf carbon fiber qualification program for aircraft and missiles		+2,000		+1,000
	Integrated advanced communications terminal (iACT)		+1,000		+1,000
	Littoral Support Craft- Experimental (Note: only to complete X-Craft fabrication, at-sea 50-knot demonstration, and at-sea LCS mission module demonstration)		+11,100		+10,000

R-1		Budget Request	House	Senate	Conference
	Agile Port and High Speed Ship Technology			+5,000	+5,000
	Development of Wide Bandgap Semiconductor Materials			+6,000	+4,500
	Large Unmanned Undersea Vehicle (LUUV) Test Bed			+2,500	+1,700
	Composite Twisted Rudder			+1,000	+1,000
	Braided Reduced Recoil Rope for Hand and Mooring Lines			+1,500	+1,000
	High-Speed Power Node Switching Center			+2,000	+1,400
	Electromagnetic Propulsion Cost Reduction			+2,000	+1,400
	Wave Power Demonstration Project			+4,000	+3,400
	Varicraft			+7,350	+6,300
18	**COMMON PICTURE ADVANCED TECHNOLOGY**	**79,521**	**80,521**	**83,521**	**83,921**
	Dynamic brokering in the expeditionary warfare testbed		+1,000		+1,000
	Consolidated undersea situational awareness			+4,000	+3,400
19	**WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY**	**61,103**	**83,603**	**91,103**	**95,203**
	Intelligence work management (Note: that these funds shall support the transition of this technology to Navy and joint forces operational use)		+2,000		+1,700
	Low Volume Productivity		+1,500		+1,500
	Asphalt reconditioner (Note: only to facilitate GSB-88 pilot application programs)		+2,000		+1,700
	Online web-based learning development program		+3,000		+2,600
	Mine warfare technology solutions (MWTS)		+3,000		+2,600
	Human Systems Integration/SEAPRINT		+2,000		+1,500
	Precision fabrication of large curved steel navy ship structures		+4,000		+2,000
	Defense modernization and sustainment initiative		+4,000	+5,000	+4,000
	NADEP Cherry Point Center for vertical lift aircraft repair and maintenance technology program		+1,000	+4,000	+2,000
	Virtual at-sea training initiative				+1,000
	Ultrasonic Consolidation of Matrix Composites			+1,000	+1,000
	Automatic Container and Cargo Handling System			+4,000	+2,000
	Caffing Protection System			+2,000	+1,400
	Expeditionary Logistics for the 21st Century (EXLOG21)			+6,000	+3,000
	Integrated Vehicle Health Management System			+3,000	+2,600
	HEET			+5,000	+5,000
	Program growth				-1,500

R-1		Budget Request	House	Senate	Conference
20	**RF SYSTEMS ADVANCED TECHNOLOGY**	**44,046**	**60,046**	**63,046**	**72,446**
	C Band active array radar		+7,500		+6,400
	Highly mobile tactical communications (HMTC)		+3,500		+3,000
	Horizon Extension Surveillance System (HESS) (Note: only for use in accelerating the HESS program to provide for increased fleet protection)		+3,000		+2,100
	Miniature Automatic Fusion Splicer				+1,000
	Remote Ocean Surveillance System (ROSS)		+2,000		+1,500
	APY-6 Real Time Precision Targeting Radar			+5,000	+2,500
	Common Affordable Radar Processor			+9,000	+7,700
	Photonics Prototyping Facility			+5,000	+4,200
21	**MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)**	**58,222**	**77,222**	**79,222**	**89,422**
	Advanced mine detector system		+3,500		+2,600
	Mobile fire support system 120mm Mortar "Dragon Fire"		+2,000		+1,000
	Transportable transponder landing system (TTLS)		+4,000		+2,000
	Craft Integrated Electronic suite (CIES)		+1,000		+1,000
	Telepresent rapid aiming platform (TRAP)		+1,000		+1,000
	Rapid deployment fortification wall (RDFW)		+1,000		+1,000
	C3RP		+5,500		+4,700
	Portable Methanol fuel cell		+1,000		+1,000
	Expeditionary Warfare Water Purification			+15,000	+11,500
	Study to Identify and Evaluate Alternative Fixed-Wing Lift Platforms			+1,000	+1,000
	Excaliber Unmanned Tactical Combat Vehicle			+1,000	+1,000
	Project Albert			+4,000	+3,400
23	**NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM**	**167,626**	**170,626**	**167,626**	**169,126**
	Location specific digital fingerprinting (LSDF)		+3,000		+1,500

R-1		Budget Request	House	Senate	Conference
24	**WARFIGHTER PROTECTION ADVANCED TECH**	**16,719**	**70,719**	**29,319**	**67,519**
	National Bone Marrow Program		+34,000		+30,000
	Navy Medical System Configuration and Test Bed (NMSCTB)		+6,000		+5,100
	Nursing telehealth research		+3,000		+2,600
	Individual water purification (IWP) program		+4,000	+3,000	+3,000
	Implantable middle-ear hearing system		+3,000		+1,500
	Organ transplant technology		+4,000		+2,000
	Battlefield Pharmaceutical Test			+1,000	+1,000
	Anti-Oxidant Micronutrients Program			+600	+600
	Hemostatic Research			+1,000	+1,000
	Tissue and Limb Transplantation Medical Technology Development			+5,000	+2,500
	Blood and Fluid Infusion/Transfusion Technology			+2,000	+1,500
25	**UNDERSEA WARFARE ADVANCED TECHNOLOGY**	**26,515**	**28,515**	**33,015**	**33,415**
	Littoral AWS Mission for Rigid Hull-Inflatable Boat (RHIB) (Note: only for adaptation and testing of a Variable Depth Sonar system ASW mission package payload for the RHIB)		+2,000		+1,000
	Hawaii Undersea Vehicle Test and Training Environment			+3,000	+2,600
	Sea Test for Towed Acoustic Arrays			+2,000	+2,000
	SAUVIM			+1,500	+1,300
28	**MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOLOGY**	**32,899**	**34,899**	**32,899**	**34,599**
	Modeling the warrior as a cognitive system - Phase II		+2,000		+1,700
30	**AIR/OCEAN TACTICAL APPLICATIONS**	**24,431**	**25,931**	**24,431**	**25,431**
	Marine mammal tracking and mitigation (Note: only to develop and deploy technologies to mitigate marine mammal presence and allow the Navy to safely operate active sonar systems in regions of interest to national security)		+1,500		+1,000

R-1		Budget Request	House	Senate	Conference
31	**AVIATION SURVIVABILITY**	**10,820**	**34,020**	**31,820**	**39,820**
	Modular Advanced Vision System (Note: to decrease logistics costs by pilots retaining the same basic helmet inner module for use with various outer modules)		+4,200		+3,200
	Modular Advanced Vision System- smart vision system visor				+1,000
	Airbag attenuated troop seat		+2,500		+2,100
	Rotocraft External Airbag Protection (REAPS)		+1,000	+5,500	+3,800
	Advanced maritime technology center at Patuxent River NAS		+2,500		+1,900
	Silver Fox UAV (NAVAIR)		+5,000	+5,000	+5,000
	Intelligent Autonomy Technology Transition Program		+5,000		+2,500
	Equipment Life Extension Program		+3,000		+1,500
	Intelligent Control System for SWARM			+4,500	+3,800
	Integrated Manifold and Tube Ceramic Oxygen Generator			+6,000	+4,200
33	**ASW SYSTEMS DEVELOPMENT**	**4,541**	**12,541**	**15,541**	**18,041**
	Tactical E-Field Buoy Development Program (Note: only for Air ASW Technology Development program to support the design, fabrication and testing of a tactical E-field buoy for littoral anti-submarine warfare)		+5,000		+3,700
	Claymore Marine		+1,000	+6,000	+4,200
	Shallow water sensor buoy technology (Note: only for developmental efforts to assess the shallow water environment by measuring the sound velocity profile, ambient noise, acoustic transmission loss and reverberation, with a buoy signal processing and satellite communications)		+2,000		+1,300
	LASH ASW, EPAS, and IR			+5,000	+4,300
36	**SURFACE AND SHALLOW WATER MINE COUNTERMEASURES**	**103,308**	**104,308**	**94,841**	**100,808**
	Battlespace preparation autonomous undersea vehicles for mine countermeasures		+1,000		+1,000
	Surface Navy Integrated Undersea Tactical Technology-Mine Warfare			+3,000	+1,500
	Long-Term Mine Reconnaissance System			-11,467	-5,000
37	**SURFACE SHIP TORPEDO DEFENSE**	**46,896**	**54,896**	**50,896**	**54,296**
	AN/SLQ-25 torpedo countermeasure set upgrades		+4,000		+3,400
	Anti-torpedo torpedo (ATT) (Note: only for continued development of low cost ATT components)		+4,000	+4,000	+4,000

R-1		Budget Request	House	Senate	Conference
38	**CARRIER SYSTEMS DEVELOPMENT**	**157,479**	**164,979**	**162,479**	**164,679**
	Sentinel Net for anti-terrorism and force protection forces		+1,500		+1,100
	Surface ship composite moisture separators (Note: only for the design, development, testing and manufacture of composite radar absorbing moisture separators)		+4,000		+2,400
	Aviation ship integration center		+2,000	+5,000	+3,700
39	**SHIPBOARD SYSTEM COMPONENT DEVELOPMENT**	**18,993**	**33,493**	**41,993**	**45,693**
	Automated maintenance environment (AME)		+3,000		+2,600
	Shipboard use of alternative composition pipes		+2,000		+1,700
	Shipboard personal locator beacon		+3,500		+2,300
	Electromagnetic Launcher Railgun program (Note: to build and demonstrate the EML)		+3,000		+1,500
	Intelligent systems consortium initiative		+3,000		+1,500
	Amorphous Metal Permanent Magnet Generator Set			+3,000	+1,500
	Carbon Foam			+5,000	+4,200
	DDX Ship System Power Electronics Technologies			+2,000	+1,400
	Galley Food Waste Disposal System			+1,000	+1,000
	MTTC/IPI and NSTC Shipboard System Component Development			+8,000	+6,000
	Shipboard Wireless Maintenance Assistant (SWMA)			+4,000	+3,000
44	**SURFACE ASW**	**17,633**	**17,633**	**21,433**	**20,033**
	Improved Surface Vessel Torpedo Launcher			+2,800	+1,400
	Surface Ship Combat System Warfighting Enhancements			+1,000	+1,000
46	**ADVANCED SUBMARINE SYSTEM DEVELOPMENT**	**81,160**	**78,160**	**93,160**	**89,260**
	MK-48 ADCAP torpedo improvement program		+3,000		+2,100
	Fiber optic TB-16 towed array		+3,000		+1,600
	Specialty optical fiber with embedded sensors				+2,000
	Improved tactical control in submarine systems (Note: only for incorporation of Submarine Combat System improvements into the APB(T) build process)		+1,000		+1,000
	Development and demonstration of UUV in submarine operations		-10,000		-5,000
	Advanced Composite structure program			+2,000	+1,400
	Submarine payloads and sensors program			+10,000	+5,000

R-1		Budget Request	House	Senate	Conference
48	**SHIP CONCEPT ADVANCED DESIGN**	**3,723**	**10,723**	**21,723**	**16,323**
	Total Fleet Support (TFS)		+2,000		+1,700
	SEALION Cascading Vehicles (Note: only to initiate a demonstration of advanced capabilities for covert insertion of manned and unmanned assets from a medium-range maritime platform.)		+5,000	+13,000	+8,400
	Integrated Condition Assessment System (ICAS)			+5,000	+2,500
51	**ADVANCED SURFACE MACHINERY SYSTEMS**	**0**	**4,000**	**0**	**3,400**
	Metallic materials advanced development and certification		+4,000		+3,400
53	**LITTORAL COMBAT SHIP (LCS)**	**352,089**	**409,089**	**352,089**	**457,089**
	Phase I design for Flight 1 ship		-50,000		-2,000
	Fully fund first Flight 0 ship		+107,000		+107,000
54	**COMBAT SYSTEM INTEGRATION**	**80,840**	**81,340**	**112,540**	**100,140**
	Laser augmented ship self-defense		+2,000		+1,700
	High energy laser application effects		+2,000		+1,700
	Application of novel laser systems on optical seekers		+1,000		+1,000
	Battleforce interoperability (Note: only for assessment activities of the Joint Warfare Assessment Laboratory of the Naval Surface Warfare Center)		+2,500		+1,300
	Advanced laser diode arrays (ALDA) (Note: only for the continued development of the ALDA in support of the Navy's High Energy Laser program)		+3,000		+1,500
	Re-alignment of advance processor builds (see R-1 line 108)		-10,000		-10,000
	Transportable Laser Induced Plasma Channel (LIPC) Demonstration System			+18,000	+12,600
	MDETEC			+2,000	+2,000
	Context-adaptable Autonomous and Remote Unmanned System Operation			+5,000	+2,500
	Trouble Reporting Information Data Warehouse			+2,000	+1,000
	Unexploded Ordnance Detection Airborne Ground Penetrating Radar (GPR)			+4,700	+4,000

R-1		Budget Request	House	Senate	Conference
56	MARINE CORPS ASSAULT VEHICLES	236,969	237,969	249,969	245,669
	Expeditionary Fighting Vehicle (EFV) MK46 stabilized weapon system, FLIR upgrade		+1,000		+1,000
	FLIR Thermal Imager			+6,000	+4,200
	Regenerative Filtration Technology for EFV			+7,000	+3,500
58	MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	22,440	27,440	39,140	35,240
	ITAS (Tow Missile Rods)		+5,000		+2,500
	Clearing Facilities with Novel Technology			+3,400	+2,200
	Anti Armor Weapon System - Heavy (AAWS-H)			+4,000	+2,000
	Urban Operations Environmental Laboratory			+6,400	+4,200
	Urban Operations Nonlethal and Scalable Weaponization			+2,900	+1,900
61	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	26,232	29,732	26,232	28,832
	SURA Coastal Ocean Observation Program (SCOOP)		+3,500		+2,600
62	ENVIRONMENTAL PROTECTION	24,641	26,891	27,641	28,391
	Anoxia research in Puget Sound		+2,000		+1,400
	COMNAVMAR Invasive Species demonstration program		+250		+250
	Integrated Marine Mammal Monitoring and Protection System			+3,000	+2,100
63	NAVY ENERGY PROGRAM	1,494	3,494	9,494	7,794
	1 Megawatt Molten Carbonate Fuel Cell Demonstrator		+2,000	+5,000	+3,500
	Proton Exchange Membrane Fuel Cell Trial			+3,000	+2,800
64	FACILITIES IMPROVEMENT	1,621	1,621	7,621	4,621
	Playas Instrumentation Network Design & Development			+6,000	+3,000
65	CHALK CORAL	58,467	49,367	58,467	58,467
66	NAVY LOGISTIC PRODUCTIVITY	7,421	26,921	7,421	19,621
	Collaborative logistics productivity		+5,000		+4,200
	Navy Logistics Research Readiness Center (NLRRC) (Note: only to establish a NLRRC to focus government, academic and industry expertise toward developing and instituting Readiness Based Sparing (RBS) tools and processes)		+1,500		+1,000
	Joint Engineering Data Management Information and Control System (JEDMICS)		+3,000		+2,000
	Life cycle savings through machinery health monitoring (Note: only to continue the development of technologies needed to implement condition-based maintenance practices)		+4,000		+2,000
	Service-Life Extension of Avionics Legacy Equipment with Guaranteed System (SEALEGS) software (Note: only for technology based on a successful Navy Dual Use Science and Technology Program for SEALEGS compatible mission computer)		+4,000		+2,000
	Defense Integrated Technical Data Center (DITCDC)		+2,000		+1,000

R-1		Budget Request	House	Senate	Conference
67	**RETRACT MAPLE**	275,407	262,407	275,407	273,907
68	**LINK PLUMERIA**	112,997	104,097	112,997	112,997
74	**LAND ATTACK TECHNOLOGY**	82,049	88,586	73,386	101,286
	Advanced XLR medium caliber gun demonstrator		+4,000		+3,400
	Affordable Weapon System (Note: only to complete AWS development and preparation for production)		+23,000		+20,000
	Extended Range Guided Munition (ERGM)		-11,800		-6,800
	57mm gun qualification and test (moved from WPN, line 32)				+11,300
	Realign JFN/JSIPS-N (see R-1 line 201)		-8,663	-8,663	-8,663
75	**NONLETHAL WEAPONS - DEM/VAL**	43,321	46,321	43,321	45,871
	National Center for Excellence for Non-Lethal Technology Research, Development, Testing and Training		+3,000		+2,550
79	**COUNTERDRUG RDT&E PROJECTS**	0	0	3,000	3,800
	Research of Frequency Selective Surfaces and Thermal Signatures - INEEL			+3,000	+1,800
	Volume Point Sensors (moved from Drug Interdiction and Counter-Drug Activities, Defense)				+2,000
79 (a)	**DISRUPTIVE TECHNOLOGY OPPORTUNITIES FUND (DTOF)**	0	6,000	0	5,100
80	**TACTICAL AIR DIRECTIONAL INFRARED COUNTERMEASURES (TADIRCM)**	0	3,000	7,000	7,200
	For additional assets and spares to accomplish testing in a flight scenario		+3,000		+2,300
	Early Operational Assessment			+7,000	+4,900
84	**AV-8B AIRCRAFT - ENG DEV**	12,284	13,284	12,284	13,284
	Litening pod downlink development program (LPDD) to design, build, test and field video downlink upgrades		+1,000		+1,000
85	**STANDARDS DEVELOPMENT**	57,675	66,175	57,675	61,875
	Navy/Marine Corps advanced measurement standards R&D (Note: only for the development of advanced measurement standards and metrology systems to support the Navy and Marine Corps testing needs)		+8,500		+4,200
86	**MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT**	78,757	82,757	78,757	82,157
	Multi-mission helicopter legacy subsystems improvement program		+2,000		+1,700
	AQS-22 Airborne Low-Frequency Sonar (ALFS)		+2,000		+1,700

R-1		Budget Request	House	Senate	Conference
89	**P-3 MODERNIZATION PROGRAM**	**9,554**	**15,554**	**10,554**	**13,554**
	ALR-95 electronic support measures (ESM) system specific emitter identification (SEI) networking & performance enhancement upgrade		+3,000		+1,500
	ALR-95 Radar Frequency Distribution (RFD) upgrade		+3,000		+1,500
	Personal Digital Assistant Maintenance Application Project			+1,000	+1,000
91	**TACTICAL COMMAND SYSTEM**	**49,180**	**65,180**	**49,180**	**61,480**
	Tactical 3D common operational picture (T3DCOP)		+3,000		+2,600
	AN/UYQ-70 based IT-21 C4ISR upgrades		+5,000		+4,200
	Joint Mission Planning System (JMPS)		+6,000		+4,200
	Nonlinear Systems Research Center		+2,000		+1,300
93	**H-1 UPGRADES**	**90,389**	**132,389**	**132,389**	**132,389**
	AH-1/UH-1 Tailboom/turned exhaust		+42,000	+42,000	+42,000
94	**ACOUSTIC SEARCH SENSORS**	**13,363**	**15,363**	**13,363**	**14,763**
	Littoral acoustic anti-submarine warfare acoustics (Note: only for P-3 controller software upgrades to exploit ASW enhancements)		+2,000		+1,400
95	**V-22A**	**304,164**	**253,164**	**297,164**	**266,164**
	Test schedule delays		-51,000	-15,000	-42,000
	V-22 Environmental Control System Upgrade			+8,000	+4,000
96	**AIR CREW SYSTEMS DEVELOPMENT**	**8,838**	**18,838**	**12,838**	**16,638**
	Night vision tube technology development		+2,000		+1,700
	Light weight armored troop seat (SWATS) for H-60		+2,000		+1,000
	Joint helmet mounted cueing system (JHCMS)		+6,000	+4,000	+5,100
98	**EW DEVELOPMENT**	**48,956**	**48,956**	**51,456**	**50,256**
	IR Signature Reduction to Mitigate Terrorist Missile Threat			+2,500	+1,300

R-1		Budget Request	House	Senate	Conference
99	**VHXX EXECUTIVE HELO DEVELOPMENT**	777,398	557,398	557,398	557,398
	Program schedule revision		-220,000	-220,000	-220,000
100	**JOINT TACTICAL RADIO SYSTEM - NAVY (JTRS-NAVY)**	78,624	83,624	78,624	80,624
	Web-based technology insertion for expeditionary warfare testbed		+1,000		0
	Digital modular radio (DMR) (Note: only for the JTRS-M/F Block 1 DMR transition)		+4,000		+2,000
101	**SC-21 TOTAL SHIP SYSTEM ENGINEERING**	1,431,585	1,182,785	1,210,469	1,176,469
	DD(X) alternative engine- for completion of engine construction and delivery for testing		+13,000		+9,500
	Floating area network (FAN)- installation of wireless communication equipment (moved to line 168)		+1,000		0
	Naval smartships that anticipate and manage (Note: for research activity at the Crane Surface Warfare Center for Joint Distance Support and Response and Integrated Fleet Support)		+2,000		+1,000
	Other developmental efforts				-44,500
	DD(X) construction		-221,000	-221,116	-221,116
	Anticipated delay in CDR based on direction to complete EDM testing of IPS and AGS		-43,800		0
102	**SURFACE COMBATANT COMBAT SYSTEM ENGINEERING**	146,463	162,963	146,463	159,963
	Silicon carbide MMIC producability program		+3,500		+3,000
	AN/SPY-1 Radar system readiness improvement		+4,000		+3,400
	Integrated display and enhanced architecture for a family of displays		+5,000		+4,300
	Smart Integrated Data Environment (SIDE) (Note: only for development of a prototype)		+1,000		+1,000
	AEGIS traveling wave tube circuit (Note: only to pursue competitive suppliers of critical material for circuits)		+3,000		+1,800
105	**STANDARD MISSILE IMPROVEMENTS**	99,022	110,022	112,022	112,022
	Insensitive munition improvements, leveraging government and industry investments		+5,000	+5,000	+5,000
	Real time image processing - Silicon Brain - for developing a high-performance, vision-based processor for missile interceptors		+3,000		+1,500
	MK41 VLS open architecture upgrades		+3,000	+3,000	+3,000
	Advanced Missile Data Link			+5,000	+3,500

R-1		Budget Request	House	Senate	Conference
107	**AIRBORNE MCM**	50,514	50,514	50,514	51,514
	Countermine LIDAR UAV-Based System (CLUBS)				+1,000
108	**SSN-688 AND TRIDENT MODERNIZATION**	75,359	103,359	84,959	96,159
	Re-alignment of advance processor builds to continue MPP/ARCI SBIR Phase III technology insertion (see R-1 line 54)		+10,000		+10,000
	Common Submarine Radio Room (moved to R-1 line 113)		+8,000		0
	Littoral Tactical Array System (Note: only to leverage investment made in towed sensor technology, COTS electronics and APB process to complete the Littoral Tactical Array System development)		+1,000		+1,000
	ARCI/APB/MPP (Note: only to continue the MPP/APB SBIR phase 3 technology insertion)		+8,000		+4,000
	Littoral TB-23 towed array		+1,000	+5,000	+3,500
	Littoral Array			+4,600	+2,300
109	**AIR CONTROL**	13,102	13,102	20,102	16,602
	Transportable Transponder Landing System			+7,000	+3,500
111	**SHIPBOARD AVIATION SYSTEMS**	28,631	28,631	30,131	29,631
	Synthetic Material Arresting Cable			+1,500	+1,000
112	**COMBAT INFORMATION CENTER CONVERSION**	8,228	11,228	8,228	10,728
	Integrated display and enhanced architecture for integrated tactical command and control cell (ITC3)		+3,000		+2,500
113	**NEW DESIGN SSN**	143,270	141,270	208,370	173,170
	Shipboard wireless mobile computing environment (Note: only for the continued development of shipboard wireless mobile computing environment initiated under SBIR N99-106)		+2,000		+1,700
	Submarine common electronics equipment replacement		+7,000		+4,000
	Virginia Class SSN Combat System Technology Insertion SBIR(S) N96-278 and N03-049		+2,000		+1,700
	HM&E automation and manning reduction technology insertion (SBIR N03-049)		+2,000		+1,000
	Virginia Class SSN Combat System Technology Insertion (Note: only for VA Class SSN MPP SBIR phase 3)		+5,000		+2,500
	Non-tactical data processing system (Note: only for the maintenance, administrative, training, education and supply processing system- MATES- project)		+4,000		+2,000
	Enhanced submarine open architecture model		+3,000		+1,500
	Multi-mission modules for additional VA Class payload capacity and flexibility		+5,000	+40,000	+20,000
	Re-align base funding to fiscal year 2004 level		-32,000		-20,000
	Submarine COTS Web Enabled Service Toolkit			+5,000	+3,500
	Submarine Information Assurance			+2,000	+1,500
	Common Submarine Radio Room			+13,100	+8,000
	Large Aperture Bow Array			+5,000	+2,500

R-1		Budget Request	House	Senate	Conference
115	**SUBMARINE TACTICAL WARFARE SYSTEM**	**43,404**	**46,904**	**49,404**	**49,004**
	Submarine maintenance free operating periods (MFOP) (Note: only for the application of MFOP concepts as the supportability strategy for the Tactical Control System)		+1,000		+1,000
	Submarine warfare system (SWS) weapon status control, remote maintenance and FORCEnet integration		+2,500		+1,600
	Submarine Warfare System Strike Weapon Status Control			+6,000	+3,000
116	**SHIP CONTRACT DESIGN/LIVE FIRE T&E**	**130,908**	**86,728**	**148,908**	**137,908**
	LHA Replacement		-44,180		0
	Cruiser Modernization				-13,000
	Integrated Modernization Environment				+2,000
	Dedicated Ocean Exploration Research Vessel			+18,000	+18,000
117	**NAVY TACTICAL COMPUTER RESOURCES**	**2,381**	**13,381**	**2,381**	**8,381**
	AN/UYQ-70(V) system technology improvements		+7,000		+4,000
	Compact ultra-fast laser system development		+4,000		+2,000
120	**LIGHTWEIGHT TORPEDO DEVELOPMENT**	**9,965**	**9,965**	**12,965**	**11,465**
	Mk 54 Torpedo			+3,000	+1,500
122	**JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT**	**8,081**	**12,081**	**8,081**	**12,481**
	Magneto Inductive Signaling Device (MISC)		+4,000		+3,400
	Anti-Terrorist Explosive Ordnance Disposal (EOD)				+1,000
125	**BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM**	**17,981**	**32,481**	**19,481**	**30,281**
	Shipboard information warfare exploit		+5,000		+4,300
	Airborne communications intercept pod (ACIP)		+2,000		+1,700
	Smart Signal Parser and actionable intelligence extractor (SSP AIE)		+4,500		+3,200
	Ships Signal Exploitation Equipment (SSEE)		+1,000		+1,000
	Anti-Terrorism Technology Surveillance System (ATTSS)		+1,000	+1,500	+1,100
	Navy Intelligent Agent Security Module- for research and development of offensive capabilities		+1,000		+1,000
126	**JOINT STANDOFF WEAPON SYSTEMS**	**9,531**	**11,531**	**9,531**	**11,231**
	Joint Standoff Weapon (JSOW), AGM-154		+2,000		+1,700
127	**SHIP SELF DEFENSE (DETECT CONTROL)**	**48,154**	**53,154**	**68,154**	**66,754**
	Integrated display and enhanced architecture for Carrier and LH Class based combat systems		+4,000		+3,400
	Underwater intrusion detection sonar		+1,000		+1,000
	Integrated Radar Optical Surveillance and Sighting System (IROSS)			+12,000	+10,200
	Autonomous Unmanned Surface Vessel (AUSV)			+3,000	+1,500
	Directed Energy User Scrutiny Equipment (DEUSE)			+5,000	+2,500

R-1	Budget Request	House	Senate	Conference
129 SHIP SELF DEFENSE (ENGAGE: SOFT KILL/EW)	**28,233**	**40,233**	**36,233**	**43,433**
Surface ship electronic warfare (EW) R&D improvements (Note: only for surface ship EW SBIR Phase III improvements)		+12,000		+10,200
Shipboard Leveraged Electronic Warfare System (SLEWS)			+5,000	+3,500
NULKA			+3,000	+1,500
130 MEDICAL DEVELOPMENT	**6,942**	**52,042**	**32,942**	**51,292**
Somatic Cell Processing Program (Diabetes research)		+1,600		+1,400
Military dental research		+4,000		+3,400
Health Query and Analysis System		+4,000		+3,400
Discovery, early detection, evaluation, treatment and prevention in Cancer research (Note: only for the continued coordinated efforts among the National Naval Medical Center and a medical academic/research institute to conduct basic and clinical research to detect, evaluate, treat and prevent multiple types of cancer)		+7,000		+7,000
Medical Procedures Reference Tool (MPRT)		+4,000		+3,400
Room-elevated-temperature-stable Hemoglobin-based oxygen carrier		+4,000	+10,000	+7,000
Acceleration of clinical trial for hemostatic therapeutic		+3,000		+1,500
Antioxidant micronutrient research (moved to line 183)		+1,000		0
Biomedical research imaging core related to bone marrow transplantation, breast and prostate cancer		+5,000		+2,500
Community hospital telehealth consortium		+1,500		+1,000
Hemocellular therapeutics		+1,000		0
Minimally Invasive Surgical Technology Institute (MISTI) (Note: only to continue the ongoing CSMC Program)		+3,500	+3,000	+3,000
Non-invasive vectored vaccine research		+2,500		+1,250
SEE-RESCUE distress streamer		+3,000	+3,000	+3,000
Multivalent Dengue Vaccine Program			+4,000	+2,000
Coastal Cancer Prevention			+5,000	+3,500
Rare Blood Program			+1,000	+1,000
132 DISTRIBUTED SURVEILLANCE SYSTEM	**7,776**	**9,776**	**13,776**	**12,676**
CENTURION surveillance prototype demonstration		+1,000	+6,000	+3,900
Network centric warfare enabled off-board sensor		+1,000		+1,000

R-1		Budget Request	House	Senate	Conference
133	**JOINT STRIKE FIGHTER (JSF) - EMD**	**2,264,507**	**2,168,507**	**2,264,507**	**2,168,507**
	Align engine development with SDD schedule		-49,000		-49,000
	FY 2003/04 reprogramming activity		-25,000		-25,000
	Manufacturing, Tooling, Materials		-60,000		-60,000
	Engineering activities		+26,000		+26,000
	Future weight reduction initiatives		+12,000		+12,000
	Joint Strike Fighter STOVL Lift Fan			[15,000]	[8,000]
136	**INFORMATION TECHNOLOGY DEVELOPMENT**	**109,543**	**113,043**	**106,293**	**122,543**
	Continuation of software development for Military and Civilian applications		+2,500		+2,100
	Information technology development-- Distance Learning IT Center		+8,000		+6,800
	WeCan: Web centric ASW net		+5,000		+4,300
	Navy Readiness Response Center (RRC)		+3,000		+2,600
	Fiber optic components for military applications		+2,500		+2,100
	Fiber optic interconnect technology		+2,000		+1,700
	Navy law enforcement information exchange (LiNX) (Note: only for the Navy Law Enforcement Exchange System for force protection at Pearl Harbor, Hampton Roads, and Puget Sound)		+5,000		+4,200
	NAVAIR maintenance data warehouse		+3,000		+2,200
	Vigilant Network Centric Security Data System				+500
	Enterprise resource planning		-27,500	-20,000	-25,000
	Digital Access of NCIS Records			+1,750	+1,500
	SPAWAR Information Technology Center			+10,000	+6,500
	Virtual Perimeter Monitoring System			+5,000	+3,500
142	**MAJOR T&E INVESTMENT**	**39,787**	**43,287**	**42,787**	**42,987**
	Adapting Fleet support and readiness training for a transforming Fleet		+2,000	+3,000	+2,100
	Upgrade and enhance instrumentation and integrated range support at Patuxant River Naval Air Station and Webster Field in support of UAV and UCAV testing		+1,500		+1,100
147	**TECHNICAL INFORMATION SERVICES**	**696**	**12,196**	**20,696**	**26,396**
	Illinois Technology Transition Center		+1,500		+1,300
	Center for Commercialization of Advanced Technology		+8,000		+6,800
	Supply chain practices for affordable Navy systems (SPANS)		+2,000		+1,000
	Pacific Based Joint Information Technology Center			+9,000	+8,500
	HTDV			+5,000	+4,200
	Integrated Manufacturing Enterprise			+6,000	+3,900
150	**RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT**	**66,117**	**66,117**	**62,317**	**62,317**
	Unjustified Growth			-3,800	-3,800
153	**TEST AND EVALUATION SUPPORT**	**255,926**	**258,426**	**255,926**	**258,026**
	Protective pumice technology (Note: only to accelerate further development and testing of pumice walls)		+2,500		+2,100
156	**SEW SURVEILLANCE/RECONNAISSANCE SUPPORT**	**12,160**	**13,160**	**12,160**	**13,160**
	Radiant Sunrise development, integration, deployment		+1,000		+1,000

R-1		Budget Request	House	Senate	Conference
157	**MARINE CORPS PROGRAM WIDE SUPPORT**	**19,701**	**28,101**	**27,701**	**31,401**
	Marine Corps Corrosion Center of Excellence		+2,000		+1,400
	Expeditionary Warfare Logistics Testbed (EWLT)		+3,000		+2,600
	USMC Cost of Readiness (COR) Initiatives		+1,000		+1,000
	Multi-Sensor Analyzer-Detector (MSAD) III		+2,000		+1,700
	Odor Signature Reduction Baselayer Garment evaluation		+400		+400
	Field Rapid Assay Biological System			+5,000	+2,500
	Chemical Warfare Agent Detector Badge			+3,000	+2,100
161	**STRATEGIC SUB & WEAPONS SYSTEM SUPPORT**	**108,782**	**96,782**	**107,782**	**100,682**
	Trident II (D-5) - excessive growth; reduce level of effort		-22,000		0
	Advanced conventional strike capability demonstration		+10,000	+15,000	+10,000
	Thin Plate Pure Lead Technology in Submarine Batteries			+7,000	+4,900
	Strategic Propulsion Applications			-18,000	-18,000
	Radiation Hardened Applications			-5,000	-5,000
163	**SUBMARINE ACOUSTIC WARFARE DEVELOPMENT**	**8,453**	**13,453**	**8,453**	**11,453**
	Submarine littoral warfare weapon		+5,000		+3,000
166	**F/A-18 SQUADRONS**	**134,580**	**136,580**	**136,580**	**138,280**
	Screen display system (Note: only to support continued development, integration and qualification testing of a screen display system)		+1,000		+1,000
	Military flight operations quality assurance/flight data analysis		+1,000		+1,000
	Military Rapid Response Command Information System			+2,000	+1,700
167	**E-2 SQUADRONS**	**6,055**	**9,555**	**16,055**	**18,755**
	Non-cooperative combat identification capability		+2,000		+1,700
	Magneto Rheological Shock Engine Mount				+1,000
	E-2C Hawkeye aircraft propeller safety and reliability				+1,000
	E-2C Program Support Activity (Note: only for expanding planned Product Support Activity in order to facilitate the development of Open Architecture software techniques)		+1,500		+1,100
	Airborne Data Terminal Set (DTS) With Embedded Encryption			+4,000	+2,800
	Network Centric Warfare Testbed			+6,000	+5,100
168	**FLEET TELECOMMUNICATIONS (TACTICAL)**	**19,784**	**22,784**	**21,284**	**23,184**
	Programmable Integrated Communications Terminals (PICTS)		+2,000		+1,400
	MRC-105 emergency radio (Note: for engineering and development of a complete portable emergency communications system)		+1,000		+1,000
	Floating Area Network			+1,500	+1,000
169	**TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC)**	**28,776**	**31,776**	**36,776**	**32,776**
	Precision Terrain Aided Navigation (PTAN)		+3,000	+8,000	+4,000
	Titanium Matrix Composites (TMC) for warhead applications				

R-1	Budget Request	House	Senate	Conference
170 INTEGRATED SURVEILLANCE SYSTEM	16,965	23,965	21,965	25,165
MSS Mission planning, automation and adaptive bandwidth management		+7,000		+4,900
Fiber Optic Fixed Surveillance System			+5,000	+3,300
171 AMPHIBIOUS TACTICAL SUPPORT UNITS	2,604	4,104	2,604	3,704
Improved Navy lighterage system Causeway Ferry, extended capability (INLS CF-X)		+1,500		+1,100
172 CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	21,644	24,644	21,644	23,644
Total ship training system (TSTS) - Training Exercise and Management System (TEAMS)		+1,000		+1,000
SH-60B Hellfire Sea Target Laser Aim Scoring System (STLASS)		+2,000		+1,000
175 HARM IMPROVEMENT	163,371	168,371	163,371	167,271
Spectral beam combining fiber lasers		+1,000		+1,000
AARGM Development		+2,500		+1,800
Embedded National Tactical Receiver Integration with Advanced Anti-Radiation Guided Missile (AARGM)		+1,500		+1,100
177 SURFACE ASW COMBAT SYSTEM INTEGRATION	10,612	22,612	13,612	21,012
Surface ship ASW R&D improvements (SQQ-89) (Note: only for Surface Ship MPP SBIR Phase III Improvements)		+10,000		+7,500
Common surface and undersea warfare - standardize essential undersea warfare functionality and performance capabilities		+2,000		+1,400
Marine Mammal Detection and Mitigation			+3,000	+1,500
179 AVIATION IMPROVEMENTS	62,635	82,635	64,635	78,935
Automated wire analysis (AWA)		+5,000		+4,300
Nano-composite hard-coat for aircraft canopies (Note: only to support the development of nano-composite hard-coat materials for use on aircraft windscreens and canopies)		+3,000		+2,300
Center for Defense Sustainment Technology		+1,000		+1,000
Development of next generation technology for the inspection of aircraft engines, diagnostics and repair		+5,000		+3,300
Age exploration model validation and enhancement (Note: only to provide full functionality and rigorous validation of an Age Exploration Model for Naval aircraft platforms to ascertain the relationship between aging characteristic and reliability, maintainability, and readiness issues)		+4,000		+3,000
Digital integrated cockpit display system for the TH-57		+2,000		+1,000
Corrosion Inhibiting Coatings			+2,000	+1,400

R-1		Budget Request	House	Senate	Conference
180	**NAVY SCIENCE ASSISTANCE PROGRAM**	**3,821**	**3,821**	**7,821**	**7,221**
	LASH MCM/ISR			+4,000	+3,400
182	**MARINE CORPS COMMUNICATIONS SYSTEMS**	**268,638**	**297,638**	**267,278**	**286,788**
	Metamodel		+3,000		+1,500
	Advanced Ferrite Antenna (AFA)		+1,000	+3,000	+2,100
	Miniaturized Combat Identification System		+1,000		+1,000
	Marine Corps Communication Systems - AN/TPS-59		+4,000		+2,600
	Marine Corps Wideband Communications		+5,000		+4,250
	Next Generation Mobile Electronic Warfare Support		+4,000		+3,400
	USMC Hitchhiker		+2,000		+1,700
	Display Technology Program (Note: only to continue ongoing Display Technology Program)		+2,000		+1,700
	Marine Airborne Re-Transmission System (MARTS)		+4,000		+3,400
	Covert SIGINT for Urban Warfare (XR-2000 Receiving System)		+3,000		+1,500
	Critical Infrastructure Protection Center			+3,000	+1,500
	Coastal Battlefield Reconnaissance and Analysis			-10,360	-9,600
	Improved Ground Based Transportable Radar			+3,000	+2,100
	U.S. Marine Corps Electronic Battlefield Fusion				+1,000
183	**MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS**	**44,828**	**48,828**	**48,978**	**51,928**
	Advanced Integrated Digital Camera Rifle Scope (ADCRS)		+1,000		+1,000
	USMC LAV integrated digital and collaboration environment service net		+2,000		+2,000
	Complimentary Medal Oxide Semiconductor (CMOS) Machine Vision Readout		+1,000		+1,000
	Marine Advanced Combat Suit (MACS)			+3,000	+2,100
	Anti-Oxidant Micronutrients Program (transfer from line 130)			+1,150	+1,000

R-1		Budget Request	House	Senate	Conference
184	**MARINE CORPS COMBAT SERVICES SUPPORT**	10,731	10,731	10,731	11,731
	Battlefield Management System				+1,000
185	**TACTICAL AIM MISSILES**	4,061	1,561	4,061	4,061
	Integration of AIM9(X) on F-35 premature		-2,500		0
190	**SATELLITE COMMUNICATIONS (SPACE)**	573,092	470,592	473,092	468,992
	SPAWAR Covert Com and Info Transfer (CCIT)		+1,000		+1,000
	Joint Integrated Systems for Advanced Digital Networking (JIST-NET)		+6,500		+4,900
	MUOS - fund to CAIG estimate		-110,000	-100,000	-110,000
191	**INFORMATION SYSTEMS SECURITY PROGRAM**	18,676	18,676	30,676	26,776
	SECUREnet			+7,000	+4,600
	Collaborative Information Warfare Network			+5,000	+3,500
193	**COBRA JUDY**	80,694	80,694	93,694	93,694
	Cobra Judy Replacement			+13,000	+13,000
194	**NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (METOC)**	4,215	4,215	4,215	6,215
	Scalable Signal Processing Architecture				+2,000
195	**JOINT C4ISR BATTLE CENTER (JBC)**	43,569	43,569	43,569	44,669
	Ice protection technologies for UAVs (transferred from RDT&E, AF)				+1,100
197	**TACTICAL UNMANNED AERIAL VEHICLES**	53,439	65,439	83,439	80,239
	Center for Coastline Security Technology (Note: only to continue a coastline security technology program, including an advanced acoustics sensor and mobile acoustic platform technology system initiative)		+5,000		+2,500
	Joint Operational Test Bed (JOTBS)		+7,000		+4,500
	Advanced Airship Flying Laboratory			+6,000	+3,000
	Fire Scout RQ-8B (2 air vehicles with associated payloads, a common ground station, and non-recurring engineering as necessary)			+24,000	+16,800
198	**ENDURANCE UNMANNED AERIAL VEHICLES**	113,438	83,438	113,438	98,438
	Broad Area Maritime Development - schedule slip		-30,000		-15,000

R-1		Budget Request	House	Senate	Conference
199	**AIRBORNE RECONNAISSANCE SYSTEMS**	**10,191**	**11,191**	**14,191**	**14,591**
	Passive collision avoidance and reconnaissance (PCAR) for Unmanned Aerial Vehicles		+1,000		+1,000
	Modular Upgrades to Airborne Reconnaissance Sensors			+4,000	+3,400
200	**MANNED RECONNAISSANCE SYSTEMS**	**20,203**	**28,203**	**20,203**	**27,003**
	Shared Reconnaissance Pod (SHARP) (Note: only for SHARP sensor P3I including CMOS, imaging modules, hyperspectral insertion and Advanced Airborne Image Processor modules)		+8,000		+6,800
201	**DISTRIBUTED COMMON GROUND SYSTEMS**	**3,635**	**21,298**	**6,635**	**13,235**
	Enterprise targeting and strike system (eTSS)		+4,000		+2,800
	TES-N/DCGS-N node at Patuxant River Naval Air Station		+5,000		+3,800
	Realign JFN/JSIPS-N (see R-1 line74)		+8,663	+3,000	+3,000
204	**MODELING AND SIMULATION SUPPORT**	**7,262**	**7,262**	**24,762**	**19,962**
	Global Engineering Methodology Initiative for Naval Integration and Interoperability			+4,000	+2,800
	Joint Analytical Modeling Improvement Program (JAMIP) JWARS			+5,500	+3,900
	Modeling and Simulation to Support C4ISR Development			+8,000	+6,000
206	**INDUSTRIAL PREPAREDNESS**	**56,565**	**61,565**	**58,565**	**60,365**
	Nano-imprint at a Manufacturing Scale		+4,000		+2,800
	Improve manufacturability demonstration of exhaust components for military aircraft		+1,000		+1,000
	Porous Materials (moved to line 9)			+2,000	0

JOINT STRIKE FIGHTER STOVL LIFT FAN

The conferees direct that in addition to funds currently budgeted for STOVL Lift Fan technologies, no less than $8,000,000 of the funds provided for the Joint Strike Fighter program shall be for STOVL Lift Fan thrust increase studies.

AMPHIBIOUS ASSAULT SHIP—LHA REPLACEMENT

The conferees agree to provide $44,180,000 for the Amphibious Assault Ship—LHA Replacement, LHA(R), program as requested and as proposed by the Senate instead of no appropriation as proposed by the House.

The conferees agree that the Secretary of the Navy shall submit to the Committees on Appropriations of the House and Senate, a report within 90 days of enactment of this Act that addresses a thorough review of the LHA(R) requirement, the impact of the proposed ship on executing the Marine Corps amphibious assault mission, the overall cost and acquisition objective of LHA(R), and the acquisition strategy.

NEXT GENERATION DESTROYER—DD(X)

The conferees agree to provide $1,176,469,000 for the DD(X) program instead of $1,182,785,000 as proposed by the House and $1,210,469,000 as proposed by the Senate.

The conferees agree that prior to the completion of the Critical Design Review (CDR), the Navy should complete land-based testing of the Advanced Gun System (AGS) and the Integrated Power System (IPS). The conferees believe it is not advisable to complete CDR prior to ensuring that at least two of the 12 key technologies have completed testing due to historical trends of ship cost growth based on re-design to accommodate changes in technological requirements.

The conferees direct the Navy to submit a report to the congressional defense committees that addresses the Navy's plan to transition DD(X) key technologies through development, testing, acquisition, and installation. This report should also address "back up" technologies that could be inserted into the DD(X) program should the maturity of the planned technology not materialize within a timeline necessary to meet the stated DD(X) schedule.

LITTORAL COMBAT SHIP

The conferees agree to provide $457,089,000 for the Littoral Combat Ship (LCS) program instead of $409,089,000 as proposed by the House and $352,089,000 as requested and proposed by the Senate.

The conferees agree with the Senate that all follow-on ships, beyond one of each prototype design, should be fully funded in the Shipbuilding and Conversion, Navy appropriation. The conferees also agree that substantial testing of the LCS and associated mission modules is required to evaluate each ship design and validate operational requirements. Therefore, the conferees direct that no funds shall be obligated to prepare a fiscal year 2006 budget request for construction of a third vessel, as reflected in the conference agreement including Section 8092 as originally proposed by the Senate. This directive is intended to provide for a "gap" year between construction of the prototype ships and the follow-on construction of a second ship of each design, thereby ensuring that design problems discovered during the prototype phase of each ship design are identified and corrected before construction of follow-on ships. The conferees also agree with the Senate that beginning in the fiscal year 2006 budget request, the Navy should identify LCS mission module funding separately within the Research, Development, Test and Evaluation, Navy and Other Procurement, Navy appropriations.

CORROSION RESISTANT MARINE PAINT

The Navy spends approximately 25 percent of its fleet maintenance budget on corrosion protection. The conferees are aware of and support research performed by the Center for Photochemical Sciences that develops corrosion resistant marine paint using photo-cure technology. These new photo-cure technologies can increase corrosion protection while reducing environmentally harmful emissions. The conferees believe this technology provides unique advantages over current materials and directs the Office of Naval Research to continue current year funding for this important research project.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, AF				
BASIC RESEARCH				
DEFENSE RESEARCH SCIENCES	217,304	224,804	233,304	227,504
UNIVERSITY RESEARCH INITIATIVES	115,865	120,865	134,565	122,565
HIGH ENERGY LASER RESEARCH INITIATIVES	12,331	12,331	12,331	12,331
TOTAL, BASIC RESEARCH	345,500	358,000	380,200	362,400
APPLIED RESEARCH				
MATERIALS	73,660	97,160	105,560	120,560
AEROSPACE VEHICLE TECHNOLOGIES	74,679	78,179	74,679	77,079
HUMAN EFFECTIVENESS APPLIED RESEARCH	71,483	82,483	81,283	86,883
AEROSPACE PROPULSION	92,650	129,400	106,650	131,700
AEROSPACE SENSORS	78,804	97,304	92,804	97,604
MULTI-DISCIPLINARY SPACE TECHNOLOGY	84,581	101,581	84,581	97,781
SPACE TECHNOLOGY	88,909	99,909	111,484	108,509
CONVENTIONAL MUNITIONS	52,251	52,251	52,251	52,251
DIRECTED ENERGY TECHNOLOGY	36,532	47,532	36,532	44,032
COMMAND CONTROL AND COMMUNICATIONS	82,147	85,147	84,147	85,647
DUAL USE SCIENCE AND TECHNOLOGY PROGRAM	5,151	5,151	5,151	5,151
HIGH ENERGY LASER RESEARCH	45,333	52,333	45,333	50,733
TOTAL, APPLIED RESEARCH	786,180	928,430	880,455	957,930

	(In thousands of dollars)			
	Budget	House	Senate	Conference
ADVANCED TECHNOLOGY DEVELOPMENT				
ADVANCED MATERIALS FOR WEAPON SYSTEMS	34,284	60,284	57,784	65,884
ADVANCED AEROSPACE SENSORS	30,634	44,634	30,634	44,234
FLIGHT VEHICLE TECHNOLOGY	---	1,000	---	1,000
AEROSPACE TECHNOLOGY DEV/DEMO	29,145	63,145	35,145	59,945
AEROSPACE PROPULSION AND POWER TECHNOLOGY	79,914	84,914	84,914	86,814
CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	32,794	35,294	33,794	33,894
ELECTRONIC COMBAT TECHNOLOGY	28,282	34,282	41,282	39,582
BALLISTIC MISSILE TECHNOLOGY	---	13,000	2,000	11,700
UNMANNED AIR VEHICLE DEV/DEMO	---	13,000	---	8,500
ADVANCED SPACECRAFT TECHNOLOGY	60,124	83,624	101,614	101,924
MAUI SPACE SURVEILLANCE SYSTEM (MSSS)	6,306	6,306	50,306	58,706
MULTI-DISCIPLINARY ADVANCED DEVELOPMENT SPACE TECHNOLO	51,114	51,114	61,114	51,114
CONVENTIONAL WEAPONS TECHNOLOGY	22,398	29,898	22,398	27,498
ADVANCED WEAPONS TECHNOLOGY	31,103	48,103	47,103	54,503
C3I ADVANCED DEVELOPMENT	28,524	34,524	32,524	35,124
SPECIAL PROGRAMS	320,503	320,503	320,503	320,503
INTEGRATED BROADCAST SERVICE	2,294	2,294	2,294	2,294
HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM	8,547	10,547	8,547	9,847
ADVANCED COMMUNICATIONS SYSTEMS	12,051	12,051	12,051	12,051
AMC COMMAND AND CONTROL SYSTEM	6,038	6,038	6,038	6,038
JOINT NATIONAL TRAINING CENTER	2,939	2,939	2,939	2,939
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	786,994	957,494	952,984	1,034,094

	(In thousands of dollars) Budget	House	Senate	Conference
DEMONSTRATION & VALIDATION				
INTELLIGENCE ADVANCED DEVELOPMENT....................	4,612	4,612	4,612	4,612
PHYSICAL SECURITY EQUIPMENT..........................	22,640	26,840	22,640	24,840
NAVSTAR GLOBAL POSITIONING SYSTEM III................	40,568	40,568	40,568	40,568
ADVANCED EHF MILSATCOM (SPACE).......................	612,049	612,049	612,049	612,049
POLAR MILSATCOM (SPACE)..............................	960	960	960	960
SPACE CONTROL TECHNOLOGY.............................	15,046	15,046	15,046	15,046
COMBAT IDENTIFICATION TECHNOLOGY.....................	19,582	19,582	19,582	19,582
NATO RESEARCH AND DEVELOPMENT........................	3,930	3,930	3,930	3,930
INTERNATIONAL SPACE COOPERATIVE R&D..................	552	552	552	552
ADVANCED WIDEBAND SYSTEM (AWS) TRANSFORMATIONAL SATCOM	774,836	674,836	374,836	474,836
INTEGRATED BROADCAST SERVICE (DEM/VAL)...............	23,927	23,927	23,927	23,927
INTERCONTINENTAL BALLISTIC MISSILE (DEM/VAL).........	72,503	72,503	70,503	70,503
WIDEBAND GAPFILLER SYSTEM RDT&E (SPACE)..............	73,499	73,499	73,499	73,499
SPACE-BASED RADAR (DEM/VAL)..........................	327,732	75,000	227,732	75,000
POLLUTION PREVENTION (DEM/VAL).......................	2,692	4,692	4,192	5,492
JOINT PRECISION APPROACH AND LANDING SYSTEMS (DEM/VAL)	18,385	18,385	18,385	18,385
HARD AND DEEPLY BURIED TARGET DEFEAT SYSTEM (HDBTDS)..	6,383	6,383	6,383	6,383
OPERATIONALLY RESPONSIVE LAUNCH......................	35,362	40,362	5,000	33,362
COMMON AERO VEHICLE (CAV)............................	21,610	31,610	---	16,610
NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATE	307,668	307,668	307,668	307,668
BOMBER DEVELOPMENT...................................	---	50,000	---	30,000
TOTAL, DEMONSTRATION & VALIDATION..................	2,384,536	2,103,004	1,832,064	1,857,804
ENGINEERING & MANUFACTURING DEVELOPMENT				
GLOBAL BROADCAST SERVICE (GBS).......................	33,447	23,447	33,447	26,447
JOINT HELMET MOUNTED CUEING SYSTEM (JHMCS)...........	2,867	2,867	2,867	2,867
NUCLEAR WEAPONS SUPPORT..............................	13,301	13,301	13,301	13,301
B-1B...	59,462	59,462	89,462	84,462
SPECIALIZED UNDERGRADUATE FLIGHT TRAINING............	3,359	3,359	3,359	3,359
F-22 - EMD...	210,000	210,000	210,000	210,000

	(In thousands of dollars)			
	Budget	House	Senate	Conference
B-2 ADVANCED TECHNOLOGY BOMBER	245,049	295,049	245,049	275,049
EW DEVELOPMENT	138,393	110,893	157,393	114,093
JOINT TACTICAL RADIO	49,856	39,856	49,856	39,856
PHYSICAL SECURITY EQUIPMENT	9,744	9,744	9,744	9,744
SMALL DIAMETER BOMB (SDB) EMD	76,489	76,489	76,489	76,489
COUNTERSPACE SYSTEMS	75,863	22,863	27,863	26,363
SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	508,448	599,448	508,448	599,448
MILSTAR LDR/MDR SATELLITE COMMUNICATIONS (SPACE)	1,380	1,380	1,380	1,380
MUNITIONS DISPENSER DEVELOPMENT	28,048	28,048	28,048	28,048
ARMAMENT/ORDNANCE DEVELOPMENT	8,353	8,353	8,353	8,353
SUBMUNITIONS	4,824	5,824	4,824	5,824
AGILE COMBAT SUPPORT	10,053	12,053	20,053	19,053
LIFE SUPPORT SYSTEMS	6,630	14,630	6,630	11,430
COMBAT TRAINING RANGES	18,714	18,714	22,714	21,514
INTEGRATED COMMAND & CONTROL APPLICATIONS (IC2A)	258	12,758	18,758	22,158
INTELLIGENCE EQUIPMENT	1,349	6,849	1,349	2,449
COMMON LOW OBSERVABLES VERIFICATION SYSTEM (CLOVERS)	10,303	10,303	10,303	10,303
JOINT STRIKE FIGHTER (JSF) - EMD	2,307,420	2,199,420	2,309,920	2,200,670
INTERCONTINENTAL BALLISTIC MISSILE - EMD	91,687	91,687	91,687	91,687
EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM (SPACE)	27,000	27,000	27,000	27,000
RDT&E FOR AGING AIRCRAFT	15,665	20,665	35,665	32,065
UNMANNED COMBAT AIR VEHICLE JOINT PROGRAM OFFICE	2,911	---	2,911	---
LINK-16 SUPPORT AND SUSTAINMENT	141,012	140,212	141,012	136,612
FAMILY OF INTEROPERABLE OPERATIONAL PICTURES (FIOP)	44,947	49,947	44,947	47,147
MULTI-SENSOR C2 AIRCRAFT (MC2A)	538,860	458,860	498,860	423,860
FULL COMBAT MISSION TRAINING	5,894	5,894	12,894	10,794
CV-22	16,439	16,439	16,439	16,439
TOTAL, ENGINEERING & MANUFACTURING DEVELOPMENT	4,708,025	4,595,814	4,731,025	4,598,264

	(In thousands of dollars)			
	Budget	House	Senate	Conference
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT	34,517	34,517	34,517	34,517
MAJOR T&E INVESTMENT	58,933	67,233	58,933	64,533
RAND PROJECT AIR FORCE	24,970	24,970	24,970	24,970
RANCH HAND II EPIDEMIOLOGY STUDY	4,813	4,813	4,813	4,813
INITIAL OPERATIONAL TEST & EVALUATION	28,839	32,839	28,839	30,839
TEST AND EVALUATION SUPPORT	356,266	357,266	361,266	359,766
ROCKET SYSTEMS LAUNCH PROGRAM (SPACE)	7,984	22,984	22,984	22,984
SPACE TEST PROGRAM (STP)	44,521	44,521	44,521	44,521
FACILITIES RESTORATION & MODERNIZATION - TEST & EVAL	58,936	58,936	58,936	58,936
FACILITIES SUSTAINMENT - TEST AND EVALUATION SUPPORT	23,067	23,067	23,067	23,067
GENERAL SKILL TRAINING	323	323	323	323
JUDGMENT FUND REIMBURSEMENT	100,000	100,000	100,000	100,000
INTERNATIONAL ACTIVITIES	3,945	3,945	3,945	3,945
TOTAL, RDT&E MANAGEMENT SUPPORT	747,114	775,414	767,114	773,214
OPERATIONAL SYSTEMS DEVELOPMENT				
ANTI-TAMPER TECHNOLOGY EXECUTIVE AGENCY	7,858	7,858	7,858	7,858
B-52 SQUADRONS	25,766	33,766	25,766	31,366
ADVANCED CRUISE MISSILE	7,740	7,740	7,740	7,740
AIR-LAUNCHED CRUISE MISSILE (ALCM)	11,837	11,837	11,837	11,837
STRAT WAR PLANNING SYSTEM - USSTRATCOM	23,391	23,391	18,391	18,391
NIGHT FIST - USSTRATCOM	4,987	4,987	4,987	4,987
ADVANCED STRATEGIC PROGRAMS	8,393	8,393	8,393	8,393
REGION/SECTOR OPERATION CONTROL CENTER MODERNIZATION	19,047	19,047	19,047	19,047
WARFIGHTER RAPID ACQUISITION PROCESS (WRAP) RAPID TRAN	24,935	24,935	24,935	24,935
A-10 SQUADRONS	22,590	22,590	39,590	31,090
F-16 SQUADRONS	99,606	99,606	102,606	107,606
F-15E SQUADRONS	115,246	136,446	125,246	132,446
MANNED DESTRUCTIVE SUPPRESSION	16,976	16,976	16,976	16,976
F-22 SQUADRONS	354,528	344,528	354,528	344,528

(In thousands of dollars)

	Budget	House	Senate	Conference
F-117A SQUADRONS	29,661	29,661	29,661	29,661
TACTICAL AIM MISSILES	5,558	3,058	5,558	5,558
ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	33,266	33,266	33,266	33,266
COMBAT RESCUE AND RECOVERY	12,342	12,342	12,342	12,342
AF TENCAP	10,673	15,673	15,673	18,273
SPECIAL EVALUATION PROGRAM	199,040	199,040	199,040	199,040
COMPASS CALL	3,990	3,990	3,990	3,990
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	165,609	165,609	165,609	165,609
CSAF INNOVATION PROGRAM	1,879	1,879	1,879	1,879
JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM)	45,777	45,777	45,777	45,777
AEROSPACE OPERATIONS CENTER (AOC)	27,695	27,695	27,695	27,695
CONTROL AND REPORTING CENTER (CRC)	11,634	11,634	11,634	11,634
AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)	288,787	288,787	288,787	288,787
ADVANCED COMMUNICATIONS SYSTEMS	20,066	20,066	20,066	20,066
EVALUATION AND ANALYSIS PROGRAM	---	3,000	---	2,600
ADVANCED PROGRAM TECHNOLOGY	249,391	249,391	249,391	249,391
THEATER BATTLE MANAGEMENT (TBM) C4I	37,210	37,210	37,210	37,210
FIGHTER TACTICAL DATA LINK	50,976	50,976	50,976	50,976
BOMBER TACTICAL DATA LINK	120,256	81,256	120,256	81,256
C2ISR TACTICAL DATA LINK	25,441	25,441	25,441	25,441
MC2C (MULTI-SENSOR COMMAND AND CONTROL CONSTELLATION)	44,035	44,035	44,035	44,035
JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM	89,247	89,247	89,247	89,247
SEEK EAGLE	23,159	23,159	23,159	23,159
ADVANCED PROGRAM EVALUATION	474,734	434,734	474,734	434,734
USAF MODELING AND SIMULATION	18,693	18,693	18,693	18,693
WARGAMING AND SIMULATION CENTERS	6,377	7,377	6,377	7,377
MISSION PLANNING SYSTEMS	136,701	106,701	136,701	106,701
INFORMATION WARFARE SUPPORT	7,230	7,230	7,230	7,230
NAIC	---	---	3,000	---
E-4B NATIONAL AIRBORNE OPERATIONS CENTER (NAOC)	11,172	11,172	11,172	11,172

	(In thousands of dollars)			
	Budget	House	Senate	Conference
MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK	33,183	33,183	33,183	33,183
INFORMATION SYSTEMS SECURITY PROGRAM	79,625	86,625	87,625	87,125
GLOBAL COMBAT SUPPORT SYSTEM	18,637	22,637	18,637	21,437
GLOBAL COMMAND AND CONTROL SYSTEM	3,611	3,611	6,111	5,411
MILSATCOM TERMINALS	272,149	272,149	272,149	272,149
GLOBAL AIR TRAFFIC MANAGEMENT (GATM)	7,291	7,291	7,291	7,291
SATELLITE CONTROL NETWORK (SPACE)	17,833	17,833	22,833	20,333
WEATHER SERVICE	16,526	16,526	17,526	17,526
AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM (ATC	7,371	7,371	12,371	9,871
AERIAL TARGETS	5,178	5,178	5,178	5,178
SECURITY AND INVESTIGATIVE ACTIVITIES	484	484	484	484
AIR FORCE TACTICAL MEASUREMENT AND SIGNATURE INTELLIGE	7,905	9,905	9,905	9,905
DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES (SPACE)	219,345	189,345	219,345	189,345
NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT)	104,114	104,114	104,114	104,114
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL)	148,344	148,344	148,344	148,344
SPACE WARFARE CENTER	411	411	411	411
SPACELIFT RANGE SYSTEM (SPACE)	47,253	51,253	47,253	49,753
PERSONNEL SECURITY INVESTIGATIONS PROGRAM - AIR FORCE	118,787	118,787	118,787	118,787
INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (IO)	1,097	1,097	1,097	1,097
DRAGON U-2 (JMIP)	87,745	87,745	87,745	87,745
AIRBORNE RECONNAISSANCE SYSTEMS	55,464	55,464	64,864	61,564
MANNED RECONNAISSANCE SYSTEMS	13,283	23,283	17,783	21,783
DISTRIBUTED COMMON GROUND SYSTEMS	21,232	22,232	21,232	22,232
PREDATOR UAV (JMIP)	81,346	84,346	81,346	83,946
GLOBAL HAWK UAV (JMIP)	336,159	315,259	336,159	336,159
INTELLIGENCE SUPPORT TO INFORMATION WARFARE	963	963	963	963
NCMC - TW/AA SYSTEM	64,822	64,822	64,822	64,822
SPACETRACK (SPACE)	161,838	124,838	168,538	140,238
NUDET DETECTION SYSTEM (SPACE)	35,398	35,398	35,398	35,398

(In thousands of dollars)

	Budget	House	Senate	Conference
SPACE ARCHITECT	12,907	12,907	12,907	12,907
SHARED EARLY WARNING (SEW)	3,345	3,345	3,345	3,345
C-130 AIRLIFT SQUADRON	150,242	153,242	152,242	152,242
C-5 AIRLIFT SQUADRONS	332,982	332,982	332,982	332,982
C-17 AIRCRAFT	199,692	202,692	201,692	201,692
C-130J PROGRAM	36,305	36,305	36,305	36,305
LARGE AIRCRAFT IR COUNTERMEASURES (LAIRCM)	73,684	73,684	73,684	73,684
KC-135S	1,079	1,079	1,079	1,079
KC-10S	18,452	---	---	---
SPECIAL TACTICS / COMBAT CONTROL	1,067	1,067	1,067	1,067
DEPOT MAINTENANCE (NON-IF)	1,431	1,431	1,431	1,431
ACQUISITION AND MANAGEMENT SUPPORT	1,596	1,596	1,596	1,596
INDUSTRIAL PREPAREDNESS	38,012	56,012	44,012	57,212
LOGISTICS SUPPORT ACTIVITIES	---	1,000	---	1,000
SUPPORT SYSTEMS DEVELOPMENT	50,238	67,738	64,238	69,938
OTHER PERSONNEL ACTIVITIES	110	110	110	110
CIVILIAN COMPENSATION PROGRAM	7,272	7,272	7,272	7,272
FINANCIAL MANAGEMENT INFORMATION SYSTEMS DEVELOPMENT	15,732	15,732	15,732	15,732
TOTAL, OPERATIONAL SYSTEMS DEVELOPMENT	5,805,039	5,688,887	5,887,687	5,746,187
CLASSIFIED PROGRAMS	5,551,279	5,626,579	5,570,779	5,561,029
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, AF	21,114,667	21,033,622	21,002,308	20,890,922

EXPLANATION OF PROJECT LEVEL TABLES
[In thousands of dollars]

R-1		Budget Request	House	Senate	Conference
1	**DEFENSE RESEARCH SCIENCES**	**217,304**	**224,804**	**233,304**	**227,504**
	Demonstrating Space Research and Applications (Note: Only to support educational programming and exhibits that demonstrate the application of defense technology and research at Griffith Observatory Planetarium)		+1,000		+1,000
	Microwave Vacuum Electronics Power Research Initiative (Note: Only to re-establish a program for research into Microwave Vacuum Engineering (MVE) and High Power Microwave (HPM) technology through the Air Force Office of Scientific Research)		+2,500		+2,100
	Chabot Space & Science Center		+2,000	+2,000	+2,000
	National Hypersonic Research Center		+2,000	+2,000	+2,000
	Human performance			-3,000	-3,000
	External Research Programs Interface			-2,000	-2,000
	Nanomaterials Research, Nanomanufacturing for Military Applications			+3,000	+2,300
	Corrosion Protection of Aluminum Alloys Used in Aircraft			+2,500	+1,800
	Read Out Integrated Circuit Manufacturing Improvement (Transferred to Defense Production Act)			+5,000	0
	Network, Information and Space Security			+5,000	+2,500
	Quantum Gate			+1,000	+1,000
	Non-lethal Stunning/Immobilizing Weapons			+500	+500
2	**UNIVERSITY RESEARCH INITIATIVES**	**115,865**	**120,865**	**134,565**	**122,565**
	Bio/Nanotechnology Infrastructure and Technology-oriented Research		+5,000		+3,000
	21st Century Information Operations Workforce			+1,500	+1,100
	Griffith Observatory programming			+1,000	+1,000
	Graduate Fellowships			-5,000	-5,000
	Information Security Solutions			+3,200	+1,600
	Agile Response Chameleon Coatings			+3,000	+1,500
	Strategic Partnership for Research in Nanotechnology (Transfer to Line 4)			+15,000	0
	The Logistics Institute (Transferred from Line 21)				+1,000
	SMART Pilot Scholarship Program				+2,500
4	**MATERIALS**	**73,660**	**97,160**	**105,560**	**120,560**
	Computational Tools for Materials Development		+1,000		+1,000
	Advanced Wide Bandgap Materials for RF Technology		+3,000		+2,600
	Advanced Silicon Carbide Device Technology		+2,000		+1,700
	Advanced Reinforced Materials and New Materials Research for Aircraft Tires (Transfer to Line 89)		+1,000		0
	Domestic Titanium Powder Manufacturing Initiative		+4,000		+2,000
	Cost Effective Composite Materials for Manned and Unmanned Flight Structures		+1,000	+2,000	+1,000
	Blast Resistant Barriers for Homeland Defense		+4,000		+2,400
	Advanced Magnetic Random Access Memory Modules (Note: Only to develop memory modules to integrate magnetic RAM with conventional electronics for military platforms)		+2,500		+2,100
	Optimal Design of Materials Processes		+1,000		+1,000
	WBI - Nanostructured Materials for Advanced Air Force Systems		+4,000		+2,800
	Titanium Matrix Composites			+2,900	+2,500
	Nanostructured Materials for Advanced Air Systems			+5,500	+3,600

R-1		Budget Request	House	Senate	Conference
	Gallium Nitrate RF Power Technology			+5,000	+2,500
	Thermal Sprays for Structural Protection			+3,000	+2,100
	ONAMI Safer Nanomaterials and Nanomanufacturing			+5,000	+2,500
	Non-Linear Optical Materials			+1,000	+1,000
	Durable Hybrid Coatings for Aircraft Systems			+1,000	+1,000
	Material Science Laboratory			+1,500	+1,100
	Advanced Manufacturing Technologies for Metals, Composites (UMR)			+5,000	+3,500
	Strategic Partnership for Research in Nanotechnology (Transfer from Line 2)				+10,500
5	**AEROSPACE VEHICLE TECHNOLOGIES**	**74,679**	**78,179**	**74,679**	**77,079**
	Intelligent Flight Control Simulation Research Laboratory		+2,000		+1,300
	Unique Stealth UAV Houck Aircraft Design Program (Note: Only to continue and expand the existing program)		+1,500		+1,100
6	**HUMAN EFFECTIVENESS APPLIED RESEARCH**	**71,483**	**82,483**	**81,283**	**86,883**
	Networked Warfighter Decision Support		+1,500		+1,100
	AFSOC Battlefield Air Operations Kit		+1,500		+1,100
	Bio Medical DNA Program		+1,000		+1,000
	IMPRINT for UAVs		+2,000		+1,500
	Photovoltaic Hydrogen and Flexible PV for Portable Power		+1,000		+1,000
	Laser Bioeffects		+2,000		+1,400
	Special Operations Target Acquisition & Control Suite (Note: Only to design a mission planning, rehearsal, and execution toolkit prototype system for Air Force Special Tactics)		+2,000		+1,400
	Solid Electrolyte Oxygen Separator			+9,800	+6,900
7	**AEROSPACE PROPULSION**	**92,650**	**129,400**	**106,650**	**131,700**
	HVEPS		+4,500		+3,100
	Jet & Rocket Engine Test Site (JRETS) (Note: Only for Jet and Rocket Propulsion testing at San Bernardino International Airport)		+8,000		+6,800
	Aerospace Lab Equipment Upgrade		+1,000		+1,000
	Advanced Cooling Technology for High Flux Military Diode Laser Arrays		+1,500		+1,300
	Cell-Level Battery Controller		+3,000		+1,500
	Versatile Affordable Advanced Turbine Engine - Titanium Matrix Composite		+1,000		+1,000
	Advanced Vehicle Propulsion Center		+5,000		+4,000
	Advanced Aerospace Vehicle Cooling Technologies (Note: Only to conduct evaluations of aerospace vehicle cooling technologies at the JRETS rocket test stand at the San Bernardino International Airport)		+1,000		+1,000
	Remote-Base Power Demonstration		+3,000		+1,500
	Wavelength Agile Spectral Harmonic Oxygen Sensor		+1,000		+1,000
	High Regression Rate Hybrid Rocket Fuels		+750		+750
	Center for Flow Physics and Control		+2,000		+1,900
	Engineering Research Lab Equipment Upgrade		+1,000		+1,000
	Center for Security of Large-Scale Systems		+2,000		+1,900
	Intense, Ultrafast Laser Microfabrication & Diagnostics		+1,000		+1,000
	Information Assurance Initiative		+1,000		+1,000
	High Powered Electrical Aircraft Capabilities			+10,000	+6,500
	Integrated Cooling and Power System with MBTG			+4,000	+2,800

R-1		Budget Request	House	Senate	Conference
8	**AEROSPACE SENSORS**	**78,804**	**97,304**	**92,804**	**97,604**
	General Purpose Reconfigurable Signal Processor System		+4,000		+2,000
	Optical Signature Recognition System for Authenticity Verification		+2,000		+1,000
	Phased Array Antenna Control Computer		+1,500		+1,300
	Three-Dimensional Packaging Technology for High Speed RF Communication		+2,000	+4,000	+2,000
	Center for Advanced Sensor and Communication Antennas		+5,000		+3,000
	Watchkeeper UWB Demonstration Program		+4,000		+1,600
	Super-resolution Sensor System			+3,000	+2,000
	Minority LEADERS			+7,000	+4,900
	Compact Optical Receiver for Smart and Loitering Standoff Weapons				+1,000
9	**MULTI-DISCIPLINARY SPACE TECHNOLOGY**	**84,581**	**101,581**	**84,581**	**97,781**
	Internet Protocol Commanding of Satellites		+1,000		+1,000
	ETIP - Engineering Tool Improvement Program		+6,000		+5,000
	Photonics Technology (Note: Only for single-mode SOI highly integrated photonics prototyping and SOI JSF weight reduction efforts)		+2,000		+1,700
	Upperstage Engine Technology (USET)		+5,000		+4,000
	Stable Articulating Backbone for Ultralight Radar Project		+3,000		+1,500
10	**SPACE TECHNOLOGY**	**88,909**	**99,909**	**111,484**	**108,509**
	Elastic Memory Composites		+1,000	+3,000	+2,000
	ICASS		+4,000		+2,000
	Converted Silicon Carbide for High Performance Optic Structures		+3,000		+1,500
	EM Gradiometer for the Detection & Confirmation of Underground Hiding Places & Passageways		+2,000	+4,000	+2,800
	Toughened Silicone Substrates for Flexible Solar Cells		+1,000		+1,000
	Spacecraft Vehicles Technology, Deployable Structures for SBR			-4,000	-4,000
	Lightweight and Novel Structures for Space Program			+4,500	+3,400
	USAF Center for National Security Research--Signature Exploitation			+1,575	+1,100
	HAARP			+6,500	+5,500
	Foldable Articulated Structures for Next Generation Spacecraft			+3,000	+1,500
	Seismic Monitoring Program			+4,000	+2,800
12	**DIRECTED ENERGY TECHNOLOGY**	**36,532**	**47,532**	**36,532**	**44,032**
	Adaptive Optics Lasercom		+5,000		+2,500
	Ultra Short Pulse Laser Technology Development (Note: Only for USP laser Platform Development Vehicle, Lethality and Atmospheric Propagation Analysis, and Optimization of the USP Laser Platform)		+6,000		+5,000
13	**COMMAND CONTROL AND COMMUNICATIONS**	**82,147**	**85,147**	**84,147**	**85,647**
	MASINT Visualization Tools Program		+3,000		+2,500
	Joint Battlespace Infosphere			+2,000	+1,000

R-1		Budget Request	House	Senate	Conference
15	**HIGH ENERGY LASER RESEARCH**	**45,333**	**52,333**	**45,333**	**50,733**
	Joint High Power Solid State Laser Program		+2,000		+2,400
	Manufacturing Technology Development Solid State of Advanced Components for High Solid State Laser		+4,000		+2,000
	High Energy Laser Research		+1,000		+1,000
16	**ADVANCED MATERIALS FOR WEAPON SYSTEMS**	**34,284**	**60,284**	**57,784**	**65,884**
	Advanced Polymer Technology for Agile Combat Support		+1,500		+1,100
	Transparent Conductive Polymer Technology Development		+3,000		+1,500
	Metals Affordability Initiative		+5,000	+10,000	+7,500
	Quantitative Inspection Techniques for Assessing Aging of Military Aircraft		+2,000	+1,000	+1,200
	Plasma Enhanced Chemical Vapor Disposition for Advanced Laser Program		+2,000		+1,700
	Large Panel Sapphire Producability		+3,000		+1,500
	Advanced Composite Processes		+2,000		+1,400
	Fast Field Repair of Coated Aircraft and Equipment		+4,000		+2,800
	Materials Integrity Management Research		+1,500		+1,100
	Hybrid Bearing		+2,000		+1,400
	Stealth RAM Coatings			+5,000	+3,500
	Titanium Matrix Composites			+3,500	+3,000
	Plasma Arc/Waste to Energy Production			+4,000	+3,400
	Continuous Integrated Vehicle Health Monitoring System (CIVHMS)				+500
17	**ADVANCED AEROSPACE SENSORS**	**30,634**	**44,634**	**30,634**	**44,234**
	Testbed for Accelerated Transition - Advanced Multi-Discriminating Sensing		+1,000		+1,000
	National Operational Signature Production and Research Capability		+11,500		+11,500
	Phase Diversity - Imaging Through Volume Turbulence		+1,500		+1,100
18	**FLIGHT VEHICLE TECHNOLOGY**	**0**	**1,000**	**0**	**1,000**
	Ultra-Lightweight Composites for Ballistic and Bomb Protection		+1,000		+1,000
19	**AEROSPACE TECHNOLOGY DEVELOPMENT/DEMONSTRATION**	**29,145**	**63,145**	**35,145**	**59,945**
	3-D Weaving/Braiding Technology		+4,000		+2,000
	National Aerospace Leadership Initiative		+25,000		+21,000
	WBI - Capabilities Planning Support		+5,000		+3,500
	Haleakala Laser Communications Testbed			+1,000	+1,000
	Capabilities Planning Support			+5,000	+3,300
20	**AEROSPACE PROPULSION AND POWER TECHNOLOGY**	**79,914**	**84,914**	**84,914**	**86,814**
	Advanced Satellite Thermal Control Program		+1,000		+1,000
	Versatile Affordable Advanced Turbine Engine (Note: Only for the XTC 58F/1 for purposes demonstrating the integration of individual technologies for highly fuel efficient 10,000-15,000 pound thrust demonstrator engines needed for evolving Unmanned Aerial Vehicles)		+4,000		+2,400
	IPHTET Phase III Tech Demonstrator (Project 4921)			+5,000	+3,500

R-1		Budget Request	House	Senate	Conference
21	**CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY**	**32,794**	**35,294**	**33,794**	**33,894**
	Virtual Warriors		+1,500		+1,100
	The Logistics Institute (Transferred to Line 2)		+1,000	+1,000	0
22	**ELECTRONIC COMBAT TECHNOLOGY**	**28,282**	**34,282**	**41,282**	**39,582**
	Receiver and Processing Concepts Evaluation Program		+1,000		+1,000
	Lightweight Modular Support Jammer		+3,000	+8,000	+5,600
	Detect and Avoid for UAVs		+2,000		+1,400
	Affordable Visible Missile Warning Systems			+5,000	+3,300
23	**BALLISTIC MISSILE TECHNOLOGY**	**0**	**13,000**	**2,000**	**11,700**
	Ballistic Missile Technology Common Advanced Guidance Technology		+13,000		+10,000
	Pacific Ballistic Missile Technology Program			+2,000	+1,700
24	**UNMANNED AIR VEHICLE DEVELOPMENT/DEMONSTRATION**	**0**	**13,000**	**0**	**8,500**
	Protector UAV for AC-130 Aircraft (Note: Only to develop a Protector UAV capability to include a Tactical Common Data Link (TCDL) communications suite for real-time video capability)		+10,000		+8,500
	Ice Protection Technologies for UAVs (Transferred to Line 195, RDTE, Navy)		+3,000		0
25	**ADVANCED SPACECRAFT TECHNOLOGY**	**60,124**	**83,624**	**101,614**	**101,924**
	Robust Aerospace Composite Materials and Structures		+3,500	+4,500	+4,500
	Intelligence Free Space Optical Communications		+3,000		+1,500
	Boron Energy Cell System Development		+2,000		+1,000
	Vehicle Risk Reduction (RSLV)		+4,000	+5,000	+4,000
	Advanced Life Cycle Cost/ Risk Model for Space Concepts Development		+1,000		+1,000
	Integrated Spacecraft Engineering Tool (ISET)		+1,000		+1,000
	Systematic Hierarchical Approach to Radiation Hardened Electronics		+3,000		+1,500
	Streaker - Small Launch Vehicle		+4,000		+3,000
	Radiation Hardening Microelectronics		+2,000		+1,400
	Thin Film Amorphous Solar Arrays			+10,000	+7,500
	Geosynchronous Laser Imaging Testbed			+7,000	+4,900
	Intelligent Free Space Optical Satelite Communications Node			+3,000	+1,500
	Hardening Technologies for Satellite Protection			+5,000	+3,500
	MRAM Innovative Communciations Materials			+1,990	+1,200
	Vortex Cold Wall Low Cost Rocket Engines			+5,000	+3,300
	AC Coupled Interconnect				+1,000
26	**MAUI SPACE SURVEILLANCE SYSTEM (MSSS)**	**6,306**	**6,306**	**50,306**	**58,706**
	High Accuracy Network Determination System			+10,000	+8,500
	MSSS Operations and Research			+34,000	+33,900
	PanSTARRS (Transferred from Line 27)				+10,000
27	**MULTI-DISCIPLINARY ADVANCED DEVELOPMENT SPACE TECHNOLOGY**	**51,114**	**51,114**	**61,114**	**51,114**
	PanSTARRS (Transferred to Line 26)			+10,000	0

R-1		Budget Request	House	Senate	Conference
28	**CONVENTIONAL WEAPONS TECHNOLOGY**	**22,398**	**29,898**	**22,398**	**27,498**
	High Speed Strike Weapon		+1,000		+1,000
	BLU-109 Bunker Buster - Heavy		+5,000		+3,000
	Fuze Air-to-Surface Technology		+1,500		+1,100
29	**ADVANCED WEAPONS TECHNOLOGY**	**31,103**	**48,103**	**47,103**	**54,503**
	Advanced Technology for IRCM Component Improvement		+3,000		+2,100
	Low Speed Air Speed System		+4,000		+3,400
	Near Earth Space Initiative		+4,000		+2,800
	LIVAR		+3,000		+2,100
	Wafer Integrated Semiconductor Laser		+3,000	+4,000	+3,000
	Massively Parallel Optical Interconnects for Microsatellite Datacom			+4,000	+2,000
	Applications of LIDAR to Vehicles with Analysis (ALVA)			+8,000	+8,000
31	**C3I ADVANCED DEVELOPMENT**	**28,524**	**34,524**	**32,524**	**35,124**
	Dynamic Targeting Capability		+3,000		+1,500
	Collaboration Archive Server (Note: Only for the continued development of the Collaboration Archive Server initiated under SBIR AF01-106)		+1,000		+1,000
	Cyber Security - Advanced Course in Engineering		+2,000		+1,000
	Rivet Joint Advanced Wideband Processor			+3,000	+2,100
	J-P 900 Coal based Jet Fuel			+1,000	+1,000
34	**HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM**	**8,547**	**10,547**	**8,547**	**9,847**
	Joint High Power Solid State Laser Program		+2,000		+1,300
39	**PHYSICAL SECURITY EQUIPMENT**	**22,640**	**26,840**	**22,640**	**24,840**
	Smart Camera System with Target Motion Cueing		+200		+200
	Military Base Protection Using X-Ray System (Shaped Energy Detection System)		+4,000		+2,000
48	**ADVANCED WIDEBAND SYSTEM (AWS) TRANSFORMATIONAL SATCOM (TSAT)**	**774,836**	**674,836**	**374,836**	**474,836**
	Technological Risk Reduction		-100,000	-400,000	-300,000
50	**INTERCONTINENTAL BALLISTIC MISSILE - DEM/VAL**	**72,503**	**72,503**	**70,503**	**70,503**
	Long Range Planning			-2,000	-2,000
53	**SPACE-BASED RADAR DEM/VAL**	**327,732**	**75,000**	**227,732**	**75,000**
	Program Affordability		-252,732	-100,000	-252,732
54	**POLLUTION PREVENTION (DEM/VAL)**	**2,692**	**4,692**	**4,192**	**5,492**
	Laser Applications to Improve Air Force Operations and Readiness		+2,000		+1,700
	O2 Diesel Particulate Emissions Reduction			+1,500	+1,100
59	**OPERATIONALLY RESPONSIVE LAUNCH**	**35,362**	**40,362**	**5,000**	**33,362**
	Blue MAJIC		+4,000		+2,000
	Advanced Rocket Components (Note: Only for water-cooled rocket engine prototype project)		+1,000		+1,000
	Program Reduction			-35,362	-5,000
	Microsatellite Development			+5,000	0

R-1		Budget Request	House	Senate	Conference
60	**COMMON AERO VEHICLE (CAV)**	21,610	31,610	0	16,610
	Common Aero Vehicle		+10,000		+5,000
	Program Reduction			-21,610	-10,000
62	**GLOBAL BROADCAST SERVICE (GBS)**	33,447	23,447	33,447	26,447
	Reduce Forward Financing		-10,000		-7,000
65	**B-1B**	59,462	59,462	89,462	84,462
	FLIR and Datalink Upgrades			+30,000	+25,000
68	**B-2 ADVANCED TECHNOLOGY BOMBER**	245,049	295,049	245,049	275,049
	EHF SatCom		+24,000		+14,400
	GBU-28 Integration		+12,000		+7,200
	Radar Modernization Program		+14,000		+8,400
69	**EW DEVELOPMENT**	138,393	110,893	157,393	114,093
	Rapid Replacement of Mission Critical Logistics Electronic Components at Warner Robins AFB		+3,500	+2,000	+2,300
	AN/ALQ-172 Airborne Electronic Attack Upgrade		+5,000	+9,000	+5,400
	AEA Technology Development		-36,000		-36,000
	PLAID			+8,000	+4,000
70	**JOINT TACTICAL RADIO**	49,856	39,856	49,856	39,856
	SDD Contract Award Delay		-10,000		-10,000
73	**COUNTERSPACE SYSTEMS**	75,863	22,863	27,863	26,363
	Counter Surveillance Reconnaissance System Program Termination		-53,000	-53,000	-53,000
	Space Control Test Capabilities System			+5,000	+3,500
75	**SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD**	508,448	599,448	508,448	599,448
	AF Requested Transfer		+91,000		+91,000
79	**SUBMUNITIONS**	4,824	5,824	4,824	5,824
	Self-Destruct Fuzing for BLU-97 Submunitions in AF CBU-87 Area Attack Munition		+1,000		+1,000
80	**AGILE COMBAT SUPPORT**	10,053	12,053	20,053	19,053
	Biostatic Protective Clothing for AFSOC		+1,000		+1,000
	Advanced Casualty Care for AFSOC		+1,000		+1,000
	Isolation Units with Reactive Nanoparticle Materials			+6,000	+4,200
	AERO Medical Readiness - Water Sterilization			+4,000	+2,800
82	**LIFE SUPPORT SYSTEMS**	6,630	14,630	6,630	11,430
	Integrated Mission Helmet		+3,000		+1,800
	ACES II Ejection Seat Improvement (Note: only for continuing safety improvements to USAF ACES II ejection seats)		+1,000		+1,000
	Lower Anti-G Garment		+4,000		+2,000
84	**COMBAT TRAINING RANGES**	18,714	18,714	22,714	21,514
	Virtual Teleoperation for Unmanned Aerial Vehicles (ISU)			+4,000	+2,800
85	**INTEGRATED COMMAND & CONTROL APPLICATIONS (IC2A)**	258	12,758	18,758	22,158
	JSTARS Net-Centric Enhancements Using Web Services		+1,000		+1,000
	C2 Manager for AFSOC		+1,000		+1,000
	Distributed Mission Interoperability Toolkit (DMIT)		+4,000	+8,000	+5,600

R-1		Budget Request	House	Senate	Conference
	Net-Centric Information Visualization Services		+3,000		+2,000
	Integration of Global Expeditionary Medical System with Global Combat Support System		+3,500		+2,500
	Global Awareness Presentation System-IC2A			+5,000	+2,500
	Asset Source for Software Engineering Technology eWing Program			+5,500	+4,700
	Air Force Electronic Systems Command/National Product Line Asset Center (NPLACE) (Transfer from Line 86)				+2,600
86	**INTELLIGENCE EQUIPMENT**	**1,349**	**6,849**	**1,349**	**2,449**
	Air Force Electronic Systems Command/National Product Line Asset Center (NPLACE) (Transfer to Line 85)		+4,000		0
	Hard and Deeply Buried Targets		+1,500		+1,100
89	**JOINT STRIKE FIGHTER EMD**	**2,307,420**	**2,199,420**	**2,309,920**	**2,200,670**
	F-135 Engine Development		-49,000		-49,000
	Reprogramming Activity		-25,000		-25,000
	Manufacturing, Tooling and Materials		-60,000		-60,000
	Engineering Activity		+26,000		+26,000
	JSF Second Source Tire Research, Aircraft Bias, Radial Tire Materials			+2,500	+1,250
92	**RDT&E FOR AGING AIRCRAFT**	**15,665**	**20,665**	**35,665**	**32,065**
	Advanced Aircraft Avionics & Electronics Insertion		+1,000		+1,000
	TER-0 MIL-STD-1760 ("Smart") Modification		+2,000		+1,700
	Enterprise Availability and Cost Optimization System		+1,000		+1,000
	Fleet Capability Assessment		+1,000	+2,000	+1,300
	Aging Landing Gear Life Extension			+7,000	+4,600
	Academic Center for Aging Aircraft			+6,000	+4,200
	Fleet Readiness			+2,500	+1,300
	LEAN Depot Engine Repair			+2,500	+1,300
94	**UNMANNED COMBAT AIR VEHICLE JOINT PROGRAM OFFICE**	**2,911**	**0**	**2,911**	**0**
	Program Transferred		-2,911		-2,911
95	**LINK-16 SUPPORT AND SUSTAINMENT**	**141,012**	**140,212**	**141,012**	**136,612**
	Enhanced Tactical Data Link and Data Display		+6,000		+3,000
	Pocket Link 16		+4,000		+3,400
	Data Links Facility - FY06 Contract Award		-10,800		-10,800
96	**FAMILY OF INTEROPERABLE OPERATIONAL PICTURES (FIOP)**	**44,947**	**49,947**	**44,947**	**47,147**
	Command and Control Service Level Management		+5,000		+3,800
	Command and Control Enterprise Services (C2ES)		+4,000		+2,400
	Program Growth		-4,000		-4,000
97	**MULTI-SENSOR C2 AIRCRAFT (MC2A)**	**538,860**	**458,860**	**498,860**	**423,860**
	MC2A Airframe - Delay in test bed delivery		-80,000	-40,000	-115,000
98	**FULL COMBAT MISSION TRAINING**	**5,894**	**5,894**	**12,894**	**10,794**
	F-16 Block 30 MTC for Air National Guard			+7,000	+4,900
102	**MAJOR TEST &EVALUATION INVESTMENT**	**58,933**	**67,233**	**58,933**	**64,533**
	Instrumentation, Loading, Integration, Analysis and Documentation - Edwards, AFB		+3,000		+1,500

R-1		Budget Request	House	Senate	Conference
	Air Armament Center/ILIAD		+2,300		+2,000
	3-D Data Track Assembly (3-DATA) Imaging System		+3,000		+2,100
106	**INITIAL OPERATIONAL TEST & EVALUATION**	**28,839**	**32,839**	**28,839**	**30,839**
	Air Force Operational Test and Evaluation Center		+4,000		+2,000
107	**TEST AND EVALUATION SUPPORT**	**356,266**	**357,266**	**361,266**	**359,766**
	Consolidated Fighter Combined Test Force		+1,000		+1,000
	Big Bend Range			+5,000	+2,500
108	**ROCKET SYSTEMS LAUNCH PROGRAM (SPACE)**	**7,984**	**22,984**	**22,984**	**22,984**
	Ballistic Missile Range Safety Technology		+15,000	+15,000	+15,000
117	**B-52 SQUADRONS**	**25,766**	**33,766**	**25,766**	**31,366**
	B-52 Re-engine Study		+8,000		+5,600
120	**STRAT WAR PLANNING SYSTEM - USSTRATCOM**	**23,391**	**23,391**	**18,391**	**18,391**
	ISPAN Contractor Costs			-5,000	-5,000
126	**A-10 SQUADRONS**	**22,590**	**22,590**	**39,590**	**31,090**
	Three Dimensional Modeling, Design and Engineering Assessment			+7,000	+3,500
	A-10 Propulsion Modernization			+10,000	+5,000
127	**F-16 SQUADRONS**	**99,606**	**99,606**	**102,606**	**107,606**
	AN/APG-68(V) 10 radar development			+3,000	+8,000
128	**F-15E SQUADRONS**	**115,246**	**136,446**	**125,246**	**132,446**
	F-15C APG-63(V)3 Radar Upgrade		+17,200	+10,000	+14,600
	F-15 ALR-56C Radar Warning Receiver Upgrade Program		+4,000		+2,600
130	**F-22 SQUADRONS**	**354,528**	**344,528**	**354,528**	**344,528**
	Execution		-10,000		-10,000
132	**TACTICAL AIM MISSILES**	**5,558**	**3,058**	**5,558**	**5,558**
	AIM 9(X) - Premature Integration on F-35		-2,500		0
135	**AF TENCAP**	**10,673**	**15,673**	**15,673**	**18,273**
	FOGLITE		+5,000		+4,300
	GPS Jammer Detection and Location System			+5,000	+3,300
145	**EVALUATION AND ANALYSIS PROGRAM**	**0**	**3,000**	**0**	**2,600**
	Adaptive Information Protection Technologies		+3,000		+2,600
149	**BOMBER TACTICAL DATA LINK**	**120,256**	**81,256**	**120,256**	**81,256**
	B-52 Program Growth		-39,000		-39,000
154	**ADVANCED PROGRAM EVALUATION**	**474,734**	**434,734**	**474,734**	**434,734**
	Classified Program		-40,000		-40,000
156	**WARGAMING AND SIMULATION CENTERS**	**6,377**	**7,377**	**6,377**	**7,377**
	Synthetic Theater Operations Research Model		+1,000		+1,000
157	**MISSION PLANNING SYSTEMS**	**136,701**	**106,701**	**136,701**	**106,701**
	Program Growth		-30,000		-30,000

R-1		Budget Request	House	Senate	Conference
161	**NATIONAL AIR INTELLIGENCE CENTER**	0	0	3,000	0
	EWIRDB/NGE Data Migration			+3,000	0
169	**INFORMATION SYSTEMS SECURITY PROGRAM**	79,625	86,625	87,625	87,125
	Worldwide Infrastructure Security Environment (Note: only for WISE to provide protection and response to physical and cyber attacks.)		+4,000		+2,000
	ESC/SAF Deployment Planning		+1,000		+1,000
	Center for Information Assurance Security		+2,000	+3,000	+2,000
	Lighthouse Cyber Security Program			+5,000	+2,500
170	**GLOBAL COMBAT SUPPORT SYSTEM**	18,637	22,637	18,637	21,437
	Air Force Knowledge Service		+4,000		+2,800
171	**GLOBAL COMMAND AND CONTROL SYSTEM**	3,611	3,611	6,111	5,411
	Applied Research in Computing Enterprise Services			+2,500	+1,800
177	**SATELLITE CONTROL NETWORK (SPACE)**	17,833	17,833	22,833	20,333
	Civil Reserve Space Service Initiative			+5,000	+2,500
178	**WEATHER SERVICE**	16,526	16,526	17,526	17,526
	Pacific Islands Ocean Typhoon Experiment (PILOT)			+1,000	+1,000
179	**AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM**	7,371	7,371	12,371	9,871
	Transportable Transponder Landing System			+5,000	+2,500
183	**AIR FORCE TACTICAL MEASUREMENT AND SIGNATURE INTELLIGENCE**	7,905	9,905	9,905	9,905
	Advanced Remote Ground Unattended Sensor Program		+2,000	+2,000	+2,000
184	**DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES (SPACE)**	219,345	189,345	219,345	189,345
	Classified Adjustment		-30,000		-30,000
190	**SPACELIFT RANGE SYSTEM (SPACE)**	47,253	51,253	47,253	49,753
	Reservoir Assessment, Detection and Response Project		+3,000		+1,500
	CSIP		+1,000		+1,000
195	**AIRBORNE RECONNAISSANCE SYSTEMS**	55,464	55,464	64,864	61,564
	Software Communications Architecture Compliance			+9,400	+6,100
196	**MANNED RECONNAISSANCE SYSTEMS**	13,283	23,283	17,783	21,783
	Lightweight SIGINT System		+4,000		+2,000
	Combat Sent Tactical ELINT System Modernization		+2,000		+1,000
	Cobra Ball Long Wave Infrared Mid-Course Data Collection Capability		+2,500		+2,100
	Cobra Ball Hi-Res E/O Signature Capability		+1,500		+1,100
	Collaborative Information Operations			+4,500	+2,300
197	**DISTRIBUTED COMMON GROUND SYSTEMS**	21,232	22,232	21,232	22,232
	Battle Damage Assessment Process Analysis		+1,000		+1,000
198	**PREDATOR UAV (JMIP)**	81,346	84,346	81,346	83,946
	Predator B LYNX SAR		+3,000		+2,600

R-1		Budget Request	House	Senate	Conference
199	**GLOBAL HAWK UAV (JMIP)**	**336,159**	**315,259**	**336,159**	**336,159**
	Southern Command Demo Execution		-7,900		0
	PACOM Exercise Execution		-5,000		0
	NCCT Termination		-8,000		0
202	**SPACETRACK (SPACE)**	**161,838**	**124,838**	**168,538**	**140,238**
	SBSS Delay		-30,000		-20,000
	Defer SBSS Block 10 and Block 20 based on delay in SBSS		-7,000	-4,000	-7,000
	S-band Upgrade			+10,700	+5,400
208	**C-130 AIRLIFT SQUADRON**	**150,242**	**153,242**	**152,242**	**152,242**
	Real-Time Measurement Weight and Balance System		+3,000	+2,000	+2,000
210	**C-17 AIRCRAFT**	**199,692**	**202,692**	**201,692**	**201,692**
	C-17 Test Flight Data Archive		+3,000	+2,000	+2,000
214	**KC-10S**	**18,452**	**0**	**0**	**0**
	GATM Termination		-18,452	-18,452	-18,452
218	**INDUSTRIAL PREPAREDNESS**	**38,012**	**56,012**	**44,012**	**57,212**
	e-LINCS		+1,000		+1,000
	WR-ALC Maintenance Operations Support (MOS) Simulation Model		+1,000		+1,000
	Aerial Multi-Axis Platform		+1,000		+1,000
	Rapid Manufacturing using Computers and Lasers		+1,000		+1,000
	Affordable Multi-Junction Solar Cells		+3,000		+1,500
	Tide Program		+5,000		+5,000
	LO Coatings Production Scale-up		+5,000		+3,500
	Laser Peening for F119 Engine		+1,000		+1,000
	Bipolar Wafer-cell NiMH Aircraft Battery			+2,500	+1,300
	Advanced Nanomaterials Research, NanoPhotonic Components			+2,500	+1,900
	Supply Chain Optimization Universal Tool Kit			+1,000	+1,000
219	**LOGISTICS SUPPORT ACTIVITIES**	**0**	**1,000**	**0**	**1,000**
	REMIS		+1,000		+1,000
221	**SUPPORT SYSTEMS DEVELOPMENT**	**50,238**	**67,738**	**64,238**	**69,938**
	C-5/C-17 IDE (Aging Aircraft)		+5,000	+5,000	+5,000
	Develop Rapid Retargeting Capability at Warner Robins Air Logistics Center Depot		+1,000		+1,000
	Information Assurance for Reengineering and Enabling Technologies		+3,000		+2,000
	Special Operations Forces Program Directorate (WR-ALC/LU) Integrated Data Environment (IDE)		+2,000		+1,000
	Center for Aircraft & System/Support Infrastructure		+2,000		+1,000
	ACC Support Systems Development		+4,500		+2,700
	Heavy Duty Hybrid Electric			+3,000	+2,000
	Common Core Power Production Program			+4,000	+2,000
	Teleoperated Semi-autonomous Robot for Aging Aircraft Maintenance			+2,000	+1,000
	Air Force Center of Acquisition Reengineering and Enabling Technologies				+2,000

SPACE BASED RADAR

The conferees agree with the House position.

AIRBORNE ELECTRONIC ATTACK

The conference report provides $113,693,000 for Electronic Warfare Development. Noting the prevalence of significant industry efforts and capability in the field, the House report denied funding for transmitter and receiver technology development for a new stand-off jamming pod capability for the B–52. The conferees believe that the Air Force objective can be achieved quicker and at far less cost than the budget proposed through greater coordination with industries of expertise in this area. The Air Force has acknowledged this opportunity and expressed an interest to pursue such an objective. Accordingly, the conference report removes the restrictions on technology development for this purpose with the expectation that the Air Force will take advantage of the current state of technology and short-term developments potentially available to meet this requirement. The conferees further expect that the Air Force will take into account the cost savings associated with this opportunity in the fiscal year 2006 budget submission for this program.

INSTRUMENTATION, LOADING, INTEGRATION, ANALYSIS AND DOCUMENTATION

The conferees recognize the critical role of digital technology in flight testing and commends the leadership of Edwards AFB, Eglin AFB, Barksdale AFB, White Sands Missile Range, and Fort Rucker for recent investments in modern instrumentation, data capture, data analysis and data archiving technology. The conferees support the continued deployment of ILIAD, an electronic test data management system, to provide cost-effective and efficient collection, protection, validation, and sharing of critical test and evaluation data. The use of this technology to manage test and evaluation data throughout its lifecycle eliminates costly and redundant testing. Further, based upon its success supporting numerous weapons platforms in multiple geographic locations, the conferees urge the Department of the Air Force to consider leveraging the Air Force's ILIAD solution for the Joint Strike Fighter and other weapons programs.

C–17 FLIGHT TEST DATA ARCHIVE

The conferees support the migration of C–17 flight test data from magnetic tapes to fixed-content disk drive technology that has no end of life concerns; places test data in an "on-line" format with clear indexing; and allows timely retrieval regardless of data volume. Given the importance of flight test data, the ability to retrieve specific data at a future date, as well as the cost-effectiveness of fixed-content technology, the conferees encourage all System Program Offices to consider the benefits of archiving test data in this manner.

AIR FORCE "MINORITY LEADERS" PROGRAM

The conferees expect that funds available for the Air Force "MINORITY LEADERS" program shall be available for research in the areas of both materials and aerospace sensors.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, DW				
BASIC RESEARCH				
DEFENSE RESEARCH SCIENCES	143,729	168,729	150,729	171,129
UNIVERSITY RESEARCH INITIATIVES	---	8,500	---	---
GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIVERSITY RESEAR	---	8,000	7,000	7,000
DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE	9,590	9,590	14,090	13,390
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	36,769	50,019	59,269	55,019
TOTAL, BASIC RESEARCH	190,088	244,838	231,088	246,538
APPLIED RESEARCH				
MEDICAL FREE ELECTRON LASER	9,668	9,668	18,668	18,668
HISTORICALLY BLACK & HISPANIC SERVNG INSTITU SCIENCES.	14,192	19,192	17,192	21,192
LINCOLN LABORATORY RESEARCH PROGRAM	25,441	25,441	25,441	25,441
COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY	342,614	345,614	---	---
INFORMATION AND COMMUNICATIONS TECHNOLOGY	---	---	193,956	192,656
COGNITIVE COMPUTING SYSTEMS	---	---	151,158	151,158
BIOLOGICAL WARFARE DEFENSE	147,533	156,533	156,833	161,033
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	104,385	167,885	147,139	171,710
TACTICAL TECHNOLOGY	339,175	342,175	316,575	342,825
MATERIALS AND ELECTRONICS TECHNOLOGY	502,044	518,544	---	---
MATERIALS TECHNOLOGY	---	---	253,836	258,836
ELECTRONICS TECHNOLOGY	---	---	215,708	263,808
WMD DEFEAT TECHNOLOGY	249,786	255,786	249,786	253,786
STRATEGIC DEFENSE TECHNOLOGIES	116,113	117,113	116,113	117,113
MEDICAL TECHNOLOGY	10,084	10,084	14,084	13,484
SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT	13,109	13,109	13,109	13,109
SOF MEDICAL TECHNOLOGY DEVELOPMENT	2,162	2,162	2,162	2,162
TOTAL, APPLIED RESEARCH	1,876,306	1,983,306	1,891,760	2,006,981

	(In thousands of dollars) Budget	House	Senate	Conference
ADVANCED TECHNOLOGY DEVELOPMENT				
MEDICAL ADVANCED TECHNOLOGY...........................	2,063	6,563	3,563	4,763
SO/LIC ADVANCED DEVELOPMENT..........................	32,682	34,682	34,682	36,382
COMBATING TERRORISM TECHNOLOGY SUPPORT...............	46,719	93,819	76,719	99,984
COUNTERPROLIFERATION ADVANCED DEVELOPMENT TECHNOLOGIES	74,456	76,456	95,456	92,156
BALLISTIC MISSILE DEFENSE TECHNOLOGY.................	204,320	196,320	232,120	228,270
JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT........	23,319	23,319	26,819	25,769
ADVANCED AEROSPACE SYSTEMS...........................	361,067	364,067	---	---
ADVANCED AEROSPACE...................................	---	---	87,347	101,847
SPACE PROGRAMS.......................................	---	---	222,220	235,020
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADVANCED DEV	117,343	176,843	173,843	185,143
JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS) ADVANCED TE	284,617	449,617	288,617	363,617
SPECIAL TECHNICAL SUPPORT............................	---	6,000	---	3,000
GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS.......	27,542	107,792	111,042	145,617
STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	56,936	61,436	56,936	57,936
JOINT WARFIGHTING PROGRAM............................	9,936	9,936	10,936	10,936
ADVANCED ELECTRONICS TECHNOLOGIES....................	218,151	224,151	225,151	227,851
ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS...........	213,901	224,901	217,901	219,001
HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM......	186,666	209,666	236,766	238,216
COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS..........	225,784	225,784	221,784	221,784
SENSOR AND GUIDANCE TECHNOLOGY.......................	337,117	344,617	---	---
SENSOR TECHNOLOGY....................................	---	---	194,373	203,773
GUIDANCE TECHNOLOGY..................................	---	---	137,244	137,244
LAND WARFARE TECHNOLOGY..............................	63,121	63,121	63,121	63,121
CLASSIFIED DARPA PROGRAMS............................	238,131	238,131	88,131	188,331
NETWORK-CENTRIC WARFARE TECHNOLOGY...................	125,124	125,124	125,124	125,124
DISTRIBUTED LEARNING ADVANCED TECHNOLOGY DEVELOPMENT..	13,756	16,756	13,756	16,306
SOFTWARE ENGINEERING INSTITUTE.......................	21,599	21,599	21,599	21,599
QUICK REACTION SPECIAL PROJECTS......................	64,389	42,926	64,389	42,926
JOINT WARGAMING SIMULATION MANAGEMENT OFFICE..........	46,017	46,017	46,017	46,017

	(In thousands of dollars)			
	Budget	House	Senate	Conference
TECHNOLOGY LINK	1,934	7,934	2,934	8,084
COUNTERPROLIFERATION SUPPORT	1,958	1,958	1,958	1,958
SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT	48,803	48,803	59,803	50,803
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	3,047,451	3,448,338	3,140,351	3,402,578
DEMONSTRATION & VALIDATION				
PHYSICAL SECURITY EQUIPMENT	---	8,000	19,000	17,900
JOINT ROBOTICS PROGRAM	11,771	19,771	15,771	21,821
ADVANCED SENSOR APPLICATIONS PROGRAM	17,581	28,581	22,581	26,731
ENVIRONMENTAL SECURITY TECHNICAL CERTIFICATION PROGRAM	32,546	35,046	36,546	38,046
ADVANCED CONCEPTS, EVALUATIONS AND SYSTEMS	256,159	231,159	256,159	231,159
BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT	937,748	876,248	1,017,748	944,248
BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT	4,384,775	4,369,775	4,548,275	4,630,450
BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT	492,614	495,614	497,614	498,364
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL	104,195	104,195	112,195	108,195
BALLISTIC MISSILE DEFENSE SENSORS	591,957	594,957	613,457	605,807
BALLISTIC MISSILE DEFENSE SYSTEM INTERCEPTOR	511,262	398,262	259,262	348,262
BALLISTIC MISSILE DEFENSE TEST & TARGETS	713,658	713,658	713,658	716,658
BALLISTIC MISSILE DEFENSE PRODUCTS	418,608	388,608	413,608	405,108
BALLISTIC MISSILE DEFENSE SYSTEMS CORE	479,764	310,264	454,764	409,614
HUMANITARIAN DEMINING	13,747	13,747	13,747	13,747
COALITION WARFARE	5,886	5,886	5,886	5,886
JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS) ADVANCED CO	422,873	260,784	222,873	222,873
REDUCTION OF TOTAL OWNERSHIP COST	27,351	10,351	---	---
JOINT ELECTROMAGNETIC TECHNOLOGY (JET) PROGRAM	6,679	6,679	16,679	15,279
TOTAL, DEMONSTRATION & VALIDATION	9,429,174	8,871,585	9,239,823	9,260,148
ENGINEERING & MANUFACTURING DEVELOPMENT				
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD	152.379	187,879	145,879	168,979
MANPADS DEFENSE PROGRAM	14,135	9,635	22,135	12,235
JOINT ROBOTICS PROGRAM - EMD	13,845	28,845	29,845	33,445
ADVANCED IT SERVICES JOINT PROGRAM OFFICE (AITS-JPO)	18,183	18,183	18,183	18,183

	(In thousands of dollars)			
	Budget	House	Senate	Conference
JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)	18,515	18,515	18,515	18,515
INFORMATION TECHNOLOGY DEVELOPMENT....................	10,683	10,683	10,683	10,683
INFORMATION TECHNOLOGY DEVELOPMENT....................	52,407	52,407	52,407	52,407
INFORMATION TECHNOLOGY DEVELOPMENT-STANDARD PROCUREMEN	6,690	6,690	6,690	6,690
FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS..............	94,767	49,767	49,767	49,767
DEFENSE MESSAGE SYSTEM................................	6,623	6,623	6,623	6,623
INFORMATION SYSTEMS SECURITY PROGRAM..................	2,493	6,993	2,493	5,393
GLOBAL COMBAT SUPPORT SYSTEM..........................	17,867	17,867	17,867	17,867
JOINT COMMAND AND CONTROL PROGRAM (JC2)...............	3,000	4,500	3,000	4,000
ELECTRONIC COMMERCE...................................	3,466	3,466	3,466	3,466
ELECTRONIC COMMERCE...................................	2,345	2,345	2,345	2,345
BMMP DOMAIN MANAGEMENT AND SYSTEMS INTEGRATION........	7,472	7,472	7,472	7,472
DEFENSE ACQUISITION CHALLENGE PROGRAM.................	---	26,463	---	25,713
TOTAL, ENGINEERING & MANUFACTURING DEVELOPMENT......	424,870	458,333	397,370	443,783
RDT&E MANAGEMENT SUPPORT				
SPECIAL TECHNICAL SUPPORT.............................	19,274	27,274	19,274	27,274
UNEXPLODED ORDNANCE DETECTION AND CLEARANCE...........	---	5,000	---	10,000
TRANSFORMATION INITIATIVES PROGRAM....................	9,977	---	---	---
DEFENSE READINESS REPORTING SYSTEM (DRRS).............	19,691	19,691	19,691	19,691
JOINT SYSTEMS ARCHITECTURE DEVELOPMENT................	4,989	4,989	4,989	4,989
THERMAL VICAR...	7,263	7,263	7,263	7,263
TECHNICAL STUDIES, SUPPORT AND ANALYSIS...............	30,618	31,618	30,618	31,618
CRITICAL TECHNOLOGY SUPPORT...........................	1,937	1,937	1,937	1,937
BLACK LIGHT...	21,535	21,535	21,535	21,535
FOREIGN MATERIAL ACQUISITION AND EXPLOITATION.........	35,572	37,072	35,572	36,572
INTERAGENCY EXPORT LICENSE AUTOMATION.................	5,882	5,882	5,882	5,882
DEFENSE TRAVEL SYSTEM.................................	28,508	28,508	28,508	28,508
JOINT THEATER AIR AND MISSILE DEFENSE ORGANIZATION....	86,409	86,409	86,409	86,409
CLASSIFIED PROGRAM USD(P).............................	---	85,000	---	90,000

	(In thousands of dollars)			
	Budget	House	Senate	Conference
FOREIGN COMPARATIVE TESTING..........................	35,633	35,633	35,633	35,633
SUPPORT TO NETWORKS AND INFORMATION INTEGRATION.......	11,490	12,490	20,690	19,590
GENERAL SUPPORT TO USD (INTELLIGENCE)................	4,830	4,830	4,830	4,830
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM..............	42,652	42,652	37,652	37,652
CLASSIFIED PROGRAMS - C3I............................	---	25,000	---	22,000
SMALL BUSINESS INNOVATION RESEARCH/CHALLENGE ADMINISTR	1,999	4,999	1,999	3,499
DEFENSE TECHNOLOGY ANALYSIS..........................	7,279	7,279	7,279	7,279
FORCE TRANSFORMATION DIRECTORATE.....................	19,591	44,591	19,591	39,591
DEFENSE TECHNICAL INFORMATION SERVICES (DTIC).........	45,203	45,203	45,203	45,203
R&D IN SUPPORT OF DOD ENLISTMENT, TESTING & EVALUATION	10,598	10,598	10,598	10,598
DEVELOPMENT TEST AND EVALUATION......................	8,882	8,882	8,882	8,882
MANAGEMENT HEADQUARTERS (RESEARCH & DEVELOPMENT) DARP.	46,689	46,689	46,689	46,689
INFORMATION TECHNOLOGY RAPID ACQUISITION.............	19,958	9,958	---	5,000
INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (IO)...	12,878	12,878	12,878	12,878
PENTAGON RESERVATION.................................	13,884	13,884	13,884	13,884
MANAGEMENT HEADQUARTERS - MDA........................	141,923	100,023	141,923	116,923
IT SOFTWARE DEV INITIATIVES..........................	1,700	1,700	1,700	1,700
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TOTAL, RDT&E MANAGEMENT SUPPORT....................	696,844	789,467	671,109	803,509
OPERATIONAL SYSTEMS DEVELOPMENT				
PARTNERSHIP FOR PEACE (PFP) INFORMATION MANAGEMENT SYS	6,995	6,995	6,995	6,995
CHEMICAL AND BIOLOGICAL DEFENSE (OPERATIONAL SYSTEMS D	2,178	2,178	2,178	2,178
ISLAND SUN...	1,663	1,663	1,663	1,663
C4I INTEROPERABILITY.................................	41,074	44,074	41,074	43,624
JOINT ANALYTICAL MODEL IMPROVEMENT PROGRAM...........	5,577	5,577	5,577	5,577
NATIONAL MILITARY COMMAND SYSTEM-WIDE SUPPORT.........	1,240	1,240	1,240	1,240
DEFENSE INFO INFRASTRUCTURE ENGINEERING AND INTEGRATIO	2,517	2,517	2,517	2,517
LONG HAUL COMMUNICATIONS (DCS).......................	11,401	11,401	11,401	11,401
MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK....	7,261	7,261	7,261	7,261
INFORMATION SYSTEMS SECURITY PROGRAM.................	11,135	11,135	11,135	11,135
INFORMATION SYSTEMS SECURITY PROGRAM.................	477,846	479,346	477,846	479,346

(In thousands of dollars)

	Budget	House	Senate	Conference
C4I FOR THE WARRIOR	4,177	4,177	4,177	4,177
C4I FOR THE WARRIOR	24,712	24,712	24,712	24,712
GLOBAL COMMAND AND CONTROL SYSTEM	43,693	43,693	57,293	54,693
JOINT SPECTRUM CENTER	18,941	18,941	18,941	18,941
DEFENSE COLLABORATION TOOL SUITE (DCTS)	8,503	8,503	8,503	8,503
NET-CENTRIC ENTERPRISE SERVICES (NCES)	52,059	52,059	52,059	52,059
TELEPORT PROGRAM	10,272	10,272	10,272	10,272
SPECIAL APPLICATIONS FOR CONTINGENCIES	20,758	22,758	20,758	22,458
CRITICAL INFRASTRUCTURE PROTECTION (CIP)	28,021	28,021	28,021	28,021
DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)	32,939	32,939	32,939	32,939
DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)	---	17,000	---	16,000
NET CENTRICITY	214,222	144,222	120,722	134,222
INDUSTRIAL PREPAREDNESS	11,005	37,505	25,005	40,280
LOGISTICS SUPPORT ACTIVITIES	11,389	11,389	11,389	11,389
MANAGEMENT HEADQUARTERS (OJCS)	22,421	22,421	22,421	22,421
NATO JOINT STARS	30,399	30,399	30,399	30,399
SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT	---	5,000	---	2,500
SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT	---	25,500	6,000	26,000
SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT	311,966	369,566	67,728	92,828
CV-22	---	---	75,131	75,131
AIRCRAFT DEFENSIVE SYSTEMS	---	---	58,041	58,041
AVIATION SYSTEMS ADV DEVELOPMENT	---	---	66,982	85,482
ASDS	---	---	15,614	20,000
SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT	25,015	37,015	47,015	49,815
SOF OPERATIONAL ENHANCEMENTS	57,643	74,343	74,643	85,093
TOTAL, OPERATIONAL SYSTEMS DEVELOPMENT	1,497,022	1,593,822	1,447,652	1,579,513

	Budget	House	Senate	Conference
	(In thousands of dollars)			
CLASSIFIED PROGRAMS	3,578,082	3,461,582	3,385,410	3,470,574
DARPA - UUNDISTRIBUTED REDUCTION	---	---	---	-50,000
MISSILE DEFENSE PROGRAMS--UNDISTRIBUTED REDUCTION	---	---	---	-180,000
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, DW	20,739,837	20,851,271	20,404,563	20,983,624

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

R-1		Budget Request	House	Senate	Conference
2	**DEFENSE RESEARCH SCIENCES**	143,729	168,729	150,729	171,129
	Spin Electronics		+19,000		+16,200
	Comparative Genomics for National Security Goals		+3,000		+3,000
	Nano-photonics Systems Fabrication		+3,000	+4,000	+3,000
	BioInterfaces			-10,000	-6,000
	Advanced Photonic Composites Research			+5,000	+3,500
	Biological Detection of Unexploded Ordnance and Land Mines			+2,500	+1,900
	Molecular Electronics			+2,500	+1,900
	Photonics Technology Access Program			+1,000	+1,000
	Space Based Active Sensors			+2,000	+1,400
	Material Characterization and Meteorology Center (Note: Only for the SJSU nano-technology research, engineering, and training.)				+500
	Repeatable and Robust Lithographic Processes on the Nanoscale				+1,000
3	**UNIVERSITY RESEARCH INITIATIVES**	0	8,500	0	0
	MEMS Sensors for Rolling Element Bearing (Note: Transferred to RDTE,A, Line 3)		+2,000		0
	Smart Responsive Nancomposite Systems (Note: Transferred to RDTE,A, Line 3)		+4,000		0
	Cognitive Wireless Networks (Note: Transferred to RDTE,A, Line 3)		+1,000		0
	Global Infrasound Monitoring of the Atmosphere (Note: Transferred to RDTE,A, Line 3)		+1,500		0
6	**GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIVERSITY RESEARCH**	0	8,000	7,000	7,000
	Semiconductor Research - Focus Center Research Program		+8,000	+7,000	+7,000
7	**DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE**	9,590	9,590	14,090	13,390
	Additional Funding			+4,500	+3,800
8	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	36,769	50,019	59,269	55,019
	National Center for Biodefense		+1,000		+1,000
	Fluorescence Activated Sensing Technology (FAST) Integrated Threat Management System		+4,000	+4,000	+4,000
	Research to Discover Neutralizing Antibodies to Mycotoxins		+250		+250
	Bug to Drug		+6,000	+7,000	+6,000
	New York Structural Biology Center		+2,000		+1,000
	Biodefense Research			+1,500	+1,000
	Therapeutic Approaches to Anthrax and Ricin Toxins			+4,000	+2,000
	Therapeutic Phosphorodiamidate Morpholino Oligomer Approaches			+6,000	+3,000
9	**MEDICAL FREE ELECTRON LASER**	9,668	9,668	18,668	18,668
	Medical Free Electron Laser			+9,000	+9,000

R-1		Budget Request	House	Senate	Conference
10	**HISTORICALLY BLACK & HISPANIC SERVING INSTITUTE SCIENCES**	**14,192**	**19,192**	**17,192**	**21,192**
	Hispanic Serving Institution RDT&E Project Grants		+5,000		+4,250
	Tribal Colleges - Science Lab and Computer Equipment			+3,000	+2,250
	Montford Point Marine Corps Project				+500
12	**COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY**	**342,614**	**345,614**	**0**	**0**
	NASEC Through Wall Radar Imaging (Note: Transferred to Line 16)		+3,000		0
	Funding Transferred to New PEs			-342,614	-342,614
12A	**INFORMATION AND COMMUNICATIONS TECHNOLOGY**	**0**	**0**	**193,956**	**192,656**
	Transfer from PE 0602301E (ST - 11,19,24,28,29)			+191,456	191,456
	Secure Group Communications			+2,500	1,200
12B	**COGNITIVE COMPUTING SYSTEMS**	**0**	**0**	**151,158**	**151,158**
	Transfer from PE 0602301E (ST - 30-33)			+151,158	151,158
14	**BIOLOGICAL WARFARE DEFENSE**	**147,533**	**156,533**	**156,833**	**161,033**
	Center for Tropical Disease Research and Training		+3,000		+2,800
	Chemically Programmable Immunity		+1,000		+1,000
	Asymmetric Protocols for Biological Defense		+4,000		+2,000
	Center for Water Security-Aquatic Technology and Environmental Research		+1,000		+1,000
	New Approaches to Weaponized Infectious Organisms			+2,000	+1,000
	Antimicrobial Research Program			+3,000	+2,100
	BioScience for Informatics			+1,300	+1,000
	Non-invasive Biomodulation			+3,000	+2,600
15	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	**104,385**	**167,885**	**153,139**	**171,710**
	Agent Detection and Neutralization System (AFSOC)		+1,000		+1,000
	Agent Fate Program		+2,000		+1,000
	Air Contaminant Monitoring System - SCAQMD		+1,000		+1,000
	Alternative Delivery Methods for Recombinant Protein Vaccines		+1,000	+6,000	+3,900
	Bio-Chem Vaporous Hydrogen Peroxide Decon for Military Aircraft and Equipment		+3,000		+1,500
	Bioinformatics Research (Note: Transferred to RDTE,A Line 3)		+2,000		0
	Chem-Bio Protective Suit Membrane Research		+5,000		+3,750
	Early Warning and Detection Program		+1,000		+1,000
	Epidemic Outbreak Surveillance/Biosurveillance Data Warehouse		+1,000		0
	Future Force Warrior Program - Nanowire Mesh Fabrics for Chem-Bio Agent Defense		+1,000	+1,854	+1,300
	Genetic Reassortment by Mismatched Repair-Enhanced Acute Biowarfare Therapy Program		+2,000		+1,000
	Global Pathogen Portal		+2,000		+1,400
	Heat Shock Protein Rapid Vaccine		+3,000		+1,800
	Heteropolymer Anthrax Monoclonal Antibody		+1,000		+1,000
	IMS Sample Concentration and Bioagent Detection		+1,000		+1,000
	Integrated Biodefense Research		+2,000		+1,000
	Low-cost Automated Gas Chromatograph/Flame Photometric Detector System		+3,000		+1,500
	Low-cost Chem-Bio Protective Shelter Development		+5,000		+3,750
	LSH-SAW Hand-held Biosensor		+3,000	+6,000	+4,200

R-1		Budget Request	House	Senate	Conference
	Multi-Purpose Biodefense Immunoarray		+1,500		+1,100
	Mustard Gas Antidote Research		+2,000	+9,000	+6,750
	Rapid Antibody-Based Biological Countermeasures (RABB-C)		+2,000		+1,400
	Rapid Response Deployable Vaporous Hydrogen Peroxide Bio-Chem (Transferred to RDTE,A, Line 16)		+1,000		0
	Real Time Non-specific Viral Agent Detection		+2,000		+2,000
	Remote Optical Sensing Program		+1,000		+1,000
	Systems for Sampling and Detecting Bioaerosols		+3,000		+1,500
	Technology for the Protection of Water and Air Systems		+2,000		+1,200
	Virginia Bioinformatic Institute		+5,000		+2,500
	Zumwalt Program for Countermeasures to Biological and Chemical Threats		+4,000		+2,000
	BioTerNet Networking and Strain Tracking			+1,000	+1,000
	CBRN Countermeasures			+5,000	+2,500
	Chemical Agent Persistence Model			+2,900	+2,175
	Chemical Imaging for Food and Water Safety			+5,000	+3,500
	Novel Viral Biowarfare Agent ID and Treatment			+4,000	+2,800
	Advanced Emergency Medical Response (Note: Transferred to RDTE,A, Line 31)			+3,000	0
	Research on a Molecular Approach to Hazardous Materials Decontamination			+1,000	+1,000
	Vaccines and Therapeutics to Counter Biological Threats			+4,000	+2,800
	Neurotoxin Mitigation Research				+1,000
16	**TACTICAL TECHNOLOGY**	**339,175**	**342,175**	**316,575**	**342,825**
	National Cyber Security Center		+1,000		+1,000
	Tactical Awareness for Friend or Foe		+2,000		+1,300
	Novel Sensors for Force Protection			-6,400	-3,200
	SIER			-4,000	0
	Laser Star			-3,000	-3,000
	Walrus			-10,000	0
	Combat Zones that See			-6,200	-2,000
	CEROS			+7,000	+7,000
	NASEC Through Wall Radar Imaging (Transferred from Line 12)				+2,550
17	**MATERIALS AND ELECTRONICS TECHNOLOGY**	**502,044**	**518,544**	**3,000**	**0**
	Center for Optoelectronics and Optical Communications (Transferred to Line 17B)		+5,000	+3,000	0
	Cryo-Power Electronics Development for the All-Electric Ship Program (Transferred to Line 17A)		+2,500		0
	MMI/MBI Nanotechnology Solutions (Transferred to Line 17A)		+4,000		0
	SEMATECH (Transferred to Line 17A)		+5,000		0
	Funding Transferred to New Program Elements			-502,044	-502,044
17A	**MATERIALS TECHNOLOGY**	**0**	**0**	**253,836**	**258,836**
	Transfer from PE 0602712E (MPT - 01 & 09)			+249,336	+249,336
	BioFabrication			-5,500	-5,500
	Advanced Materials for Electromagnetic Devices			+4,000	+2,000
	Strategic Materials			+4,000	+3,400
	Friction Stir Welding of High Temperature Materials			+2,000	+1,300
	Cryo-Power Electronics Development for the All-Electric Ship Program (Transferred from Line 17)				+1,300

R-1		Budget Request	House	Senate	Conference
	MMI/MBI Nanotechnology Solutions (Transferred from Line 17)				+2,000
	Advanced Processing and Prototyping Center at SEMATECH (Transferred from Line 17)				+5,000
17B	**ELECTRONICS TECHNOLOGY**	**0**	**0**	**212,708**	**263,808**
	Transfer from PE 0602712E (MPT-02, 06, 08)			+252,708	+252,708
	Funding from previously cancelled program (Transferred to Undistributed Reduction below the table)			-50,000	0
	Characterization, Reliability, and Applications of Microstructures			+3,000	+1,800
	Nanoscale Organic Spontronic Program			+2,000	+1,400
	Nanoelectronic Defense and Security Initiative			+3,000	+1,500
	Testing and Evaluation of Advanced Composite Ground Radomes			+2,000	+1,400
	Center for Optoelectronics and Optical Communications (Includes House project transferred from Line 17)			+3,000	+5,000
18	**WMD DEFEAT TECHNOLOGY**	**249,786**	**255,786**	**249,786**	**253,786**
	Xenon Filled Gamma Ray Detectors		+1,000		+1,000
	Center for Nonproliferation Studies		+1,000		+1,000
	Force Protection Applied Technology		+3,000		+1,000
	Center for Blast Mitigation Protection		+1,000		+1,000
19	**STRATEGIC DEFENSE TECHNOLOGIES**	**116,113**	**117,113**	**116,113**	**117,113**
	Integrated WMD Detection Network		+1,000		+1,000
20	**MEDICAL TECHNOLOGY**	**10,084**	**10,084**	**14,084**	**13,484**
	Hibernation Genomics			+4,000	+3,400
24	**MEDICAL ADVANCED TECHNOLOGY**	**2,063**	**6,563**	**3,563**	**4,763**
	Ex-Rad Radiation Protection Program		+3,000		+1,500
	Computer-Aided Detection and Diagnosis of Breast Cancer (Transferred to Title VI, DHP)		+1,500		0
	Integrated Medical Information Technology System			+1,500	+1,200
26	**SO/LIC ADVANCED DEVELOPMENT**	**32,682**	**34,682**	**34,682**	**36,382**
	Wide Area Surveillance System (WASS)		+2,000		+1,700
	High Rate Packet Inspection "Packet Storm"			+2,000	+1,000
	USSOCOM Reconnaissance and Surveillance Program				+1,000
27	**COMBATING TERRORISM TECHNOLOGY SUPPORT**	**46,719**	**93,819**	**76,719**	**99,984**
	Counter-Terrorism - Intelligence Surveillance Reconnaissance System (CT-ISR)		+2,500	+4,000	+2,800
	Early Responder Distance Learning Center		+2,600		+1,690
	Asymmetric Warfare Initiative		+6,500		+3,250
	Collaborative and Virtual Reality Training Pilot		+3,000		+1,500
	Collaborative First Responder Training		+1,000		+1,000
	3D Facial Recognition Technology		+1,000		+1,000
	Distributed Intrinsic Chemical Agent Sensing and Transmission		+5,000		+4,250
	WMD Emergency Responder Training at the National Terrorism Preparedness Institute		+3,500		+2,975
	CBRNE Force Response Element - Education, Development, Operations, and Mitigation (FREEDOM)		+3,000		+2,550

R-1		Budget Request	House	Senate	Conference
	Technical Support Working Group		+5,000	+5,000	+5,000
	Facility Security		+8,000		+6,800
	Remote Detection of Concealed Explosives (Note: Only for development and implementation of the Remote Detection of Concealed Explosives Program)		+1,000		+1,000
	Security Perimeter Awareness Network (SPAN)		+2,000		+1,400
	Advanced Robotic Vehicle Development		+3,000		+1,950
	Blast Mitigation			+10,000	+7,000
	Explosive Loading Laboratory Testing			+8,000	+7,600
	QR Technology Based Vehicle Bomb Detection			+3,000	+1,500
28	**COUNTERPROLIFERATION ADVANCED DEVELOPMENT**	**74,456**	**76,456**	**95,456**	**92,156**
	Advanced Materials Research for Nuclear Detection Counter-proliferation (Note: Only for continuation of mercuric iodide research)		+2,000		+1,700
	Detective (HPGe) Radio-Isotope Identifier			+1,000	+1,000
	Guardian Portable Radiation Search Tool			+20,000	+15,000
29	**BALLISTIC MISSILE DEFENSE TECHNOLOGY**	**204,320**	**196,320**	**232,120**	**228,270**
	MKV Technology		-25,000		0
	Army Counterspace Technology (ACT) Testbed		+10,000		0
	Advanced Processing Architecture (APA)		+2,000		+1,000
	Next-Again-Generation Radiation Hard CMOS		+2,000	+3,300	+2,700
	Ultra-Thin Integrated Electronics Miniaturization Trusted Foundry		+3,000		+1,000
	Massively Parallel Optical Interconnects for Microsatellites			+4,500	+3,400
	Center for Optical Logic Devices			+1,000	+1,000
	Silicon Carbide Wide Band Gap Research			+4,000	+2,800
	Multiple Target Tracking Optical Sensor Array Technology (MOST)			+2,000	+1,700
	Advanced RF Technology Development			+5,000	+4,250
	SiC Thick Film Mirror Coatings			+3,000	+2,550
	Porous Silicon			+3,000	+2,550
	Tulane Missile Defense			+2,000	+1,000
30	**JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPM**	**23,319**	**23,319**	**26,819**	**25,769**
	Advanced Metallized Gelled Propellants			+3,500	+2,450
31	**AUTOMATIC TARGET RECOGNITION**	**0**	**0**	**0**	**0**
32	**ADVANCED AEROSPACE SYSTEMS**	**361,067**	**364,067**	**0**	**0**
	Improving Suborbital Space Operations (Transferred to Line 32B)		+3,000		0
	Funding Transferred to New Program Elements			-361,067	-361,067
32A	**ADVANCED AEROSPACE**	**0**	**0**	**87,347**	**101,847**
	Transfer from 0603285E (ASP- 01)			+111,847	+111,847
	Walrus			-10,000	-10,000
	Canard Rotor Wing			-14,500	0

R-1		Budget Request	House	Senate	Conference
32B	**SPACE PROGRAMS AND TECHNOLOGY**	**0**	**0**	**222,220**	**235,020**
	Transfer from 0603285E (ASP- 02)			+249,220	+249,220
	Orbital Express			-10,000	-10,000
	RASCAL			-10,000	-5,000
	Improved Suborbital Operations (Includes House project transferred from Line 32)			+8,000	+4,800
	CAV			-25,000	-12,500
	Joint NASA/ DoD Development			+10,000	+8,500
33	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADVANCED DEVELOPMENT**	**117,343**	**176,843**	**173,843**	**185,143**
	Adaptation Gaseous and Liquid Technology Decontamination		+2,000		+1,000
	Advanced Engineered Enzyme Decontamination Systems		+3,000		+2,000
	Bioterrorism Preparedness		+4,000		+2,000
	Center for Applied Science and Engineering for Expanded Development of Advanced Manufacturing Technologies		+8,000		0
	Center for BioDefense		+1,000		+1,000
	Countermeasures to Chemical and Biological Defense/Rapid Response		+10,000		+8,500
	Detecting Contaminants in Drinking Water		+4,000		+2,600
	Dual Use Detection Technology for Sick Building Syndrome		+1,000		+1,000
	E-Smart Threat Agent Network		+6,000		+3,000
	Hand Held Biological Agent Detection (HBAD)		+2,000	+4,000	+2,000
	Hand Held Biosensor and Continuous Monitor for Biodetection		+4,000		+3,400
	Industry-Based Research to Miniaturize Chemical and Biological Detectors (Continuation only)		+2,000		+1,700
	National Testbed for Rescue Robotics		+1,000		+1,000
	Polymer-Based Bio-Mems		+2,000		+1,200
	Protection Against Toxic Industrial Chemical		+1,000		+1,000
	Rapid Response Bio-Chem Decon, Liquid and Dry (Decon Green)		+3,500		+1,750
	Rapid Response Database Systems Center		+1,000		+1,000
	Removal of NBC Agents in Drinking Water		+4,000		+2,800
	Bioadhesion Research to Combat Biological Warfare			+5,500	+3,850
	Hi-Int Pulsed Radiation for Chem & BioAgent Defeat			+2,000	+1,000
	Immunochemical Biological/Chemical Threat Agent Detector			+3,500	+2,300
	Laser Interrogation of Surface Agents (LISA) Inspector (Includes transfer from Line 82)			+6,000	+4,200
	Oral Adjuvants			+1,500	+1,000
	Oral Anthrax/Plague Vaccine			+4,000	+2,800
	Plant Vaccine Development			+7,000	+3,500
	Rapid Response Sensor Networking for Multiple Applications			+1,500	+1,000
	Reactive Air Purification for Individual and Collective Protection (RAPICP)			+8,000	+5,600
	Vaccines, Alternative Delivery Methods for Recombinant Protein Vaccines (Transferred to RDTE,DW Line 15)			+6,000	0
	Polyclonal human antibody production system			+4,000	+3,000
	Water Quality Sensors			+3,500	+2,600

R-1		Budget Request	House	Senate	Conference
34	**JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS) ADVANCED TECHNOLOGY DEVELOPMENT AND RESEARCH**	**284,617**	**449,617**	**288,617**	**363,617**
	Program Adjustment		+165,000		+77,000
	Lithium Ion Battery for Joint Unmanned Combat Air System			+4,000	+2,000
35	**SPECIAL TECHNICAL SUPPORT**	**0**	**6,000**	**0**	**3,000**
	MultiView: Data Standards for Integrated Digital Environmental		+6,000		+3,000
37	**GENERIC LOGISTICS R&D TECHNOLOGY**	**27,542**	**107,792**	**111,042**	**145,617**
	Advanced Microelectronics Feature Size Migration		+2,000		+1,000
	Advanced Microelectronics Yield Enhancement		+2,000		+1,000
	Aging Systems Sustainment and Enabling Technologies (ASSET)		+1,000	+3,000	+1,500
	California Center for Nano-science Innovation for Defense (CalCNID)		+10,000		+8,500
	California Manufacturing Technology Center (CMTC)		+8,000		+6,800
	Connectory for Rapid Identification of Technology Sources for DoD		+2,000		+1,500
	Distributed Inventory Management System		+1,250		+1,000
	DMS Center of Excellence Program		+1,000		+1,000
	Emerging/Critical Interconnection Technology Program		+3,000		+1,500
	Ferrite Technology		+3,000		+1,500
	High Temperature Superconducting Transceiver Program		+1,000		+1,000
	Long Term Support of Microelectronic Technology Research		+7,000		+5,950
	Miniature Tunable RF Front End (Note: To develop a complete suite of tunable RF components and salient software for families of miniaturized tunable military RF radio front ends)		+3,000		+2,550
	New England Manufacturing Supply Chain		+4,000	+8,000	+5,600
	Optical Manufacturing for Extreme Ultraviolet (EUV) Lithography (Note: Only to establish an extreme ultra violet optical manufacturing capability in the USA)		+3,500		+3,000
	Optimized Electronics for Advanced Controlled Environment Systems (ACES)		+8,000		+6,800
	Ruggedized Military RFID Tags (Note: Only for ruggedized RFID tags leveraging emerging integrated RF electronics for low power, long range and non-volatility, and implemented with fluidic self assembly to ensure low cost)		+4,000		+3,400
	Secure Digital Coherent Optical Communications (Note: Only to continue and expand the ongoing program)		+3,500		+2,975
	Spray Cooling Migration Program		+9,000		+6,300
	Superlattice Nanotechnology		+4,000		+3,000
	Chameleon Miniaturized Wireless System			+11,000	+7,700
	Diminishing Manufacturing Source (DMS)			+2,000	+1,000
	Government Industry Data Exchange Program			+3,000	+2,500
	Manufacturing Extension Partnership - Midwest Consortium			+2,000	+2,000
	MicroElectronics Testing, Technology and Obsolescence Program			+7,500	+5,250
	Nano-structured Carbon for Radiation Shielding of Microelectronics			+2,000	+2,000

R-1		Budget Request	House	Senate	Conference
	Next Generation Air Start Cart			+2,000	+1,400
	Smart Scanning RFID Tag Reader			+3,000	+2,100
	Spray Technique Analysis and Research for Defense			+2,000	+1,000
	STAR4D Painting and Coating Pollution Prevention			+1,000	+1,000
	Ultra-low Power Battlefield Sensor System			+30,000	+21,000
	Vehicle Fuel Cell Program			+7,000	+5,250
38	**STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM**	**56,936**	**61,436**	**56,936**	**57,936**
	Institute of Environmental and Human Health Toxic Chemical Cleanup		+1,500		+1,000
	National Environmental Educational and Training Center		+3,000		0
39	**JOINT WARFIGHTING PROGRAM**	**9,936**	**9,936**	**10,936**	**10,936**
	Joint Navigational Warfare			+1,000	+1,000
40	**ADVANCED ELECTRONICS TECHNOLOGIES**	**218,151**	**224,151**	**225,151**	**227,851**
	Embedded Intelligence: Migrating PreAct Symbolic Constructs into Hardware		+4,000		+2,850
	Three-dimensional Imaging Technology Development		+1,000		+1,000
	Crystals Materials for Electro-Optic Imaging and Communication		+1,000		+1,000
	Advanced Lithography-Thin Film Excellence			+5,500	+3,850
	MIL Tech Extension			+1,500	+1,000
41	**ADVANCED CONCEPT TECHNOLOGY**	**213,901**	**224,901**	**217,901**	**219,001**
	Low Cost Autonomous Attack System		+2,000		+1,000
	Flexible JP-8 (Single Battlefield Fuel) Pilot Plant Program (Transferred to RDTE,A ,Line 14)		+4,000		0
	Remote Unattended Sensing System (RUSS)		+1,500		+1,050
	SecureD Hardware Encryption Device		+2,000	+4,000	+2,000
	Maria Tactical Mapping System		+1,500		+1,050
42	**HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM**	**186,666**	**209,666**	**236,766**	**238,216**
	Data Intensive High Performance Computing		+3,000		+2,100
	Army High Performance Computing Research Center (Note: Only for the Army High Performance Computing Research Center (AHPCRC) High Performance Computing systems and networks, user support, AHPCRC-based staff scientist and research support staff, technology exchange and summer institute programs and research activities)		+15,000	+15,000	+15,000
	High Performance Computer Prototype - Naval Research Lab		+5,000		+4,250
	High Performance Computing Visualization Initiative (HPCVI)			+4,000	+2,800
	Multithread Architecture (MTA) Upgrade			+4,000	+2,800
	Simulation Center HPC Upgrade			+5,000	+3,500
	ARSC			+6,600	+5,600
	MHPCC Technology Upgrade			+15,500	+15,500
43	**COMMAND, CONTROL AND COMMUNICATIONS SYSTEN**	**225,784**	**225,784**	**221,784**	**221,784**
	Space Based Networking			-4,000	-4,000

R-1		Budget Request	House	Senate	Conference
44	**SENSOR AND GUIDANCE TECHNOLOGY**	**337,117**	**344,617**	**0**	**0**
	Sandia National Laboratories Intelligent Systems and Robotics Center (Tranferred to Line 44A)		+3,500		0
	360 Degree Portable Surveillance and Reconnaissance Unit (Transferred to Line 44A)		+4,000		0
	Funding Transferred to New PEs			-337,117	-337,117
44A	**SENSOR TECHNOLOGY**	**0**	**0**	**194,373**	**203,773**
	Transfer from PE 0603762E (SGT - 02 -04)			+199,873	+199,873
	ISIS			-5,500	-3,000
	Sandia National Laboratories Intelligent Systems and Robotics Center (Transferred from Line 44)				+3,500
	360 Degree Portable Surveillance and Reconnaissance Unit (Transferred from Line 44)				+2,400
	Wireless Vibration Sensor Initiative				+1,000
44B	**GUIDANCE TECHNOLOGY**	**0**	**0**	**137,244**	**137,244**
	Transfer from PE 0603762E (SGT - 01 and CLS)			+137,244	+137,244
47	**CLASSIFIED DARPA PROGRAMS**	**238,131**	**238,131**	**88,131**	**188,331**
	Classified Reduction			-150,000	-49,800
49	**DISTRIBUTED LEARNING ADVANCED TECHNOLOGY**	**13,756**	**16,756**	**13,756**	**16,306**
	NetCentric Warrior Training (NetCWT)		+3,000		+2,550
52	**QUICK REACTION SPECIAL PROJECTS**	**64,389**	**42,926**	**64,389**	**42,926**
	Defense Acquisition Challenge Program (Note: Transferred to Line 100A)		-21,463		-21,463
55	**TECHNOLOGY LINK**	**1,934**	**7,934**	**2,934**	**8,084**
	IEE Technology Transfer Project		+1,000	+1,000	+1,500
	Remote Presence (Note: Only to develop and demonstrate red cell and remote presence technology for transition to joint and first responder applications)		+2,000		+1,700
	Technology Matching System		+3,000		+1,950
	Environmental Bioterrorism Detection				+1,000
57	**SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT**	**48,803**	**48,803**	**59,803**	**50,803**
	ANGELFIRE/FCLAS Full Spectrum Active Protection Close-in Layered System (note: moved to line 198)			+8,000	0
	Long Range Biometric Target Identification System			+3,000	+2,000
58	**PHYSICAL SECURITY EQUIPMENT**	**0**	**8,000**	**19,000**	**17,900**
	Persistent Perimeter Security with Unmanned Mobile Sensors		+3,000	+9,000	+6,300
	Demonstration and Evaluation of Environmental Management System for Defense Facilities		+1,000		+1,000
	Security Enhancements through Mobile Devices (SEMD)		+4,000		+2,800
	Family of Integrated Rapid Response Equipment			+10,000	+7,800

R-1		Budget Request	House	Senate	Conference
59	**JOINT ROBOTICS PROGRAM**	**11,771**	**19,771**	**15,771**	**21,821**
	Digital Communicator		+1,000		+1,000
	Robotics Curriculum Partnership		+1,000		+1,000
	Under Vehicle Mobile Inspection/Search UGV (ODIS)		+5,000		+4,250
	Remotely Operated Electronic Ballistic Technology		+1,000		+1,000
	National Unmanned Systems Experimentation Environment			+4,000	+2,800
60	**ADVANCED SENSOR APPLICATIONS PROGRAM**	**17,581**	**28,581**	**22,581**	**26,731**
	Ceramics for Next Generation Tactical Laser System		+3,000		+1,500
	Force Protection - Advanced Tactical Geolocation		+3,000		+1,950
	Multi-Wavelength Surface Scanning Biologics Sensor		+2,000		+1,500
	Secure Airborne Freespace Optical Communication		+3,000	+2,000	+2,100
	Advanced Solid State Dye Laser			+3,000	+2,100
62	**ENVIRONMENTAL SECURITY TECHNICAL**	**32,546**	**35,046**	**36,546**	**38,046**
	Perchlorate Remediation R&D, Rialto-Colton Basin		+2,500	+4,000	+4,000
	Perchlorate Destruction by UV Catalyzed Iron Reaction (Note: Transferred from Environmental Restoration, DW)				+1,500
64	**ADVANCED CONCEPTS, EVALUATIONS AND SYSTEMS**	**256,159**	**231,159**	**256,159**	**231,159**
	Reduce programmed growth		-25,000		-25,000
66	**BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT**	**937,748**	**876,248**	**1,017,748**	**944,248**
	System Level Program Management		-31,500		-31,500
	Flight test schedule slip		-30,000		-30,000
	Arrow			+80,000	+68,000
67	**BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT**	**4,384,775**	**4,369,775**	**4,548,275**	**4,630,450**
	Long lead materials for interceptors #31-40		-35,000		-28,000
	S-Band Advanced Radar (SBAR) Algorimth Research and Analysis in Support of MDA-Specific Applications		+20,000		+15,000
	Allen Army Airfield Upgrades			+22,000	+22,000
	Fort Greely Power Plant Feasibility Study			+2,500	+2,200
	GMD Enhancements			+100,000	+200,000
	PMRF Upgrades			+25,000	+22,575
	Sensor Data Fusion and Communications			+3,000	+2,550
	Range Mission Tool			+3,000	+2,550
	SHOTS			+5,000	+4,250
	Multi-Frame Blind Deconvolution			+3,000	+2,550
	Kauai Test Facility			[4,000]	[4,000]
68	**BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT**	**492,614**	**495,614**	**497,614**	**498,364**
	Combined Environment Radiation Effects Simulator		+3,000		+1,500
	International Cooperation			+5,000	+4,250
69	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL**	**104,195**	**104,195**	**112,195**	**108,195**
	Nano Intelligent Detection System Handheld Biological Agent Detectors			+8,000	+4,000

R-1		Budget Request	House	Senate	Conference
70	**BALLISTIC MISSILE DEFENSE SENSORS**	**591,957**	**594,957**	**613,457**	**605,807**
	Airborne Infrared Surveillance (AIRS) System		+3,000	+15,000	+9,000
	Improved Materials for Optical Memories			+5,500	+3,850
	Ground-Based Studies of Rocket Plume Signatures			+1,000	+1,000
71	**BALLISTIC MISSILE DEFENSE SYSTEM INTERCEPTOR**	**511,262**	**398,262**	**259,262**	**348,262**
	New - Reduced Programmed Growth				-163,000
	Deployment study		-45,000		0
	NFIRE		-68,000		0
	Kinetic Energy Interceptor			-227,000	0
	Block 2012 International Cooperation			-25,000	0
	Near Field Infrared Experiments (NFIRE)			[68,000]	[68,000]
72	**BALLISTIC MISSILE DEFENSE TEST & TARGETS**	**713,658**	**713,658**	**713,658**	**716,658**
	Scorpius Sub-Orbital Family of Responsive, Low-Cost Rockets				+3,000
73	**BALLISTIC MISSILE DEFENSE PRODUCTS**	**418,608**	**388,608**	**413,608**	**405,108**
	Reduce programmed growth		-30,000		-30,000
	ACT - Army Counter-Space Technology			+20,000	+14,000
	Joint National Integration Center			+5,000	+2,500
	C2BMC National Team Unjustified Program Growth			-30,000	0
74	**BALLISTIC MISSILE DEFENSE SYSTEMS CORE**	**479,764**	**310,264**	**454,764**	**409,614**
	Excessive Overhead Costs		-175,000		0
	Electro-Optic Components for Missile Defense		+1,500		+1,300
	Sensor Electronics Life Cycle Cost Reduction		+3,000		+2,550
	Wide Bandwidth Technology (WBT)		+1,000		+1,000
	Corporate Lethality Testing			-5,000	0
	System Engineering and Integration National Team Unjustified Program Growth			-20,000	-75,000
78	**JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS) ADVANCED COMPONENT AND PROTOTYPE DEVELOPMENT**	**422,873**	**260,784**	**222,873**	**222,873**
	Program Adjustment		-162,089		0
	Program Restructure			-200,000	-200,000
80	**REDUCTION OF TOTAL OWNERSHIP COST**	**27,351**	**10,351**	**0**	**0**
	Unjustified Program		-17,000	-27,351	-27,351
81	**JOINT ELECTROMAGNETIC TECHNOLOGY (JET) PROGF**	**6,679**	**6,679**	**16,679**	**15,279**
	Delta Mine Training Center			+5,000	+4,300
	HIPAS			+5,000	+4,300
82	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD**	**152,379**	**187,879**	**145,879**	**168,979**
	Chem Bio Defense Initiative		+25,000		+20,000
	Passive Materials for Chemical and Biological Agent Decontamination		+2,000		+1,000
	Joint Biological Point Detection		+1,500	+5,000	+3,500
	Joint Warning and Reporting Network (JWARNS)		+3,000		+2,100

R-1		Budget Request	House	Senate	Conference
	Laser Interrogation of Surface Agents (Transferred to line 33)		+1,000		0
	Array Biosensor Biological Agent Detection System Implementation		+3,000		+2,550
	JCAD - Cancellation			-15,000	-15,000
	ParallelaVax Rapid Vaccine Testing Technology			+3,500	+2,450
83	**MANPADS DEFENSE PROGRAM**	**14,135**	**9,635**	**22,135**	**12,235**
	Program Reduction		-6,500		-6,500
	Counter ManPads Airspace Protection System		+2,000	+3,000	+2,100
	MANPADS Defense			+5,000	+2,500
84	**JOINT ROBOTICS PROGRAM - EMD**	**13,845**	**28,845**	**29,845**	**33,445**
	Joint Robotics Initiative		+12,000		+6,000
	National Center for Defense Robotics		+3,000		+1,500
	INEEL Unmanned Systems Research			+4,500	+2,700
	Robotics Greenhouse Initiative			+2,500	+1,750
	Joint Robotics			+4,000	+3,400
	Integrated Test Support			+5,000	+4,250
93	**FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS**	**94,767**	**49,767**	**49,767**	**49,767**
	Reduce Programmed Growth		-45,000	-45,000	-45,000
95	**INFORMATION SYSTEMS SECURITY PROGRAM**	**2,493**	**6,993**	**2,493**	**5,393**
	JITC Information Assurance Trend/Metric Analysis Support		+2,500		+1,900
	Center for Secure Telecommunications		+2,000		+1,000
97	**JOINT COMMAND AND CONTROL PROGRAM (JC2)**	**3,000**	**4,500**	**3,000**	**4,000**
	Internet Protocol Version 6		+1,500		+1,000
100A	**DEFENSE ACQUISITION CHALLENGE PROGRAM**		**26,463**	**0**	**25,713**
	DACP (Note: Transferred from Line 52)		+5,000		+4,250
101	**SPECIAL TECHNICAL SUPPORT**	**19,274**	**27,274**	**19,274**	**27,274**
	Classified adjustment		+8,000		+8,000
104	**UNEXPLODED ORDNANCE DETECTION AND**	**0**	**5,000**	**0**	**10,000**
	Project Renew		+5,000		+5,000
	Wide Area Site Assessment Pilot Program for UXO Cleanup				+5,000
103	**TRANSFORMATION INITIATIVES PROGRAM**	**9,977**	**0**	**0**	**0**
	Unjustified Program		-9,977	-9,977	-9,977
108	**TECHNICAL STUDIES, SUPPORT AND ANALYSIS**	**30,618**	**31,618**	**30,618**	**31,618**
	NDU Technology Pilot Program		+1,000		+1,000
112	**FOREIGN MATERIAL ACQUISITION AND EXPLOITATION**	**35,572**	**37,072**	**35,572**	**36,572**
	Weather Scout UAV		+1,500		+1,000
116	**CLASSIFIED PROGRAM USD(P)**	**0**	**85,000**	**0**	**90,000**
	Classified adjustment		+85,000		+90,000
118	**SUPPORT TO NETWORKS AND INFORMATION**	**11,490**	**12,490**	**20,690**	**19,590**
	Command Information Superiority Architectures Program		+1,000	+2,200	+1,100
	Pacific Disaster Center			+7,000	+7,000

R-1		Budget Request	House	Senate	Conference
120	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	42,652	42,652	37,652	37,652
	Management Support Cost Growth			-5,000	-5,000
125	**CLASSIFIED PROGRAMS - C3I**	0	25,000	0	22,000
	Independent Component Analysis Technology for Army		+18,000		+18,000
	GCS (ASRVC2P - Fleet Voice Command and Control)				
	Foreign Supplier Assessment Center		+5,000		+3,000
	Advanced Shipboard Acoustical Communications		+1,000		+1,000
	CIPOC Visual Security Operations Monitoring and Support		+1,000		0
126	**SMALL BUSINESS INNOVATION**	1,999	4,999	1,999	3,499
	Electro-Magnetic Flak Impulse Systems Technology		+3,000		+1,500
128	**FORCE TRANSFORMATION DIRECTORATE**	19,591	44,591	19,591	39,591
	Operationally Responsive Satellite		+25,000		+20,000
133	**INFORMATION TECHNOLOGY RAPID ACQUISITION**	19,958	9,958	0	5,000
	Reduce Programmed Growth		-10,000	-19,958	-14,958
137	**MANAGEMENT HEADQUARTERS-BMDO**	141,923	100,023	141,923	116,923
	Reduce programmed growth		-41,900		-25,000
144	**C4I INTEROPERABILITY**	41,074	44,074	41,074	43,624
	System of Systems Engineering Center of Excellence (SOSECE)		+3,000		+2,550
159	**INFORMATION SYSTEMS SECURITY PROGRAM**	477,846	479,346	479,346	479,346
	Center for Computer Security		+500		+500
	CyberTA (Note: Only for development of CyberTA program to develop real-time detection of emerging Internet threats and develop solutions to actively guard against cyber-attacks.)		+1,000		+1,000
162	**GLOBAL COMMAND AND CONTROL SYSTEM**	43,693	43,693	57,293	54,893
	National Information Assurance and Training			+1,600	+1,000
	Joint Information Technology Project - Alaska			+12,000	+10,200
167	**SPECIAL APPLICATIONS FOR CONTINGENCIES.**	20,758	22,758	20,758	22,458
	Tactical Imagery Communications Unit (TICU)		+2,000		+1,700
174	**DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM**	0	17,000	0	16,000
	Defense Joint Counterintelligence Center, Research and Technology Protection Program		+17,000		+16,000
180	**NET CENTRICITY**	214,222	144,222	120,722	134,222
	Program Growth		-70,000	-93,500	-80,000
192	**INDUSTRIAL PREPAREDNESS**	11,005	37,505	25,005	40,280
	Copper-base Casting Technology Program (C-BCT)		+1,000	+2,000	+1,200
	Next Generation Manufacturing Technologies Initiative		+1,000	+5,000	+3,750
	Defense Supply Chain Technology		+8,000		+6,800
	Defense Procurement Technical Assistance Initiative for Small Businesses		+1,500		+1,275
	Manufacturing Engineering of Spray Cooling		+15,000		+12,750
	Advanced Manufacturing Institute			+3,000	+1,500
	Laser Additive Manufacturing			+4,000	+2,000

R-1		Budget Request	House	Senate	Conference
197	**SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT**	**0**	**5,000**	**0**	**2,500**
	SPIKE Missile Development and Production		+5,000		+2,500
198	**SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT**	**0**	**25,500**	**14,000**	**26,000**
	Snapshot Synthetic Aperture Radar		+1,000		+1,000
	Battery-free Remote Sensing		+2,000		+1,500
	ANGELFIRE Active Protection Integrated Sensor/Countermeasure Package		+6,000	+8,000	+7,000
	Neptune Maritime Unmanned Aerial Vehicle		+2,000		+1,200
	Surveillance Augmentation Vehicle-Insertable on Request		+1,000		+1,000
	Remote Video Weapon Sight		+2,000		+1,700
	Advanced Multi-purpose Microdisplay System		+3,000		+1,500
	Compact Three-Dimensional Imaging		+1,000		+1,000
	Autonomous Navigation Sensor Suites		+1,500		+1,300
	Foliage Penetrating Solid State Synthetic Aperture Radar		+6,000		+5,100
	SOF Experimental Technology Integration			+4,000	+2,000
	Land and Sea Special Operations Mobility Systems (LASSO)			+2,000	+1,700
199	**SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT**	**311,966**	**369,566**	**67,728**	**92,828**
	Multi-Role, Anti-Armor, Anti-Personnel Weapon System (MAAWS) Multi-Target Warhead (Only for continued development and integration of Multi-Target Warhead into AT4CS)		+4,000		+3,400
	Mark V Patrol Boat Replacement Craft Prototype		+5,000		+2,500
	Tactical Systems Development for a SOF Covert Waveform Program		+1,000		+1,000
	Sensor Integration with Lithium Polymer Batteries		+5,000		+2,500
	MBITR Blue Force Tracking capability		+4,000		+2,000
	Tactical Communication Systems Testbed Initiative		+3,000		+2,600
	Next Generation Navigation System		+1,000		+1,000
	SOCOM Rotary Wing UAV (Note: only for procurement of not fewer than seven prototype aircraft and for extensive TAFT/TTP development)		+32,000		+22,000
	ASDS Restructure (Note: Transferred to line 199D)		+12,600		
	Under Execution		-10,000		-10,000
	CV-22 Funding Transfer to New PE			-75,131	-75,131
	Aircraft Defensive Systems Transfer to New PE			-58,041	-58,041
	Aviation Systems Advanced Development Transfer to New PE			-103,982	-103,982
	ASDS Transfer to New PE			-1,614	-1,614
	Identify Friend or Foe (IFF) Advanced Target Identification for AC-130U			+2,000	+1,300
	Covert Waveform Program			+4,500	+2,300
	Fly-by-Wire Program - Transfer to RDTE,A Line 78			-11,970	-11,970
	Maritime Tagging, Tracking, and Locating Program (Maritime TTL)				+1,000
199A	**CV-22**	**0**	**0**	**75,131**	**75,131**
	Funding Transfer from 1160404BB			+75,131	+75,131

R-1	Budget Request	House	Senate	Conference
199B AIRCRAFT DEFENSIVE SYSTEMS	**0**	**0**	**58,041**	**58,041**
Funding Transfer from 1160404BB			+58,041	+58,041
199C AVIATION SYSTEMS ADVANCED DEVELOPMENT	**0**	**0**	**66,982**	**85,482**
Funding Transfer from 1160404BB			+103,982	+103,982
CAAP Program			-37,000	-18,500
199D ASDS	**0**	**0**	**15,614**	**20,000**
Funding Transfer from 1160404BB			+1,614	+1,614
Budget Realignment/Restructure (Transferred from Line 199)			+14,000	+18,386
200 SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT	**25,015**	**37,015**	**47,015**	**49,815**
Only for the UAV Near Real Time Video Program		+2,000		+1,400
Only for Optimal Placement of Unattended Sensors		+1,000		+1,000
Special Operations Joint Interagency Collaboration Center Support Data Site		+3,000		+2,000
Special Operations Forces Teletraining System		+1,000		+1,000
Multipurpose Antenna, X-Band (SMAX)		+2,000		+1,700
SOCOM Microelectromechanical Systems and Nanotechnology		+3,000		+2,600
Foreign Language Translator			+2,000	+1,400
High Altitude Long Endurance			+3,000	+1,500
Application Specific Integrated Circuit (ASIC) Development			+5,000	+3,500
Joint Threat Warning Systems			+7,000	+4,900
Wireless Management & Control Project			+5,000	+3,800
202 SOF OPERATIONAL ENHANCEMENTS	**57,643**	**74,343**	**74,643**	**85,093**
Only for development of enhancements to Digital Intelligence Situation Mapboards		+1,000		+1,000
Tactical Radio Frequency Environment Monitor (TREX)		+1,000		+1,000
Tactical Surveillance Equipment Integrated Remote Video Surveillance		+3,700		+3,200
Force Protection Electronic Attack Systems		+6,000		+5,100
CSWAN (Note: only for the Covert Self-Organizing Wireless Adhoc Network initiated under SBIR A02-105)		+5,000		+5,250
B-Band Covert Night Vision System			+7,000	+4,900
Nano-Technology Research Effort			+8,000	+5,600
TACTICOMP			+2,000	+1,400
999 CLASSIFIED PROGRAMS	**3,578,082**	**3,461,582**	**3,385,410**	**3,470,574**
Classified Adjustment		-116,500	-192,672	-107,508
999A DARPA - Undistributed Reduction				**-50,000**
(Note: This reduction may not be applied to any DARPA projects that have received an increase in this table.)				

JOINT UNMANNED COMBAT AERIAL SYSTEM (JUCAS)

The conferees agree to provide a total of $586,490,000 for the Joint Unmanned Combat Aerial System (JUCAS) program instead of $710,401,000 as proposed by the House and $510,401,000 as proposed by the Senate.

The conferees agree with the Senate position that the JUCAS program has not been properly coordinated with the Services and that the focus of the program should be on meeting the requirements of the Air Force and Navy. To this end, the conferees direct that $363,617,000 of the funds provided for the JUCAS shall be used to complete and demonstrate the unmanned combat aerial vehicle technology demonstrators in support of Air Force and Navy requirements for such systems.

The conferees agree to provide $222,873,000 for JUCAS Advanced Component and Prototype Development, as proposed by the Senate instead of $260,784,000 as proposed by the House.

FOCUS CENTER RESEARCH PROGRAM

The conferees intend that the $10,000,000 allocated for DARPA Defense Research Sciences, Electronic Sciences, Semiconductor Technology Focus Center, as requested by the Administration, be used for basic university research to supplement the $7,000,000 appropriated for the Focus Center Research Program through the Defense Research and Engineering account. This would provide a total of $17,000,000 for basic university research by continuing the successful industry, university, and federal agency Focus Center Research partnership. The Focus Center program is designed to develop the next generation of semiconductor microelectronics technologies, increase the United States' global advantage in semiconductor technology, and train the next generation of electronics engineers.

MISSILE DEFENSE PROGRAMS

The conference agreement provides $9,050,031,000 for the Missile Defense programs included in Research, Development, Test and Evaluation, Defense-Wide. Of this amount, $4,620,825,000 is for the Ballistic Missile Defense (BMD) Midcourse Segment program. The conferees direct that the entire amount provided for the BMD Midcourse Segment is a congressional special interest item for the purpose of prior approval reprogramming, as described elsewhere in this report. The conferees also direct that adjustments made to the various Missile Defense Agency (MDA) program elements, as reflected on the project level tables, are congressional special interest items.

The conferees direct that transfers of funds between the MDA program elements are subject to the same reprogramming guidance applicable to all other research, development, test and evaluation funded activities. Specifically, the conferees direct that the Missile Defense Agency observe the cumulative $10,000,000 threshold for the reprogramming of research, development, test and evaluation funds. If the combined value of transfers into or out of a research and development (R–1) line exceeds this threshold, the Department of Defense must submit a prior approval reprogramming request to the congressional defense committees. The Department shall also observe the limitation that prior approval reprogrammings are set at either the specific dollar threshold or 20 percent of the procurement or research and development line, whichever is less. The conferees further direct that any taxes, withholds or undistributed reductions to the MDA programs be made in accordance with applicable guidance described elsewhere in this report.

BMDS OPERATIONS

The conferees strongly support the Ground-Based Midcourse (GMD) program. The conferees further understand that this program has experienced significant funding challenges associated with the decision to begin fielding missile defense for the United States in late 2004. Accordingly, the conferees have provided an additional $200,000,000, specifically to address these requirements. Furthermore, the conferees direct the Missile Defense Agency to fully fund this critical program in the fiscal year 2006 budget submission to include manning, operation and maintenance, contractor logistical support, and physical security and force protection costs. The conferees expect the fiscal year 2006 budget request to provide this level of detail regarding BMDS operations and costs. In addition, the conferees direct that the Secretary of Defense submit to the congressional defense committees not later than February 7, 2005, a report that outlines the DoD plan to provide adequate resources necessary for the operation and maintenance (including logistical support and physical security) and manning of the Ballistic Missile Defense System.

INTEGRATED FLIGHT TEST–13C (IFT–13C)

The conferees are aware that the Missile Defense Agency (MDA) is finalizing preparations for Integrated Flight Test–13C scheduled for August 2004. The conferees share the view expressed in the report accompanying the House version of the fiscal year 2005 DoD Appropriations bill that this test represents an important milestone. The conferees are also aware that logistical details may potentially change the date of this test. Accordingly, the conferees direct the Director of the Missile Defense Agency to provide a report to the congressional defense committees within 30 days of the conclusion of IFT–13C, in both classified and unclassified form, including a detailed assessment of the results of IFT–13C.

SCORPIUS

The conference agreement includes an additional $3,000,000 to continue work on the Scorpius family of rockets. In past years, the Congress has provided additional funding above the budget request and is concerned by DoD's lack of effort to follow through on this program. Accordingly, the conferees direct the Secretary of the Air Force and the Director of the Missile Defense Agency to jointly provide a report to the congressional defense committees on the Department's proposed course of action for this program within 30 days of enactment of this Act. The conferees further direct that the report identify the resources required to complete the program, and whether such resources are included in the Future Year's Defense Program.

OPERATIONAL TEST AND EVALUATION, DEFENSE

The conference agreement on items addressed by either the House or the Senate is as follows:

	Budget	House	Senate	Conference
	(In thousands of dollars)			
OPERATIONAL TEST & EVAL, DEFENSE				
ADVANCED TECHNOLOGY DEVELOPMENT				
TEST & EVALUATION SCIENCE & TECHNOLOGY	16,295	16,295	14,795	14,795
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	16,295	16,295	14,795	14,795
RDT&E MANAGEMENT SUPPORT				
CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT (CT	123,562	127,562	130,562	135,762
OPERATIONAL TEST AND EVALUATION	42,390	42,390	42,390	42,390
LIVE FIRE TESTING	10,209	10,209	10,209	11,209
DEVELOPMENT TEST AND EVALUATION	112,679	112,679	107,179	110,679
TOTAL, RDT&E MANAGEMENT SUPPORT	288,840	292,840	290,340	300,040
TOTAL, OPERATIONAL TEST & EVAL, DEFENSE	305,135	309,135	305,135	314,835

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

R-1		Budget Request	House	Senate	Conference
1	**TEST & EVALUATION SCIENCE TECHNOLOGY**	**16,295**	**16,295**	**14,795**	**14,795**
	Execution/Delays			-1,500	-1,500
2	**CENTRAL TEST AND EVALUATION INVESTMENT**	**123,562**	**127,562**	**130,562**	**135,762**
	Joint Gulf Range Complex Upgrade		+4,000		+2,000
	Unmanned systems testbed project/Pathfinder demo			+5,000	+4,300
	UAV Systems and Operations Validation Facility			+7,000	+4,900
	Film Elimination Project			+1,000	+1,000
	Resource Enhancement Project			-6,000	0
4	**LIVE FIRE TESTING**	**10,209**	**10,209**	**10,209**	**11,209**
	Joint Test and Training Rapid Advanced Capabilities				+1,000
5	**DEVELOPMENT TEST AND EVALUATION**	**112,679**	**112,679**	**107,179**	**110,679**
	JTCG/ME			-3,000	0
	Threat Systems			-2,500	-2,000

TITLE V—REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

The conferees recommend an appropriation of $1,174,210,000 for the Defense Working Capital Funds as proposed by the House instead of $1,685,886,000 as proposed by the Senate.

NATIONAL DEFENSE SEALIFT FUND

The conferees agree to provide a total of $1,204,626,000 for the National Defense Sealift Fund instead of $1,186,990,000 as proposed by the House and $441,936,000 as proposed by the Senate.

Within the funds provided, the conferees agree that $768,400,000 is for construction of two T-AKE vessels as proposed in the fiscal year 2005 budget request and $28,000,000 is for the Maritime Pre-positioning Fleet (Future), MPF(F).

The conferees agree that none of the funds provided for the MPF(F) may be obligated or expended until the Secretary of the Navy submits to the congressional defense committees, a detailed report on the MPF(F) mission, operational requirements, analysis of alternatives, expenditure plans, and overall program congruence with ongoing forcible entry studies.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
TITLE VI				
OTHER DEPARTMENT OF DEFENSE PROGRAMS				
Defense Health Program:				
Operation and maintenance	17,203,369	17,148,069	17,299,369	17,297,419
Procurement	364,635	364,635	366,235	367,035
Research and development	72,407	446,482	399,207	506,982
Total, Defense Health Program	17,640,411	17,959,186	18,064,811	18,171,436
Chemical Agents & Munitions Destruction, Army:				
Operation and maintenance	1,138,801	1,138,801	1,088,801	1,088,801
Procurement	78,980	78,980	78,980	78,980
Research, development, test and evaluation	154,209	154,209	206,209	205,209
Total, Chemical Agents	1,371,990	1,371,990	1,373,990	1,372,990
Drug Interdiction and Counter-Drug Activities, Defense	852,697	876,697	908,797	906,522
Office of the Inspector General	244,562	193,562	244,562	204,562
Total, title VI, Other Department of Defense Programs	20,109,660	20,401,435	20,592,160	20,655,510

DEFENSE HEALTH PROGRAM

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget Request	House	Senate	Conference
OPERATION AND MAINTENANCE	**17,203,369**	**17,148,069**	**17,299,369**	**17,297,419**
IN-HOUSE CARE	**4,668,716**	**4,636,416**	**4,764,716**	**4,785,766**
Army Fisher House NAFI		+11,000		+9,500
Boorda Center				+650
Colon Cancer Program (NNMC)		+7,000		+6,000
Defense and Veterans Head Injury Program		+3,000	+7,000	+6,000
Collaborative Wound Healing Initiative (transfer to RDTE,A Line 29)		+500		0
GAO Estimate Annual Unobligated Funds		-50,000		0
Graduate School of Nursing		+2,000	+2,500	+2,500
Landstuhl Army Medical Center SRM		+10,000		+8,500
White River Junction-Fort Ethan Allen Resource Sharing Demonstration		+500		+500
Madigan Army Medical Center Trauma Assistance		+1,000	+2,000	+1,300
Military to Civilian Conversion Delay (Note: due to a delay in execution of conversion by the Navy that was to begin in June 2004)		-18,000		0
Military-Civilian Education and Sexual Health Decision-Making Program		+200		+200
Paralyzed Veterans Association		+1,000		+1,000
Smart Shelf Chain of Custody and Control of Medical Records (Transfer from RDTE,A Line 31)		+3,000		+4,400
Third Party Collections GAO Report		-15,000		0
US Air Force Medical Service Database (Note: only for continuing the existing program)		+500		+500
USUHS Training for Medical Readiness against WMD		+3,000		+1,500
WRAMC Amputee Center		+8,000	+7,800	+7,800
Alaska Federal Health Care Network			+2,500	+2,500
Automated Clinical Practice Guidelines			+6,500	+5,500
Brown Tree Snakes			+1,000	+1,000
Center for Disaster Humanitarian Assistance Medicine (USUHS)			+1,000	+1,000
Digital Access and Analysis of Historic Records at AFIP			+20,000	+17,000
Health Study at the Iowa Army Ammunition Plant			+1,000	+1,000
Pacific Island Health Care Referral			+5,000	+4,250
Special Operations Injury Prevention Program			+2,200	+1,650
Tri-Service Nursing Research Program			+6,000	+6,000
Tripler Cancer Care			+10,000	+8,500

	Budget Request	House	Senate	Conference
Walter Reed Army Medical Center SRM			+10,000	+8,500
Walter Reed Army Medical Center Cancer Screening and Diagnostics			+11,500	+9,800
PRIVATE SECTOR CARE	8,953,494	8,953,494	8,953,494	8,953,494
CONSOLIDATED HEALTH CARE SUPPORT	997,200	997,200	997,200	997,200
INFORMATION MANAGEMENT	789,524	766,524	789,524	766,524
Medical Data Records Conversion at WRAMC		+1,000		+1,000
Medical Data Records Conversion at NNMC		+1,000		+1,000
Financial Information Systems Excess Program Growth-All Other Office Automation (TMA)		-25,000		-25,000
MANAGEMENT ACTIVITIES	223,881	223,881	223,881	223,881
EDUCATION AND TRAINING	398,773	398,773	398,773	398,773
BASE OPERATIONS/COMMUNICATIONS	1,171,781	1,171,781	1,171,781	1,171,781
PROCUREMENT	364,635	364,635	366,235	367,035
Support Equipment for Amputee Center at Walter Reed Army Medical Center			+1,600	+1,400
Protected Health Information Initiative				+1,000
RESEARCH, DEVELOPMENT, TEST AND EVALUATION	72,407	446,482	399,207	506,982
Air Force Environmental and Occupational Factors in Womens Health Program		+1,500		+1,300
Air Force Integrated Medical Information Technology System (IMITS) Initiative		+3,000		+2,600
Army Peer-Reviewed Breast Cancer Research Program		+150,000		+150,000
Army Peer-Reviewed Prostate Cancer Research Program		+85,000		+85,000
Assessment and Demonstration Center for USAF Surgeon General		+4,000		+3,400
Cancerous Brain Tumors Drug Research		+1,000		+1,000
Military Complementary and Alternative Medicine (MIL-CAM)		+1,500	+3,000	+2,100

	Budget Request	House	Senate	Conference
Comprehensive Reproductive System Care Program (Note: only for the continued coordination between Walter Reed Army Medical Center, a rural non-profit medical research institute, and a non-profit medical foundation, to provide a program for reproductive systems risk assessment, diagnosis, treatment, and cutting-edge research) - (Transfer to RDTE,A Line 29)		+14,000		0
Computer Assisted Medical Diagnostics		+3,000		+1,500
Direct Real-Time Secure Collaborative Application/Analysis Sharing Environment for the USAF Surgeon General		+1,000		+1,000
DNI Anthrax Therapeutic		+2,000		+1,700
Genetic Cancer Research in Women		+3,000		+1,500
Global HIV/AIDS Prevention		+10,000		+7,500
Gynecological Cancer Center (Transfer to RDTE,A Line 29)		+3,000		0
Healthcare Informatics Testbed		+2,000		+1,700
Leukemia Research (CMLRP)		+5,000		+4,250
Metabolic Defense (Note: only to systematically identify and investigate selected dietary and nutritional supplements (DNS) for enhancing and maintaining military personnel readiness, effectiveness and well-being)		+2,500		+2,200
Life Sciences Research Initiative				+500
Motion Coupled Visual Environment (MOCOVE) for Motion Sickness Relief (Transfer to RDTE,N-Line 11)		+1,000		0
Muscular Dystrophy Research		+3,000		+2,500
Muscle Research Consortium		+5,000	+1,000	+3,500
National Diabetes Model Program (Type 2 Diabetes Research with the Air Force)		+20,000		+16,000
Neuroscience Research (Note: only for the public/private effort among DoD Medical Treatment Facilities, the Uniformed Services University of Health Sciences, an appropriate not-for-profit Medical Foundation, and a primary health care center to provide a comprehensive program in Neurosciences for DoD medical beneficiaries)		+5,000		+4,250
Ophthalmology Training and Education		+3,000		+1,500
Ovarian Cancer Research Program		+10,000		+10,000
Periscopic Surgery		+2,500		+2,200
Portable Remote Medical Collection and Relay Capability		+2,000		+1,000

	Budget Request	House	Senate	Conference
Preventing Epilepsy after Traumatic Brain Injury		+1,500		+1,000
Prosthetics and Orthotics Education Program		+575		+575
Rapid Identification and Treatment for AFSOC Forces		+4,000	+7,500	+4,000
Real Time Healthcare Management Integration Demonstration with the USAF Surgeon General		+1,000		+1,000
Spinal Cord Injury Research (Note: only for the project to cure paralysis)		+3,000		+1,500
Tuberous Sclerosis Complex (TSC)		+4,000		+3,200
United States Military Cancer Institute		+4,000		+5,000
Virtual Colonoscopy - WRAMC		+2,000		+1,300
Virtual Medical Trainer		+1,000		+1,000
WRAMC Amputee Center Clinical and Applied Collaborative Research and Prosthetic Limb Development (Note: not less than $1,500,000 only for clinical evaluation of vacuum assisted suspension systems)		+10,000	+9,000	+10,000
Peer Reviewed Cancer Research Program			+200,000	0
Peer Reviewed Medical Research Program			+50,000	+50,000
Aircrew Laser Eye Protection (ALEP)			+6,500	+5,500
Alliance for NanoHealth (Transfer to RDTE,A Line 31)			+1,000	0
Clinical Coupler Integration			+4,000	+2,800
Gulf War Illness			+5,000	+3,750
Hawaii Federal Health Care Network			+25,000	+23,000
Integrative Healing Practices for Veterans			+2,000	+1,400
Manganese Health Research			+3,000	+2,250
Medical Error Reduction Initiative			+1,000	+1,000
National Prion Research Program (Transfer from RDTE,A Line 2)			+2,000	+1,500
Preventive Medicine Research for Prostate Cancer			+2,000	+1,400
Telerobotic and Minimally Invasive Surgery at WRAMC			+4,800	+4,100
Computer-Aided Detection and Diagnostics of Breast Cancer (Transfer from RDTE,DW Line 24)				+1,100
OPERATION AND MAINTENANCE	**17,203,369**	**17,148,069**	**17,299,369**	**17,297,419**
PROCUREMENT	**364,635**	**364,635**	**366,235**	**367,035**
RESEARCH, DEVELOPMENT, TEST AND EVALUATION	**72,407**	**446,482**	**399,207**	**506,982**
TOTAL	**17,640,411**	**17,959,186**	**18,064,811**	**18,171,436**

Defense Health Program Reprogramming Procedures

The conferees remain concerned regarding the transfer of funds from Direct (or In-house) Care to pay for contractor-provided medical care. To limit such transfers and continue oversight within the Defense Health Program operation and maintenance account, the conferees have included bill language which limits the funds available for Private Sector Care under the TRICARE program subject to prior approval reprogramming procedures. In addition, the conferees also designate the funding for the Direct Care System as a special interest item, as defined elsewhere in this report. Any transfer of funds from the Direct (or In-house) Care budget activity into the Private Sector Care budget activity or any other budget activity will require the Department of Defense to follow prior approval reprogramming procedures. The bill language and accompanying report language included by the conferees should not be interpreted by the Department as limiting the amount of funds that may be transferred to the direct care system from other budget activities within the Defense Health Program.

In addition, the conferees direct the Department of Defense to provide budget execution data for all of the Defense Health Program accounts. Such budget execution data shall be provided quarterly to the congressional defense committees through the DD-COMP(M) 1002 accounting form.

Peer Reviewed Medical Research Program

The Senate recommended $50,000,000 for a Peer Reviewed Medical Research program. The conferees agree to provide $50,000,000 for this program, and recommend the following projects as candidates for study: acellular human tissue matrix research; amyotrophic lateral sclerosis; alcoholism research; anti-radiation drug development; autism; blood-related cancer research; Interstitial Cystitis; childhood asthma; chronic pain research; conjugate vaccines to prevent shigellosis; diabetes research; Duchenne's disease research; epilepsy research; Lupus and LupusBiomarker Research; orthopaedic extremity trauma research; osteoporosis and bone-related diseases; Padget's disease; post traumatic stress disorders; social work research; Volume Angio CAT (VAC) research; and autoimmune diseases such as scleroderma and Sjogren's syndrome.

The conferees direct the Department to provide a report by March 1, 2005, on the status of this Peer Reviewed Medical Research Program.

Walter Reed Army Medical Center—Amputee Patient Care Program

Ongoing combat operations have produced a surge from 3 to 6 percent in complex combat injuries involving amputations of major limbs. The Military Amputee Patient Care Program headquartered at Walter Reed Army Medical Center provides a center of expertise for state-of-the-art treatment, the rehabilitation of military amputee patients to the highest level of physical function, and a return to active duty if possible. The conferees commend the Army and those associated with this vital effort.

The conferees recommend an additional $19,200,000 over the budget request for this program. This includes $7,800,000 for operating costs associated with the center, including but not limited to personnel, equipment, patient travel, and prosthetic device costs; and $10,000,000 for prosthetic limb development and increased clinical and applied collaborative research in prosthetic care. Finally, the conferees provide an additional $1,400,000 for procurement of support equipment to enhance the new facility at Walter Reed Army Medical Center.

Army Fisher Houses

The conferees include a General Provision as proposed by the House, which provides $2,000,000 for construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

The conferees also provide $9,500,000 in the Defense Health Program for the Army's non-appropriated fund instrumentalities (NAFI), as opposed to $11,000,000 proposed by the House. The conferees are aware that the NAFI, which was established by law to help defray the operating costs of Fisher Houses, have decreased in value due to poor financial market performance. The conferees are also aware that the costs to manage many Fisher Houses are much higher than planned due to an influx of patients at military treatment facilities as a result of casualties suffered during Operations Iraqi and Enduring Freedom. The funds provided to the NAFI will help to mitigate any deficit which may occur in fiscal year 2005 and prevent this deficit in future years. The conferees direct the Secretary of Defense to analyze the financial condition of the Fisher House operating accounts and submit a report to the congressional defense committees by March 1, 2005.

Mental Health Services

The conferees believe that hardships resulting from U.S. troop deployments to Iraq and Afghanistan make it imperative for the Department of Defense to offer adequate mental health services for active duty and reserve members deployed to combat theaters. The conferees also are concerned that sufficient mental health services be made readily available to dependents of active duty and reserve members. As such, the conferees direct the Secretary of Defense to conduct a comprehensive review of mental health services available to our military members deployed in combat theaters, as well as a review of services that may be available to their dependents during and after a military member's deployment. The report should be submitted to the congressional defense committees no later than 180 days after enactment of this bill. The review should include, but not be limited to, the following subjects:

—Data on the average number of service days lost due to mental health reasons;

—The types of measures taken by the military services to reduce the stigma often associated with mental health counseling;

—An analysis of mental health services available—and barriers to access—to active duty and reserve members and their dependents (including dependents of activated members of the National Guard and Reserve Components);

—An analysis of the extent to which the U.S. Army has implemented the recommendations of the Army's Mental Health Advisory Team; and

—A plan for actions that the Secretary of Defense determines appropriate for improving the delivery of mental health services to members of the Armed Forces and their dependents.

The conferees further direct the Secretary of Defense to submit a report to the congressional defense committees not later than 360 days after enactment of this bill describing the actions taken to implement the aforementioned plan and the reason why actions in the plan have not been completed, if any.

Third Party Collections

The House and Senate both expressed concern with the lack of third-party collections as outlined in General Accounting Office (GAO) report 04322R. According to the GAO report, DoD's Third-Party Collections Program generates on average about $122 million annually. However, total collections for fiscal year 2003 were down $30 million from the previous year, and the GAO has further documented that DoD fails to collect $44 million a year from third party insurers. It is clear that DoD's failure to effectively bill and collect from third-party insurers pursuant to law precludes the military treatment facilities from maximizing the resources available to them. The conferees also have concerns that DoD reduced its Information Technology budget for third-party outpatient collection systems from fiscal year 2004 to fiscal year 2005.

The conferees direct the Department to report to the congressional defense committees by April 1, 2005, regarding the status of the transition to outpatient itemized billing and how third-party collections have progressed since the implementation of this system began in fiscal year 2003. Finally, the conferees direct the Assistant Secretary of Defense (Health Affairs) to make the necessary business process improvements to ensure that Military Treatment Facilities are collecting all appropriate third party payments, and to submit quarterly reports to the congressional defense committees on the status of collections during the current fiscal year.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
CHEM AGENTS & MUNITIONS DESTRUCTION, ARMY				
CHEM DEMILITARIZATION - O&M	1,138,801	1,138,801	1,088,801	1,088,801
CHEM DEMILITARIZATION - PROC	78,980	78,980	78,980	78,980
CHEM DEMILITARIZATION - RDTE	154,209	154,209	206,209	205,209
TOTAL, CHEM AGENTS & MUNITIONS DESTRUCTION, ARMY	1,371,990	1,371,990	1,373,990	1,372,990

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

The conference agreement includes $906,522,000 for "Drug Interdiction and Counter-drug Activities, Defense" as opposed to $876,697,000 as proposed by the House and $908,797,000 as proposed by the Senate. Adjustments to the budget request are as follows:

Drug Interdiction and Counter-Drug Activities, Defense

	Budget Request	House	Senate	Conference
	852,697	876,697	908,797	906,522
RECOMMENDED INCREASES:				
Criminal Information Sharing Alliance Network (CISA)		5,000		4,250
Florida National Guard Counter-Drug Activities		3,000		2,550
Indiana National Guard Counter-Drug Activities		1,000		500
Joint Task Force-6		2,000		1,250
Multi-Jurisdictional Counterdrug Task Force Training		3,500		3,500
Nevada National Guard Counter-Drug Activities		3,000		1,500
Project Athena Beta Site		2,500		1,250
Southwest Border Fence		7,000		5,000
Tennessee National Guard Counter-Drug Activities		2,000		1,200
Volume Test Site for Point Sensors at NSWC		3,000		0
(Note: transferred to RDT&E, N - line 79)				
Young Marines		3,000		2,550
Alaska National Guard Counter-drug Program			3,000	2,550
Hawaii National Guard Counter-drug Program			3,000	2,700
Appalachia High Intensity Trafficking Area			1,500	1,125
West Virginia National Guard Counter-drug Program			3,000	2,550
Kentucky National Guard Counter-drug and HIDTA Program			3,600	2,700
Nevada National Guard CD RAID Program			3,000	2,250
New Mexico National Guard Counter-drug Program			2,000	1,000
Regional Counter-drug Training Academy, Mississippi			3,000	2,100
Northeast Regional Counter-drug Training Center			4,000	2,800
Midwest Regional Counter-drug Training Center			5,000	3,500
National Guard Counter-drug Support			25,000	18,000
RECOMMENDED REDUCTIONS				
Tethered Aerostat		-5,000		-3,500
Hemispheric Radar System		-5,000		-5,000
Intelligence, Surveillance, Reconaisance and Tanker Support		-1,000		-1,000
LEA Support/OCONUS Operations Support				-1,500

OFFICE OF THE INSPECTOR GENERAL

The conferees have agreed to provide a total amount of $204,562,000 for the Office of the Inspector General. Of this amount $202,362,000 shall be for operation and maintenance, $2,100,000 shall be for procurement, and $100,000 shall be for research, development, test and evaluation. The conferees have provided funds to ensure that aggressive implementation of all efforts to achieve the Department of Defense's high priority goal of gaining clean and auditable financial statements is supported including necessary growth in audit capability.

ENERGY CONTRACT REVIEW

The conferees are aware that the Department of Defense issued a $36,000,000 contract to Reliant Energy Solutions East to provide electricity to military installations on May 19, 2004. The Federal Acquisition Regulation authorizes the suspension of a contractor on the basis of adequate evidence of any offense "indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the contractor." The conferees direct the Department of Defense Inspector General to review the contract and to take any necessary action against Reliant Energy, Inc. and its subsidiaries, if appropriate. The Department is directed to report to the Committees on Appropriations within 180 days of enactment of this Act on the findings of its review and any subsequent actions taken on this contract.

TITLE VII—RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

The conference agreement appropriates $239,400,000 for payment to the Central Intelligence Agency Retirement and Disability System Fund, as proposed by both the House and the Senate.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The conference agreement appropriates $310,466,000 instead of $309,644,000 as proposed by the House and $319,355,000 as proposed by the Senate.

The conference agreement provides for a transfer of $39,422,000 to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, instead of $46,100,000 as proposed by the House and $34,911,000 as proposed by the Senate.

NATIONAL SECURITY EDUCATION TRUST FUND

The conference agreement appropriates $8,000,000 for the purposes of title VIII of Public Law 102–183, to be derived from the National Security Education Trust Fund, as proposed by both the House and the Senate.

TITLE VIII—GENERAL PROVISIONS

The conference agreement incorporated general provisions of the House and Senate versions of the bill which were not amended. Those general provisions that were amended in conference follow:

The conferees included a general provision (Section 8005) which amends language, as proposed by the House and the Senate, that increases the level of general transfer authority for the Department of Defense, and provides that transfers between military personnel appropriations shall not be taken into account for purposes of the limitation of funds which may be transferred under this section.

The conferees included a general provision (Section 8014) which amends language, as proposed by the House, setting limitations on conversion of Defense Department activities to contractor performance.

The conferees included a general provision (Section 8025) which amends language, as proposed by the Senate, earmarking up to $2,500,000 of "Operation and Maintenance, Air Force", for the acquisition of Native Allotment F–14589.

The conferees included a general provision (Section 8028) which amends language, proposed by the House and Senate, with respect to Federally Funded Research and Development Centers.

The conferees included a general provision (Section 8049) which amends language, as proposed by the House and Senate, recommending rescissions. The rescissions agreed to are:

(RESCISSIONS)

2002 Appropriations: Shipbuilding and Conversion, Navy: Cruiser Conversion	$14,000,000
2003 Appropriations:	
Former Soviet Union Threat Reduction: Unobligated balances	50,000,000
Aircraft Procurement, Navy: Unobligated balances	50,000,000
Aircraft Procurement, Air Force: Unobligated balances	50,000,000
2004 Appropriations:	
Other Procurement, Army: Soldier Enhancement	16,000,000
Aircraft Procurement, Navy: EA–6 Series (Outer Wing Panels)	32,800,000
Shipbuilding and Conversion, Navy: SSN ERO (SSN 716)	10,300,000
Weapons Procurement, Navy:	
Cruiser Modernization	6,100,000
ASW Targets (MK–30 MOD2)	19,100,000
Other Procurement, Navy:	
Minesweeping Replacement	5,200,000
Cruiser Conversion	36,500,000
Procurement, Marine Corps:	
AAV7A IPIP	28,000,000
Amphibious Raid Equipment	12,200,000
Other Procurement, Air Force: Classified Programs	100,000,000
Procurement, Defense-Wide:	
ASDS	23,571,000
CV–22 SOF Modification	11,000,000
Research, Development, Test and Evaluation, Army:	
MEADS	25,000,000
Biomedical Engineering Technology and Advanced Material	1,000,000
Broadband Intelligence Training System	4,000,000
Research, Development, Test and Evaluation, Navy:	
Unmanned Combat Aerial Vehicle	15,000,000
Joint Direct Attack Munitions (JDAM) Hornet Autonomous Real-Time Targeting (HART)	31,500,000
Mobile User Objective System (MUOS)	102,000,000
Research, Development, Test and Evaluation, Air Force:	
Unmanned Combat Aerial Vehicle	15,000,000
Classified Programs	9,000,000
ADV Polar	13,000,000
Global Hawk	6,000,000
Common Configurable Remote Interface Unit Initiative	3,500,000
C–5 Airlift Squadrons	11,166,000
Research, Development, Test and Evaluation, Defense-Wide:	
Center for Information Assurance	2,100,000
Airborne Laser	40,000,000
RAMOS	26,500,000
Computing and Communications Technology—Language Translation	6,800,000
Operational Systems Development—Management Headquarters	3,300,000

The conferees included a general provision (Section 8067) which amends language, as proposed by the Senate, to conform to current authorization law regarding fees that the Department of State charges to the Department of Defense for the maintenance, upgrade, or construction of U.S. diplomatic facilities. The conferees also provide an exemption to the Central Intelligence Agency with regard to the calculation of these fees.

The conferees included a general provision (Section 8082) which amends language, as proposed by the House, to provide for crediting refunds from government purchase cards, travel cards, and travel arrangements to current accounts in operation and maintenance, and research, development, test and evaluation. The conferees did not make the provision permanent.

The conferees included a general provision (Section 8090) which amends language, as proposed by the House and Senate, to change the dollar amount available for transfer.

The conferees included a general provision (Section 8092) which amends language, as proposed by the Senate, on the Littoral Combat Ship by adjusting the citation for the total amount appropriated.

The conferees included a general provision (Section 8096) which amends language, as proposed by the House and Senate concerning the Arrow missile defense program. The conference agreement provides a total of $155,230,000 for the Arrow program of which $68,000,000 is earmarked for missile component coproduction.

The conferees included a general provision (Section 8097) which amends language, as proposed by the House, on providing a grant to the California Central Coast Research Partnership.

The conferees included a general provision (Section 8098) which amends language, as proposed by the Senate, that transfers funds to the Coast Guard for mission essential equipment, and includes language which transfers funds to the Department of the Interior.

The conferees included a general provision (Section 8099) which amends language, as proposed by the House and Senate to provide for transfer of funds for the cost of prior year shipbuilding programs and to repeal Sec. 126 of Public Law 108–136.

The conferees included a general provision (Section 8105) which amends language, as proposed by the House, which reduces $197,500,000 from other procurement and research, development, test and evaluation accounts for cost growth in information technology development and modernization.

The conferees included a general provision (Section 8106) which amends language, as proposed by the House and Senate, to ensure that written notification is provided prior to initiation of new start programs.

The conferees included a general provision (Section 8109) which amends language, as proposed by the House and Senate, concerning the Non Line of Sight Cannon and Resupply Vehicle (NLOS–C), and Stryker Brigade Combat Teams. Language revises the fielding date for additional Stryker Brigade Combat Teams.

The conferees included a general provision (Section 8113) which amends language, as proposed by the House and Senate, which provides for grants to various organizations to include $5,000,000 to the Intrepid Sea-Air-Space Foundation; $1,875,000 to the Presidio Trust only for renovations of the parade field; $1,000,000 to the Fort Ticonderoga Association; $8,500,000 for the Military Aviation Museum of the Pacific; $10,000,000 to the Wings of Liberty Military Museum at Fort Campbell; $2,550,000 to the United Services Organization; $5,000,000 to the Galena IDEA Distance Learning Program; $1,500,000 to the Wing Luke Asian Museum; $8,000,000 to the Center for Applied Science and Engineering (Jordan Valley Innovation Park, Springfield, Missouri); $1,000,000 to the Women in Military Service for America Memorial Foundation; $2,000,000 to the American Red Cross Greater Allegheny Blood Services Center; $4,000,000 to the Clarksville-Montgomery County School System, Tennessee; and $1,000,000 to the National Museum of Cavalry and Armor at Fort Knox.

The conferees included a general provision (Section 8118) which amends language, as proposed by the Senate, by making permanent language pertaining to section 2533a(f) of title 10 for procurement of any fish, shellfish, or seafood product.

The conferees included a general provision (Section 8122) which amends language as proposed by the House and Senate, reducing amounts available in titles II, III, and IV by $711,000,000 for savings from assumed management improvements.

The conferees included a general provision (Section 8123) which amends language as proposed by the House and Senate, reducing the amount available in "Operation and Maintenance, Air Force", by $967,200,000 for excess Transportation Working Capital Fund cash and directing that not later than 270 days after enactment of this Act, the same amount be transferred from the Transportation Working Capital Fund to "Operation and Maintenance, Air Force".

The conferees included a general provision (Section 8125) which amends language as proposed by the House, to provide $3,900,000 from funds available in "Operation and Maintenance, Marine Corps", for widening, and construction of a pedestrian path, for Adobe Road.

The conferees included a general provision (Section 8126) which amends language, as proposed by the House, making $2,500,000 available for the MCAGCC Health Demonstration Program.

The conferees included a general provision (Section 8130) which amends language, as proposed by the House, which reduces amounts available in title II of this Act by $50,000,000 for offsetting of payments to contractors for the collection of unpaid taxes.

The conferees included a general provision (Section 8131) which amends language, as proposed by the House, which reduces funds available in title IV of this Act by revising the amount of the reduction.

The conferees included a general provision (Section 8132) which amends language, as proposed by the House, to establish the "Tanker Replacement Transfer Fund", and appropriates $100,000,000 to said fund.

The conferees included a general provision (Section 8133) which amends language, as proposed by the House, which prohibits the amending or cancellation of current Department of Defense policy for "Personal Commercial Solicitation on DoD Installations", until 90 days after completion of a report on insurance premium allotment processing.

The conferees included a general provision (Section 8134) which amends language, as proposed by the House with respect to the due date of a report on the dud rate of cluster munitions.

The conferees included a general provision (Section 8135) which amends language, as proposed by the Senate, which provides from within funds available in "Operation and Maintenance, Navy", $2,600,000 for drainage and flood control systems in the vicinity of the Naval Magazine of Lualualei.

The conferees included a general provision (Section 8136) which amends language, as proposed by the Senate, to provide $2,100,000 from within funds available in "Operation and Maintenance, Navy", for a grant to the Chicago Public Schools for establishment of a Naval Military Academy High School.

The conferees included a general provision (Section 8140) which amends language, as proposed by the Senate, which reduces funds available in operation and maintenance accounts by $768,100,000 for excessive unobligated balances.

The conferees included a general provision (Section 8141) which amends language, as proposed by the Senate, to reduce the amount of funds available in title 11 by $100,000,000 for excessive cost growth in the travel and transportation of persons.

The conferees included a new general provision (Section 142) concerning a rescission of funds for unobligated balances. The rescissions agreed to are: 2002 Appropriations:

Aircraft Procurement, Navy: Unobligated balances	$50,000,000
Aircraft Procurement, Air Force: Unobligated balances	50,000,000

TITLE IX—ADDITIONAL WAR-RELATED APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

The following table provides details of the supplemental appropriations in this title.

[In thousands of dollars]

Account	Conference
Iraq Freedom Fund:	2,000,000
Classified Programs	1,800,000
DHS United States Coast Guard Operating Expenses	[1][100,000]
Total Iraq Freedom Fund	3,800,000
Military Personnel:	
Military Personnel, Army	915,700
Military Personnel, Navy	27,700
Military Personnel, Marine Corps	241,700
Military Personnel, Air Force	64,900
Total Military Personnel	1,250,000
Operation and Maintenance:	
O&M, Army	13,550,000
O&M, Navy	367,000
O&M, Marine Corps	1,665,000
O&M, Air Force	419,000
O&M, Defense-Wide	404,000
Total Operation and Maintenance	16,405,000
Procurement:	
Procurement of WTCV, Army	50,000
Procurement of Ammunition, Army	110,000
Other Procurement, Army	755,000
Aircraft Procurement, Navy	79,000
Procurement of Ammunition, Navy & Marine Corps	30,000
Procurement, Marine Corps	150,000
Other Procurement, Air Force	110,000
Procurement, Defense-Wide	50,000
National Guard and Reserve Equipment	50,000
Total Procurement	1,384,000
Revolving and Management Funds:	
Defense Working Capital Funds	1,478,000
Total Revolving and Management Funds	1,478,000
Other Department of Defense Programs:	
Defense Health Program	683,000
Total Other DoD Programs	683,000
Grand Total Title IX	25,000,000

[1] Numbers in brackets do not add; represent transfer limitation

REPORTING REQUIREMENTS

The conferees direct the Secretary of Defense to provide a report to the congressional defense committees within 90 days of enactment of this legislation on the allocation of the funds within the accounts listed in this title. The Secretary shall submit updated quarterly reports thereafter. The conferees direct that these quarterly reports shall include: a detailed accounting of obligations and expenditures of appropriations provided in this title for the continuation of the war in Iraq and Afghanistan; and a listing of equipment procured using funds provided in this title.

MILITARY PERSONNEL

The following table provides details of the recommendation for the military personnel accounts:

[In thousands of dollars]

Account	Conference
Military Personnel, Army	
Additional Manpower Costs	878,000
Extension of Imminent Danger Pay	4,900
Extension of Family Separation Pay	32,800
Total Military Personnel, Army	915,700
Military Personnel, Navy	
Extension of Imminent Danger Pay	700
Extension of Family Separation Pay	27,000
Total Military Personnel, Navy	27,700
Military Personnel, Marine Corps	
Additional Manpower Costs	226,000
Extension of Imminent Danger Pay	2,400
Extension of Family Separation Pay	13,300
Total Military Personnel, Marine Corps	241,700
Military Personnel, Air Force	
Additional Manpower Costs	19,900
Extension of Imminent Danger Pay	16,500
Extension of Family Separation Pay	28,500
Total Military Personnel, Air Force	64,900
Total Military Personnel	1,250,000

OPERATION AND MAINTENANCE

The following table provides details of the recommendation for the operation and maintenance accounts:

[In thousands of dollars]

Account	Conference
Operation and Maintenance, Army:	
Incremental Wartime Operating Costs	11,409,350
Depot Maintenance	220,000
Rapid Fielding Initiative	500,000
Interceptor Body Armor with Deltoid Auxiliary Protection	334,600
Additional Manpower Costs	227,000
Family Readiness Program	15,000
Brigade Restructuring HMMWV Recap	56,050
Reset (Delayed Desert Damage 10/20)	688,000
Captured Ammunition Demilitarization	100,000
Total Operation and Maintenance, Army	13,550,000
Operation and Maintenance, Navy:	
Incremental Wartime Operating Costs	225,000
Ship Depot Maintenance	76,000
Aircraft Depot Maintenance	66,000
Total Operation and Maintenance, Navy	367,000
Operation and Maintenance, Marine Corps:	
Incremental Wartime Operating Costs	1,544,000
Depot Maintenance	43,000
Interceptor Body Armor with Deltoid Auxiliary Protection	78,000
Total Operation and Maintenance, Marine Corps	1,665,000
Operation and Maintenance, Air Force:	
Incremental Wartime Operating Costs	275,000
Interceptor Body Armor	144,000
Total Operation and Maintenance, Air Force	419,000
Operation and Maintenance, Defense-Wide:	
Incremental Wartime Operating Costs	180,000
SOCOM Body Armor	19,000
Defense Information Systems Agency	56,000
Defense Threat Reduction Agency	17,000
Defense Logistics Agency	132,000
Total Operation and Maintenance, Defense-Wide	404,000
Total Operation and Maintenance	16,405,000

CONTRACTS FOR SECURITY, TRANSLATION, AND INTERROGATION SERVICES

The conferees direct the Secretary of Defense to provide to the congressional defense committees, not later than four months after the date of enactment of this Act, a list of all contracts entered into by the Department of Defense for the provision of security, translation and interrogation services in Iraq, Afghanistan, or Guantanamo Bay, and the amount of each such contract.

TRAIN AND EQUIP

The conferees have provided an additional $500,000,000 to train, equip, and provide related assistance to the New Iraqi Army and the Afghan National Army. The conferees have provided this funding level with the understanding it will be sufficient to carry the program through all of fiscal year 2005.

COMMANDER'S EMERGENCY RESPONSE PROGRAM

The conferees have provided an additional $300,000,000 to continue the Commander's Emergency Response Program (CERP) for Iraq and Afghanistan. The conferees believe CERP has been one of the most successful humanitarian assistance programs in Iraq and Afghanistan. The conferees want to ensure that these funds are directed to such efforts and that funding for administrative functions are minimized. In addition, the conferees have received only two reports from the Department on the use of the CERP. The conferees concur with the Senate Report 108–284 regarding the timeliness and detail of reporting requirements.

NAVY AIRCRAFT DEPOT MAINTENANCE

The conferees agree to provide $66,000,000 for Navy aircraft depot maintenance. From the funds made available for this purpose, the conferees urge the Navy to give priority consideration for critical and emergent P–3C and EP–3 sustainment including phase depot maintenance, Enhanced Special Structural Inspections (ESSI), and inventory sustainment initiatives, as identified in the Chief of Naval Operations' fiscal year 2005 unfunded priority list submission to the congressional defense committees.

IRAQ FREEDOM FUND

The conference agreement includes $3,800,000,000 for the Iraq Freedom Fund. Of this amount, $1,800,000,000 is only for classified activities, and is described further in a classified annex to this report. Additionally, the conferees direct that up to $100,000,000 shall be available for the Department of Homeland Security, "United States Coast Guard, Operating Expenses".

PROCUREMENT

The following table provides details of the recommendation for the procurement accounts:

[In thousands of dollars]

Account	Conference
Procurement of Weapons and Tracked Combat Vehicles, Army:	
Rapid Fielding Initiative	40,000
Weapons/Small Arms	10,000
Total Procurement of WTCV, Army	50,000
Procurement of Ammunition, Army:	
Small Arms Ammunition	100,000
Flares, Aircraft Survivability	10,000
Total Procurement of Ammunition, Army	110,000
Other Procurement, Army:	
Armored HMMWVs (formerly M1114 Up-Armor HMMWV, Force Protection)	572,000
Rapid Response Force Protection Initiative (formerly Vehicle Bolt-on Armor and Emerging Requirements)	100,000
Rapid Fielding Initiative	65,000
EOD Robots	5,000
REF Improvised Explosive Device (IED) Initiative	10,000
Predator SATCOM Upgrades	3,000
Total Other Procurement, Army	755,000
Aircraft Procurement, Navy:	
Aircraft Survivability Equipment	34,000
CH-53 T64 engine government reliability improvement	40,000
CH-46 engine reliability improvement porgram (ERP)	5,000
Total Aircraft Procurement, Navy	79,000
Procurement of Ammunition, Navy and Marine Corps:	
Unfunded Requirements/Ammunition Expended	20,000
Flares, Aircraft Survivability	10,000
Total Procurement of Ammunition, Navy and Marine Corps	30,000
Procurement, Marine Corps:	
Bolt-on Armor Kits/Vehicle Hardening	150,000
Total Procurement, Marine Corps	150,000
Other Procurement, Air Force:	
DCGS - ETP SATCOM Ground Stations	95,000
Up-Armored HMMWV	15,000
Total Other Procurement, Air Force	110,000
Procurement, Defense-Wide:	
SOCOM Unfunded Requirements	50,000
Total Procurement, Defense-Wide	50,000
National Guard and Reserve Equipment:	
Equipment for Deployment to OIF/OEF	50,000
Total National Guard and Reserve Equipment	50,000
Total Procurement	1,384,000

RAPID RESPONSE FORCE PROTECTION INITIATIVE

The conferees agree with the direction expressed in the Senate-passed version of the fiscal year 2005 DoD Appropriations bill on the need to provide improved force protection for deployed forces. Further, the conferees agree with the Senate that the Army must be given the greatest flexibility possible with regard to force protection responses. As stated in the Senate report, these options may include armor bolt-on kits for M113A2/3 armored personnel carriers, other bolt-on armor kits, applied uparmoring system, armored cabs, or armored security vehicles (ASV). Accordingly, the conferees provide $100,000,000 for this effort. The Secretary of the Army shall provide a report to the congressional defense committees detailing all expenditures made using these funds not later than January 5, 2005.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

The conferees recommend an appropriation of $1,478,000,000 for the Defense Working Capital Funds instead of $1,250,000,000 as proposed by the House and $740,000,000 as earmarked in the Iraq Freedom Fund by the Senate.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

The conferees provide $683,000,000 for the Defense Health Program. These funds will cover additional costs incurred by the military medical system, including costs associated with improving medical readiness for Ready Reserve members, and enhanced TRICARE benefits for members of the Reserve Component and their families. The conferees believe this will be sufficient to cover increased Defense Health Program costs for at least four months.

GENERAL PROVISIONS—THIS TITLE

The conferees agree to retain section 9001 as proposed by the House, which provides that funds in this title are available for obligation upon enactment of this Act. The Senate proposed similar language.

The conferees agree to retain section 9002 as proposed by the House which provides that funds made available in this title are in addition to amounts provided elsewhere in this Act.

The conferees agree to retain and amend section 9003 as proposed by the House, which provides for transfer between appropriations of up to $1,500,000,000 of funds made available in this title, and which amends Section 8005 of the Department of Defense Appropriations Act, 2004 by striking $2,100,000,000 and inserting $2,800,000,000, and providing that transfers among military personnel appropriations shall not be taken into account for purposes of the limitation under this section. Additionally, the provision repeals, upon enactment of this Act, Section 168(a) of division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199). The Senate did not address this matter.

The conferees agree to retain section 9004 as proposed by the House, which provides that funds appropriated in title IX of this Act for intelligence activities are deemed to be authorized for purposes of section 504 of the National Security Act of 1947. The Senate addressed this in title VIII of the Senate-passed bill.

The conferees agree to retain and amend section 9005 as proposed by the House and the Senate, which prohibits the use of funds provided in title IX to finance programs or activities denied by Congress for fiscal years 2004 or 2005 and requires written notification prior to initiating new start programs.

The conferees agree to delete language as proposed by the House, which would have continued authorization for certain travel and clothing allowances during fiscal year 2005. The Senate did not address this matter.

The conferees agree to delete language as proposed by the House, which would have continued through September 30, 2005, authorization for certain military pay and allowances. The Senate did not address this matter.

The conferees agree to retain and amend section 9006 as proposed by the House, which provides for support to military and security forces in Iraq and Afghanistan and provides $500,000,000 from funds available for operation and maintenance in this title to train and equip the New Iraqi Army and the Afghan National Army, and directs certain reports. The Senate included a similar provision.

The conferees agree to retain and amend section 9007 as proposed by the House and the Senate, which provides that from funds made available in this title, $300,000,000 may be used to fund the Commander's Emergency Response Program.

The conferees agree to retain section 9008 as proposed by the Senate which provides for an increase in drawdown authority provided under the Afghan Freedom Support Act of 2002. The House included a similar provision.

The conferees agree to retain section 9009 as proposed by the Senate which provides that funds available for operation and maintenance for the current fiscal year may be used for support to coalition forces in Iraq and Afghanistan, and directs quarterly reports. The House included similar language.

The conferees agree to retain section 9010 as proposed by the House which requires periodic reports on military operations in Iraq and Afghanistan; amounts expended; military readiness, recruitment and retention; and other subjects. The Senate did not address this matter.

The conferees agree to retain section 9011 as proposed by the House which reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States. The Senate did not address this matter.

The conferees agree to retain and amend section 9012 as proposed by the House which directs the President to provide a report on estimated costs, from fiscal year 2006 to 2011, of operations in and around Iraq and Afghanistan. The Senate did not address this matter.

The conferees agree to delete language as proposed by the House pertaining to the debt ceiling. The Senate did not address this matter.

The conferees agree to delete language as proposed by the House which would have directed the Secretary of Defense to provide a list of contracts entered into by the Department of Defense for security, translation, and interrogation services in Iraq, Afghanistan, or Guantanamo Bay, and the amount of each contract. The Senate did not address this matter.

The conferees agree to retain section 9013 as proposed by the House which provides that none of the funds made available in this title may be used to fund any contract in contravention of section 8(d)(6) of the Small Business Act. The Senate did not address this matter.

The conferees agree to include a new provision, section 9014, which provides for the presentation of promotional materials to members of the active and reserve component who participate in Operation Enduring Freedom or Operation Iraqi Freedom.

The conferees agree to include a new provision, section 9015, which provides that for the purposes of Section 402(a)(2) of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress), all funds provided in this title, and those made available by transfer or pursuant to authority in section 9003 of the conference report, are directly in support of national security and U.S. forces in the field, are sudden, meet an urgent and compelling need, are unpredictable, and are not permanent in nature.

TITLE X

OTHER MATTERS

CHAPTER 1

Department of State

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

The conference agreement includes $665,300,000 for necessary expenses for the operations of the United States Mission in Iraq as proposed in the House bill, including $240,000,000 for logistical support, $18,800,000 for the costs of worldwide OpenNet and classified connectivity infrastructure, $70,000,000 for the State Department operations in Iraq, and $336,500,000 for the security-related costs, including equipment, armored vehicles, protective details and contract support. The conferees direct the Department, not later than 60 days after the date of enactment of this Act, to provide a report to the Committees on Appropriations describing how, within these categories, the Department allocated the funds provided under this heading. The report shall also describe how the Department intends to allocate any remaining balances.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

The conference agreement includes $20,000,000 for necessary expenses of securing interim United States Mission facilities in Iraq, as proposed in the House bill.

GENERAL PROVISIONS, THIS CHAPTER

Sec. 11001. The conference agreement includes language, as proposed in the Senate bill, regarding the Manufacturing Extension Partnership program.

Sec. 11002. The conference agreement includes language, similar to language proposed in the Senate bill, providing $50,000,000 to reimburse State and local law enforcement agencies for security costs associated with the 2004 Presidential Candidate Nominating Conventions in New York, NY and Boston, MA.

Sec. 11003. The conference report includes new language providing $26,000,000 to the Federal Judiciary for unanticipated costs related to defender services.

Sec. 11004. The conference agreement includes language, as proposed in the House bill, regarding certain transfer, reprogramming, and other authorities applicable to amounts provided in this title for the Department of State.

For purposes of section 402(a)(2) of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of this Act, funds provided in this chapter are provided in response to situations which pose direct threats to life and property, are sudden, are urgent and compelling needs, are unpredictable, and are not permanent in nature.

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

The conference agreement appropriates $70,000,000 for necessary expenses to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad, as proposed by the House and the Senate. Language is included elsewhere in this title that designates the funding as an emergency requirement. The funds are available until expended, and become available for obligation upon enactment into law of this Act.

For purposes of section 402(a)(2) of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of this Act, funds provided under this heading are provided in response to a situation which poses a direct threat to life and property, is sudden, is an urgent and compelling need, is unpredictable, and is not permanent in nature.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

The conference agreement appropriates $25,000,000 for necessary expenses to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad, as proposed by the House and the Senate. Language is included elsewhere in this title that designates the funding as an emergency requirement. The funds are available until expended, and become available for obligation upon enactment into law of this Act.

For purposes of section 402(a)(2) of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of this Act, funds provided under this heading are provided in response to a situation which poses a direct threat to life and property, is sudden, is an urgent and compelling need, is unpredictable, and is not permanent in nature.

GENERAL PROVISIONS, THIS CHAPTER

Sec. 12001. The conference agreement includes language, as proposed in the Senate bill, regarding provision of surplus military equipment to Israel.

Sec. 12002. The conference agreement includes language, as proposed in the Senate bill, regarding Foreign Assistance Act provisions.

CHAPTER 3

SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2004 FOR URGENT WILDLAND FIRE SUPPRESSION ACTIVITIES

This chapter provides urgently needed supplemental funds in the amount of $500,000,000 for the fiscal year 2004 wildfire suppression needs of the Department of the Interior and the Forest Service, and provides that cost containment measures be implemented. This funding includes $100,000,000 for the Department of the Interior, through the Bureau of Land Management wildland fire management account and $400,000,000 for the Forest Service wildland fire management account.

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

The managers have included an additional $100,000,000 for "Wildland Fire Management", in fiscal year 2004.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

The managers have included an additional amount of $400,000,000 for "Wildland Fire Management", in fiscal year 2004.

CHAPTER 4

GENERAL PROVISIONS—THIS TITLE

Sec. 14001. Appropriations provided in this title are available for obligation until September 30, 2005, unless otherwise so provided in this title.

Sec. 14002. Funds in this title are available for obligation and authorities in this title shall apply upon enactment of this Act.

Sec. 14003. The conference agreement includes language, which amends a Senate provision, regarding amendments to Public Law 108–199 related to the distribution of Federal-Aid Highways funding for fiscal year 2004.

Sec. 14004. The conference agreement includes language, which amends a Senate provision, to include a technical correction relating to the name of a project grantee funded under the heading "Institute of Museum and Library Services" in title IV of the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, fiscal year 2004.

Sec. 14005. The conference agreement includes new language that extends the availability of $10,600,000 for the District of Columbia Public Schools until September 30, 2005.

Sec. 14006. The conference agreement includes a new technical clarification to 8 U.S.C. 11184 (8)(1)(B).

Sec. 14007. The conferees agreed to a new provision, applicable to the Senate, setting for fiscal year 2005 a discretionary spending level in the Senate of $821,419,000,000, and permitting further adjustments as allowed under the terms of the conference report on S. Con. Res. 95, the concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005, as contained in House Report 108–498, filed in the House of Representatives on May 19, 2004. This provision does not trigger the application of House Rule XXVII.

Sec. 14008. The conference agreement includes a new provision which provides that appropriations in chapters 1 and 2 of this title are each designated as emergency appropriations pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of this Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2005 recommended by the Committee of Conference, with comparisons to the fiscal year 2004 amount, the 2005 budget estimates, and the House and Senate bills for 2005 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2004	$365,772,453
Budget estimates of new (obligational) authority, fiscal year 2005	392,824,305
House bill, fiscal year 2005	391,170,100
Senate bill, fiscal year 2005	384,012,400
Conference agreement, fiscal year 2005	391,170,312
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2004	+25,397,859
Budget estimates of new (obligational) authority, fiscal year 2005	–1,653,993
House bill, fiscal year 2005	+212
Senate bill, fiscal year 2005	+7,157,912

JERRY LEWIS,
BILL YOUNG,
DAVID L. HOBSON,
HENRY BONILLA,
GEORGE R. NETHERCUTT, Jr.,
RANDY "DUKE" CUNNINGHAM,
RODNEY P. FRELINGHUYSEN,
TODD TIAHRT,
ROGER F. WICKER,
JOHN P. MURTHA,
NORMAN D. DICKS,
MARTIN OLAV SABO,
PETER J. VISCLOSKY,
JAMES P. MORAN,
DAVID R. OBEY,
Managers on the Part of the House.

TED STEVENS,
THAD COCHRAN,
ARLEN SPECTER,
PETE DOMENICI,
KIT BOND,
MITCH MCCONNELL,
RICHARD C. SHELBY,
JUDD GREGG,
KAY BAILEY HUTCHISON,
CONRAD BURNS,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS, *(except for deeming section),*
ROBERT C. BYRD, *(except for the section deeming FY2005 discretionary limits),*
PATRICK J. LEAHY, *(except for deeming section),*
TOM HARKIN, *(except for deeming section),*
BYRON L. DORGAN, *(except for deeming section),*
RICHARD J. DURBIN, *(except for the deeming FY2005 discretionary limits),*
HARRY REID, *(except for deeming section),*
DIANNE FEINSTEIN, *(except for deeming section),*
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today and the balance of the week on account of advice of my physician.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

(The following Members (at the request of Mr. RYAN of Wisconsin) to revise and extend their remarks and include extraneous material:)

Mr. BURNS, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, July 22.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2385. An act to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the "Santiago E. Campos United States Courthouse"; to the Committee on Transportation and Infrastructure.

ADJOURNMENT

Mr. MEEK of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 21, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9218. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Brucellosis in Sheep, Goats, and Horses; Payment of Indemnity [Docket No. 00-002-2] (RIN: 0579-AB42) received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9219. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Classical Swine Fever Status of Chile [Docket No. 03-009-2] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9220. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Animal Welfare; Inspection, Licensing, and Procurement of Animals [Docket No. 97-121-3] (RIN: 0579-AA94) received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9221. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Japanese Beetle; Domestic Quarantine and Regulations [Docket No. 04-032-1] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9222. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Karnal Bunt; Compensation for Custom Harvesters in Northern Texas [Docket No. 03-052-2] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9223. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Environmental Stewardship (PESP) Regional Grants; Notice of Funds Availability [OPP-2004-0171; FRL-7361-8] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9224. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Spiroxamine; Pesticide Tolerance [OPP-2004-0120; FRL-7367-1] received July14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9225. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Acequinocyl; Pesticide Tolerance [OPP-2004-0141; FRL-7364-1] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9226. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Propoxycarbazone-sodium; Pesticide Tolerance [OPP-2004-0172; FRL-7365-7] received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9227. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Office of Pesticide Programs Address Changes [OPP-2004-0216; FRL-7368-4] received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9228. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting the 2004 annual report on the status of female members of the Armed Forces, pursuant to 10 U.S.C. 481 note Public Law 107—314 section 562(a); to the Committee on Armed Services.

9229. A letter from the Directors, Congressional Budget Office and Office of Management and Budget, transmitting a joint report on the technical assumptions to be used in preparing estimates of National Defense Function (050) fiscal year 2005 outlay rates and prior year outlays, pursuant to 10 U.S.C. 226(a); to the Committee on Armed Services.

9230. A letter from the Acting Under Secretary for Acquisition, Technology, & Logistics, Department of Defense, transmitting the Department's Report on Security Guards Needs Assessment and Plan, pursuant to Public Law 107—314, section 332; to the Committee on Armed Services.

9231. A letter from the Deputy Secretary, Department of Defense, transmitting notification that the DoD anticipates it will be prepared to commence chemical agent destruction operations at the Umatilla Chemical Agent Disposal Facility (UMCDF) in Hermiston, Oregon, pursuant to 50 U.S.C. 1512; to the Committee on Armed Services.

9232. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Approval of Captain Jon W. Bayless, Jr. to wear the insignia of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9233. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Approval of Rear Admiral (lower half) James G. Stavridis to wear the insignia of rear admiral (upper half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9234. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of Brigadier General Roger W. Burg to wear the insignia of the grade of major general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9235. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade indicated in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9236. A letter from the Secretary, Department of the Treasury, transmitting a report entitled, "Security of Personal Financial Information—Report on the Study Conducted Pursuant to Section 508 of the Gramm-Leach-Bliley Act of 1999"; to the Committee on Financial Services.

9237. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance with the Disposal Regulations; Alternative Provisions [FRL-7787-6] (RIN: 2060-AJ07) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9238. A letter from the Deputy Associate Administrator. Environmental Protection Agency, transmitting the Agency's final rule — National Emissions Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks [OAR-2002-0010, FRL-7786-9] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9239. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before Semptember 20, 1994 and Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 [OAR-2004-0007; FRL-7786-8] (RIN: 2060-AM11) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9240. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Sources and Modifications Including

Incorporation of Marine Vessel Emissions in Applicability Determinations [TX-165-1-7610;/FRL-7788-2] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9241. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the State Implementation Plan [R04-OAR-2004-GA-0001 200420; FRL-7788-3] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9242. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Adequacy of Indiana Solid Waste Landfill Permit Programs Under RCRA Subtitle D [FRL-7787-3] received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9243. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to India for defense articles and services (Transmittal No. 04-08), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9244. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9245. A letter from the Vice Chairs, President's Council on Integrity and Efficiency, and the Executive Council on Integrity and Efficiency, transmitting a Progress Report to the President, FY 2003, regarding the twenty-fifth anniversary of the Inspector General Act of 1978; to the Committee on Government Reform.

9246. A letter from the Deputy Chief Financial Officer, Department of Housing and Urban Development, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, and the Office of Management and Budget Memorandum 04-07, the Department's report on competitive sourcing efforts; to the Committee on Government Reform.

9247. A letter from the Inspector General, General Services Administration, transmitting the Office's Audit Report Register for the six-month period ending March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

9248. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Circular 2001-24; Introduction — received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9249. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Incentives for Use of Performance-Based Contracting for Services [FAC 2001-24; FAR Case 2004-004; Item I] (RIN: 9000-AJ97) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9250. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Aquisition Regulation; Definitions Clause [FAC 2001-24; FAR Case 2002-013; Item II] (RIN: 9000-AJ83) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9251. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Aquisition Regulation; Procurement Lists [FAC 2001-24; FAR Case 2003-013; Item III] (RIN: 9000-AJ82) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9252. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Aquisition Regulation; Determining Official for Employment Provision Compliance — Immigration and Nationality Act (INA) [FAC 2001-24; FAR Case 2004-009; Item IV] (RIN: 9000-AJ98) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9253. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Federal Supply Schedules Services and Blanket Purchase Agreements (BPAs) [FAC 2001-24; FAR Case 1999-603; Item V] (RIN: 9000-AJ63) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9254. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Designated Countries — New European Communities Member States [FAC 2001-24; FAR Case 2004-008; Item VI] (RIN: 9000-AJ96) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9255. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Buy American Act — Nonavailable Articles [FAC 2001-24; FAR Case 2003-007; Item VII] (RIN: 9000-AJ72) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9256. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Application of Cost Principles and Procedures and Accounting for Unallowable Costs [FAC 2001-24; FAR Case 2002-006; Item VIII] (RIN: 9000-AJ65) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9257. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Gains and Losses, Maintenance and Repair Costs, and Material Costs [FAC 2001-24; FAR Case 2002-008; Item IX] (RIN: 9000-AJ69) received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9258. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Technical Amendment [FAC 2001-24; Item X] received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9259. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Small Entity Compliance Guide — received June 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9260. A letter from the Administrator, Small Business Administration, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, and the Office of Management and Budget Memorandum 04-07, the Administration's report on competitive sourcing efforts; to the Committee on Government Reform.

9261. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period April 1, 2003 through June 30, 2003 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 108–203); to the Committee on House Administration and ordered to be printed.

9262. A letter from the Chairman, Inland Waterway Users Board, transmitting the Board's 18th annual report of its activities; recommendations regarding construction, rehabilitation priorities and spending levels on the commercial navigational features and components of inland waterways and harbors, pursuant to Public Law 99–662, section 302(b) (100 Stat. 4111); to the Committee on Transportation and Infrastructure.

9263. A letter from the Secretary, Department of Transportation, transmitting a report entitled, "Fundamental Properties of Asphalts and Modified Asphalts-II" submitted in accordance with Section 6016(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102–240, and Section 5117(b)(5) of the Transportation Equity Act of the 21st Century (TEA–21); to the Committee on Transportation and Infrastructure.

9264. A letter from the Chairman, Medicare Payment Advisory Commission, transmitting a copy of the Commission's "Report to the Congress: Sources of financial data on Medicare providers," fulfilling two Congressional requests in the Medicare Modernization Act; jointly to the Committees on Ways and Means and Energy and Commerce.

9265. A letter from the Chairman, Labor Member, and Management Member, Railroad Retirement Board, transmitting the 2004 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

9266. A letter from the Assistant Attorney General, Department of Justice, transmitting a report entitled "Report from the Field: the USA Patriot Act at Work"; jointly to the Committees on the Judiciary, Intelligence (Permanent Select), and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee of Conference. Conference report on H.R. 2443. A bill to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes (Rept. 108–617). Ordered to be printed.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 730. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes (Rept. 108–618). Referred to the House Calendar.

Mr. BARTON: Committee on Energy and Commerce. H.R. 2929. A bill to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes; with an amendment (Rept. 108–619). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 731. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–620). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 732. Resolution providing for consideration of the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–621). Referred to the House Calendar.

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 4613. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–622). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BECERRA (for himself, Ms. Ros-Lehtinen, Mr. Rodriguez, Mr. Ortiz, Mr. Acevedo-Vilá, Mr. Baca, Mr. Brown of Ohio, Mr. Cardoza, Mr. Doggett, Mr. Frost, Mr. Gonzalez, Mr. Grijalva, Mr. Gutierrez, Mr. Hinojosa, Ms. Lee, Mr. Meeks of New York, Mr. Menendez, Mrs. Napolitano, Ms. Roybal-Allard, Mr. Serrano, Ms. Solis, and Mr. Udall of New Mexico):

H.R. 4863. A bill to establish the Commission to Establish the National Museum of the American Latino to develop a plan of action for the establishment and maintenance within the Smithsonian Institution of the National Museum of the American Latino in Washington, D.C., and for other purposes; to the Committee on House Administration.

By Mr. YOUNG of Alaska (for himself, Mr. Oberstar, Mr. Petri, and Mr. Lipinski):

H.R. 4864. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEREUTER:

H.R. 4865. A bill to amend the National Trails System Act to authorize an additional category of national trail known as a national discovery trail, to provide special requirements for the establishment and administration of national discovery trails, and to designate the cross country American Discovery Trail as the first national discovery trail; to the Committee on Resources.

By Mr. BURR (for himself, Ms. Eshoo, Mr. Simmons, Mr. Ramstad, Mrs. Myrick, Ms. Ros-Lehtinen, Ms. Pryce of Ohio, Ms. Kaptur, Mr. Rogers of Michigan, and Mr. Price of North Carolina):

H.R. 4866. A bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DEUTSCH (for himself, Mr. Hastings of Florida, and Ms. Corrine Brown of Florida):

H.R. 4867. A bill to amend title 3, United States Code, to permit an objection to the certificate of the electoral votes of a State to be received by the Senate and the House of Representatives if the objection is signed by either a Senator or a Member of the House of Representatives; to the Committee on House Administration, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FERGUSON:

H.R. 4868. A bill to direct the Secretary of Transportation to conduct a test to determine the costs and benefits of requiring jet-propelled aircraft taking off from Newark International Airport, New Jersey, to conduct ascents over the ocean, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GILCHREST:

H.R. 4869. A bill to amend the Marine Mammal Protection Act of 1972 to authorize appropriations for the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes; to the Committee on Resources.

By Mr. GREEN of Wisconsin:

H.R. 4870. A bill to amend title 38, United States Code, to revise the effective date for payment of lump sums to persons awarded the Medal of Honor who are in receipt of special pension pursuant to section 1562 of such title, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. McCRERY (for himself, Mr. Acevedo-Vilá, Ms. Pryce of Ohio, Mr. Rangel, Mr. Greenwood, Mr. Becerra, and Mr. Menendez):

H.R. 4871. A bill to amend title XVIII of the Social Security Act to provide for equity in the calculation of Medicare disproportionate share hospital payments for hospitals in Puerto Rico; to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H.R. 4872. A bill to direct the Secretary of Health and Human Services to establish a retinoblastoma public awareness and prevention program; to the Committee on Energy and Commerce.

By Mr. MEEKS of New York:

H.R. 4873. A bill to amend the Immigration and Nationality Act to provide for flexibility in the naturalization process for aliens in active duty service in the Armed Forces abroad; to the Committee on the Judiciary.

By Mr. ROSS:

H.R. 4874. A bill to provide emergency assistance to producers that have incurred losses in a 2004 crop due to a disaster; to the Committee on Agriculture.

By Mr. SAXTON (for himself, Mr. Andrews, Mr. Ford, Mr. Mica, Mr. McCotter, and Mr. Engel):

H.R. 4875. A bill to amend title 28, United States Code, to clarify that persons may bring private rights of actions against foriegn states for certain terrorist acts, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMMONS (for himself, Mr. Israel, Mr. Shays, Mrs. Johnson of Connecticut, Ms. DeLauro, Mr. Larson of Connecticut, Mrs. Lowey, Mr. King of New York, Mr. Ackerman, Mrs. McCarthy of New York, Mr. Bishop of New York, Mr. Serrano, Mr. Engel, and Mr. Crowley):

H.R. 4876. A bill to establish the Long Island Sound Stewardship Initiative; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 4877. A bill to amend title XVIII of the Social Security Act to revoke the unique ability of the Joint Commission for the Accreditation of Healthcare Organizations to deem hospitals to meet certain requirements under the Medicare Program and to provide for greater accountability of the Joint Commission to the Secretary of Health and Human Services; to the Committee on Ways and Means.

By Mr. RANGEL (for himself and Mr. Fossella):

H. Con. Res. 475. Concurrent resolution encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games; to the Committee on International Relations.

By Mr. NEY (for himself, Mr. Larson of Connecticut, Mr. DeLay, Mr. Blunt, Mr. Sweeney, Mr. Buyer, Mr. Renzi, Mr. Pombo, Mr. Hobson, Mr. Istook, Mrs. Kelly, Mr. Bass, Mr. Herger, Mr. Neugebauer, Mr. Mica, Mr. Jones of North Carolina, Mr. McCrery, Mr. LaTourette, Mr. Boehner, Mr. Chabot, Mr. Sessions, Mr. Tiahrt, Mr. Coble, Mrs. Cubin, Mr. Oxley, Ms. Hart, Mr. Cole, Mr. Doolittle, Mr. Lucas of Oklahoma, Mr. McKeon, Mr. Hostettler, Mr. Bachus, Mr. Crenshaw, Mr. Ose, Mr. Walden of Oregon, Mr. Hunter, Mr. Shimkus, Mr. Hyde, Ms. Pryce of Ohio, Mr. Rogers of Alabama, Mr. Garrett of New Jersey, Mr. Foley, Mr. Goss, Mr. Paul, Mr. Bartlett of Maryland, Mr. Thomas, Mr. Lewis of Kentucky, Mr. Portman, Mr. Shuster, Mr. Gary G. Miller of California, Mr. Calvert, Mr. Akin, Mr. Wilson of South Carolina, Mr. Whitfield, Mr. Otter, Mr. Schrock, Mr. Vitter, Mr. LaHood, Mr. Walsh, Mr. Simpson, Mr. Rehberg, Mr. Boozman, Mr. Regula, Mr.

Beauprez, Mr. Reynolds, Mr. Carter, Mr. Hensarling, Mr. Tiberi, Mr. Nunes, Mr. Ehlers, Ms. Loretta Sanchez of California, Mr. DeFazio, Ms. Woolsey, Mr. Bishop of New York, Mr. Ramstad, Mr. Gingrey, Mr. Sandlin, Mr. Gallegly, Mr. Kennedy of Minnesota, Mr. Green of Texas, Mrs. Maloney, and Mrs. Miller of Michigan):

H. Res. 728. A resolution expressing the sense of the House of Representatives that the actions of terrorists will never cause the date of any Presidential election to be postponed and that no single individual or agency should be given the authority to postpone the date of a Presidential election; to the Committee on House Administration.

By Mr. BEREUTER (for himself and Mr. Lantos):

H. Res. 729. A resolution expressing the sense of the House of Representatives with respect to the 50th anniversary of the food aid programs established under the Agricultural Trade Development and Assistance Act of 1954; to the Committee on International Relations, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEREUTER (for himself, Mr. Wexler, and Mr. Wilson of South Carolina):

H. Res. 733. A resolution calling on the Government of Libya to review the legal actions taken against several Bulgarian medical workers; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

407. The SPEAKER presented a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 31 supporting the retention and expansion of all military bases and centers in Ohio and to urge local governments and community, industry, and labor leaders to work with the Governor's All-Ohio Task Force to Save Defense Jobs for that purpose; to the Committee on Armed Services.

408. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 764 memorializing the Congress of the United States to increase funding for the Division of Diabetes Translation (DDT) as needed for the fight against diabetes; to the Committee on Energy and Commerce.

409. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 24 urging the support of Taiwan's participation in the World Health Organization and to deplore the persecution of Falun Gong practicioners, Christians, and members of other religious groups in the People's Republic of China and to urge that specified actions be taken to end that persecution; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. VAN HOLLEN introduced a bill (H.R. 4878) for the relief of Malik Jarno; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. Brown of Ohio, Ms. Pelosi, Mr. Dingell, and Mr. Waxman.

H.R. 290: Mr. Rothman and Mr. Deal of Georgia.

H.R. 293: Mr. Porter.

H.R. 480: Mr. Nadler, Mr. Weiner, Mr. Owens, Ms. Velázquez, Mr. Fossella, Mr. Rangel, Mr. Serrano, Mrs. Lowey, Mrs. Kelly, Mr. Hinchey, Mr. McHugh, Mr. Boehlert, Mr. Walsh, Mr. Reynolds, Ms. Slaughter, and Mr. Houghton.

H.R. 677: Mr. Greenwood.

H.R. 717: Ms. Eshoo.

H.R. 792: Mr. Emanuel.

H.R. 814: Mr. Rahall.

H.R. 871: Mr. Ryun of Kansas.

H.R. 962: Mr. Davis of Alabama and Mr. Saxton.

H.R. 979: Mr. McNulty.

H.R. 1043: Mr. Castle and Mr. Wicker.

H.R. 1057: Mrs. Lowey.

H.R. 1102: Ms. Herseth.

H.R. 1157: Mr. Scott of Virginia.

H.R. 1160: Ms. Herseth.

H.R. 1212: Mr. McGovern.

H.R. 1422: Mr. Snyder.

H.R. 1433: Mrs. Christensen.

H.R. 1746: Ms. Herseth.

H.R. 1910: Ms. Herseth.

H.R. 1919: Mr. Ford.

H.R. 1993: Mr. Fattah.

H.R. 2305: Mrs. Tauscher, Mr. Markey, and Mr. Lewis of Georgia.

H.R. 2466: Mr. Wu.

H.R. 2528: Mr. Sweeney.

H.R. 2536: Mr. Van Hollen and Mr. Ford.

H.R. 2681: Mr. Delahunt.

H.R. 2792: Ms. Loretta Sanchez of California and Mr. Moran of Virginia.

H.R. 2930: Mr. Filner.

H.R. 2950: Mr. Gerlach.

H.R. 2952: Mr. Meehan and Mr. Tierney.

H.R. 2974: Mr. Sanders, Mr. Cardoza, and Ms. Woolsey.

H.R. 3022: Ms. Woolsey.

H.R. 3194: Mr. Strickland.

H.R. 3281: Mr. Levin.

H.R. 3310: Mr. Isakson and Mr. Rehberg.

H.R. 3361: Mr. Van Hollen.

H.R. 3369: Mr. Burton of Indiana and Mr. Carter.

H.R. 3438: Ms. Bordallo, Ms. Kaptur, Mr. Stupak, Mr. Payne, and Mr. Wolf.

H.R. 3446: Mr. Evans.

H.R. 3459: Mr. Rothman and Ms. Berkley.

H.R. 3485: Mr. Green of Wisconsin.

H.R. 3729: Mr. English.

H.R. 3888: Ms. Waters.

H.R. 3896: Mr. Kildee.

H.R. 3984: Mr. Cole.

H.R. 3985: Mr. Cole.

H.R. 3986: Mr. Cole.

H.R. 4057: Mr. Larsen of Washington.

H.R. 4067: Mr. Rothman.

H.R. 4100: Mr. Rangel, Mr. Schiff, and Mr. Udall of Colorado.

H.R. 4113: Mr. Tanner and Mr. Ramstad.

H.R. 4169: Mr. Hyde.

H.R. 4192: Mr. Price of North Carolina.

H.R. 4229: Mr. Etheridge.

H.R. 4257: Mr. Rehberg and Mr. Skelton.

H.R. 4335: Mr. Synder.

H.R. 4358: Mr. Smith of Michigan.

H.R. 4391: Mr. Lampson.

H.R. 4433: Mr. Ferguson, Mr. LaTourette, Mr. Smith of New Jersey, Mr. Smith of Washington, Mr. Tiberi, and Ms. Schakowsky.

H.R. 4440: Mr. Barrett of South Carolina and Mr. Miller of Florida.

H.R. 4528: Mr. Rehberg and Mr. Bishop of Utah.

H.R. 4530: Mr. Shadegg, Mr. Garrett of New Jersey, and Mr. McHugh.

H.R. 4543: Mr. Wilson of South Carolina, Mr. Beauprez, Mr. Terry, and Mr. Souder.

H.R. 4571: Mr. Miller of Florida.

H.R. 4578: Mr. Tiberi, Ms. Granger, Mr. Gutierrez, Mr. Kirk, and Mr. Cannon.

H.R. 4595: Mr. Andrews, Mr. Lantos, Mr. Carson of Oklahoma, Ms. Baldwin, Mr. Filner, Ms. Herseth, Ms. Loretta Sanchez of California, Mr. Visclosky, and Ms. Hart.

H.R. 4620: Mr. Carson of Oklahoma.

H.R. 4629: Mrs. Blackburn and Mr. Goodlatte.

H.R. 4633: Mr. Burr.

H.R. 4634: Mr. Green of Wisconsin, Mr. Murphy, and Mr. Jones of North Carolina.

H.R. 4658: Mr. Strickland and Mr. Holden.

H.R. 4662: Mrs. Musgrave.

H.R. 4669: Mr. Jones of North Carolina and Mr. Feeney.

H.R. 4670: Mr. Bereuter.

H.R. 4689: Mrs. Christensen and Mr. Cummings.

H.R. 4694: Mr. Frost and Mr. Fattah.

H.R. 4712: Mr. Deal of Georgia, Mr. Kolbe, Mr. Petri, Mr. Paul, Mrs. Myrick, and Mr. DeMint.

H.R. 4718: Mr. Osborne, Mr. Terry, Mr. Rehberg, and Mr. Kingston.

H.R. 4730: Mr. Ruppersberger.

H.R. 4785: Mr. Crane and Mr. Clay.

H.R. 4786: Mr. McDermott.

H.R. 4799: Mr. Costello, Ms. McCarthy of Missouri, Mr. McNulty, Mr. Jenkins, Mr. Davis of Tennessee, Mr. Davis of Florida, Mr. John, Mr. Castle, and Mr. Saxton.

H.R. 4823: Mr. Doggett and Ms. McCarthy of Missouri.

H.R. 4839: Mr. Hastings of Florida.

H.R. 4849: Mr. Simmons.

H.R. 4853: Ms. Lee, Mr. Bradley of New Hampshire, Mr. Chandler, Mr. Markey, Mr. Delahunt, and Mr. Greenwood.

H.J. Res. 44: Mr. Miller of Florida.

H.J. Res. 48: Mr. Gordon.

H. Con. Res. 99: Mr. Kucinich and Mr. Lewis of Georgia.

H. Con. Res. 111: Mr. Pascrell.

H. Con. Res. 126: Mr. Smith of Michigan.

H. Con. Res. 276: Mr. Doyle.

H. Con. Res. 467: Mr. Rodriguez, Mr. Israel, Mr. Walsh, Mr. Olver, Mrs. Tauscher, Mr. Schiff, Ms. Carson of Indiana, Ms. Loretta Sanchez of California, Mr. Ballenger, Mr. Lucas of Kentucky, and Mr. George Miller of California.

H. Con. Res. 471: Mr. Bartlett of Maryland and Mr. Snyder.

H. Res. 313: Mr. Ramstad.

H. Res. 466: Mr. Ford and Ms. Kilpatrick.

H. Res. 689: Mr. Scott of Virginia.

H. Res. 690: Mr. George Miller of California, Mr. Grijalva, Mr. Ruppersberger, Mr. Thompson of Mississippi, Mr. Wynn, Mr. Stark, Ms. Woolsey, and Mrs. Tauscher.

H. Res. 699: Mr. Scott of Virginia.

H. Res. 700: Mr. Scott of Virginia.

H. Res. 716: Mr. Faleomavaega, Mr. Souder, and Ms. Ros-Lehtinen.

H. Res. 721: Mr. Emanuel.

H. Res. 723: Mr. Forbes, Mr. McCotter, and Mr. Peterson of Minnesota.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 857: Mr. Sullivan.

H.R. 1078: Mr. SULLIVAN.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

96. The SPEAKER presented a petition of the Board of Supervisors, Seneca County, Waterloo, New York, relative to Resolution No. 95-04 providing for unified negotiations or meetings with tribes or tribal representatives; to the Committee on Resources.

97. Also, a petition of the Board of Supervisors, Seneca County, Waterloo, New York, relative to Resolution No. 94-04 supporting efforts to fairly enforce taxation of Indian business sales to non-Indians and oppose efforts at price parity and/or exemptions; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO JUDY PALMER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, it is an honor to rise today and pay tribute to Judy Palmer of Basalt, Colorado. Judy has spent many decades of her life dedicated and committed to the education of our youth. As she retires from teaching, I would like to take this opportunity to recognize her remarkable career before this body of Congress and this nation today.

Judy has spent nearly thirty years teaching our children. She began teaching in Basalt in 1975, and although she has taught many different age ranges including elementary and middle school students, her passion is teaching sixth grade. Over the past two years, she has split time teaching a class of gifted and talented students and another class of at-risk students. She relishes the opportunity to encourage students to aquire a love of learning. As a testament to her dedication to educating our youth, the Basalt Town Council honored her as the area's "Most Inspirational Teacher of the Year." This award speaks to her ability to connect with the kids because students nominated the potential honorees.

Mr. Speaker. Judy Palmer has been a positive influence on many students throughout her career. I commend her work as a teacher and let it be known that the community will sorely miss her work. She has been very successful in the past and I wish her continued success in the future.

PERSONAL EXPLANATION

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINTYRE. Mr. Speaker, I was in Scotland as part of a U.S. Delegation at the 13th annual session of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, and was therefore unavoidably absent for rollcall votes 326 and 327. Had I been present I would have voted "yes" on rollcall vote 326, H. Con. Res. 410, and "yes" on rollcall vote 327, H. Con. Res. 257.

U.S.-AUSTRALIA FREE TRADE AGREEMENT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in opposition to H.R. 4759, the United States-Australia Free Trade Agreement, and I wish to draw members' attention to Australia's unauthorized oil drilling for resources in the Timor Sea, at the expense of the world's poorest and newest nation, East Timor.

East Timor gained independence in 1999, and since then, has received a great amount of aid from the international community. Australia has been one of the more generous nations. East Timor is still one of the most impoverished nations in Asia however, and despite its modest government budget, it will accrue an estimated deficit of US $126.3 by 2007. This deficit cannot be good for East Timor.

Close off the coast of East Timor lies many rich oil and gas fields. But East Timor does not stand to profit. Instead, Australia claims sovereignty over the fields and is only halfheartedly negotiating with East Timor to arrive at an equitable sharing of the oil. In 2007, East Timor is expected to start collecting a small amount of revenue from just some of rich oil and natural gas resources that exist in the Timor Sea, just off the coast of East Timor. East Timor's rightful claim is protected by international law, the 1982 UN Convention of the Law of the Sea, which specifically says that the maritime boundary between two countries exists halfway between the countries. Despite this law, Australia has laid claim to the resources, citing an illegitimate treaty with Indonesia from 1972 that delimited Australia's maritime boundary as the continental shelf line, which exists much closer to East Timor than Australia. At the time the treaty was signed, East Timor was occupied by Indonesia. East Timor gained independence in 1999 thereby invalidating the treaty between Indonesia and Australia.

Between 1999 and 2002, Australia made $638 million from the Laminaria-Corallina oil fields, even though these fields are twice as close to East Timor than Australia. By 2007, Australia is expected to make $1.266 billion from these fields.

The Laminaria-Corallina oil fields are just some of the many rich resources that exist in the Timor Sea. The Greater Sunrise fields, located 150 km south of East Timor, and 400 km north of Australia, although not yet tapped, are expected to bring in over $30 billion. Certainly East Timor's economic future could improve considerably with these resources included in its territory.

Australia has proposed a Joint Petroleum Development Area, an area covering 40 percent of the energy fields in the Timor Sea, and specifically the Bayu-Undan field. In this Area, East Timor would receive 90 percent of the oil production, estimated by the Australian government to be valued at $300 million. The success of this production, however, is yet to be determined, as the resources will not bring in revenue until 2007. But as for the much richer Greater Sunrise field, expected to yield $30 billion, Australia claims the right to over 80 percent.

Australia claims to be negotiating with East Timor about their much needed maritime boundary in "good faith." Yet it took over a year of pleading by the East Timorese government in order for the Australian government to finally concede to the negotiation process, and they only conceded to meet twice per year. East Timor has requested that the maritime boundary be determined within 3–5 years, a reasonable amount of time for settling this type of dispute, yet Australia has refused, claiming this dispute is much too complicated for a time limit to be set. In the meantime, Australia only benefits from time passing, as it continues to drill in the Laminaria-Corallina oil fields and has taken initial steps to guarantee drilling in the Greater Sunrise fields. It has been suggested to the Australian government that revenue from the resources extracted in the disputed area be held in escrow until the maritime border is determined between East Timor and Australia. Once again, the Australian government has refused, displaying "bad faith" in the negotiating process.

Australia is a strong and wealthy country, certainly the stronghold of the region. East Timor has very little, and any leverage it may have in negotiating with Australia over its rightful claim to the resources in the Timor Sea lies completely in its moral claim. I urge my colleagues to support the efforts of the world's newest independent state.

PERSONAL EXPLANATION

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. RYUN of Kansas. Mr. Speaker, unfortunately, I missed three votes in the House of Representatives on July 19, 2004. Had I been in attendance I would have made the following votes:

Vote on H.R. 1587, the Viet Nam Human Rights Act of 2003. Had I been in attendance, I would have voted "yea."

Vote on S. Con. Res. 114, the "Food distribution in schools to hungry or malnourished children around the world" Resolution. Had I been in attendance, I would have voted "yea."

Vote on S. 2264, the Northern Uganda Crisis Response Act. Had I been in attendance, I would have voted "yea."

HONORING DAULTON RANCH

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Daulton Ranch on the occasion

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of their 150th anniversary. The Daulton Ranch was the first and is the longest standing cattle operation in Madera County, California.

Henry Clay Daulton, the son of a soldier in the War of 1812, and the grandson of a Revolutionary War soldier, left Missouri for California during the Gold Rush of 1849. Together, in 1854 Henry Clay and his wife Mary Jane created Daulton Ranch out of a small piece of property at the north end of then Fresno County that grew to over 17,000 acres in what is today Madera County. Along the way Daulton Ranch, which began as a sheep and cattle operation, gradually became a cattle only operation and today is renowned for its choice Hereford cattle.

Henry Clay Daulton was not only an asset to his community as a rancher, but also as a civil servant. Mr. Daulton served as Chairman of the Fresno County Board of Supervisors and under his leadership Fresno County grew and prospered. Later, Mr. Daulton spearheaded the movement to create a new county out of a northern section of Fresno County which became and is today Madera County.

Today, Daulton Ranch continues its vibrant legacy under the stewardship of Henry Clay Daulton III and his wife Dusty. They are as much a value to the community as the long family line that came before them.

Mr. Speaker, I rise to pay tribute to the Daulton Ranch on the occasion of its 150th anniversary celebration. I invite my colleagues to join me in honoring the Daulton Ranch and wishing the Daulton family many more years of continued success.

PERSONAL EXPLANATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Ms. LEE. Mr. Speaker, on rollcall Nos. 391, 392, and 393 on Monday, July 19, 2004, I was unavoidably detained due to inclement weather and delayed air service at Dulles International Airport, and unable to cast my vote.

Had I been present, I would have voted the following: On rollcall 391, the Viet Nam Human Rights Act of 2003, I would have voted "no;" on rollcall 392, concerning the importance of the distribution of food in schools to hungry or malnourished children around the world, I would have voted "yea;" and on rollcall 393, the Northern Uganda Crisis Response Act, I would have voted "yea."

PAYING TRIBUTE TO CHILD AND MIGRANT SERVICES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, I am privileged today to rise and pay tribute to the hard-working staff at Child and Migrant Services in Palisade, Colorado. For the last fifty years this organization has provided valuable service to the migrant workers in Palisade, and I would like to take this opportunity to join my colleagues and recognize their work before this body of Congress and this nation.

Child and Migrant Services started as the dream of three friends with a desire to help the migrant workers that come to the United States from countries in Central and South America. They started off by giving meals and donated clothes to the migrants. In 1940, the founders expanded their services and started a thrift shop out of a mobile home trailer. This thrift shop provided a more structured venture, which eventually led to their incorporation in 1954.

Child and Migrant Services has grown much over its fifty years of existence. They have expanded their services to include a program to address basic needs, maintain nutrition, and provide job assistance programs, education and recreation opportunities. They also have programs that provide for emergency care, counsel migrant workers, and help to find suitable and affordable housing.

Mr. Speaker, it is clear that Child and Migrant Services and its staff provide a valuable service to the Palisade Community. Their work helps migrant workers build a solid foundation in their new surroundings. I thank them for their tremendous work and wish them all the best in the future.

APOLLO 11 ANNIVERSARY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. HALL. Mr. Speaker, I rise today to celebrate the 35th anniversary of the *Apollo 11* moon landing. When NASA created the Apollo program in the early 60's, America was in the midst of the Cold War and the Soviet Union had put an astronaut into orbit. A mere eight years after Kennedy expressed the vision of landing an American on the Moon and returning him safely to Earth, our country launched *Apollo 11*, which carried three men: Neil Armstrong, Buzz Aldrin, and Michael Collins into outer space. It was an enormously successful mission that proved America's leadership, technological strength, and drive. It proved that our great Nation could take on even the most daunting challenge if it had the will to do so.

The *Apollo 11* mission captured our imagination and inspired generations of young men and women to reach toward the stars. The next three and a half decades witnessed enormous technological and biological advancements fostered by the space program. The experiments conducted on the International Space Station allow scientists to discover new tools and medicines to combat debilitating diseases like stroke, osteoporosis, and heart disease.

Today, we remember the men and women of NASA who made the dream of landing a man on the Moon a reality. We also celebrate our Nation's continuing quest to explore the universe and push new frontiers of knowledge. On January 14, 2004, we were pointed toward a new Vision for Space Exploration and a renewed commitment to the American dream of reaching for new frontiers. For the first time in over 40 years, our Nation once again has a Vision. We owe it to future generations of Americans and the men and women who have kept the space mission alive for decades to continue to forge ahead. Congress should approve the President's modest request for an increase in NASA funds this year so that we can continue this journey, secure our national interest, and fulfill America's destiny in space.

A NOBEL LAUREATE'S CRITIQUE OF BUSH TRADE POLICIES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, one of the most damaging myths that people in Washington seek to perpetuate is that opposition to recent trade pacts is rooted in isolationism and unreasonable protectionism. In fact, many of those who best understand the value of international economic cooperation, done properly, reject the Administration's approach. Among the most thoughtful advocates of an alternative approach to globalization is Joseph E. Stiglitz, a Nobel Prize winner in economics in 2001, who also served as Chief Economist at the World Bank and in important economic positions in the Clinton Administration. In the New York Times for July 10, Professor Stiglitz set forward part of the argument against the Bush Administration trade policies, and explained exactly why those people most dedicated to alleviating worldwide poverty and social distress seek an alternative approach. I ask that Mr. Stiglitz's very thoughtful column be printed here.

[From the New York Times, July 10, 2004]

NEW TRADE PACTS BETRAY THE POOREST PARTNERS

(By Joseph E. Stiglitz)

The United States and Morocco last month signed a new bilateral trade treaty. The Bush administration has been bragging that it exemplifies the way its economic policies can build new ties and new friendships around the world. This is especially important in the Middle East, where, in other respects, America's foreign policy seems to have left something to be desired. The cooperation with moderate Arab governments is meant to demonstrate our broadmindedness, our willingness to offer a carrot (rather than the proverbial stick) to those who behave reasonably.

But regrettably, in negotiating the trade agreements with Morocco, Chile and other countries, the Bush administration has used the same approach that earned us the enmity of so much of the rest of the world. The bilateral agreements reveal an economic policy dictated more by special interests than by a concern for the well-being of our poorer trading partners. In Morocco, prospects of the trade agreement were greeted by protests—an unusual occurrence in a country that is only slowly moving to democracy. The new agreement, many Moroccans fear, will make generic drugs needed in the fight against AIDS even less accessible in their country than they are in the United States. According to Morocco's Association de Lutte contre le SIDA, an AIDS agency, the agreement could increase the effective duration of patent protection from the normal length of 20 years to 30 years.

Morocco is not the only country that is worrying about access to life-saving drugs. In all its bilateral agreements, the United States is using its economic muscle to help big drug companies protect their products from generic competitors. For a country like Thailand, which is facing a real AIDS threat, these are issues of more than academic concern.

President Bush's policy, in this area seems puzzling and hypocritical. While he talks about a global campaign against AIDS, and has offered substantial sums to back it up, what he is giving with one hand is being taken away with the other. Most Americans, I believe, would support greater access to life-saving generic drugs. The loss to the drug companies would be small, and must surely be dwarfed by the huge tax breaks they get.

Nor are drugs the only arena in which the United States has used its economic power to advance some special American interest. The agreement with Chile limited its ability to restrict the inflow of speculative, hot money—money that can come in and out of a country on a moment's notice. Chile had recognized the potential destabilizing effects of these capital movements, and had imposed moderate taxes on these flows. Such restrictions had helped Chile grow a remarkable 7 percent a year in the early 1990's. That is because, unlike many of its neighbors in Latin America, Chile did not have to face the economic havoc caused by capital suddenly flowing in and then just as quickly flowing out. Today, even the International Monetary Fund recognizes that capital-market liberalization often leads to more instability instead of faster growth.

In telecommunications, too, in Morocco and elsewhere, we have put forward demands (for example, concerning the use of transmitting facilities and the wholesaling of transmission capacities) that we would oppose strenuously if someone were to impose them on us. In the view of the developing world, the bargaining has been extraordinarily one-sided—with all the power on America's side.

The United States and its trade representative, Robert Zoellick, are right that trade policy can be an important instrument for building good will. But when conducted as it has been by the Bush administration, it can be, and is, a way to build ill will, especially among the young, who worry that their elders are selling them short.

If the trade agreements bring the economic benefits promised, if the lack of access to affordable drugs (including generic drugs) proves less troublesome than the naysayers worry, then all may be forgiven. But there is a good chance that this will not be the case: in Mexico, for example, real wages actually declined in the decade after the North American Free Trade Agreement. And looking ahead, the demands for capital-market liberalization have a good chance of exposing Chile's economy to disruption, while the AIDS epidemic and the need for cheap drugs to fight it are not about to go away.

The good news is that the damage has been limited so far because we have been able to pressure only a few small countries to sign bilateral trade agreements. The bad news is that the enmity that we are earning through these pacts will only grow.

PERSONAL EXPLANATION

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINTYRE. I was unavoidably absent for rollcall vote 348. Had I been present I would have voted "no" on rollcall vote 348, on Tabling the Ruling of the Chair.

IN HONOR OF THE JULIA DE BURGOS CULTURAL ARTS CENTER'S PRESENTATION OF THE 36TH ANNUAL PUERTO RICAN PARADE AND LATINO FESTIVAL DEDICATED IN HONOR AND REMEMBRANCE OF ROBERTO OCASIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. KUCINICH. Mr. Speaker, rise today in honor of the Julia de Burgos Cultural Arts Center's presentation of the 36th Annual Puerto Rican Parade and Latino Festival, in honor and memory of Roberto Ocasio, held July 16 through July 18, 2004 in Cleveland, Ohio.

Once again, the leaders of our Puerto Rican community have organized an event that promises to highlight the magnificent history and culture of Puerto Rico. This wonderful production of Puerto Rican gifts will include traditional culinary offerings, arts, crafts, and dance and song. Clevelanders of all ages and of every ethnic background will gather in downtown Cleveland to share in the celebration of this joyous event.

Moreover, the 2004 Puerto Rican Parade and Latino Festival is dedicated in honor and remembrance of Roberto Ocasio. His musical genius paralleled his love for his family and community, and his generous heart and gift of song will forever be remembered by Cleveland's Hispanic community—and far beyond.

Mr. Speaker and Colleagues, please join me in honor and celebration of the leaders, members and participants of the 36th Annual Puerto Rican Parade and Latino Festival. This wondrous summer celebration promises to create a bridge of celebration from Puerto Rico to Cleveland for all whom attend. The history and culture of the beloved island of Puerto Rico springs to life every summer as the sounds and sights of Puerto Rico rise in hope, joy and celebration in downtown Cleveland, enriching the diverse fabric of our entire Cleveland community.

PERSONAL EXPLANATION

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. RYUN of Kansas. Mr. Speaker, unfortunately, I missed six votes in the House of Representatives on July 15, 2004. Had I been in attendance I would have made the following votes:

Vote on the Buyer Amendment to H.R. 4814, Foreign Operations Appropriations Act of FY 2005. Had I been in attendance, I would have voted "yea."

Vote on the Sanders Amendment to H.R. 4814, Foreign Operations Appropriations Act of FY 2005. Had I been in attendance, I would have voted "no."

Vote on the Nethercutt Amendment to H.R. 4814, Foreign Operations Appropriations Act of FY 2005. Had I been in attendance, I would have voted "yea."

Vote on the Jackson-Lee Amendment to H.R. 4814, Foreign Operations Appropriations Act of FY 2005. Had I been in attendance, I would have voted "no."

Vote on the Weiner Amendment to H.R. 4814, Foreign Operations Appropriations Act of FY 2005. Had I been in attendance, I would have voted "yea."

Vote on final passage of H.R. 4814, Foreign Operations Appropriations Act of FY 2005. Had I been in attendance, I would have voted "no."

HONORING JACK W. SCHNOOR, SENIOR FARMER OF THE YEAR

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Jack W. Schnoor as the Madera Chamber of Commerce and Madera County Farm Bureau Senior Farmer of the Year. Mr. Schnoor will be recognized at the Madera County Farm Bureau's 83rd Annual Members' Meeting and Senior Farmer Presentation on July 22nd in Madera, California.

Mr. Schnoor's dedication to his country and his strong work ethic have brought much success for him and his family. Born in 1932, he has contributed 49 years to Madera County agriculture. Mr. Schnoor farms over 3,000 acres. His crops include almonds, cotton, corn, alfalfa, barley, wheat, oats, grapes, tomatoes, and potatoes. He has been named as an FFA Honorary Chapter Farmer and from 1988–1996, was awarded as the National Corn Grower Association's Corn Yield winner.

A proud member of many organizations and the recipient of several awards, Jack Schnoor served as President and Clerk Trustee of Chowchilla High School from 1976–88, Trustee for Merced College, Treasurer for Chowchilla High School and is a member of the Rotary and the 20–30 Club, and served on the Madera County Grand Jury. In farming, he has dedicated himself to the industry by having acted as a member of the Board of Directors of Federal Lank Bank for 8 years and served as President. He is a member of the Madera County Farm Bureau and the National Corn Growers Association.

Mr. Speaker, I rise today to congratulate Jack W. Schnoor for being named Senior Farmer of the Year by the Madera Chamber of Commerce and Madera County Farm Bureau. His contributions to America's agriculture communities have been invaluable. I invite my colleagues to join me in commending Mr. Schnoor for this achievement.

PERSONAL EXPLANATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Ms. LEE. Mr. Speaker, due to my attendance at the World AIDS Conference in Bangkok Thailand, I regrettably missed a number of rollcall votes last week.

Had I been present, I would have voted "aye" on rollcall Nos.: 370, 369, 366, 364, 363, 362, 361, 359, 358, 357, 356, 355, 354, 353, and 349. I would have voted "no" on rollcall Nos: 368, 367, 365, 360, 352, 351, 350, and 348.

* * *

CONGRATULATING VIVEK VISWANATHAN, WINNER OF THE U.S. INSTITUTE OF PEACE NATIONAL PEACE ESSAY CONTEST

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. ACKERMAN. Mr. Speaker, I rise proudly to inform the House that the winner of the U.S. Institute of Peace's (USIP) 2004 National Peace Essay Contest is Vivek Viswanathan, a junior at Herricks High School in New Hyde Park, New York. Out of more than 1,000 contestants from all 50 States, U.S. territories and even overseas schools, Vivek's composition, "Establishing Peaceful and Stable Postwar Societies Through Effective Rebuilding Strategy," was judged by USIP's distinguished Board of Directors to be the national first place essay.

Having met Vivek, and having seen what a mature and thoughtful young man he is, I know how proud his parents and family must be at this time. A well-rounded individual, interested in public and world affairs as well as sports and music, Vivek is a terrific example of what America's youth are capable of.

Vivek's essay is lucid, concise and compelling. In light of the ongoing post-conflict struggles in Southeast Europe, Afghanistan and Iraq, I believe his observations are worth the attention of the whole House and I will ask that Vivek's essay be included in the CONGRESSIONAL RECORD.

Unlike many putative experts, Vivek's understanding of post-conflict dynamics begins with the observation that "the discontinuation of armed conflict does not imply resolution of the underlying concerns that caused the conflict." Many American lives and millions of dollars might have been saved had our government acknowledged this basic premise months ago.

Vivek points out simple keys to success in helping states recover: The plan for reconstruction must be tailored to the specific situation at hand; the international community must supply an abundance of resources both economic and military; and the reconstruction process must have a national rather than international imprimatur to be accepted by the society being rebuilt. Sadly, it seems to me these very common-sense approaches have been lacking in our own recent stabilization efforts.

The good news, I hope, is that our struggles today will inform the leaders of tomorrow, the Vivek Viswanathans who will write and study and guide our country in the future. All of the contestants in USIP's contest are worthy not only of our praise, but our strong encouragement. Their enthusiasm, their concern and their passion for a better world are the best guarantee of our Nation's bright future.

Mr. Speaker, Vivek Viswanathan richly deserves our congratulations, and I know the whole House will join me in wishing him the very best for the future, a future of continued achievement and ever greater distinction and one, we may hope too, of peace.

* * *

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT OF 2005

SPEECH OF

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4766), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. JONES of North Carolina. Mr. Chairman, yesterday I voted for the FY05 Agriculture Appropriations Bill because it provides American farmers with the support they need to continue to be the world's leading suppliers of food and fiber.

However, I am strongly opposed to the Flake Amendment that was accepted during floor consideration of that bill. While this amendment would not foreclose a tobacco buyout, it would make it more difficult to implement.

This House needs to recognize that the federal government is decimating our rural tobacco communities. A buyout is the only fair way to eliminate the Depression-era federal tobacco program and transition to a free market production system. The last thing we need is an amendment that complicates this transition and destroys American jobs.

Therefore, I will do everything in my power to get this wrong-headed amendment stripped from the bill before it is sent to the President's desk.

* * *

TRIBUTE TO DR. DAVID TAWEI LEE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. PAYNE. Mr. Speaker, I rise today to recognize Dr. David Tawei Lee. Dr. David Tawei Lee, Taiwan's premier diplomat in Europe, has been reassigned to replace Representative C.J. Chen as Taiwan's top representative in Washington. Dr. Lee will be in charge of Taiwan's Washington office and serve as Taiwan's de-facto ambassador in Washington.

Dr. Lee is uniquely qualified for this top post. He began his Foreign Service career in Taiwan's Washington office from 1982 to 1988. From 1993 to 1996 he was Director General of Taiwan's office in Boston. In 1996 he was Director-General of North American Affairs at Taiwan's foreign ministry. Subsequently he was Taiwan's spokesman from 1997 to 1998 and Taiwan's deputy foreign minister. For the last few years he was Taiwan's number one diplomat in Europe, responsible for liaisoning with all European countries.

Dr. Lee received his Ph.D. in political science from the University of Virginia and did research work at Harvard University. In 2000 Oxford University Press published his monumental study, The Making of the Taiwan Relations Act which offers an unprecedented look into the legislative history of the Taiwan Relations Act.

I am pleased that the Taiwan government has assigned Dr. Lee to represent Taiwan in Washington. In the months ahead, Dr. Lee will continue to strengthen the relations between Taiwan and Washington. I am sure that he will do an excellent job given his strong professional and academic credentials. Many of us look forward to welcoming him to Washington.

Like many of my colleagues, I have enjoyed working with the outstanding diplomats from Taiwan. I have also enjoyed working with Professor Nathan Mao. Having written a number of books and articles on Chinese subjects, he is a China expert. His knowledge as well as his communication skills are highly respected on the Hill.

Mr. Speaker, I ask you to join me in extending a warm welcome to Ambassador David Tawei Lee and his wife Madam Lin Chih and I invite my colleagues to do the same.

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PERSONAL EXPLANATION

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. ABERCROMBIE. Mr. Speaker, yesterday, July 19, 2004, because of the leave of absence, I was unable to vote on legislation. Had I been present, I would have voted as follows:

Rollcall 391: To promote freedom and democracy in Vietnam, "yes."

Rollcall 392: Concerning the importance of the distribution of food to hungry or malnourished children around the world, "yes."

Rollcall 393: Northern Uganda Crisis Response Act, "yes."

PAYING TRIBUTE TO TOM DENNIS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the selfless service of Tom Dennis of Grand Junction, Colorado. For more than seven years, Tom has shown incredible devotion to the betterment of his community by helping to feed the hungry. It is my privilege to recognize his service before this body of Congress and this nation today.

Tom began this noble mission in 1997 when he received word that a Los Angeles food bank was short on food. He figured the farming communities on Colorado's Western Slope could help, so he organized a donation of potatoes weighing three-thousand pounds from a farm in Delta, Colorado. This rewarding experience encouraged Tom to further involve himself. Building on that foundation, he founded a nonprofit venture called Go-el. The mission of Go-el is to provide bare necessities to the less fortunate, focusing on the less fortunate living on the Western Slope. The structure of Go-el is such that it reaches out to national organizations for donations, and then Go-el will distribute these donations to more specialized charities in the area.

Over the time Go-el has existed, the organization has distributed three-million pounds of donated products. As a testament to his service, the Grand Junction Kiwanis Club recently recognized Tom's leadership, by honoring him with their 2004 Citizen of the Year award.

Mr. Speaker, Tom Dennis is truly an outstanding citizen dedicated to his fellow citizens in his community. His leadership and selflessness are assets to his Grand Junction community and to those in need. I wish to thank Tom for his efforts and wish him all the best in his future endeavors.

PERSONAL EXPLANATION

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINTYRE. Mr. Speaker, I was unavoidably absent for rollcall vote 391, 392, and 393. Had I been present I would have voted "yes" on rollcall vote 391, H.R. 1587; "yes" on rollcall vote 392, S. Con. Res. 114; and "yes" on rollcall vote 393, S. 2264.

IN HONOR OF THE 100TH ANNIVERSARY OF ST. MARY ROMANIAN ORTHODOX CATHEDRAL OF CLEVELAND, OHIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the leaders and members of St. Mary Romanian Orthodox Cathedral of Cleveland, Ohio, as they celebrate one hundred years of faith, guidance and support, offered to generations of citizens within our Cleveland community.

St. Mary Romanian Orthodox Church of Cleveland is the first and oldest Romanian Orthodox church in the United States. The centennial celebration, to be held over the August 14th weekend, will be led by American Archbishop Nathanial and assisted by clergy from across the country and around the world.

This historic cathedral has been the focal point of visiting dignitaries from Romania and other European countries, and has also been the site of official visits from United States senators and ambassadors representing nations from around the world. Moreover, this sacred landmark is home to the Romanian Art Museum—a cultural haven for Romanian visual art, including the unique art form of iconography.

Mr. Speaker and Colleagues, please join me in honor and recognition of every leader and member of St. Mary Romanian Orthodox Cathedral of Cleveland, Ohio, as they celebrate one hundred years of fostering faith, hope and heritage for generations of families within our Cleveland community. We also honor the collective commitment to the culture, history, struggles and triumphs of the people of Romania. Moreover, we honor and recognize the commitment to America, as reflected in the lives of thousands of Americans of Romanian heritage—Americans whose contribution and service to our Cleveland community and to our nation are immeasurable.

HONORING BOB AND ELLEN KORTHIUS

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mrs. MUSGRAVE. Mr. Speaker, I rise today to pay tribute to two of my very dear friends, Bob and Ellen Korthius of Roggen, Colorado. These individuals have dedicated their lives to serving others and through their gentle example and wise counsel have enriched the lives of countless men and women.

Faithfully serving Christ has been the focus of Bob Korthius' life since he accepted the Lord at an American Sunday School Union Vacation Bible School near Golden, Colorado when he was 12 years old. Around the same time, 13 year old Ellen Nelson made a similar decision to devote her life to Christ when she attended an old fashioned tent meeting held in Beloit, Wisconsin.

Both would go on to attend Calvary Bible College in St. Louis, Missouri, where they met and married in 1955. After graduating, Bob and Ellen moved to Cortez, Colorado where they became pioneer missionaries with American Sunday School Union in the Four Corners area, ministering to men and women in Colorado, New Mexico, Arizona and Utah. There, they planted churches, held vacation bible schools, started a camp and began a flying ministry to bring the gospel to men and women living in uranium camps.

In 1970, Bob and Ellen, along with their four children, Bob Jr., Daniel Jon, Carolyn and Patricia moved to Denver, Colorado. While living in Denver, the Korthius family was instrumental in reviving many rural churches by flying students from area Bible colleges into small towns to serve as pastors and lay leaders. During the same time, Bob and Ellen directed Camp Salvation at North Lake, west of Trinidad, Colorado.

Always full of enthusiasm and love for young people, in 1973, the Korthius family moved to Bailey, Colorado to take over the directorship of Camp IdRaHaJe, a tremendous undertaking, since the camp included 70 workers and could handle up to 500 campers at one time. Camp IdRaHaJe had something for everyone, Frontier Town for the youngest children, Tepee Camp for the 11 and 12 years old, Ranch Camp for Jr. High students, and a High School Lodge Camp. Building forts, cooking over a fire, backpacking trips, horse packing trips, rafting, and bicycling through the mountains were all part of the unique atmosphere of this wonderful place.

Every member of the Korthius family took part in running the camp; Bob serving as director and leading many of packing trips, Ellen, Carolyn and Patricia running the bookstore, sweet shop, and craft and ceramic shop, and Dan serving as the camp wrangler. Although he was older, Bob Jr. even spent one summer at the camp acting as the "road runner" making sure everyone had all the supplies they needed. Bob and Ellen Korthius gave their children a very special upbringing in the beautiful Colorado mountains, but perhaps more important was the love that the Korthius family gave in abundance to the countless children that came to the camp each year.

After leaving Camp IdRaHaJe in 1984, Bob and Ellen briefly contemplated serving as missionaries in Alaska, but instead decided to move to Northeastern Colorado to work with American Missionary Fellowship. All of us in Northeast Colorado are glad they made that choice.

My husband, Steve, and I had been campers at IdRaHaJe years earlier, and when Bob and Ellen moved to Northeastern Colorado, we began what has been a very meaningful, lasting friendship. Since 1985, Bob has pastored up to nine small, rural churches, including one almost completely filled with members of my husband's family. Bob and Ellen spent each week traveling to little places like Hoyt, Prairie View, Adena and Hillrose to spread the love of Christ to people in these communities.

Despite their busy schedules, they always managed to find time to run Vacation Bible Schools in the summer, and in July and August, they would run Homestead Bible Camp at Kiowa Crossing. I have many fond memories of that place, where I served as a counselor and watched my children enjoy being campers.

In 1996, Bob and Ellen began a tremendous ministry for abused and abandoned youth at Preston Ranch. This ministry has provided numerous children with the opportunity to grow up in a loving, stable family.

Although they officially retired from ministry on March 31, 2004, Bob and Ellen continue to stay busy, leading Bible studies and encouraging others in the faith.

Their story is truly a testament of the Lord's faithfulness and provision. It has been my privilege to call Bob and Ellen Korthius my friends, and it is my honor to pay tribute to their life of service on the floor of the United States House of Representatives.

AMBASSADOR JOSEPH VERNER REED SPEAKS IN MEMORY OF RONALD REAGAN

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. SHAYS. Mr. Speaker, on June 5, 2004, our nation lost a distinguished statesman, a world leader and a fine President in Ronald Reagan. President Reagan was a man of his word, and his principles were unquestionable. He had extraordinary faith in the promise of America and the belief that the best of America is yet to come.

On July 2, 2004, Ambassador Joseph Verner Reed, Under-Secretary-General of the United Nations, paid homage to Mr. Reagan at Kyung Hee University in Seoul, Korea. I submit the text of Mr. Reed's address to be entered into the RECORD.

STATEMENT OF AMBASSADOR JOSEPH VERNER REED AT THE GRADUATE SCHOOL FOR PAN PACIFIC INTERNATIONAL STUDIES OF KYUNG HEE UNIVERSITY, SEOUL, REPUBLIC OF KOREA

An event in the United States eclipsed matters in the media recently, and that was the passing of President Ronald Reagan.

I was privileged to have been appointed to three posts by President Reagan. First as Ambassador to the Kingdom of Morocco, then as Deputy Permanent Representative to the United Nations as Ambassador to the Economic and Social Council and lastly as the Under-Secretary-General for Political and General Assembly Affairs of the United Nations.

Several years ago I was privileged to accept on behalf of President Reagan, here at Kyung Hee University, the Great World Peace Award. It was an honor and a privilege.

Ronald Wilson Reagan—father, husband, actor and dedicated public servant—restored the pride, optimism and strength of the United States and earned deep respect and affection of his fellow citizens. When he passed away, we witnessed an outpouring of solemnity, sorrow and reflection in our country. In the view of many people, President Reagan remains the most significant United States President since Franklin Delano Roosevelt. He was a man who changed the course of American politics, culture and world history. He was right on the most important questions of his era: the role of government and the defeat of the Soviet Union. The structure of the American economy was altered profoundly by his term. Top tax rates have never returned to their previously punitive levels. America's current standing in world affairs is also a direct result of President Reagan's calling the Soviet Union's bluff in the 1980s and restoring US military power and self-confidence. This was not evident at the time. Everything President Reagan did was challenged. He was a polarizing figure—more disdained in Europe than President George W. Bush is today. For at least half his presidency he was unpopular at home as well, as most effective Presidents are.

With his Californian optimism, President Reagan transformed conservatism into a progressive force, into a political philosophy that took risks and changed things. President Reagan took conservatism into a reformist, unapologetic governing philosophy. That achievement endures in the United States.

I feel blessed to have been appointed to posts in public service by President Reagan. He inspired; he amused; he gave conviction a sunny disposition. Because of him, millions live in freedom where they once labored under tyranny. Because of Ronald Wilson Reagan, America was recharged and freedom reborn. In life it is rare to live under a political leader who evokes love as well as respect.

President Reagan's extraordinary political gifts carried him through—his talents as a communicator, his intuitive understanding of the average American, his unfailing geniality even after being hit by an assassin's bullet, his ability to build and sustain friendships across partisan lines. Those gifts—and his conviction that words counted for far more in politics that mere deeds—enabled him to convince large majorities that as long as he was in charge, it would remain "Morning in America". I believe the cool eye of history will place Ronald Reagan in the list of the great Presidents.

President Reagan believed that America was not just a place in the world, but the hope of the world. He came to office with great hopes for America. He was optimistic that a strong America could advance peace, and he acted to build the strength that this mission required. He was optimistic that liberty would thrive wherever it was planted, and he acted to defend liberty wherever it was threatened. And Ronald Reagan believed in the power of truth in the conduct of world affairs. When he saw evil camped across the horizon, he called that evil by its name. Who can ever forget President Reagan in Berlin calling "Mr. Gorbachev, tear down this wall"?

Ronald Wilson Reagan belongs to the ages; a great American story has closed.

A TRIBUTE TO THE USS "RONALD REAGAN" ON ARRIVING AT ITS NEW HOME PORT OF SAN DIEGO, CALIFORNIA

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to the USS *Ronald Reagan* and its crew on their arrival this week at their new home port of San Diego, California.

I am pleased that one of the President Reagan's many legacies is the Navy's newest nuclear carrier, the USS *Ronald Reagan*. The ship recently set sail from Norfolk for its rightful home in San Diego. Throughout his political career, President Reagan always concluded his campaign in San Diego. He called it his "Lucky City." It is only fitting that our shining city on the hill, San Diego, will be home to the USS *Ronald Reagan*.

This ship is perhaps the most fitting tribute to Ronald Reagan's legacy of strength and security, to the imprint he had on our past, and the promise that we hold for the future. The ship's motto, "Peace Through Strength," was borrowed from one of President Reagan's radio addresses and embodies the essence of his vision of national security.

The USS *Ronald Reagan* is the most advanced aircraft carrier in the world. It has the newest hull design, two nuclear reactors, a length of 1,092 feet, a top speed over 30 knots, over 6,000 highly-trained service members, and more than 80 of the world's top aircraft. Finally, its 4.5 acres of flight deck are American territory that can be used to project our presence anywhere in the world.

A United States ship is a powerful symbol and the USS *Ronald Reagan* stands to be the most powerful of all. It will be a welcome sight to many around the world who see it as an example of America's strength and protection of freedom. It will also bring caution to people and nations who would deny that freedom.

Mr. Speaker, I ask that you urge our colleagues to join me in recognizing the outstanding service of the USS *Ronald Reagan* and its crew and wish them the best in all their future endeavors. San Diego anxiously awaits the arrival of the USS *Ronald Reagan* and our opportunity to welcome it home to its "Lucky City."

PAYING TRIBUTE TO JAMIE HASSLER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of Jamie Hassler of Grand Junction, Colorado. After a courageous battle with cancer, Jamie passed away at the young age of fourteen. I personally knew Jamie, and I was enthralled with his contagious optimism and outgoing demeanor. As his family and friends mourn his passing, I would like to ask my colleagues to join me in remembering Jamie's amazing life before this body of Congress and this nation today.

Jamie was born in 1989 in San Jose, California, and soon thereafter, his family moved to Grand Junction where he spent most of his life. Diagnosed with cancer at an early age, Jamie had to overcome many obstacles in his young life. However, he eagerly tackled those challenges head on, and was never discouraged. Jamie had a great love for the outdoors, and jumped at any opportunity to go camping or fishing. He took comfort in listening to music. One of his dreams was to fly in a helicopter, and with the help of the Make-a-Wish Foundation, that dream became a reality.

Mr. Speaker, it is my honor to pay tribute to the memory of Jamie Hassler before this body of Congress and this nation. His passion for life serves as an inspiration to us all, and I am comforted in knowing his memory will live on in the hearts and minds of the Grand Junction community. I wish to offer my deepest condolences to his family and friends during this difficult time of bereavement.

A TRIBUTE HONORING ROGER DURBIN, PETER DURBIN, AND MELISSA GROWDEN OF BLISSFIELD, MICHIGAN

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. SMITH of Michigan. Mr. Speaker, on May 29, 2004, members of the Greatest Generation gathered for the unveiling of the World War II Memorial on the Mall in Washington, D.C. It is right that we, as Americans, commemorate the men and women who selflessly gave their lives on foreign shores to halt the march of tyranny during the darkest days of World War II.

Roger Durbin was a young man and father when he enlisted in the U.S. Army in 1942. After the war, the former tank mechanic went on to work, raised a family, and lived a normal life, but he never forgot what he had seen and experienced in the War. At the Jerusalem Township Fish Fry in 1986, Roger Durbin approached Congresswoman Nancy Kaptur about a memorial to commemorate the sacrifices made by the Greatest Generation. That conversation would be the beginning of a 17-year quest for Roger Durbin, which culminated on May 30, 2004 with the dedication of the World War II Memorial on the National Mall in Washington, DC.

Roger Durbin would not live to see his dream become a reality; he passed away in February of 2000. It would fall to his son, Peter Durbin, and his granddaughter, Melissa Growden, to continue to advance the memorial through to completion. From maintaining Roger's collection of letters and war memorabilia to serving on the Battle Monuments Committee, Peter and Melissa have kept Roger's dream alive.

I rise today to honor the dedication of the Durbin family to the World War II Memorial. Their hard work and determination to honor those who have fallen in service to their country is a testament of what can be accomplished when we persevere in a task to honor not ourselves, but others.

RECOGNIZING MS. DIANE BROWNING

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McCOTTER. Mr. Speaker, I request the House of Representatives join me in recognizing Ms. Diane Browning, who has been chosen the Women of Westland's 2004 Woman of the Year.

Ms. Browning's dedication to Westland led her to serve as the Women of Westland's Secretary this past year, in which role she has participated in every event the group has sponsored—the Relay of Life, a 24-hour charitable walk for the American Cancer Society to promote cancer research; the Respite Relief program to provide for children; countless scholarship programs to promote educational opportunities; and, of course, her long standing devotion to the Huron Valley Girl Scouts.

Honest, intelligent, and intensely involved in the life of her city, Ms. Browning truly represents the transcendent spirit of Westland. Her daughter, Gretchen, and her parents, Bud and Virginia Hassett, are rightfully proud of Diane's undeniable mark on the community; and we are all admiring of and appreciative for her inspired leadership on behalf of our community and our country.

JACKSON VOTED "NO" ON HOUSE RESOLUTION 713

HON. JESSE L. JACKSON, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. JACKSON of Illinois. Mr. Speaker, on July 15, I voted "no" on House Resolution 713. As a strong supporter of a negotiated two-state solution in the Middle East—a strong supporter of the State of Israel and a strong supporter of a Palestinian State—it is my view that this resolution will not contribute to a negotiating process that will lead toward peace.

The U.S. must be a credible mediator that maintains the respect and support of both parties in the peace process—the Road Map—so that U.S. conciliation efforts will be effective in achieving a just and lasting peace.

And as a strong supporter of the United Nations and the International Court of Justice (ICJ), I will not condemn the UN for making the request or the ICJ for issuing an advisory opinion at the request of the General Assembly on the consequences and legality of constructing a security barrier. How can we condemn a democratic process that renders a requested non-binding opinion? We may agree or disagree with the opinion, but we cannot condemn the ICJ for exercising its right to speak freely and render an opinion upon request.

PERSONAL EXPLANATION

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. SAXTON. Mr. Speaker, on Tuesday, July 13, I missed rollcall votes No. 363 through No. 370. The reason being that my district was hit with nearly a foot of rain and as a result of this 1000-year flood, my presence was needed in New Jersey to ensure cooperation with and assistance from FEMA during this disaster.

However, had I been present, I would have voted in the following fashion: vote No. 363, "aye"; vote No. 364 "aye"; vote No. 365 "aye"; vote No. 366 "no"; vote No. 367 "no"; vote No. 368 "aye"; vote No. 369 "no"; vote No. 370 "aye."

HONORING SANDRA FELDMAN ON HER RETIREMENT FROM THE PRESIDENCY OF THE AMERICAN FEDERATION OF TEACHERS

SPEECH OF

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. REGULA. Mr. Speaker, I join my colleagues in honoring the work of Sandra Feldman as she retires as president of the American Federation of Teachers (AFT). Ms. Feldman, began her career as a teacher and has committed her life to working with and advocating for teachers across the country.

I want to draw attention today to some of her most recent work and that is her service on a distinguished panel known as the Teaching Commission. The Teaching Commission is a diverse group, comprising 19 leaders in government, business and education. The Commission recently released a Call to Action with specific recommendations to raise student performance by transforming the way in which America's public school teachers are recruited and retained. We know that a high-quality, caring, effective teacher can mean the difference between a lifetime of success or failure in a child's life. Ms. Feldman has dedicated her career to help ensure that every child has such a teacher—and hopefully many such teachers—in his or her life, and I want to personally thank Ms. Feldman for her work on the Teaching Commission.

As the AFT's first female president since 1930, Ms. Feldman has also broken ground for young women to follow in her footsteps. I want to thank Ms. Feldman for her tireless efforts and wish her all the best in the days and years to come.

CHIEF WADE SETTER NAMED D.A.R.E. LAW ENFORCEMENT EXECUTIVE OF THE YEAR

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. RAMSTAD. Mr. Speaker, I rise today to proudly pay tribute to Brooklyn Park, Minnesota, Police Chief Wade Setter, who has been named "2004 D.A.R.E. Law Enforcement Executive of the Year."

Nobody is more deserving of this prestigious award than Chief Setter. Nobody has done more to keep kids off drugs, which is what D.A.R.E.—Drug Abuse Resistance Education—is all about.

Chief Setter has been a very special friend of D.A.R.E., and he has done so much to keep our young people on course and away from the destructive influence of drugs. His strong, effective leadership in promoting drug abuse prevention and education initiatives has truly been exemplary.

Chief Setter has been with the Brooklyn Park Police Department his entire professional career. He started as an officer in 1979 and has been Chief since 1996. During his career, Wade has served as a patrol officer, investigator, sergeant, director of investigations and commander of the Hennepin-Anoka Suburban Drug Task Force.

Chief Wade Setter's commitment to serving his community, to children and to prevention education has been inspiring. Chief Setter has served as President of the Hennepin County Chiefs of Police Association and was awarded the 2002 Community Leadership Award by the Hennepin County Attorney's Office.

In addition, Chief Setter has been a member of the International Association of Chiefs of Police since 1996. He is also a member and past president of the Law Enforcement Executive Development Association.

Mr. Speaker, Chief Setter is a board member of Minnesota D.A.R.E., and he has served on the National Law Enforcement Advisory Committee of D.A.R.E. America since 1999. Chief Setter has been a member of the Advisory Board of Minnesota D.A.R.E. since 2000, and a member of my Law Enforcement Advisory Committee since 1996.

Chief Setter is a tireless advocate for the D.A.R.E. program in Brooklyn Park and throughout Minnesota. Since D.A.R.E. began in our state, Chief Setter has encouraged countless officers to participate in the program. Chief Setter truly represents the best in public service!

Mr. Speaker, on behalf of all the people of Minnesota and our nation, I want to thank Chief Wade Setter for his steadfast vigilance to keep kids off drugs and teach them to make smart choices. Clearly, Chief Wade Setter was the smart choice for "2004 D.A.R.E. Law Enforcement Executive of the Year"!

Mr. Speaker, we salute Chief Wade Setter for his outstanding public service and congratulate him on this important national honor.

PAYING TRIBUTE TO JIM CAFFRAY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, it is my privilege to pay tribute to Jim Caffray and thank him for his work as Archives Technician with the National Personnel Records Center (NPRC). His years of commitment and dedication as a public servant are certainly commendable and worthy of recognition before this body of Congress and this nation today. I, along with my fellow Americans am grateful for all that he has accomplished during his years of service.

Jim Caffray served in the Navy during the Vietnam era and later continued his service to this nation when he became an Intermittent Archives Aid in June of 1992. He was hired full time in the civilian division of the NPRC in February of 1993. Jim was reassigned to Military Personnel Records in April of 1995. As an Archives Technician, Jim has served over 25,000 veterans by responding to requests for records. As an Expert Technician, Jim supports Archives Technicians on his team with his historical knowledge, while responding to the most complex inquiries received by the Center.

During my tenure in the United States Congress, Jim provided exceptional service to constituents of the 3rd Congressional District of Colorado. Jim worked hard to ensure that inquiries on behalf of my constituents submitted to NPRC were addressed in a timely and thorough manner. Jim routinely demonstrated a willingness to assist beyond the standard response, showing a genuine concern for the constituent while upholding the policies of the National Personnel Records Center.

Mr. Speaker, it is clear that Jim has been an invaluable resource to the National Personnel Records Center. It is my honor to recognize his service and dedication before this body of Congress and this nation. I am grateful for the opportunity to work with dedicated public servants like Jim Caffray. On behalf of the citizens that have benefited from the hard work and commitment he has given to the National Personnel Records Center and constituents it serves, I extend my appreciation for his years of dedicated service.

PERSONAL EXPLANATION

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. BONNER. Mr. Speaker, on July 15 and July 19, 2004, I was unavoidably absent for rollcall votes numbered 385, 386, 387, 388, 389, 390, 391, 392, and 393. Had I been present, I would have voted "aye" on rollcalls 385, 387, 390, 391, 392, and 393. I would have voted "nay" on rollcalls 386, 388, and 389.

PERSONAL EXPLANATION

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. CRENSHAW. Mr. Speaker, on Thursday, July 15, 2004, I was unable to vote on the Buyer Amendment to H.R. 4818, the FY2005 Foreign Operations, Export Financing, and Related Programs Appropriations Act (rollcall number 385). Had I been present I would have voted "yes."

WAL-MART'S COMMUNITY INVESTMENT

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. BERRY. Mr. Speaker, I rise today to applaud Wal-Mart's recent investment in community. Wal-Mart has decided to look no further than America's backyard to facilitate the manufacturing of quality products from a quality company here at home, Pinnacle Frames & Accents. Wal-Mart's recent decision to renew its contract with Pinnacle displays the company's desire to help the American worker as well as stimulate the American economy.

Wal-Mart deserves praise for making a conscious effort to employ American workers producing American products. Not only has Wal-Mart supported a superior company manufacturing a superior product, but it has deliberately strengthened the company's own ties within the community.

As a further example of Wal-Mart's commitment to community, as Reservists and members of the National Guard are called up for duty, Wal-Mart has ensured our brave men and women receive 100% of their salary while they are protecting our freedoms abroad. This selfless act on behalf of our troops is rare and sets an example we can only hope the rest of corporate America will follow.

Pinnacle Frames & Accents, who just recently renewed their contract with Wal-Mart, is located in Piggott and Pocahontas, Arkansas and maintains a commitment to creating excellent products through their diligent work ethic and professional attention to detail. Pinnacle's employees are hardworking Americans eager and enthusiastic to produce the best products on the market. Wal-Mart, through its recent contract, has proved that one does not have to venture outside of the U.S. to find first-rate, premium products at a fair price like those produced by Pinnacle.

On behalf of the Congress, I recognize Wal-Mart for its decision to continue to invest in its rural roots as well as Pinnacle for their devoted workers and their distinguished business ideals. Wal-Mart's interest in American business practices is apparent through the renewal of this contract with Pinnacle who jointly shares in the company's desire to manufacture superior, quality products.

PERSONAL EXPLANATION

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. COLLINS. Mr. Speaker, I was not present for rollcall vote 391, to promote freedom and democracy in Viet Nam (H.R. 1587); rollcall vote 392, concerning the importance of the distribution of food in schools to hungry or malnourished children around the world (S. Con. Res. 114); rollcall vote 393, to require a report on the conflict in Uganda (S. 2264).

Had I been present, I would have voted "yea" for rollcall votes 391, 392 and 393.

HONORING 130 YEARS OF HISTORY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Dover Fire Department, of the Town of Dover, in Morris County, New Jersey, a vibrant community I am proud to represent! On July 17, 2004, the good citizens of Dover are celebrating the Fire Department's One-Hundred-Thirtieth Anniversary with a parade.

For 130 years, the Dover Fire Department has been protecting and serving the residents of their community. The fire department is made up of eighty-five volunteers, including Fire Chief Kevin Kasko. Mr. Kasko's father was also a fire department volunteer, serving for forty years. Other dedicated members of the fire department include First Assistant Chief Walter Michalski, Second Assistant Chief William Gilbert, and Third Assistant Chief Edward Ridner. The fire department has three grand marshals with over fifty years of dedicated service to the community they are Fred Sharp, William Gardner, and Herbert Swartz.

The Dover Fire Department has a deep history that is evident in their striking collection of antique fire equipment. To commemorate the Dover Fire Department's 130 year anniversary, thirty-five fire departments from nearby communities will join in a parade that follows a route through a historic area of Dover.

From its charter members to its current roster, the membership of the Dover Fire Department, over the last one hundred thirty years, has dedicated itself to the safety and welfare of Dover's good citizens. Dover's firefighters, dedicated public servants, past and present, are to be commended for a job well done!

Mr. Speaker, I urge you and my colleagues to join me in congratulating the members of the Dover Fire Department on the celebration of its one-hundred thirty years protecting one of New Jersey's finest municipalities.

PAYING TRIBUTE TO OLATHE REBEKAH LODGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, it is my privilege to rise and pay tribute to the Rebekahs of Olathe, Colorado for their group's dedication to building a more civil community through strong companionship. Recently, the chapter celebrated one-hundred years of fellowship and service to the community. As they mark this impressive milestone, I would like to recognize their outstanding commitment to promoting the community before this body of Congress and this nation today.

The Rebekahs started nationally in 1851 to encourage loyal relationships with God, while simultaneously building strong relationships in the community. The Rebekah chapter in Olathe was chartered in 1904 by a petition of twenty-seven of the original thirty-two charter members. They created a loyal group that provides companionship for each other as members. Additionally, they created a body committed to a better citizenship by teaching strong moral character. Since 1913, the Rebekahs have been meeting twice a month in the same building of the Olathe Community Center.

Mr. Speaker, I am honored to recognize the staying power and service to others the Rebekahs have demonstrated over the years. Their commitment to a strong community is apparent through their kind work and I congratulate the Rebekahs on their anniversary.

IN LASTING MEMORY OF EUGENE FARRELL

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. ROSS. Mr. Speaker, I rise today to pay tribute to the life and legacy of Eugene Farrell from Dermott, Arkansas who passed away on July 3, 2004. As a dedicated member to the City of Dermott, Mr. Farrell's life was full of honors and achievements.

Mr. Farrell was a selfless public servant, serving not only as Mayor of Dermott from 1988–1999, but also as a Quorum Court member. For his dedication and loyalty to the City of Dermott and Chicot County, I will forever be grateful.

I am deeply saddened by the death of Mr. Farrell. His passing will leave a huge void on the Chicot County Quorum Court, the City of Dermott, and in the lives of many friends. My heart goes out to his wife of 59 years, June Barrett, and their four children, Sheila Brannon, Linda Fowler, Buddy Farrell, and Brian Fowler. I extend my sincerest sympathies to them and can only hope that we find some solace in the lasting legacy of Eugene Farrell as his spirit lives on in each of us.

RECOGNIZING MR. F.E. WHITNEY

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. WHITFIELD. Mr. Speaker, I rise today to recognize Mr. F.E. Whitney of Hopkinsville, Kentucky.

F.E. Whitney has faithfully served his county, his community and his fellow citizens through a lifetime of public service.

Mr. Whitney's family settled in Hopkinsville in 1897. He was born in 1916. He graduated from Kentucky State University in 1937 and returned to Hopkinsville where he still resides today.

Mr. Whitney is a member of what Tom Brokaw termed "The Greatest Generation", serving his country honorably in World War II.

Mr. Whitney has been an involved citizen in Christian County and Hopkinsville, Kentucky for over 50 years. He became a member of the Kentucky Association of Realtors in 1958 and was later accepted as a member of the National Board of Realtors. He was the first African American member.

Some of F.E. Whitney's many accomplishments include serving the public as a Realtor and Small Business Owner when he established F. E. Whitney Real Estate Agency, Inc. in 1948. This business remains in operation today.

F.E. Whitney served 21 years on the Hopkinsville City Council. In 1973, he served as Mayor Pro Tem. In 1977, he was elected to the Christian County Fiscal Court where he served over 20 years. Mr. Whitney has served the Pennyrile Area Development District, the National Association for the Advancement of Colored People, The Pioneer's and his church. He has been an activist for civil rights.

F.E. Whitney was honored by Christian County and the State of Kentucky when the I-24 Welcome Center was named in his honor.

Mr. Speaker, Mr. F.E. Whitney embodies the spirit, commitment and sacrifice that we all should strive for in our daily lives. He has not only made a success out of his life, but he has also been a gift to our community. I am proud to represent him in the Congress. On behalf of the citizens of the First District of Kentucky, we thank him for his service and we bring his accomplishments to the attention of this House.

INTRODUCTION OF H.R. 4855

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. CRAMER. Mr. Speaker, yesterday I was joined by Mr. Boswell of Iowa in introducing legislation to create an Independent National Security Classification Board to review current standards and procedures for the classification of information for national security purposes and make recommendations for needed changes.

Today's classification system is broken. The Executive Branch exerts almost total control over what should or should not be classified. There is no self-correcting mechanism in the system. The Executive Branch has a little known group that can review classification issues, but it is seldom used and open only to Executive Branch employees, not to Members of Congress or the public.

The bottom line is: there is no independent review of the classification decisions by the Executive Branch.

With no chance of unbiased review, classification decisions are ready and ripe for abuse. Agencies wishing to hide their flaws and politicians of both parties wishing to make political points can abuse the existing classification guidelines to their advantage. This needs to change.

William Leonard, Director of the Information Security Office, acknowledged in a recent speech that the classification system for national security has lost touch with the basics; that some agencies don't know how much information they classify, or whether they are classifying more or less than they once did; whether they are classifying too much or too little. He called today's classification system "a patchwork quilt" that is the result of a hodgepodge of laws, regulations and directives. "In reality," he said "the Federal Government has so many varieties of classification that it can make Heinz look modest . . ."

The most recent evidence that the system is broken can be found in the forthcoming 9–11 Commission report and last week's Senate Intelligence Committee Report on Iraq pre-war intelligence. But the problems of declassification also plagued the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, on which Mr. Boswell and I both served. All of these reports show the problems that arise from a "need to know" rather than a "need to share" culture of overclassification.

Even more important than the information that is published in these reports is the information withheld from the public and redacted from the reports. These reports demonstrate a serious imbalance of power between the public and the officials who make the classification decisions. They raise troubling questions about whether those who control the classification of information for national security purposes have misused this authority to shield officials from the glare of public accountability and to stifle public debate about politically sensitive parts of the war on terrorism.

This legislation establishes an Independent National Security Classification Board. The Board would be made up of three individuals, knowledgeable in national security classification, appointed by the President with the advice and consent of the Senate.

The task of the Independent Board would be to review and make recommendations on overhauling the standards and process used in the classification system for national security information. The Board would submit proposed new standards and processes to both Congress and the Executive Branch for comment and revision, and then implement the new standards and process once they have had the opportunity to comment. The Board would then begin to implement the new system, reviewing and making recommendations on current and new national security classifications, subject to Executive Branch veto that must be accompanied by a public, written explanation.

The balance in this proposal assures that the public and Congress have access to an independent Board for national security classification matters while leaving undisturbed the Commander in Chief's constitutional prerogative in military and foreign policy matters through the power to appoint the Board and to veto the Board's classification decisions.

This bill was introduced in the Senate by a bipartisan group of Senators and it is our hope that this bill will attract bipartisan support in the House. However, with so little time left in the legislative session and in recognition of the importance of these issues, Mr. Boswell and I, both members of the Permanent Select Committee on Intelligence, felt it was important to get this bill into the process now. I urge Members to support this bill.

THE INTRODUCTION OF A PRIVATE BILL FOR THE RELIEF OF MALIK JARNO

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. VAN HOLLEN. Mr. Speaker, today I am introducing a private bill to make Malik Jarno a permanent resident of the United States and to end the protracted ordeal of immigration removal proceedings that has spanned almost one-quarter of this young man's life.

Malik is a mentally disabled teenage orphan from Guinea whose compelling plight has attracted the concern and involvement of more than 70 members of Congress, countless citizens, the international media and dozens of national, state and local organizations working with the mentally disabled, children and immigrants and refugees.

Deporting Malik to Guinea to face life-threatening circumstances would run contrary to the standard of human rights and decency this country maintains. Members of Malik's family were killed and his home was destroyed in the midst of ethnically and politically motivated violence in Guinea. Immigration authorities have received overwhelming evidence of Malik's shattered life and the serious risk of harm he faces, given his father's status as a prominent political dissident, at the hands of Guinean authorities. The heightened threat associated with Malik's deportation places a special responsibility on this country to consider the well-being and livelihood of this young man.

In addition, as a mentally disabled, homeless orphan, the potential risks of a life in Guinea are aggravated. With no known family or friends to care for Malik, he faces the reality of being relegated to the fringes of a society that has no infrastructure or services to support this young man's special needs. According to information from USAID, UNICEF, UNHCR, WHO and other agencies, there are no government or non-profit programs or legal protections for mentally disabled individuals in Guinea. Given his disability, he will face ostracism and severe discrimination and be extremely vulnerable to physical abuse, oppressive conditions and hostile treatment.

In an act of desperation, family friends that were looking after Malik put him on a plane bound for the United States. Upon his arrival at Dulles International Airport in 2001, Malik was detained by immigration officials and held in adult jails, where his special needs as a mentally disabled child were neglected in the company of adult convicts, for eight months, before he was allowed to appear before a judge to apply for asylum. Only after another two years of detention was Malik transferred from a maximum security prison to a refugee shelter in York, Pennsylvania. His case is now pending before the Board of Immigration Appeals.

This ordeal has dragged on for too many years and the perpetual uncertainty has left Malik anxious and unsettled. He continues to study, make friends, and go to school in York, Pennsylvania, but with the constant threat of being torn away from his life in the United States. Malik has a promising future in the United States and this bill will provide Malik with a permanent immigration status and the path to becoming a productive and contributing citizen.

In these troubled times, where our reputation as a beacon for human rights has been challenged by the situation in Iraq, the United States has a heightened responsibility to guarantee justice and humane treatment to the most vulnerable in society instead of relegating a mentally disabled orphan to such a horrific fate.

CONCERNING THE IMPORTANCE OF THE DISTRIBUTION OF FOOD IN SCHOOLS TO HUNGRY OR MALNOURISHED CHILDREN AROUND THE WORLD

SPEECH OF

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to speak in support of House Resolution 422. Recognizing that more than 300 million children suffer from chronic hunger worldwide, we need to restore funding for this program at levels similar to those of the original pilot program.

Providing nutritious food at schools worldwide is a simple, but effective way to improve literacy rates and help poor children break out of poverty.

I strongly believe this funding is key to combating several root causes of international terrorism. It increases the school attendance of children who may otherwise be susceptible to recruitment by terrorist groups who offer meals.

As a co-sponsor of this legislation, I also believe that by providing financial and technical assistance for school feeding and maternal and child nutrition programs, we help fight HIV/AIDS. Schools provide one of the most effective means to teach children about disease prevention.

These are specific examples of how school feeding operations benefit low-income countries.

The fact that both the initial pilot program and the current McGovern-Dole Program have a proven track record at reducing the incidence of hunger among school-age children, increasing attendance, particularly for girls, and improving literacy and primary education, clearly indicates that we should work with the United Nations and its member states to expand international contributions for the distribution of food in schools around the world.

Mr. Speaker, let us not forget how global school feeding operations benefit low-income countries—education is a path to upward mobility that can help poor children improve their standard of living, and, most importantly, help poor nations develop more productive, self-reliant economies.

PAYING TRIBUTE TO HERB AND ARA WEIMER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, it is my privilege to rise and pay tribute to Herb and Ara Weimer of Westcliffe, Colorado. Herb and Ara are valuable members of their community, and volunteer their time and efforts towards bettering their community. In recognition of their service, the Custer County Chamber of Commerce recently recognized them by naming them the 2004 Citizens of the Year for their efforts in the community and I would like to take this opportunity to recognize their efforts before this body of Congress and this nation today.

As members of the Custer County community, the Weimers feel a responsibility to actively volunteer in their community. They have a passion for history and desire to contribute to the preservation of the rich history of their community and gather information to educate future generations about their predecessors. With this interest in history, Herb is the president and Ara is a board member of the Custer County Historical and Genealogical Society. Their positions enable them to coordinate the programs the society puts on each month. They also pursue their interest in history by helping with the annual History and Horses Tour for the Friends of the Library. They are active in volunteering to help those in need, aiding senior citizens, bringing meals on wheels and providing transportation. They have worked with a group to restore the Willow's School and Beckwith Ranch, and remain active members in Valley Bible Church.

Mr. Speaker, Herb and Ara Weimer have shown outstanding dedication to their community, and I am honored to recognize their service before this body of Congress and this nation. The Weimers' humble nature in their pursuits to volunteer and help fellow citizens contributes in the building of a strong community. I congratulate them on receiving the Citizen of the Year Award and wish them the best in their future endeavors.

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. MENENDEZ. Mr. Speaker, I rise to offer a personal explanation. On Monday, July 19th, I was unavoidably detained at Newark International Airport, due to both mechanical problems and bad weather, while traveling back for votes on Rollcall Votes 391–393. Had I been present, I would have voted "yea" on Rollcall Votes 391–393.

DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

SPEECH OF

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. DEGETTE. Mr. Speaker, I voted against H. Res. 713 because I believe the intent of this resolution had nothing to do with Israel's best interests, nor with promoting peace in the Middle East. The text was written by the Republican majority with the explicit intent of trying to be as politically divisive as possible.

I strongly believe that Israel has the right to defend itself against terrorism. However, while the resolution expresses support for Israel's right to construct a security barrier, it is clear to me that this measure was a cynical attempt to divide people for political gain here in the United States.

There are legitimate questions as to the propriety and wisdom of the action taken by the International Court of Justice, ICJ, in this matter, and in fact I personally disagree with their decision. However, this resolution goes too far and condemns the ICJ for politicizing an issue, when the very reason the Republican majority brought this issue to the floor is for political purposes.

Over the past four years, the House of Representatives has passed, with my support, at least nine non-binding Resolutions in regards to Israel. I entreat the leadership to now expend the same effort and energy to craft meaningful legislation that actually takes substantive action to further the Middle East peace process rather than paying so much lip service, as we too often do on issues of importance.

Over the years, the United States has been a vital player in facilitating peace negotiations in the Middle East. I have long said that the U.S. should be the first to support Israel's right to protect its citizens. I have also taken the position that Congress should not formally endorse the security fence, nor should we oppose it. To do so, I believe, meddles in internal Israeli affairs and compromises the U.S.'s ability to be a player in future peace negotiations.

The future security of the Middle East depends on negotiating a just, permanent, and peaceful settlement between Israelis and Palestinians that both guarantees Israel's security and establishes a Palestinian state. I cannot support resolutions, such as H. Res. 713, that are detrimental to this process.

I believe that it is the responsibility of those who are pro-Israel, like myself, to support measures that advance the security of Israel. This legislation does not do that. My efforts and advocacy over the years on behalf of Israel speaks for itself, and my support for Israel will continue throughout my tenure as a Member. I urge the Republican majority to get serious about promoting peace in the Middle East and the security of Israel rather than wasting Congress' time with non-binding resolutions intended to make political points in an election year.

IN RECOGNITION OF JOSHUA PHILLIPS OF COCONUT CREEK, FL, WINNER OF THE CONGRESSIONAL ART CONTEST

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. SHAW. Mr. Speaker, I rise today to commend Joshua Phillips of Coconut Creek, Florida, the 22nd Congressional District's winner of the 2004 annual Congressional Art Competition. When I was first confronted with the complex montage of images that is Joshua's piece, American Aesthetic, I was immediately struck with its creativity and uniqueness. American Aesthetic now adorns the Cannon Capitol tunnel, and I have taken special care to instruct my staff to point it out to tour groups that they lead. Despite being among what is a group of some of the finest pieces of art done by young people in this nation, I am constantly told, and I agree, that Josh's artwork stands alone.

Of course, Joshua's achievement should not come as a surprise since he is a young man who has already made a name for himself through his accomplishments as his school's starting defensive end, and in the highly competitive academic program at his high school, Westminster Academy. It is worth noting that Joshua is Westminster Academy's second winner in this competition, proving that its high-quality academic program works to engender the kind of excellence in youth that our nation values.

Mr. Speaker, again I would like to extend my congratulations to this extraordinary young man.

COMMENDING JACK YANOSOV FOR HELPING DESIGN THE TRANSMITTERS USED 35 YEARS AGO TODAY BY THE APOLLO SPACE MISSION THAT LANDED ON THE MOON

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. LOBIONDO. Mr. Speaker, I rise today to commend Jack Yanosov who helped design the transmitters that were used 35 years ago today in the Apollo mission that landed on the Moon.

It was a humble rise for Jack Yanosov, who began his career on the RCA assembly line, and would eventually become the lead engineer on the Apollo communications project. It was on a transmitter built by Jack Yanosov that the first words were ever spoken on a planetary body other than Earth. It was 35 years ago today, on July 20, 1969 that Neil Armstrong uttered his famous words that would inspire a generation, "One small step for man, one giant leap for mankind." The good news for Neil Armstrong and the rest of the world, Jack Yanosov's transmitter worked just like it was designed to do.

Today is a special day for our Nation. Thirty-five years ago, our country was locked in an arms race during a cold war that threatened to turn hot at any moment. The race for the Moon was more than just a prize in the darkest reaches of space, it symbolized our Nation's commitment to American ingenuity. We met our goal and made it to the Moon, and we did it first. I am proud that a resident of New Jersey played such an important role in this groundbreaking human achievement. I would like to congratulate Jack Yanosov, and thank him on behalf of the people of New Jersey's Second Congressional District and America for a job well done.

PAYING TRIBUTE TO CLIFTON LIONS CLUB

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the Lions Club Chapter of Clifton, Colorado on their sixty-fifth anniversary. Over the years, this organization has provided an invaluable service to the community, both socially and philanthropically. It is my privilege to acknowledge their service and achievements before this body of Congress and this nation today.

The Lions Club is an international organization that has existed since 1917. The Clifton chapter was chartered in 1939 with the purpose of creating a social group to serve the community. The primary function of the Lions Club is to focus on preventing and fighting blindness and helping people with visual impairments improve their quality of life. They also work more generally to improve the community in any way they can. The chapter is active in the community by holding events that attempt to raise the morale in the community by bringing people together at carnivals or pancake breakfasts, while at the same time raising money for their causes.

Mr. Speaker, the Clifton Lions Club has dutifully served the Clifton community for sixty-five years. Their hard work and dedication makes the community stronger. I congratulate the Clifton Lions Club on their anniversary and wish them all the best in the future.

PERSONAL EXPLANATION

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained in my district. Had I been present, I would have voted "yes" on rollcall Nos. 391, 392, and 393.

SENATE—*Wednesday, July 21, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of our fathers and mothers, who surrounds us with shields of grace, mercy, and peace, thank You for our national and world leaders. Shower them with wisdom. Give them faith to exercise responsible stewardship of Your many blessings and an abiding awareness of their accountability to You. Remind them that abundance must be used unselfishly and that we enter the grave with empty hands.

Inspire our lawmakers today with a love that comes from a pure heart, a good conscience, and a sincere faith. Strengthen them in their work to wage the good fight against freedom's enemies. Bless all who labor with them. May the harvest of our work enable the people of our global village to lead peaceful and quiet lives that are pleasing to You. Give us Your peace at all times in every way.

Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Chair recognizes the acting majority leader.

SCHEDULE

Mr. McCONNELL. Mr. President, today following the 90-minute period for morning business, the Senate will resume consideration of the Morocco free-trade agreement. The agreement reached last night provides for a vote on final passage to occur at 11:30 this morning.

As a reminder, last night the majority leader filed a cloture motion on the nomination of Henry Saad to be U.S. Circuit Judge for the Sixth Circuit. That vote will occur tomorrow. We expect debate today on the Saad nomination, as well as other pending judicial nominations.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

DOING RIGHT BY AMERICA

Mr. DASCHLE. Mr. President, in just over 100 days, the American people will make an historic and fateful decision. They will decide whether we stay the course we are on or move our country in a new and better direction.

As I have traveled around South Dakota and the Nation, I have heard a lot about the hopes and dreams Americans have for their families. I have listened to ranchers and farmers, teachers and mothers, police officers and firefighters. I am always humbled by the honesty of their message.

Families in South Dakota and across our Nation aren't asking for special deals or special advantage. All they want is a fair opportunity on a level playing field. They want to know that there is only one set of rules, and that the game isn't rigged against them. Most of all, they want to know that as we make decisions affecting the future of our country, our first priority is doing right by America.

If a policy isn't going to make us stronger and safer, if it is not going to expand opportunity and put common sense ahead of ideology, then it is not doing right by America.

Doing right by America rejects the defeatist view that we have enough money to rebuild Iraq, but not enough resources to take care of America.

At its heart, doing right by America means fulfilling our moral responsibility—together—to create a better future for our children and grandchildren. It is a simple value that Americans have always lived by, but it has been pushed aside these last 4 years. Boardroom priorities have crowded out kitchen-table needs, and special interests—like Enron, Halliburton, and the giant oil companies—have undermined our common purpose. Years of progress in spreading opportunity for regular Americans has been turned on its head.

We are all proud that America is a place of great wealth and success. But the genius of America has never been just the ability of the rich to get richer. The true genius of America has always been the promise that all Americans who work hard and play by the rules will have the opportunity to succeed.

The promise of opportunity is what inspired my grandparents, and tens of millions of other immigrants, to start a new life here. And nearly every day, I hear a new story that reminds me that my most important responsibility is defending the opportunity of regular Americans to build a better life for themselves and their children.

Middle-class families deserve an opportunity to compete for good jobs that reward work. They deserve an opportunity to send their children to good schools, and then on to good colleges and universities, without busting the family budget. They deserve an opportunity to purchase health insurance at a reasonable price so they can see a doctor—one they choose—when they are sick or injured, and so they can fill a prescription if their doctor writes one. They deserve the opportunity to be safe—safe in their communities and safe in their homes. And, after a lifetime of hard work and years of paying into Social Security, they deserve the opportunity to retire with dignity and security.

That is not a lot to ask. But in some ways, it is everything. Widening the circle of opportunity and prosperity—year after year, decade after decade—is what makes America great. It is our heritage, and it must be our legacy.

But today, those with power often seem to have lost sight of this fundamental value and the difference between right and wrong. We saw that a few months ago, when a major telecommunications company gave one of its executives a severance package worth more than $8 million. This executive had worked there for only 7 months, and he was leaving because he hadn't done his job well. As the company handed the failed executive his $8 million check, it handed out something else to 12,000 of its rank-and-file workers: pink slips. That is not doing right.

Around that same time, a man I have known for years called my office. His name is Brad Besler. He is 47 and a fourth-generation rancher in western South Dakota. He and his wife, Fern, have five children—four have graduated from college, and the youngest is still in grade school. Brad called my office because South Dakota is entering its fifth straight year of drought and he is worried. Two years ago, the drought was so bad, and trying to survive it was so stressful, that he suffered a stroke that left him blind in one eye. A few months ago, he had another stroke.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

If the drought is anywhere near as bad this year, he says he will have to sell his entire herd of cattle—the only income his family has. If that happens, he will have to drop his family's health insurance, which runs $896 a month.

He is trying desperately to avoid that because—with a blind eye, a bad back, and a history of strokes—he knows that if he loses his coverage, it will be next to impossible for him to ever get health insurance again.

Listening to Brad Besler, two things strike you. The first is his incredible courage and willingness to work hard to support his family. The second is that Brad's government seems to have forgotten about him.

We are not doing right by Brad Besler. And in my view, we are not doing right by America when we hand over millions to a lucky few who already have so much, while ignoring the real needs of those who are working so hard and so honestly.

But that is exactly what is happening in America today. There is an ever growing list of government policies that reward wealth, not work. That is not an accident; it is a conscious choice.

With Republicans in control of the entire Federal Government, it often seems as if their leaders are trying to narrow the circle of opportunity and prosperity in America. And they have put the needs of middle-class families on the back burner.

We see that even as the economy slowly improves. Corporations reap most of the benefits, while regular workers continue to struggle. In fact, during this recovery, corporations have gotten twice their normal share of the increase in national income, while workers have received their lowest share in over 50 years.

As the chief economist at Merrill Lynch observed: "We've had a redistribution of income to the corporate sector."

Or as Warren Buffett, one of the wealthiest men in America, put it: "If there's class warfare going on, my class is winning."

That isn't good for most American families, and it isn't doing right by America.

We can do better, and we have done better. During the Clinton administration, America created 21 million new private-sector jobs. Now, just 4 years later, the Bush administration is on track to have the worst job-creation record since the Great Depression.

During the first 2½ years of the Bush administration, we lost over 3 million private-sector jobs. And although the economy has finally started to recover some jobs in recent months, the new jobs pay, on average, 13 percent less than the jobs they are replacing.

As a result, too many average families are losing ground, even as they work harder and harder. And to make matters worse, the Bush administration continues to demand that millions of employees lose their right to overtime pay.

Since President Bush took office, real weekly earnings for average Americans have not grown at all—but their expenses have soared. Gas prices have gone up 23 percent; college tuition has gone up 28 percent; and health care premiums have gone up 36 percent.

And while the middle class is getting squeezed, huge corporations are growing rich. While consumers are struggling with record gas prices, ChevronTexaco is reporting record profits. While family incomes have stagnated, overall corporate profits have risen by more than 50 percent.

A generation ago, the average American CEO made about 50 times more than the average worker. Now, thanks to bad policies and even worse values, the average CEO makes 300 times more than the average worker.

That is just not right. And unless we change course, it is going to get worse.

Instead of fighting to keep good jobs here, Republican leaders in Washington are using tax breaks to reward companies for shipping jobs overseas. Businesses are walking jobs out of the country, and the government is holding the door for them.

A few months ago, President Bush's top economic adviser told us that sending jobs overseas "is probably a plus for the economy, in the long run. The President believes this."

The President also seems to believe it is okay to send millions of dollars in unemployment pay to former Iraqi soldiers, while denying help to American workers whose jobs have been shipped overseas.

That is doing wrong by America.

As the election nears, the President's economic team has been grasping for ways to make a bad economy sound good. To deal with the loss of more than 2 million manufacturing jobs, they floated the idea of redefining "manufacturing jobs" to include fast-food workers preparing Big Macs and Whoppers. Manufacturing once meant building cars or fabricating steel for good wages. Now the Bush administration says it might mean putting a burger on a bun for minimum wage.

That is not being straight with America.

And we are not doing right by America by running up trillions in new debt and pretending it is not a problem.

During the Clinton administration, we turned huge deficits into record surpluses. Now, just 4 years later, $5 trillion of expected surpluses have turned into $3 trillion of new debt. As a result, we are giving our children something they don't want and don't deserve: a $25,000 birth tax. That is the share of our national debt owed by every child in America. My two grandchildren both inherited that debt the moment they were born.

It wasn't long ago that Republicans came to Washington promising fiscal discipline. Instead of keeping that promise, they have taken us on a 4-year fiscal binge that has squandered record budget surpluses and created record budget deficits.

In 2000, Republican leaders, including President Bush, promised that "[t]he Social Security surplus is off-limits, off budget, and will not be touched." Four years later, they have already raided $500 billion from Social Security to pay for tax cuts, and they are planning to take another $2.4 trillion—$2.4 trillion—over the next 10 years.

That is your money. It comes out of your paycheck. It is supposed to be there when you retire. It is not supposed to be used to pay for tax breaks for millionaire CEOs or to reward companies for shipping American jobs overseas.

Looting Social Security is not doing right by American workers and retirees, and we can't let it happen.

The Bush administration is draining trillions from Social Security, borrowing hundreds of billions from China and Japan to pay our debts, sending billions of dollars to Iraq for roads and schools, and then planning on cutting billions here at home for education, environmental protection, medical research, Head Start, and nutrition programs for pregnant women and children. The administration even wants to cut $1 billion from homeland security at the very time it is warning of likely new terrorist attacks.

That is not doing right by America, and it doesn't make any sense. But this administration is making a habit of decisions that don't make much sense.

A couple of months ago, the Secretary of Health and Human Services defended the administration's plan to provide health care to all Iraqis, but not to all Americans. He said, "Even if you don't have health insurance in America, you get taken care of. That could be defined as universal coverage."

Try telling that to the nearly 44 million Americans who are uninsured—4 million more than when George Bush took office—and the millions more who are under-insured.

Try telling that to the millions of families who, year after year, are watching out-of-control health insurance premiums bust the family budget.

Or try telling that to the Lakota woman in South Dakota whose sister died a few months ago from a stomach cancer that went undetected because the Indian Health Service didn't have money to refer her to a specialist.

In America today, seniors can't afford the medicine they need and have discovered that last year's Medicare law is a sham that provides billions to insurance and drug companies. Many veterans can't use the VA health system anymore because of arbitrary, budget-driven barriers to care. And 32,000 National Guard members and reservists who are serving in Iraq will lose their health coverage when they come home because the Bush administration refuses to extend their coverage.

These aren't unintended consequences. They are clear choices.

When record debt makes it difficult to repair our crumbling roads and bridges, fund our children's schools, support our police and firefighters, and honor our commitment to America's veterans, that is the result of bad choices.

When American soldiers are sent into combat without armor in their protective vests, when they are losing limbs and sacrificing their lives because there aren't enough armored cars, when health services are being cut for veterans, and when the Bush administration says that there isn't enough money to let reservists and Guard members buy into the military health system, that is the result of bad choices.

These choices don't do right by America, and we need to change them.

There is something else we need to change. In the last 4 years, we have seen more and more secrecy and less and less accountability in the Bush administration.

During the past few years, a small group of courageous individuals has stepped forward and said things this administration didn't want to hear and didn't want anyone else to know. In every case, their patriotism, honesty, or competence was attacked.

Senator JOHN MCCAIN found that out. So did the President's former Treasury Secretary Paul O'Neill. And so did Medicare actuary Richard Foster, former Army Chief of Staff General Eric Shinseki, and former White House counterterrorism adviser Richard Clarke.

When Ambassador Joe Wilson told the truth about the administration's misleading claims about Iraq's nuclear weapon capability, some Government officials retaliated by disclosing that his wife was a deep-cover CIA agent. For nothing more than political gain, they were willing to endanger the life of one of the people who protect our national security.

That is not doing right by America. Those aren't our morals, and they aren't our values.

In the America I know, moms and dads sit at the kitchen table every month and balance the family checkbook. When the car breaks down or there are unexpected doctor visits, there is a pinch. They don't expect the Government to bail them out when that happens, but they want a fair shake. They want their Government to focus on jobs and health care and education, and they don't want their Government to take their Social Security money to pay for tax breaks for millionaires and big corporations.

They want their Government to do right by them, and they have a right to expect that. But when they see oil industry interests coming before their interests, HMO profits coming before the health of seniors, and special deals for Halliburton coming before the safety of their sons and daughters in Iraq, they know their Government isn't doing right by America.

I am as frustrated as they are about these choices, but I am not discouraged about our ability to fix things. We can and we will. We can get America back on track by doing right by America.

Doing right by America means putting our common interests ahead of the special interests. It means paying as much attention to middle America as we are paying to the Middle East. And it means bringing common sense back to Government.

We should be thinking not just about the people who own Wal-Mart, but about the millions of Americans who work and shop there.

We should be changing tax polices so corporations have an incentive to keep jobs here at home, not ship them overseas, and we should aggressively enforce our trade laws to protect workers from unfair competition.

We should be improving roads and bridges and creating millions of jobs along the way, and investing in education, training, and technological innovation so workers who have lost jobs can find new ones, and workers who have jobs can get better ones.

And if we are truly going to do right by American workers, it is long past time that we increase the minimum wage, and it is absolutely essential that we stop the Bush administration from following through with its plan to strip millions of workers of their right to overtime pay.

Doing right by America means honestly confronting the health care crisis in our country, not pretending that it doesn't exist. As a first step, we should provide every American with the opportunity to choose from the same health care options, at the same price, as Members of Congress have. If it is good enough for those of us in Government, it ought to be an option for every American who needs health insurance.

Doing right by America means an honest prescription drug policy that doesn't funnel billions of dollars in windfalls to drug companies and HMOs, but instead offers seniors the medications they need at a fair price—without the mind-boggling complexity of the Bush administration's drug plan.

It means properly funding our children's schools and giving every American family a guarantee: If your sons and daughters work hard in school and get good grades, they will have a first-rate and affordable college education waiting for them the day they graduate from high school.

And it means putting our Nation on the road to energy independence. The next generation should be able to look forward to a future that is not put at risk by unrestrained pollution and a dangerous dependence on foreign oil.

Finally, doing right by America means being honest about performance, both at home and abroad. It is not pessimistic to acknowledge the problems workers have endured over the past 4 years; it is pessimistic to think that we can't do better.

And it doesn't endanger our troops to ask questions that might save their lives. If we are going to do right by them, we have to stand up for them, even if that means asking tough questions about the administration and its policies. And when our troops return home, we have to make sure they receive the medical attention they earned. We owe them more than empty promises.

We will have a clear choice in November. We can continue on the course we are on, where special interests come before common interests, where boardroom issues come before kitchen-table issues, and where opportunity is reserved for a small, members-only club. Or we can choose a new and better direction.

Doing right by America means that our values guide our policies. Our strength comes from opportunity and responsibility—and a commitment to making sure that our middle-class has a fair chance. It means fixing health care, creating good jobs again, and making education affordable.

Mr. President, we can do this, and we should do it together. Doing right by America shouldn't be an idea we just talk about, it should be the value that guides all our decisions in Congress.

I yield the floor.

The PRESIDENT pro tempore. The Chair inquires of the Democratic leader, the Democratic leader has used time in excess of his leader time. Is it the intent that be charged against the time he had under his control under the previous order, or is that time outside that previous order?

Mr. DASCHLE. Mr. President, I ask that 10 minutes of the time that I consumed be applied against the Democratic morning business time.

The PRESIDENT pro tempore. The Senator has consumed more than that time. He wishes to have 10 minutes of that time counted against that time?

Mr. DASCHLE. Correct.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for statements only for up to

90 minutes; the first half of that time under the control of the Democratic leader or his designee—that is now 35 minutes—and the second half under the control of the majority leader or his designee.

Who seeks time?

The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. On behalf of Senator DASCHLE, we yield 15 minutes to Senator STABENOW and 10 minutes to Senator HARKIN.

The PRESIDENT pro tempore. Senator STABENOW is recognized for 15 minutes.

LOWERING THE COST OF MEDICINE

Ms. STABENOW. Mr. President, first I commend our Democratic leader for an outstanding vision of what we should be doing to do right by America. His eloquence this morning certainly speaks to every single person in Michigan and what we care about, the priorities and values that we have, and certainly it speaks to the sense of urgency that I believe we need to get something done for the people we represent in this wonderful country. We need to do right by America.

There is something wrong when we have provided funding for health care in Iraq for a broad, universal health care system, yet we cannot focus on health care at home for over 44 million people and focus on the costs of prescription drugs or make sure there is a real Medicare bill that works. There is something wrong with this picture. It is truly time for us to do right by America. That is our job.

I speak today specifically about a topic that I frequently think about on the floor of the Senate that needs to have a sense of urgency about it as we come to the end of this week. We will not be in session in August. We will come back only for a few weeks in the fall. There is a sense of urgency at home about the need to lower the cost of medicine, the access to prescription drugs in this country.

I rise to express great concern today because at this very moment the Senate HELP Committee was supposed to be marking up a bill that hopefully would lead to the safe importation of FDA-approved prescription drugs from Canada and other countries where it can be done safely. But, once again, the markup has been delayed. I am deeply concerned that with the number of legislative days winding down, we will not see a bill coming from committee to the floor of the Senate any time this year.

We know the prices of prescription drugs continue to rise and continue to place a tremendous burden not only on our seniors but on everyone who uses medicine on a regular basis.

We have a strong bipartisan bill that we put together to allow the reimportation of prescription drugs. It has been carefully discussed and deliberated. There is no reason that Americans should not benefit from the passage of this new law so we can have access to safe, FDA-approved drugs that come from FDA-inspected facilities in other countries. In fact, Sav-Rx, one of the companies that is offering a Medicare drug card now, is even promoting reimportation as part of their marketing.

As reported in Tuesday's Washington Post, the company's Web site reads:

> Sav-Rx is giving you the opportunity to save an additional 20%-30% on your mail order prescriptions through the use of our Canadian Mail Order Pharmacy.

This is one of our Medicare cards that is using a Canadian mail order pharmacy.

I have to say I am more concerned about mail order or Internet sales—particularly Internet sales—where we do not have the safeguards, or may not know where the prescriptions are coming from, rather than what our bill does, which is allow the local pharmacist in Michigan or the pharmacist in any other State to do business with the pharmacist across the border in a safe, FDA-approved way, with a closed supply chain that brings the medicine from one place to another so we know where it comes from and we can assure its safety.

But here we have one of those providing a Medicare card to seniors who are using right now a Canadian mail order pharmacy as part of this process. Yet we can't get the support to pass a bill that would guarantee this process is available for everyone through the local pharmacy—one pharmacy to another—and which is done in the safest possible way. We don't have regulations right now that mirror what we have in our bill in terms of promoting the safety of reimportation of prescription drugs.

If we are going to continue to see mail order and Internet sales, we certainly need to address the issues that we have addressed in our bill to make sure this process is safe.

This is all about numbers, as usual. The opposition is all about numbers. It is about the $17 billion annually that the drug companies stand to profit from the new Medicare law versus the $5 billion cost that American consumers can save per month from reimporting prescription drugs from Canada or allowing the local pharmacists in America to do business with the pharmacists in Canada.

It is about requiring our seniors to go through this complicated process under Medicare to attempt to get a discount through a Medicare card that would set up much more to profit the drug companies than to profit the seniors. It is about a process that we are forcing people to go through to try to get help. It is complicated. There are multiple cards. The prices can change every 7 days. The discounted drugs can change every 7 days.

We heard testimony on Monday from Dr. McClellan in charge of the Center for Medicare. What we are hearing is this massive effort of spending money to market and try to explain to people this complicated process. Why do we have this complicated process? Because it benefits the pharmaceutical companies. It doesn't allow Medicare to negotiate group prices to get the best deal for people. So we have this complicated, costly process going on to guarantee that the profits of the industry are protected.

On the other hand, all we need to do is bring to the floor this bipartisan bill that would allow our local pharmacists to do business safely with pharmacists in Canada and other countries. We could drop prices in half immediately for consumers. We would save over $5 billion a month for consumers. We would truly begin to address the stories we hear all the time—it is happening; they are not just stories—of people who are choosing between food and medicine, paying their electric bill or paying their rent. We don't make up those stories. It is happening every day, and I am sure it is happening right now as I am speaking. We can fix that, too.

If the HELP Committee brought up a bill, had a meeting and voted this bill out today, we would have on the floor a means for us to be able to work together to adopt a bill that works, is safe, and lowers prices. But instead one more time this is delayed—delayed, delayed. Unfortunately, folks can't delay their bills. When they go to the pharmacy to get their medicine, they can't say: I would be happy to pay you but nothing is happening in Congress yet. The President won't support lowering prices. So I can't afford to pay this right now. Can you wait? Can I pay it next year when they finally get around to fixing this, maybe? People can't do that when they go into the pharmacy. They have to pay for their medicine.

There is a sense of urgency which they feel that, unfortunately, is not felt in this body, or by the leadership. Those of us who have been working across the aisle to get something done certainly feel it, but leadership does not. Unfortunately, the White House does not.

What we see is a continual unwillingness to schedule a bill, to bring it out, to give us an opportunity to vote and to get this done in the Senate.

We have legislation, S. 2328, the Pharmaceutical Market Access and Drug Safety Act, that is widely supported. It has been crafted carefully by Senate leaders on both sides of the aisle. It will work. It will guarantee that we put in place the safe precautions we need and that will allow us to finally be able to address the issue of lowering prices.

There are many concerns that I and my colleagues have about the bill before the HELP Committee. I will not go into all the specifics at this time, except to say we feel confident that the legislation we have introduced would fix the concerns and the problems, and that we can work together to get this done in the right way.

I am deeply concerned that right now seniors of this country are being asked to wade through Medicare card after Medicare card trying to find out whether there is anything that can be done for them in terms of lowering prices. They are wading through all the other complexities of the Medicare bill. We are not taking action as we could on something that would immediately make a difference.

I go back to what our Democratic leader spoke about so eloquently this morning. Senator DASCHLE spoke about doing right by America.

How is it that there is a sense of urgency here to be providing funds to make sure those in Iraq have access to health care? Certainly we want them to have access to health care. But what about us? What about doing right by America as well? What about taking just a portion of the funds we are spending abroad to build roads and schools and create health care systems and use that here at home to help Americans who are desperate about being able to afford the medicine they need?

I might also say that this is directly related to the health insurance premiums our small businesses and large businesses are paying in America. We know that about half the cost increases on health care premiums comes from the explosion of prescription drug prices.

When we pass the reimportation bill that we are coming forward with in a bipartisan way, we not only help our seniors who need our help and the disabled and their families and workers, we are helping businesses be able to lower prices. We are helping universities that have medical schools to be able to allow their pharmacies to do business with those across the border in a safe way. We are helping the local hospitals be able to lower their costs which in turn helps them lower the cost of health care and health insurance premiums.

Just one proposal has very broad implications to bring down prices and make sure we are addressing one of the fastest rising components of health insurance for businesses in our country.

We have a bipartisan bill before the Senate that is endorsed by the AARP, Families USA, the Alliance for Retired Americans, numerous senior, consumer groups, and health groups. I am deeply troubled by the fact it will be very difficult to bring this bill before the Senate and pass it before we break on Friday. This debate has gone on far too long.

As I have indicated, this can help business and individuals with the high cost of health care. It is time to get it done. We have the greatest country in the world. Give us a chance to make this change and we can help every American have access to the medicine they need. We can take an important step forward in doing right by America.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Iowa.

Mr. HARKIN. How much time do I have in morning business?

The PRESIDING OFFICER. There is 10 minutes.

LEAK INVESTIGATION

Mr. HARKIN. Mr. President, it has now been 1 year and 1 week, 1 year and 7 days since senior White House officials leaked the identity of a clandestine officer of the CIA, Valerie Plame, to Washington journalists. According to the Washington Post, there were two senior White House officials who called a number of reporters—at last count, maybe six—to reveal the name of Valerie Plame as being a covert CIA agent. Of course, only one reporter sought to publish that—was Mr. Novak—in one of his columns.

This criminal act was a brazen act of revenge and retaliation to punish Ms. Plame's husband, who dared to question one of the administration's key justifications for invading Iraq.

One year and 7 days and nothing has been done, nothing.

Here is what the White House had to say yesterday, July 20. Deputy Attorney General James Comey said:

> We take issues of classified information very, very seriously. As you know, we have prosecuted or sought administrative sanctions against any number of people throughout the years for mishandling of classified information.

Say again? After they exposed Valerie Plame, what happened? It took 6 months from the time of the leak of the Plame matter for Attorney General Ashcroft to recuse himself. Not until December 30 was a special prosecutor appointed. The President and Vice President have never appeared to take this leaking of her name and her identity very seriously—or even seriously.

In his only public statement about this leak, here is what the President said:

> I don't know if we are going to find out the senior administration official. Now, this is a large administration, and there's a lot of senior officials. I don't have any idea.

That was George W. Bush, October 7, 2003.

If you look at the video of this, he is smiling when he says it. He has kind of a smirk on his face. Does that sound like a matter being taken very seriously? One year and 1 week later we are still awaiting any sign that prosecutions or even sanctions will be brought against anyone in this matter.

This dismissive attitude on the part of the President and the Vice President is not acceptable. We are not talking about a Washington game of gotcha. We are talking about a calculated act of betrayal and treachery against our Nation. A clandestine officer of the CIA was brazenly exposed by a couple of senior White House officials who somehow got access to this information. Who gave them access? Who in the CIA or the National Security Council gave her name to these White House officials? How did they come by it? She was a very deep undercover agent.

This betrayal has real consequences in terms of the national security of the United States. This single act by the White House has undermined the clandestine capabilities of the CIA. It has damaged our national security. It has weakened our country. In this respect, the Valerie Plame incident fits a much broader pattern, a pattern of actions by this administration that have made our Nation weaker, less secure, more vulnerable to terrorist attacks.

Don't take my word for it, take the word of some former CIA people. Here is Larry Johnson, former CIA analyst and State Department employee:

> For this administration to run on a security platform and allow people in the administration to compromise the security of intelligence assets, I think is unconscionable.

And here is James Marcinkowski, former CIA operations officer:

> The deliberate exposure and identification of Ambassador Wilson's wife, by our government, was unprecedented, unnecessary, harmful and dangerous.

Yes, the leaking of Valerie Plame's name weakened our country, made us less secure, more vulnerable to future attacks.

Almost 4 years ago, when President Bush was running for election, he went around the country raising his right hand, saying I swear to restore honesty and integrity to the White House.

It is time for Mr. Bush and Mr. CHENEY to raise their right hands again and to take an oath to tell the truth, the whole truth, and nothing but the truth regarding the Valerie Plame incident and what they know and what they have done to find out who exposed her name.

We had an example of this a few years ago when a President of the United States was put under oath and was filmed. We sat in the Senate and we looked at that film on video monitors during the impeachment of former President Bill Clinton. Regardless of how you felt about the impeachment, whether you thought it was good or bad or what, the fact that the President of the United States was put under oath sent a clear message to the people of this country. No President is above the law, neither then nor now. It is time for this President and this Vice President to be put under oath. What happened 1 year and 7 days ago is unconscionable, unprecedented, harmful, dangerous to the security of our country.

The President of the United States could have solved this in 24 hours by calling in every one of his top senior officials, have them sign a piece of paper, have them swear under oath that they did not do this and had nothing to do with this. We could have solved it in 24 hours, but the President of the United States dismissed this. He sort of pooh-poohed the whole thing, smiled about it, and said, I don't think we will catch whoever did this.

Where is the sense of outrage by this President and Vice President that two senior officials would so brazenly, with such calculation, expose the cover, expose the person in the CIA with assets around the world, giving human intelligence to our CIA which we need so desperately in our war against terrorism.

I task the Senate this morning, as I will every day, to call upon the President and the Vice President and to call upon the special prosecutor to put the President and Vice President under oath. If this is not resolved, America will become weaker, less secure, and more vulnerable. We cannot allow that to happen to this country.

The people who exposed Valerie Plame are guilty of violating a law and they should be punished to the full extent of that law. That sends the signal to any other administration, be it Democrat or Republican, that this kind of treachery, this kind of violation of our laws, will not be permitted under any administration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. There is 11 minutes remaining.

THE SENATE SCHEDULE

Mr. REID. Mr. President, I would like to direct a question through the Chair to the distinguished Senator from Illinois, who is on the floor.

Will the Senator from Illinois comment on the Senate schedule? We wasted a week, as the Senator may recall, on class action, where nothing was done. Then we spent a week on the marriage amendment when everyone knew, before it started, there were not enough votes. And then so far this week we spent yesterday on a judge. Nothing happened on that. The rest of the day we spent on a free-trade agreement with Morocco, where the actual time on that bill has been less than an hour and a half on actual speeches given. Even though there was 20 hours allotted, we were willing to yield back our time from early on in that debate. Now we are told we are still not going to go to legislative session, that we are going to work on more judges even though we have approved almost a record number of judges.

I ask my friend, does the Senator from Illinois think it is important we deal with other issues people in Illinois and Nevada talk to us about, such as doing an appropriations bill for homeland security or moving to something that is important to the people of Nevada, and that is maybe consider raising the minimum wage?

These are just a couple thoughts that come to the mind of the Senator from Nevada. Will the Senator from Illinois comment?

Mr. DURBIN. Mr. President, I would say, in response to my colleague from Nevada, I have had a number of jobs in my lifetime, and we are fortunate we are on salary on this job because if our pay depended on what we did and what we produced, we would not be drawing a paycheck around here for weeks at a time. We waste so much time on the floor of the Senate, it is hard to imagine.

We spent a whole week on a class action bill that went nowhere. Then we spent a better part of a week on a constitutional amendment on same-sex marriage that went nowhere. Now we are about to waste a third week in a row.

At the same time, I think there are 12 appropriations bills that have not been considered. During this period of time, we had notification from Secretary Ridge at the Department of Homeland Security and our FBI Director that America was going to face an attack. Most Americans stood up and took notice, as they should, and called our offices and said: What should we do? And we said: Lead your lives. Keep your eyes open.

But it is clear what we should do. Take a look at this Calendar. Right on the back of our Senate Calendar, the lead items are the Homeland Security appropriations bills. These are multibillion-dollar bills that will appropriate money to give to State and local governments as well as Federal agencies to make America safer—sitting on the Calendar for a month, without even being considered.

We will take a break, at the end of this week, for 6 weeks. We will be gone. We will come back, and they will still be sitting on the Calendar. God forbid anything happens in America. We are not going to do anything to deal with them.

Then you page through this Calendar and find bills waiting for action dealing with security at nuclear powerplants, security at ports across America, security at chemical plants, security on rail lines. If we paid any attention to Secretary Ridge, as we should, and Director Mueller, we would be meeting today with Senators on the Senate floor passing this legislation. Instead, we are killing time. We are doing nothing.

Now, it is hard to explain why this do-nothing Congress is wasting time when it should be, in fact, doing things to make America safer. I do not understand why the leaders in this Congress cannot pick up the very Calendar they print every day, turn to the back page and read the top line: homeland security. Pretty clear: homeland security. Yet we have not passed this legislation.

Mr. REID. Mr. President, I will direct another question through the Chair to my friend from Illinois.

I am not proud of this, but the State of Nevada is the least insured State for medical care in the country. We lead the Nation in uninsured. But there are 44 million people in America who have no health insurance. Even if we did not pass legislation dealing with the calamities facing American families because of no health insurance, don't you think we could talk about it? Don't you think we could bring something up?

For example, I know the Senator from Illinois has worked on this, the Senator from North Dakota has been a leader on this, as has been the Senator from Michigan, Ms. STABENOW: How about making it easy on the American people by allowing us to buy the same drugs we pay a fortune for here in America cheaper from the country just north of us, Canada? Wouldn't that be a good thing to work on?

Mr. DURBIN. Mr. President, I say, in response to the Senator from Nevada, he obviously does not understand the world as the folks across the aisle from us see it. They believe that families across America get up every morning and want to know whether the latest constitutional amendment has passed. They think that is what families do—rush to the television set, turn it on, and say quickly: Honey, did they pass a constitutional amendment?

That is not what I find. What I find at home is that families get together and say: I hope we can keep our job. I hope, for goodness' sake, that next year health insurance doesn't cost as much as it did last year and cover less.

That is the reality. That is the reality of life for families across America. So you wonder if those of us elected to the Senate really represent America and are listening to American families and businesses and labor unions, who tell us time and time again: The cost of health insurance is killing us. Why don't you do something?

Instead, the leadership in the Senate, in this do-nothing Congress, comes forward and says: We are going to blow off 3 days on the floor of the U.S. Senate debating a constitutional amendment about same-sex marriage.

Well, my wife and I have been married for 37 years. We believe in traditional marriage. But, for goodness' sake, why do you need to amend the Constitution—in a Presidential election year, I might add—instead of talking about the cost of health insurance and making it more affordable and more accessible for people across America? That is a real issue, and it is an issue that has been really avoided by the leadership in this Senate.

Mr. REID. Mr. President, I direct another question to my distinguished friend.

About 6 weeks ago, I asked all 17 superintendents of school districts in Nevada to meet with me. We have 17 counties in Nevada. Each county has a superintendent of schools. The largest school district has about 300,000 students; the smallest, Esmeralda County, with 88 students. I don't know what their political affiliation is, but I will bet a lot more are Republicans.

We met for a couple hours. They were all asked the question: How is the Leave No Child Behind Act treating you in your school district? Without exception, every one of the superintendents said: The Leave No Child Behind Act is leaving children of Nevada behind, without exception. They said: Please change this. Give us some resources.

I say to my friend, education is important in Nevada. The Leave No Child Behind Act has been a disaster for Nevada. Shouldn't we be spending some time talking about education in the U.S. Senate rather than class action, marriage, and a few judges. We have approved more than 100. They want to defer attention away from the real issues of this country, so we are spending days of our existence on the Senate floor talking about judges. Shouldn't we be dealing with education?

Mr. DURBIN. Mr. President, I agree with the Senator from Nevada. In response, I would say, the reason why the Senate does not talk about education is because the President's education bill, No Child Left Behind, has been underfunded by $20 billion. We put Federal mandates on school districts that cost them enormous sums of money, which changed the way teachers teach in a classroom.

This administration—the President and his followers in Congress—has refused to send the money to help kids who are not scoring well on tests, kids who need someone to sit next to them and help them read, someone to help them understand basic math, someone to be there after school to sit down and work with them on their homework, someone to be with them in the summer months so they can do something and not lose all the knowledge they gained in the previous school year.

It takes people—dedicated men and women—who are teachers. It takes money. This administration says the money should go for tax cuts for wealthy people; it should not go for education. We should continue to spend $1.5 billion a week in Iraq, with no end in sight. That is why we don't talk about education.

This administration will not budget the money to pay for the Federal mandates the President included in No Child Left Behind. Ask any school district—in Nevada, Illinois, across America—what do you think of No Child Left Behind? We like accountability, but where is the promised money the President said would come to the school district to help us improve test scores? It is not there. That is why this do-nothing Congress avoids the issue of education, like the issue of helping families and businesses pay for health insurance.

Mr. REID. Mr. President, I believe our time has expired.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, it is interesting to listen to my friends on the other side of the aisle this morning talk about any number of issues, in particular what we have been doing over the last several weeks—really the last several months—relative to the legislative agenda in the Senate. This is the only legislative body, I am sure, anywhere in the world that, because it is the most deliberative body in the world, allows the minority to in effect set the agenda because they have the ability to stop any legislation or debate or control the debate on any legislation unless the majority can obtain 60 votes to bring the debate to an end.

Here we have folks standing up this morning being critical of the leadership on this side of the aisle for not moving forward with a legislative agenda when, for the first time in the history of our great country, certainly the first time in the history of this great deliberative body, we have the folks on the other side of the aisle filibustering circuit court judge nominees of the President of the United States. That has never happened before.

There is one simple reason it is happening now. That is, in spite of this body approving hundreds of more liberal-leaning judges during the 8 years of the previous administration, the Democrats in the Senate refuse to allow more conservative judges to be appointed and confirmed by this President. We had another yesterday relative to another judge that is now being filibustered. That takes time.

In addition, the folks on the other side of the aisle are doing something I have never heard of in my 10 years of service on Capitol Hill; that is, they are demanding that before we go to conference on any bill, the end result of that conference be deemed to be so-and-so, which is to their way of liking, before they will agree to appoint conferees. That is not the way the legislative process works. The American people select the majority party in the Senate and the House to pass legislation. The majority should control, but, unfortunately, it does not.

Lastly, I am a big supporter of the No Child Left Behind program. I am a huge supporter of public education. It is the foundation of the future of America. I am happy to be the husband of a 30-year former schoolteacher. My daughter starts next week teaching in the public schools in my home county. My mother was a public school teacher. My brother is a public school teacher. I am a huge fan.

In spite of what I have just heard, I have yet to meet a teacher anywhere in America who doesn't say: I love the idea of providing accountability to the American people for the quality of education that I am providing to the children I teach. That is the basic concept of No Child Left Behind.

Sure, we have had problems with No Child Left Behind. Every major reform is going to have bumps in the road. I did four hearings in my State, invited every single school superintendent in all 159 counties, plus the city schools in my State to get together to bring their administrative personnel, but primarily bring me your teachers. I wanted to hear from them what complaints they had. They had serious complaints that were discussed with representatives of the U.S. Department of Education and the Georgia Department of Education. We resolved—we didn't resolve all of them, but we went to work and we got their complaints answered. We made changes in the regulations. All I heard this morning is: Well, No Child Left Behind doesn't work. Everybody is upset.

Everybody is not upset with it. I assure my colleagues, there has been no legislation coming forward from the other side of the aisle to try to correct it. It is simply a political year. It is unbelievable what we hear on the floor of the Senate these days. That is not what I got up here to talk about this morning, but I couldn't listen to that and not comment on it.

INTELLIGENCE

Mr. CHAMBLISS. Mr. President, I want to say something about Ambassador Wilson and his activities, but I see Senator BOND is here. He is going to follow me, and I know he is going to talk about that. Suffice it to say, only one comment needs to be directed about the issue of Mr. WILSON; that is, he didn't tell the truth. He didn't tell the truth, and that is explicitly set forth in the Senate intelligence report. It was also set forth in the report issued by Mr. Butler in Britain last week.

On the 7th of July, Chairman ROBERTS and Vice Chairman ROCKEFELLER of the Senate Intelligence Committee released a report on the U.S. intelligence community's prewar intelligence assessments on Iraq prepared by the Senate Select Committee on Intelligence. This 511-page report is highly critical of our intelligence analysis and collection capabilities, especially in the field of human intelligence or what we refer to as HUMINT.

Yesterday, the Senate Intelligence Committee began the first of a series of hearings on intelligence reform. We heard from our colleague Senator FEINSTEIN about her proposal to create a new position of director of national intelligence to oversee the entire intelligence community. We also heard from three prominent experts—former Deputy Secretary of Defense John Hamre; former Director of Central Intelligence, Jim Woolsey; and Lieutenant General Odom, former Director of the National Security Agency—on how best to structure the intelligence community to meet the needs of the threats we face today and will face tomorrow.

This was a very interesting hearing. Senator FEINSTEIN does her homework. She studied this issue. She presented a very insightful presentation regarding her bill. I look forward to continuing this debate and continuing to review the process, looking both at what we have in place today as well as what reforms we should make relative to the intelligence community.

Tomorrow, we expect the 9/11 Commission to release its report on events leading up to the attack of September 11. There is no doubt that the intelligence community will also come under heavy criticism in that report.

These various reports and hearings are getting wide coverage in the media. I am glad they are. It is important for our debate on reforming the intelligence community to be as inclusive as possible. Intelligence reform is a bipartisan issue. The problems we have uncovered span more than a decade, under both Republican and Democratic administrations and Republican- and Democratic-controlled Congresses. The fact is, the systemic changes and reforms in the intelligence community, which would have made it more difficult for terrorists to strike us on 9/11 or to have more accurate information on Iraq's WMD capabilities, simply did not take place.

As more and more information gets into the public domain, especially in this highly charged political year, there will surely be attempts to politicize the complex issues of intelligence failures and intelligence reform. What I would like to do is to put some clarity on this for the American people.

First, there is only one principle to follow on intelligence reform. Intelligence is our first line of defense against terrorism, and we must improve the collection capabilities and analysis of intelligence to protect the security of the United States and its allies.

We should beware of anyone who tries to twist this principle in a political fashion. The truth is our country, our people, our liberties, and our way of life are under attack by radical Islamic terrorists who kill and destroy in the name of religion.

The security of the United States, which is so dependent on having accurate and timely intelligence, is not a Republican or a Democratic issue. It is a responsibility of all of us in the Congress to make sure we legislate and appropriate moneys so we have the best possible intelligence community.

Second, let's be clear about our tasks ahead. We are talking about amending the National Security Act of 1947, which has been the cornerstone of our security and intelligence structure for over half a century. While change is needed, it should be deliberate. It should also be substantive, even radical, if necessary.

The first comprehensive report detailing critical shortfalls within the United States intelligence community's performance was conducted by the House Subcommittee on Terrorism and Homeland Security. As the chairman of that subcommittee, I released its report on July 17, 2002. Following this, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence conducted a joint inquiry into the intelligence community's activities before and after the terrorist attacks of September 11, 2001, and issued its report in December 2002.

The Senate Intelligence Committee report released on July 7 reflects my deep concern that a number of issues identified both by the Subcommittee on Terrorism and Homeland Security and the joint inquiry have not yet been acted upon. For example, the subcommittee identified that information sharing among intelligence agencies was abysmal, and the joint inquiry report pointed out the CIA was too heavily reliant on foreign liaison reporting and that it had not taken the steps necessary to penetrate hard targets, such as the inner circle of al-Qaida. These issues have not yet been corrected to my satisfaction.

Third, as we address the question of how to reform the intelligence community, including the possible creation of a director for national intelligence, there are five important objectives for us to focus on.

First, coordination and information sharing throughout the intelligence community must be improved.

Second, HUMINT capabilities must be increased, and we must be willing to accept the risks associated with aggressive HUMINT operations. And that is a critical part of this. We must be willing to accept some of the risks that are going to be necessary to secure the type and quality of information on the intelligence side that we need.

Third, analytical competition needs to be preserved.

Fourth, our counterintelligence capabilities need improvement.

And fifth, the role and scope of the military's position in the intelligence community should be reviewed.

I included this last point because I want to ensure that the military's capability to support the intelligence requirements of our unified combatant commanders is maintained in any reformation of the intelligence community. That is absolutely critical. All one had to do was listen to our panel yesterday to understand the real importance of that point.

The scope of the military's direct involvement in intelligence is enormous and it needs to have a proper role in the intelligence community. Eight of the fifteen members of the intelligence community belong to the Department of Defense. In the current structure, each one of these DOD elements acts more or less independently, representing one small segment of the overall intelligence interests of our military. The creation of the Under Secretary of Defense for Intelligence has helped somewhat to bring a common intelligence policy to DOD, but we should also consider the creation of a single DOD intelligence command as part of any extensive and meaningful intelligence reform.

The Congress directed the establishment of the Unified Combatant Command for Special Operations, or what is known as SOCOM, over the objections of the Department of Defense because our colleagues had the vision to foresee the requirement. At the time, the DOD and Chairman of the Joint Chiefs of Staff objected, but in hindsight, the creation of SOCOM was the correct path. The rationale for establishing a Unified Combatant Command for Intelligence, or INTCOM, is very much the same, and I believe now is the proper time to explore this idea.

As we found in our review on the intelligence on Iraq, the intelligence community is made up of hard-working, dedicated men and women, and Chairman ROBERTS, in his statement, referred to giving them an intelligence community worthy of their efforts. So I welcome the proposal of Senator FEINSTEIN for establishing a Director of National Intelligence as one of the several ideas and issues for us to address and debate.

One final point. As President Bush has said many times, he is determined to make sure American intelligence is as accurate as possible for every challenge we face. America's enemies are secretive, they are ruthless, and they are resourceful. That is why the President supports intelligence reform as much as we do in the Congress.

In the coming months, the Senate Select Committee on Intelligence will solicit a broad range of views on reforming the intelligence community, and we will vigorously debate each intelligence reform measure that comes before us. I look forward to this challenge, and I will do everything in my power to ensure that the United States has the intelligence collection and analytical capabilities necessary to protect our lives, our property, our way of life, and our liberties.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I commend my colleague from Georgia for his very thoughtful and incisive comments. I believe he is a great addition to the Senate with his experience working on intelligence issues in the House. On the Senate Intelligence Committee, he makes great contributions. I appreciate and second what he has said.

SENATE INTELLIGENCE COMMITTEE REPORT

Mr. BOND. Mr. President, it is interesting today that some of our colleagues are on the floor talking about the wonderful expose Ambassador Joe Wilson made. Joe Wilson and his wife have become quite a cause celebre. He has had 30 appearances, he is writing books and, oh, yes, now he is on the Web site of Senator KERRY. The Web site is ironically entitled "RestoreHonesty.com."

On that Web site, Mr. Wilson said:

> . . . this President misled the nation in his State of the Union Address.

Then he goes on to say:

> They tried to intimidate me and others who were willing to speak up and tell the truth. . . . I was courageous to speak truth to the power of the Bush White House. . . .
>
> George Bush's Administration has betrayed our trust—I know that personally.

That is quite an indictment. It goes along with quite a few other points.

I understand on the first page of his book—I did not buy it and I do not intend to. I was told that three times on page 7 he said President Bush lied. Why did he do that? It was all because of 16 words in the State of the Union Address on January 28, 2003.

I addressed this issue last week in this body, and I think I raised some very serious questions about the veracity of Ambassador Wilson's suggestions. I was given the opportunity last night on the Jim Lehrer PBS "NewsHour" to have a discussion with Mr. Wilson. Margaret Warner was the interviewer. Unlike many of the other sound-bite discussions on TV these days, we had a full 10 minutes. It was a very interesting discussion because I had the opportunity to make my points, and Mr. Wilson made his points. I commend PBS for giving us the opportunity.

What I cited when the interviewer asked me about my contentions that Mr. Wilson was not truthful was I noted that the basis of his charge and the basis of so much nonsense we have seen disseminated in the press and repeated by some of my colleagues on this floor and covered in scam political pieces being put out by friends of the Democratic nominee that President Bush lied was totally debunked, among other things, by the finding of Lord Butler's commission in the United Kingdom.

He said in paragraph 499 of the report released last week:

> We conclude that on the basis of intelligence estimates at the time covering both Niger and the Democratic Republic of Congo, the statements on Iraqi attempts to buy uranium from Africa in the Government's dossier and by the Prime Minister and the House of Commons were well-founded.

This is the important point. This is the examination of British intelligence:

> By extension, we conclude also that the statement in President Bush's State of the Union Address of January 28, 2003, "The British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa" was well-founded.

Mr. President, the British went back and looked at it, and they said what President Bush said about British intelligence was well-founded. He says:

> The British Government had intelligence from several different sources indicating that this visit was for the purpose of acquiring uranium.

Now, we get a little bit more of that. Actually, the one piece of information that Ambassador Joe Wilson brought back from his trip to Niger in February-March of 2003—the only useful data he brought back was the fact that the Prime Minister of Niger told him the Iraqi delegation met with him in 1999 to begin discussions to establish commercial contacts. What do you think they wanted to import from Niger? Well, there are a couple of choices. Niger's second and third largest exports are mung beans and goats. Niger's largest export—three-quarters—is yellowcake uranium. The Prime Minister reasonably concluded that they were probably seeking yellowcake uranium. There is no evidence they actually purchased it. It was not conclusive. There was a forged document about purchases that was not truthful, but that does not debunk or in any way take away from the fact that President Bush was correct, and the British intelligence is still correct in saying that Iraq was seeking uranium from Africa.

Based on that, and since Ambassador Wilson, who came back finding only that there had been one contact, and that contact, according to most analysts, suggested there was even more of a basis for the conclusion in the State of the Union Address—he came back and debunked the whole thing, made it a lie.

The conclusion, unanimously reached in the Senate Select Committee on Intelligence, after over a year of investigation, 15,000 documents reviewed, over 200 interviews, signed on by all members of the committee, including Senator JOHN EDWARDS, says in conclusion 12:

> It was reasonable for analysts to assess that Iraq may have been seeking uranium from Africa based upon Central Intelligence Agency reporting and other available intelligence.

Conclusion 13 says:

> The report on the former ambassador's trip to Niger, disseminated in March 2002, did not change any analyst's assessment of the Iraq-Niger uranium deal. For most analysts, the information in the report lent more credibility to the original Central Intelligence Agency reports on the uranium deal.

You talk about thoroughly debunking the debunker. Our staff asked Mr. Wilson how he knew some of the things he was stating publicly with such confidence. On at least two occasions, he admitted he had no direct knowledge to support some of his claims, and he was either drawing on unrelated past experience or no information at all. For example, when they asked him specifically how he knew the intelligence community had rejected the possibility of a Niger uranium deal, or even exploration for a deal, as he wrote in his book, he told the committee his assertion may have involved a "little literary flare."

That is a heck of a thing to call a whopping lie, a "little literary flare." Back home, we call that a fraud and a hoax. Now, I suggest to Mr. Wilson once again that he owes a public apology to the President and the Vice President. By the way, he said he knew the Vice President knew of his report. The Vice President did not get his report. There is no evidence of that. If he had, it would have been with the analysts' conclusion that his report probably made it more likely and not less likely that Iraq was seeking uranium from Niger. Anyhow, he stood by it.

I tell you, the whole premise of this smear campaign that was started by Ambassador Wilson to call the President a liar has been totally debunked by the British intelligence report, by Lord Butler, and by our own Senate Intelligence Committee's unanimous report.

By the way, we have been hearing a lot—and I understand we are going to hear a lot more—about Ambassador Wilson's wife. Let me deal with that. In our report, we found good evidence that she had actually made recommendations to the CIA to send her husband to Niger. On page 39 of the Intelligence Committee report, we state:

> The former Ambassador had traveled previously to Niger on the CIA's behalf. The

> former ambassador was selected for the 1999 trip after his wife mentioned to her supervisors that her husband was planning a business trip to Niger in the near future and might be willing to use his contacts in the region.

Also, on page 39:

> . . . interviews and documents provided to the Committee indicate that his wife, a CPD employee, suggested his name for the trip. The CPD || reports officer told Committee staff that . . . . On February 19, 2002, CPD hosted a meeting with [Mr. Wilson], intelligence analysts from both the CIA and INR, and several individuals from the DO's Africa and CPD divisions. The purpose of the meeting was to discuss the merits of [sending the Ambassador]. . . . The INR analyst's notes indicate that the meeting was apparently convened by the former ambassador's wife, who had the idea to dispatch him to use his contacts to sort out the Iraq-Niger uranium issue. She left after she set it up, but she managed to get the job done.

But we didn't stop there. Even though Mr. Wilson had angrily denied and used barnyard expletives in Time magazine to say that his wife had nothing to do with the trip to Africa, and Joshua Marshall quoted him saying that it defies logic that his wife sent him, the most compelling answers of all that his wife gave to our staff when interviewed in January 2004, 6 months after the Wilson hoax began, and the months and months of charges and Joe Wilson's fierce denials that his wife had anything to do with his selection—let me repeat. Ambassador Wilson angrily said his wife had nothing to do with his trip to Africa.

> That is bull [expletive]. That is absolutely not the case.

That is what Wilson told Time magazine on July 17, 2003.

So he had denied it. What did she say? Did she deny it? Six months after she heard her husband angrily denying it and knowing what he had been saying for months and what he wrote in his book, I had staff go back and see what she said when asked about this issue. Her quote was:

> I honestly do not recall if I suggested it to my boss. . . .

That is what she said. That is from the transcript. Frankly, I think that is very telling. She doesn't recall if she suggested it to her boss after 6 months, and her husband has been out there saying she had nothing to do with it. Are you kidding? Just who is the Ambassador's source for all of his denials? Yet 6 months later she cannot remember if she suggested it to her boss?

I know the occupant of the chair has interviewed some witnesses and tried some cases. When you get a person who has knowledge that is right on point, and it is an issue that has been the focus of great discussion for months and you ask them, Did you, in fact, say what the other witnesses said, you can do two things: Say, absolutely not, I didn't say it. But if that is not true, you have all these other witnesses who said you did. So what do you say? You say: I honestly do not recall.

I think that leaves us pretty clearly in the camp of saying that what the analysts and others said the February 12 memo she prepared means, and that is that she was the one who proposed sending her husband to Iraq.

Joe Wilson said that the CIA said to a couple of reporters who asked about that—and this is from last night—that she did not recommend her husband to undertake the Niger assignment. He stated that the officers who did ask him to check the uranium story were aware of who he was married to, which is not surprising; she did not recommend her husband.

Well, Ambassador Wilson may have found some people who were willing to say that, but we sent this whole report to the CIA. They fact-checked the whole thing. We even set out the facts that she recommended sending her husband. The CIA commented on almost everything that we had in the report. It was a lengthy report. It took them a long time. Not one comment, not one change, in the findings in our report that she was the one who recommended him to go.

That has been discussed at great length on the floor by people who are charging that somehow there was a criminal conspiracy to "out" Ambassador Wilson's wife in retaliation.

I believe the Wall Street Journal has been doing a very interesting analysis of this, and I ask unanimous consent that yesterday's Wall Street Journal article "Mr. Wilson's Defense," be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOND. In fact, it was such a traumatic experience to have Mr. Wilson's wife identified that I saw their pictures in the paper. They posed for Vanity Fair in front of the White House. It must have been a crushing blow to them to have her identity publicly disclosed. So they had to get on the cover and make 30 appearances? And I trust his book sales are going well. Maybe he will even have a movie contract.

Anybody who reads the Kerry Web site, listens to his interviews, or goes to a movie should know that his whole thesis is a fraud and a hoax.

Regrettably, that is merely a continuation of a plan that we have seen implemented by opponents of President Bush and Vice President CHENEY.

I joined the Intelligence Committee in January of 2003 because I realized that intelligence is absolutely critical in the war on terrorism. We cannot stop terrorism by retaliating against suicide bombers. We cannot prosecute them. We cannot find enough to identify them, much less prosecute them. So I joined the Intelligence Committee.

Clearly, we used to have a history that politics stops at the water's edge. Well, I understood that politics stopped at the entrance to the Intelligence Committee, but it has not been that way.

There are those in the Intelligence Committee on the other side who want to use the Intelligence Committee as a vehicle not to improve our intelligence, not to find out what the weaknesses are and how to build a stronger case, but to attack the President. That is what this November 2003 minority staff memo says: Here are our options under the rules and we have identified the best approach. Our plan is as follows: One, pull the majority along as far as we can on issues that may lead to major new disclosures regarding improper or questionable conduct by the administration. And they certainly they have done it.

Two, essentially prepare Democratic additional views to attach to any interim or final reports, and we intend to take full advantage of it. They have done that, and either today or tomorrow I will discuss the politicization in those views.

They also go on to say: We will identify the most exaggerated claims and contrast them with the intelligence estimates that have since been declassified.

Well, tough luck, guys. There were no exaggerated claims, nothing to contrast with the intelligence estimates. In fact, the big claim that they make that the administration was pressuring analysts to change their conclusion has been debunked. It has been debunked thoroughly and repeatedly throughout, and I have described this on the floor numerous times.

The conclusions are there was no pressure to change conclusions on weapons of mass destruction or on terrorism. We found in the conclusions that the Vice President's visits and questions to CIA were not only not pressuring to change the views but were expected.

One of the problems we find is that there is not enough questioning by policy users. By the way, one of the things they are attacking and one of the things that some of my colleagues have attacked is the office of Doug Feith, special policy—a two- or three-man operation—had a Defense Intelligence Agency analyst working with him. They reviewed for the Department of Defense the Secretary of Defense, the intelligence estimates they had, and they questioned them. That is what they should have done.

Somehow this office is being called unlawful by one of my colleagues. How bizarre. That is so far beyond the pale it is bizarre to say it is unlawful for a DIA agent working for the Secretary of Defense to question the CIA. Come on, gang. We need the CIA and the DIA to interact, get rid of group think, challenge those assessments.

Unfortunately, this attack on Doug Feith in the Office of Special Projects has heavy overtones of anti-Semitism. We can see the charges. They talk about the "neocons" who are warping our intelligence. Unfortunately, that is their code word for Jewish public servants, and I believe that is an unacceptable way to go about challenging policy. It is not a fruitful endeavor.

Going back to the political memo of 2003, as I said, they wanted to contrast the views. They also said:

> Once we identify solid leads the majority does not want to pursue, we could attract more coverage and have greater credibility in that contact than one in which we simply launch an independent investigation based on principled but vague notions regarding the "use" of intelligence.

Well, they are doing that because they are saying they want to go back and investigate Doug Feith's office. They had no findings of anything that Mr. Feith did was illegal, unlawful, or unwarranted pressure, but they are choosing to attack him because he represents the "neocons." I think my colleagues get what I mean.

They go on to say:

> In the meantime, even without a specifically authorized independent investigation, we continue to act independently when we encounter foot-dragging on the part of the majority.

They say, in summary, that intelligence issues are clearly secondary to the public's concern regarding the insurgency in Iraq. Yet we have an important role to play in revealing the misleading, if not flagrantly dishonest, methods and motives of the senior administration officials who made the case for a unilateral preemptive war. The approach outlined above seems to offer the best prospect for exposing the administration's dubious motives and methods.

That was the game plan that some of my colleagues took into this investigation of pre-Iraq war intelligence. That is deeply disappointing—disgusting, I would say—to say this is the game plan being played out on the floor to politicize intelligence.

Their conclusions about "misleading," about "pressure," unfortunately, are not supported by the facts. There was exhaustive examination and interviews. Chairman ROBERTS invited in anybody who claimed to know about improper pressure on the analysts and nobody could come forward with anything. Nobody could come forward with any. No wrongdoing by Doug Feith, but they are still going at it.

My colleagues on the other side of the aisle are not troubled by an absence of fact. They have a political jihad. They have their crusade. They have sold, to too many people, the base canard that President Bush and Vice President CHENEY were not telling the truth when, in fact, the whole basis of that charge was a fraud and a hoax.

As my colleague from Georgia said, we need to improve the intelligence operations. We have a lot of work to do. But we also have some work to do in the Congress, and that is to get over attempting to use the Intelligence Committee and the intelligence community as a political weapon to attack our opponents.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, July 20, 2004]

MR. WILSON'S DEFENSE

After U.S. and British intelligence reports exposed his falsehoods in the last 10 days, Joe Wilson is finally defending himself. We're therefore glad to return to this story one more time, because there are some larger lessons here about the law, and for the Beltway media and Bush White House.

Mr. Wilson's defense, in essence, is that the "Republican-written" Senate Intelligence Committee report is a partisan hatchet job. We could forgive people for being taken in by this, considering the way the Committee's ranking Democrat, Jay Rockefeller, has been spinning it over the past week. But the fact is that the three most damning conclusions are contained not in Chairman Pat Roberts's "Additional Views," but in the main body of the report approved by Mr. Rockefeller and seven other Democrats.

Number one: The winner of last year's Award for Truth Telling from the Nation magazine foundation didn't tell the truth when he wrote that his wife, CIA officer Valerie Plame, "had nothing to do with" his selection for the Niger mission. Mr. Wilson is now pretending there is some kind of important distinction between whether she "recommended" or "proposed" him for the trip.

Mr. Wilson had been denying any involvement at all on Ms. Plame's part, in order to suggest that her identity was disclosed by a still-unknown Administration official out of pure malice. If instead an Administration official cited nepotism truthfully in order to explain the oddity of Mr. Wilson's selection for the Niger mission, then there was no underlying crime. Motive is crucial under the controlling statute.

The 1982 Intelligence Identities Protection Act was written in the wake of the Philip Agee scandal to protect the CIA from deliberate subversion, not to protect the identities of agents and their spouses who choose to enter into a national political debate. In short, the entire leak probe now looks like a familiar Beltway case of criminalizing political differences. Special Prosecutor Patrick Fitzgerald should fold up his tent.

Number two: Joe Wilson didn't tell the truth about how he supposedly came to realize that it was "highly doubtful" there was anything to the story he'd been sent to Niger to investigate. He told everyone that he'd recognized as obvious forgeries the documents purporting to show an Iraq-Niger uranium deal. But the forged documents to which he referred didn't reach U.S. intelligence until eight months after his trip. Mr. Wilson has said that he "misspoke"—multiple times, apparently—on this issue.

Number three: Joe Wilson was also not telling the truth when he said that his final report to the CIA had "debunked" the Niger story. The Senate Intelligence report—again, the *bipartisan* portion of it—says Mr. Wilson's debrief was interpreted as providing "some confirmation of foreign government service reporting" that Iraq had sought uranium in Niger. That's because Niger's former Prime Minister had told Mr. Wilson he interpreted a 1999 visit from an Iraqi trade delegation as showing an interest in uranium.

This is a remarkable record of falsehood. We'll let our readers judge if they think Mr. Wilson was deliberately wrong, and therefore can be said to have "lied." We certainly know what critics would say if President Bush had been caught saying such things. But in any event, we'd think that the news outlets that broadcast Mr. Wilson's story over the past year would want to retrace their own missteps.

Mr. Wilson made three separate appearances on NBC's "Meet the Press," according to the Weekly Standard. New York Times columnist Nick Kristof first brought the still anonymous Niger envoy to public attention in May 2003, so he too must feel burned by his source. Alone among major sellers of the Wilson story, the Washington Post has done an admirable job so far of correcting the record.

Also remarkable is that the views of former CIA employee Larry Johnson continue to be cited anywhere on this and related issues. Mr. Johnson was certain last October that the disclosure of Ms. Plame's identity was a purely "political attack," now disproven. He is also a friend of Ms. Plame and the author of a summer 2001 op-ed titled "The Declining Terrorist Threat." You'd think reporters would at least quote him with a political warning label.

The final canard advanced by Mr. Wilson's defenders is that our own recent editorials and other criticism was somehow "orchestrated." Well, by whom? Certainly not by the same White House that has been all too silent about this entire episode, in large part because it prematurely apologized last year for the "16 words" in a State of the Union address that have now been declared "well-founded" by Lord Butler's inquiry in Britain. If Mr. Bush ends up losing the election over Iraq, it won't be because he oversold the case for war but because he's sometimes appeared to have lost confidence in the cause.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. How much time do we have remaining?

The PRESIDING OFFICER. There is 4½ minutes remaining.

SENATE STANDARD OF MEASUREMENT

Mr. THOMAS. Mr. President, of course we all have spent a good deal of time concerned about the direction we are taking here, the number of things we are accomplishing, the fact that many of the things we would like to do have not been accomplished. I think that is a legitimate concern. We ought to try to deal with some of those issues.

On the other hand, there have been a number of things done, of course. I think we have had the most obstruction in the movement here that we have seen in many years. Many important issues have been stopped, have been obstructed, frankly, because our friends on the other side of the aisle did not want to go forward with these issues, or wanted to hold them up where they could add all kinds of unrelated amendments to them.

The Class Action Fairness Act, of course, was blocked. The fairness in asbestos injury resolution was blocked. The Patients First Act, the energy policy—probably one of the most important issues we could have dealt with this entire year is still there. Charity aid, recovery, and empowerment legislation, which gave strength to do things in the private sector, we were unable to do that; Personal Responsibility, Work, and Family Promotion Act; workforce investment; five judges were held up simply for the purpose of holding them up.

It is too bad. It is something we need to change. We ought to be concerned here with issues, not politics, not KERRY, not Bush, but talk about what the issues are here and the things we ought to be doing. Politics, of course, is part of our lives, but so is accomplishing something in the legislature.

We have done some things. The Omnibus appropriations bill for this fiscal year was passed this year. It was delayed but nevertheless passed. The Pension Stability Act had to do with changing the requirements for putting money into pensions. That made that better. The accountability, flexibility and efficiency—the transportation bill—again, one of the most important bills we could possibly pass, we passed it in the Senate but, unfortunately, it is still hung up in conference. The Internet bill which allows for the moratorium of taxation on the Internet, a good thing, was passed by the Senate.

The Jumpstart Our Business Strength Act, of course, is one that is pending and ready to go, I hope, to the conference committee. This is the one that the WTO had the penalties on exports from the United States and we had a 3-percent reduction for those that exported goods and that gave us a penalty. Now we are changing that. There is also a great deal in that bill with regard to encouraging the economy to grow.

So we have done a number of things. We have done some things to reduce the redtape and the consumer initiative, taxpayer protection, and IRS accountability that strengthens the protection the taxpayers have in terms of what information is made public on their taxes.

Strengthening and improving health care; we did the project bioshield. These things have passed the Senate but have not been completed yet largely because we have not been able to go to conference on many of them.

Here again we find obstacles in our way this year that we have never seen before. I guess it means we need to take a little look at our system.

Keeping Americans safe at home—of course, we passed the unborn victims of violence bill that amends the Federal law regarding women who are assaulted, and an unborn child is killed, to allow the assailant to be charged.

Flood insurance reform is very important. It amends the Flood Act to encourage damage mitigation. Homeland security has been something, of course, we have passed.

Regarding crime, we have done a lot of things, even though we could do a great deal more, I am sure.

Educational initiatives—the NASA Workforce Flexibility Act offers scholarships, incentives, for highly qualified students to move forward.

IDEA reauthorization, the Individuals with Disabilities Act, is one that is very important to be reauthorized and moved through. It was passed by the Senate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THOMAS. Mr. President, I ask unanimous consent to continue for 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. The point is, we have a problem with the process here. Obstruction is available. I don't think that is what is intended.

At the same time, we have accomplished a good many things that certainly are important and that we need to recognize.

I want to mention something that I believe is important, and that is taking a little look and having a way to have some measurement of the kinds of things that are brought up that are legitimately congressional—Federal kinds of issues.

I understand everyone has issues they would like to bring up. Frankly, some of them are inappropriate to be here on the Federal level. We continue to have more spending; we have more government; we have more involvement in people's lives. One of the reasons is we have not set up some criteria to say this is a good idea, but is it the thing that ought to be done in the Federal Government as opposed to State government or city government or county government?

TOM FEENEY, from Florida, one of the House Members, put out an interesting idea. He has a little card like a credit card. It measures these things against issues.

No. 1 is less government: Does the bill tend to reduce government regulations, the size of government, eliminate entitlements or unnecessary programs? That is one of the tests he has against the issue.

No. 2 is lower taxes: Does the bill promote individual responsibility in spending or reducing taxes? It is a good idea to take a look at that.

No. 3 is personal responsibility: Does the bill encourage responsible behavior among individuals and families, and encourage them to take care of their own issues to an extent? Remember, we don't want the government in our lives, yet things have to be done. It is a choice: do we do them ourselves?

No. 4 is individual freedom: Does the bill offer opportunities for individuals to do those kinds of things?

No. 5 is stronger families: Is it something that contributes to the family function, the family structure in our country, which is obviously one of the most important things we have?

Finally, No. 6, does it add to domestic tranquility and national defense?

I think those are interesting concepts, interesting measurements that one might take—in their own mind, of course. Each person would have a different view of how to deal with it but to see if what is before us meets some of these measurements and does these things.

First, I think we are going to have to do something about the kind of obstructionism we have seen that moves to keep us from doing what we need to do. Second, we need to recognize we have done a number of things and passed them in the Senate. Unfortunately, they are not fully done. Maybe a little unrelated, but important to me, we ought to have some kind of standard we measure in our minds as to whether this is a legitimate thing, necessary thing, appropriate thing to be done at the Federal level or indeed should be done other places.

Mr. President, I yield the floor.

UNITED STATES-MOROCCO FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2677, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2677) to implement the United States-Morocco Free-Trade Agreement.

The PRESIDING OFFICER. Under the previous order, time until 11:30 p.m. is equally divided for debate on or between the chairman and ranking member.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, what is the pending matter?

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JOHNSON. Mr. President, I rise to discuss the Morocco-United States free-trade agreement, FTA, and the impact this bilateral free trade agreement will have on agricultural producers in my State of South Dakota. While I retain concerns on a number of agreements negotiated under Trade Promotion Authority, TPA, as part of fast track trade negotiations navigated by the current administration, I see a potential positive impact on the South Dakota economy from a number of provisions in this agreement. I am pleased that the needs of many sectors in our agricultural community were accounted for while hammering out the terms included in this FTA.

I am disappointed at the recent passage of the Australian free-trade agreement, AFTA, which seriously weakens our ability to foster growth in the agricultural sector. It is concerning that the adoption of the AFTA will hinder the retention of our agriculture producers, exacerbate supply, and consequently undermine our Federal price support programs. When dealing with sensitively priced commodities and a delicate supply and demand balance, I believe we must prudently evaluate the economic ramifications from any proposed trade agreement. I am concerned for the rural communities in my home state of South Dakota, and I will continue to evaluate trade agreements on a case by case basis to ascertain the potential benefits and negative impacts.

Despite these concerns, I am pleased to see that the Moroccan free-trade agreement holds promise and provides a number of potentially rewarding terms for United States producers and ranchers. The agreement encompasses a wide variety of commodities that are important to the health of the rural economy in South Dakota, including beef, soybeans, wheat, corn and sorghum. As in the case of beef, for example, increasing market access under this agreement is imperative for ensuring our producers and ranchers maintain ample opportunity for promoting quality American beef. This opportunity will be facilitated by a low in-tariff quota that will promptly be zeroed out.

As in the case of soybeans, duties on soybeans used for processing will cease immediately. Duties on soybeans for processed soy products and other uses will be reduced by half in the first year, and eliminated entirely within a 5-year timeframe. Additionally, wheat will benefit from this bilateral FTA. Fluctuating weather conditions present problematic conditions for Moroccan farmers, and as a significant wheat importer, a beneficial trading relationship can be established from increased market access to the Kingdom of Morocco.

While I retain reservations about the direction the administration's free trade agenda has taken, I am pleased that a free trade agreement has been proposed that has garnered the support of many American agriculture producers, and will facilitate increased market access and positive economic impact for our rural communities.

Mr. ALLEN. Mr. President, I rise today to speak on the pending measure before the Senate, the U.S.-Morocco free-trade agreement. Soon this body will likely pass the implementing legislation and send it to the President for signature and subsequent enactment. Before that takes place, I believe it is important to outline to the people of the Commonwealth of Virginia my position on this matter and why I will vote in favor of its passage though it is not a perfect agreement.

The enactment of free trade agreements have the potential to increase the profitability of U.S. companies, increase U.S. jobs, open new markets for U.S. products and services and engender stronger relationships with other nations. However, the central tenet of such agreements must be fairness, clear benefit to all parties and a relatively equitable number and degree of concessions. Understanding that in any negotiation there must be some give and take, it is counterproductive and damaging for the U.S. to agree to provisions within these agreements that leave U.S. industries susceptible to loopholes that allow a non-party country duty free access to our market.

In the case of the Morocco free-trade agreement I am speaking of the textile provisions. This agreement, while in many ways better than previous free trade agreements, would still allow for non-party countries to export yarn or fabric to Morocco and upon production into apparel, be imported into the United States duty-free. If our government is going to negotiate an agreement with another country and make concessions to secure an equally beneficial arrangement, I cannot comprehend why loopholes would be included to permit a third party to benefit from the agreement without having to meet the requirements or make the concessions of those party to the trade pact.

Under a tariff preference level, the Morocco agreement will allow the use of fabric and yarn from a non-party of up to thirty million square meters equivalent. It is difficult to understand why such an exception is necessary, given that the total Moroccan trade in fabric and yarn with the U.S. in 2003 was 16.477 million square meters equivalent. I have been in contact with many in the domestic textile industry and have to sincerely agree with them that such a provision appears to be a substantial loophole that will ultimately allow a country other than the U.S. or Morocco to benefit from the U.S.-Morocco free-trade agreement.

The U.S. government has an obligation to the American worker to do away with the practice of providing exceptions like tariff preference levels. A third-party country that would provide yarn and fabric under these loopholes will have conceded nothing nor offered greater access to its market as it benefits from the agreement negotiated between the U.S. and Morocco. Make no mistake, concessions like this can adversely affect American jobs. Domestic textile production has provided Americans stable, well-paying jobs for generations; however the enactment of free trade agreements that allow a party to go outside of the agreement but enjoy duty-free access has contributed to the growing number of unemployed textile workers in this country.

Going forward, I would strongly recommend to those negotiating trade agreements on behalf of the American people to visit Southside Virginia and gain a first-hand perspective on how the concessions made in trade pacts can impact not only a few families, but entire communities. We must make sure that when we are opening our markets to other countries through trade agreements that we do not allow a third party to benefit without being party to the requirements and concessions of that trade agreement.

Even with the grave concerns I have with the textile provisions of this agreement, I believe that on balance, it provides a net-plus for the working people of the United States. The reduction in tariffs and protection of intellectual property and trademarks will provide great benefit to hundreds of thousands of U.S. jobs and further the global market share of their enterprises. Additionally, the relatively balanced nature of the U.S.-Morocco free-trade agreement sets a valuable example with the other developing countries around the world.

The removal of tariffs on 95 percent of bilateral trade on the day of enactment should greatly benefit the majority of U.S. industries and their employees. Given that Morocco currently places a 20 percent duty on U.S. exports while the U.S. only assigns a four percent tariff on Moroccan exports this agreement makes a strong initial push for free and open trade. With strong U.S. industries like information technology, machinery and construction equipment poised to gain immediate duty-free access to Morocco; the U.S. should see positive gains in exports to Morocco in the near future.

The domestic farming community will see tariffs on a large number of agriculture products cut significantly or eliminated immediately. The reduction of tariffs and the implementation of new tariff-rate quotas on products like beef, poultry and wheat will likely result in a tremendous growth in the amount of U.S. agriculture products exported to Morocco.

The U.S. has had a difficult time convincing its trading partners to actively protect intellectual property and fully prosecute those found to be pirating or counterfeiting U.S. software, movies and music. I am pleased the Morocco agreement establishes new protections for intellectual property rights and increases penalties for those found to engage in the piracy and counterfeiting of U.S. products.

Finally, the enactment of the U.S.-Morocco free-trade agreement sends a powerful message to developing nations around the world. It is a clear indication that the U.S. is interested in developing mutually beneficial economic and trade relationships that can result in greater access to the U.S. market and hopefully closer ties with the U.S. Agreements like the Morocco trade pact provide a clear example for those countries in Africa and the Middle East willing to make political and economic reforms.

In closing, I will vote in favor of the U.S.-Morocco free-trade agreement because comprehensively, it is beneficial to the U.S. business community. The reduction of tariffs and increased access to markets will improve the profitability of many U.S. companies and provide an example for future agreements with tolerant, reform-minded, developing nations. This could have been an outstanding, purely positive agreement, rather than a good agreement on balance.

Mr. McCAIN. Mr. President, the United States has enjoyed a close relationship with Morocco since 1777, when Morocco became the first nation to recognize the sovereignty of our fledgling Government. Since then we have stood together through thick and thin, and Morocco today remains one of America's dear friends. This free-trade agreement, FTA, will further strengthen the bond between our two nations, and illustrates the benefits of greater economic ties with countries in the greater Middle East.

Initially, the decision to begin negotiations with Morocco was controversial. But Morocco's economic liberalization and political reform efforts, combined with its role as a stabilizing force in the region, made the decision a simple one.

The trade negotiations produced an agreement that will render more than 95 percent of bilateral trade in consumer and industrial products duty-free immediately. U.S. investors in Morocco will be increasingly able to rely on a secure, predictable legal framework mandated by the FTA. U.S. banks, insurance companies, telecommunications companies and others will get new access to markets within Morocco.

In addition, U.S. firms are guaranteed a fair and transparent process for selling goods and services to a wide range of Moroccan Government entities, via the FTA's government contracting anti-corruption provisions. These kinds of measures are what we expect from a free-trade agreement. Unfortunately, this agreement also contains protectionist language antithetical to the tenets of free trade.

As with the Australian FTA approved by the Senate last week, and the Singapore agreement that went into effect in January, the United States Trade Representative included language that could impair Congress's ability to pass and implement drug importation legislation. Such legislation is not only something Congress has worked on for the past several years, but has also enacted.

The provisions USTR slipped into the Singapore, Australia and Morocco FTAs have significant implications for drug importation. Let us be clear about this language—it is antifree trade, serves only to block American consumers from accessing lower cost goods and services, and contravenes clear congressional intent.

Congress has repeatedly voted, with bipartisan majorities, to allow drug importation. States and local governments are doing the same. An overwhelming majority of Americans believe that they have a right to import more affordable medicines. So a simple question comes to mind: what is our Trade Representative, who is charged with representing the interests of the American people, doing? Why deliberately include language in bilateral trade agreements that could thwart importation efforts? Why flagrantly disregard the intent of Americans and their elected representatives? It seems to me that the special interests have again found friendly territory.

When Americans wonder how this continues to happen, they should take a glance at the list of intellectual property "advisors" that worked with the negotiators. These advisors include representatives from drug companies, the pharmaceutical industry as a whole, and other lobbyists with a direct interest in blocking drug importation. How many public health and consumer advocacy groups were included on this committee? Zero.

The Singapore FTA was the first free-trade agreement to include language that could impact drug importation. The Morocco FTA must be the last.

Our trade negotiators must be less mindful of special interests and more responsive to the express intent of the Congress. We granted the President trade promotion authority, TPA, in 2002 to demonstrate our Nation's re-energized commitment to negotiating strong free-trade agreements. TPA was designed to lead to free trade, not more protection.

This agreement is not the first in which the administration has made use of TPA to promote its politically expedient policy priorities. Last year, immigration provisions were included in the Singapore and Chile FTAs. If the Administration is to continue to enjoy the privilege of TPA, trade agreements must no longer be vehicles that include items rightfully addressed by Congress under the Constitution.

The United States has been and should be the leading promoter of an open global marketplace. Steel tariffs, agricultural subsidies in the farm bill, and other forms of protection, however, have damaged America's free-trade credentials. If special interest carve-outs, like the one for the pharmaceutical industry in this FTA, continue to pollute our trade agreements, we will all be worse off. Our economy will suffer and our leadership role on trade will further decline.

I will vote yes, but let me reiterate what I said last week with respect to the Australia agreement: Should another FTA being negotiated now or in the future come before the Senate with similar protections for special interests, I will find it even more difficult to vote in favor of it.

Mr. LEVIN. Mr. President, I am disappointed to see that the U.S.-Morocco Free-Trade Agreement contains patent protection language similar to that contained in the U.S.-Australia Free-Trade Agreement. Although I will not oppose this agreement on this one basis, I will oppose the use of this language as a precedent for any future free-trade agreement.

Mr. FEINGOLD. Mr. President, I opposed the Morocco free-trade agreement. Unfortunately, it is one more in what has become an increasing number of deeply flawed trade agreements. These agreements continue to jeopardize U.S. jobs and businesses. They undermine environmental, health, and safety protections. They hinder our ability to loosen restrictions on reimportation of FDA-approved prescription drugs. They limit our ability to use our tax dollars to help our own businesses and workers through buy American policies, and to discourage corporations from reincorporating overseas, and they limit the ability of our democratic institutions to regulate essential services.

But though I opposed this trade agreement, I want to underscore my firm belief that our bilateral relationship with Morocco is extremely important. We need our Moroccan partners if we are to succeed in pursuing our first foreign policy priority: the fight against al-Qaida and associated global terrorist organizations. The United States cannot afford to ignore this critical North African ally which has suffered, as we have, brutal terrorist attacks. We cannot fight terrorists without a strong international coalition sharing crucial intelligence, drying up sources of financial and political support for terrorism, and tracking down terrorist leaders. In order to have a strong partner to count on, the U.S. must support the Moroccan people in their fight for basic human rights, their efforts to combat corruption, and their work to create the kinds of economic opportunities that the country's large population of youth need. Without these efforts, this population will stagnate and resentment will grow. The U.S. should be cultivating future partners in Morocco, not future antagonists.

Mr. LAUTENBERG. Mr. President, this Free Trade Agreement should have been easy for me to support.

It is an agreement with a moderate Arab nation, an FTA that will integrate Morocco's economy with that of America. This FTA will aid Morocco's economy, strengthen our ties with the Kingdom, and help to bolster the contention that market economics can lead to a peaceful and prosperous moderate Islam.

What troubles me is the Bush administration's ongoing inattention to the labor and environmental protections in trade agreements, which is inexcusable. This administration has refused to live up to the gold standard on labor and environmental protections, a standard set by the Clinton administration when it negotiated the United States-Jordan Free Trade Agreement.

Instead, President Bush and U.S. Trade Representative Robert Zoellick have backtracked, endorsing less stringent protections in agreements with Chile and Singapore. The administration ignored the disapproval of many in Congress of those provisions. Stunningly, the administration did not include Jordan-style provisions in the Morocco agreement, even though Moroccan officials announced they would be willing to accept them.

In short, President Bush settled for weaker protections than he could have gotten, and he did it for what would seem to be no reason other than to antagonize labor groups, environmental groups and some in Congress. I find that deplorable.

Despite the shortcomings of this agreement, however, and because Morocco is making progress on its labor and environmental laws, I will support this FTA to strengthen our ties with a moderate Arab nation that has been a good global citizen.

Mr. BURNS. I have always said that I support free trade, as long as it is fair trade. The Morocco free-trade agreement before us today is an excellent example of that principle. Once this agreement goes into effect, 95 percent of the tariffs on consumer and industrial goods are eliminated, with the remaining tariffs eliminated in 9 years. This deal represents the best access to a developing country yet. I applaud Ambassador Zoellick for his hard work in achieving a balanced free trade agreement that provides significant benefits to both trade partners.

Morocco imports more than $11 billion in goods each year, with $475 million coming from the United States. We have an opportunity to increase the United States presence in this emerging market. Current circumstances are certainly less than ideal for American goods: imports from the United States face a stiff tariff, over 20 percent. In Montana, we have not yet benefited from trade with Morocco, and I can only hope that passage of this agreement today will allow us to begin exploring the advantages that it can offer Montanans and Moroccans alike, without unreasonable tariff barriers for our products.

I am especially pleased at the agriculture provisions in this FTA. Too often, free trade agreements represent a losing deal for Montana's farmers and ranchers, but I believe this agreement shows a commitment to fair trade for agriculture. In 2003, the United States exported over $152 million in agricultural products to Morocco. Under this agreement, that number could more than double, and I expect that some of that increase will be Montana beef and grains. According to an analysis by the American Farm Bureau Federation, "the agreement is expected to result in a 10-to-1 gain for the U.S. agriculture sector, which already enjoys a positive trade balance with Morocco."

I commend the Trade Representative for the wheat provisions in this FTA. I know that Morocco expressed some serious concerns about negotiating access for U.S. wheat, and Ambassador Zoellick worked hard to keep wheat on the table. Under this agreement, U.S. wheat exports could experience a fivefold increase. At the same time, the Agreement is sensitive to Moroccan domestic wheat producers. While we would always prefer tariffs to be completely eliminated, the expansion of tariff rate quotas, TRQs, in this agreement will allow Montana wheat producers vastly expanded access to Moroccan markets. Currently, wheat tariffs on U.S. exports to Morocco run as high as 135 percent. The commitments to reduce tariffs and expand TRQs are positive changes for our wheat producers.

In addition, the agreement includes an important provision that ensures long-term fair access. If Morocco provides other trading partners preferential access that is better than what we have here today, Morocco has agreed to immediately extend that treatment to the same U.S. product. This guarantees a level playing field for our agriculture producers. Finally, Morocco has also agreed to work with us at the WTO negotiations to limit the trade-distorting power of state trading enterprises. This is the same agreement that we secured in the Australia Free Trade Agreement approved last week. I am pleased to see a growing international consensus that state trading enterprises, like the Canadian Wheat Board, must be addressed to provide for real free and fair trade. I urge Ambassador Zoellick to continue focusing on this important issue.

Montana cattle producers also stand to benefit from this deal. Access to Moroccan markets for high quality beef—the kind of beef American cattle producers are known for is greatly increased. Tariffs on U.S. beef are often as high as 275 percent. The commitment to reduce these tariffs and to expand TRQs will allow domestic cattle producers to send prime and choice beef into Morocco hotels and restaurants, providing Morocco substantial tourism industry with the quality it demands. In addition, Morocco has agreed to accept U.S. inspection standards for beef, which will allow our products immediate access to Moroccan markets. This is a fair deal for our cattle producers.

In addition to the benefits to agriculture, service providers, such as telecommunications and construction, will have enhanced access to Moroccan markets. Telecommunications will be provided with non discriminatory access to the network. Intellectual property protection is provided, as are agreements on labor and environmental standards. The Morocco free-trade agreement represents an important step toward the President's goal of establishing a Middle East Free Trade Area, and I am pleased to offer my support.

Mr. BAUCUS. Mr. President, I spoke yesterday about the Morocco free-trade agreement and its benefits for both the United States and Morocco.

I hope and expect that when we vote on the Morocco implementing bill, the bill will pass by an overwhelming margin.

That is a fitting way to cap a busy month on trade and head into the summer recess.

As I look back at the accomplishments on trade since the beginning of the year, I am pleased at how much we have done. It would be considered a full plate in any year, but in an election year, it is especially gratifying to have achieved so much.

We passed the JOBS Bill, a complex tax measure that will help create jobs in America and bring the United States into compliance with the WTO. That bill passed the Senate overwhelmingly with 92 votes.

We extended and enhanced an important trade and development program for Africa—the Africa Growth and Opportunity Act through a unanimous vote.

We created a different trade and development program for Haiti, also through a unanimous vote.

And of course, just last week, we passed the Australia free-trade agreement implementing bill with 80 votes.

It has been a busy year.

I am heartened by the strong votes all these measures attracted. No victory is ever easy. They are hard fought by people working every day to do the right thing.

I want to congratulate Senator GRASSLEY and his staff for their leadership, and Ambassador Zoellick and his excellent negotiating team for all their hard work.

As I look ahead, there will be some difficult issues to confront. I believe we have more work to do to rebuild a strong consensus on trade. We could do better on both the substance of trade agreements and on the process of considering them.

I also believe we should be devoting more of our resources toward enforcing trade agreements we already have.

But today, I would like to focus on our successes on all we have already accomplished, and on what we are about to do.

When we vote to approve the Morocco legislation, we will be solidifying our oldest diplomatic relationship in the world.

We will be giving reform-minded governments in developing countries around the world incentive to redouble their efforts to modernize their economies.

We will also be setting a new standard for agreements with developing countries in a variety of important areas. These include intellectual property, market access, and even agriculture.

The Morocco agreement is a good agreement. I urge my colleagues to vote for it.

Mr. GRASSLEY. Mr. President, just over 2 months ago I expressed my interest in seeing both the U.S.-Australia and the U.S.-Morocco free-trade agreements pass the Congress by the August recess. A lot of people resisted this effort, arguing that it would be impossible for both the House and Senate to hold hearings, prepare the legislation, conduct mock mark-ups, report the bills, and pass implementing legislation for two free trade agreements in just two months. While the task was indeed difficult, I am very pleased to say that we are on the verge of achieving my goal today.

In just a few moments the U.S. Senate will have an historic opportunity to strengthen our relations with Morocco with the passage of the United States-Morocco Free-Trade Agreement Implementation Act. While nothing is certain, I expect this legislation to pass with strong bipartisan support. Passage of this legislation follows on the heels of a strong Senate vote in favor of the United States-Australia Free-Trade Agreement last week. The Australia bill itself was preceded by renewal and extension of the Africa Growth and Opportunity Act, which passed the Senate by unanimous consent on June 24 of this year. Prior to that, the Senate was able to work out its differences and pass the JOBS Act by a vote of 92 to 5. I will note that each of these bills passed in an election year, a year in which many pundits argued that nothing would get done. I also want to point out the broad bipartisan support which each of these bills received. In my mind, it is that element—bipartisanship—that is the key to our success.

I want to thank my ranking member, Senator BAUCUS, and the members of the Finance Committee for working with me to bring these bills to fruition. There are a lot of demands placed upon Finance Committee members and their staffs, and I appreciate their hard work and dedication in helping us produce legislation that will receive broad bipartisan support in the Senate.

Turning to the bill at hand, passage of the United States-Morocco Free-Trade Agreement Implementation Act will help strengthen our relationship with a long-standing friend and ally of the United States. For over two hundred years, our two nations have enjoyed a strong and mutually beneficial relationship. Today, Morocco is a country in transition. It is a country that recognizes that its long-term economic prosperity lies not in shutting itself off to the world, but in opening up to the world. It is in large part Morocco's willingness to embrace free market and democratic principles that led President Bush to select Morocco as a potential free trade partner. This free-trade agreement will help lock in and hasten reforms that the Moroccan Government embraced on its own initiative. I am confident that this agreement will spur growth and opportunity for Morocco and its people.

This trade agreement is also very good for the United States, especially U.S. agriculture. Implementation of the agreement is expected to help advance U.S. agriculture exports to Morocco to unprecedented heights, enabling us to better compete with the European Union, Canada, and South America in the Moroccan market.

Many people worked hard to see today's vote become a reality. First and foremost, this would not have happened without the leadership of President George W. Bush. As I have noted before, President Bush is committed to building the U.S. economy by opening the world's markets to U.S. goods and services. The United States-Morocco Free-Trade Agreement is just the latest of his achievements in this regard.

The United States Trade Representative, Ambassador Robert B. Zoellick, also merits special recognition and commendation for his efforts in negotiating this agreement. His commitment to expanding U.S. trade opportunities is steadfast, for which I am grateful. I also want to express my thanks to John Veroneau, the general counsel in the Office of United States Trade Representative, Matt Niemeyer, the Assistant U.S. Trade Representative for Congressional Affairs, and Lisa Coen, Deputy Assistant U.S. Trade Representative for Congressional Affairs, for their many efforts to ensure that the committee was fully apprised of developments during the negotiations and their efforts to resolve concerns raised by members as the committee informally considered proposed implementing legislation for this trade agreement. In addition, I thank Michael Smythers, a special assistant to the President working in the White House Office of Legislative Affairs, for his efforts to facilitate our consideration of this implementing legislation.

I commend my colleagues on the Finance Committee for their interest in seeing that this trade agreement was concluded and that the implementing legislation was passed without delay. I would like to extend a special thanks to the ranking member of the committee, Senator BAUCUS. We have worked together over the years to expand trade opportunities for the benefit of U.S. farmers, ranchers, manufacturers, and service workers, and to benefit U.S. consumers. I am quite pleased with the outcome of our current efforts with the imminent passage of this implementing bill today.

My trade staff on the Finance Committee worked diligently over the past several weeks on developing the implementing bill and other materials connected with it. My goal was to have this legislation passed prior to the August recess; and they were instrumental in making this happen. Moreover, my trade staff engaged in consultations with officials from the Office of the United States Trade Representative throughout the negotiations, which began way back in January 2003, so this has been a long process for them. I greatly appreciate their hard work.

My chief counsel and staff director, Kolan Davis, deserves recognition. His dedication and skills are instrumental in advancing the Finance Committee's agenda. The Chief International Trade Counsel of the Finance Committee, Everett Eissenstat, also deserves special mention. His expertise in trade policy and his ability to juggle multiple trade priorities simultaneously are key to the Committee's success. I would also like to recognize the other members of my trade staff—my two trade counsels, David Johanson and Stephen Schaefer, for their invaluable technical assistance throughout this process. Additionally, the work of Zach Paulsen, Dan Shepherdson, and Tiffany McCullen, is appreciated, for their dedication to the Finance Committee's work and to the people of Iowa. Without the diligence and hard work of my staff, we would not be at the point we are today.

Senator BAUCUS' trade staff also deserves recognition. The Democratic staff director on the Finance Committee, Russ Sullivan, and the deputy staff director, Bill Dauster, worked well with my staff throughout the process. I also appreciate the efforts of Tim Punke, Senator BAUCUS' Chief International Trade Counsel, as well as Brian Pomper, John Gilliland, Shara Aranoff, Sara Andrews, and Pascal Niedermann.

Finally, I would like to thank Polly Craighill of the Office of the Senate Legislative Counsel for the many hours she put into drafting the implementing bill. Without her patience, hard work, and drafting skills, today's vote would not have been possible.

I look forward to the signing of this legislation into law by President Bush.

Mr. ALEXANDER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 13, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—85

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Durbin
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham (FL)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Warner
Wyden

NAYS—13

Akaka
Byrd
Dole
Dorgan
Feingold
Graham (SC)
Harkin
Hollings
Leahy
Reid
Sessions
Shelby
Voinovich

NOT VOTING—2

Edwards
Kerry

The bill (S. 2677) was passed, as follows:

S. 2677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States-Morocco Free Trade Agreement Implementation Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

Sec. 101. Approval and entry into force of the Agreement.
Sec. 102. Relationship of the Agreement to United States and State law.
Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
Sec. 105. Administration of dispute settlement proceedings.
Sec. 106. Arbitration of claims.
Sec. 107. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Tariff modifications.
Sec. 202. Additional duties on certain agricultural goods.
Sec. 203. Rules of origin.
Sec. 204. Enforcement relating to trade in textile and apparel goods.
Sec. 205. Regulations.

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

Sec. 311. Commencing of action for relief.
Sec. 312. Commission action on petition.
Sec. 313. Provision of relief.
Sec. 314. Termination of relief authority.
Sec. 315. Compensation authority.
Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

Sec. 321. Commencement of action for relief.
Sec. 322. Determination and provision of relief.
Sec. 323. Period of relief.
Sec. 324. Articles exempt from relief.
Sec. 325. Rate after termination of import relief.
Sec. 326. Termination of relief authority.
Sec. 327. Compensation authority.
Sec. 328. Business confidential information.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to approve and implement the Free Trade Agreement between the United States and Morocco entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

(2) to strengthen and develop economic relations between the United States and Morocco for their mutual benefit;

(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the United States-Morocco Free Trade Agreement approved by Congress under section 101(a)(1).

(2) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.

(3) TEXTILE OR APPAREL GOOD.—The term "textile or apparel good" means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

(1) the United States-Morocco Free Trade Agreement entered into on June 15, 2004, with Morocco and submitted to Congress on __________, 2004; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on __________, 2004.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Morocco has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Morocco providing for the entry into force, on or after January 1, 2005, of the Agreement with respect to the United States.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term "State law" includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(B) the United States International Trade Commission;

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2004 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

SEC. 106. ARBITRATION OF CLAIMS.

The United States is authorized to resolve any claim against the United States covered by article 10.15.1(a)(i)(C) or article 10.15.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force.

(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. TARIFF MODIFICATIONS.

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

(1) PROCLAMATION AUTHORITY.—The President may proclaim—

(A) such modifications or continuation of any duty,

(B) such continuation of duty-free or excise treatment, or

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 4.1, 4.3.9, 4.3.10, 4.3.11, 4.3.13, 4.3.14, and 4.3.15, and Annex IV of the Agreement.

(2) EFFECT ON MOROCCAN GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of Morocco as a beneficiary developing country for purposes of title V of the Trade Act of 1974 on the date of entry into force of the Agreement.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

(1) such modifications or continuation of any duty,

(2) such modifications as the United States may agree to with Morocco regarding the staging of any duty treatment set forth in Annex IV of the Agreement,

(3) such continuation of duty-free or excise treatment, or

(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Morocco provided for by the Agreement.

(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Tariff Schedule of the United States to Annex IV of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL SAFEGUARD GOOD.—The term "agricultural safeguard good" means a good—

(A) that qualifies as an originating good under section 203;

(B) that is included in the U.S. Agricultural Safeguard List set forth in Annex 3-A of the Agreement; and

(C) for which a claim for preferential treatment under the Agreement has been made.

(2) APPLICABLE NTR (MFN) RATE OF DUTY.—The term "applicable NTR (MFN) rate of duty" means, with respect to an agricultural safeguard good, a rate of duty that is the lesser of—

(A) the column 1 general rate of duty that would have been imposed under the HTS on the same agricultural safeguard good entered, without a claim for preferential tariff treatment, on the date on which the additional duty is imposed under subsection (b); or

(B) the column 1 general rate of duty that would have been imposed under the HTS on the same agricultural safeguard good entered, without a claim for preferential tariff treatment, on December 31, 2004.

(3) F.O.B.—The term "F.O.B." means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

(4) SCHEDULE RATE OF DUTY.—The term "schedule rate of duty" means, with respect to an agricultural safeguard good, the rate of duty for that good set out in the Tariff Schedule of the United States to Annex IV of the Agreement.

(5) TRIGGER PRICE.—The "trigger price" for a good means the trigger price indicated for that good in the U.S. Agricultural Safeguard List set forth in Annex 3-A of the Agreement or any amendment thereto.

(6) UNIT IMPORT PRICE.—The "unit import price" of a good means the price of the good determined on the basis of the F.O.B. import price of the good, expressed in either dollars per kilogram or dollars per liter, whichever unit of measure is indicated for the good in the U.S. Agricultural Safeguard List set forth in Annex 3-A of the Agreement.

(b) ADDITIONAL DUTIES ON AGRICULTURAL SAFEGUARD GOODS.—

(1) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to paragraphs (3), (4), (5), and (6) of this subsection, the Secretary of the Treasury shall assess a duty on an agricultural safeguard good, in the amount determined under paragraph (2), if the Secretary determines that the unit import price of the good when it enters the United States is less than the trigger price for that good.

(2) CALCULATION OF ADDITIONAL DUTY.—The additional duty assessed under this subsection on an agricultural safeguard good shall be an amount determined in accordance with the following table:

If the excess of the trigger price over the unit import price is:	The additional duty is an amount equal to:
Not more than 10 percent of the trigger price.	0.
More than 10 percent but not more than 40 percent of the trigger price.	30 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

If the excess of the trigger price over the unit import price is:	The additional duty is an amount equal to:
More than 40 percent but not more than 60 percent of the trigger price.	50 percent of such excess.
More than 60 percent but not more than 75 percent of the trigger price.	70 percent of such excess.
More than 75 percent of the trigger price.	100 percent of such excess.

(3) EXCEPTIONS.—No additional duty shall be assessed on a good under this subsection if, at the time of entry, the good is subject to import relief under—

(A) subtitle A of title III of this Act; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

(4) TERMINATION.—The assessment of an additional duty on a good under this subsection shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Tariff Schedule of the United States to Annex IV of the Agreement.

(5) TARIFF-RATE QUOTAS.—If an agricultural safeguard good is subject to a tariff-rate quota under the Agreement, any additional duty assessed under this subsection shall be applied only to over-quota imports of the good.

(6) NOTICE.—Not later than 60 days after the date on which the Secretary of the Treasury assesses an additional duty on a good under this subsection, the Secretary shall notify the Government of Morocco in writing of such action and shall provide to the Government of Morocco data supporting the assessment of additional duties.

SEC. 203. RULES OF ORIGIN.

(a) APPLICATION AND INTERPRETATION.—In this section:

(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a heading or sub-heading, such reference shall be a reference to a heading or subheading of the HTS.

(b) ORIGINATING GOODS.—

(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, a good is an originating good if—

(A) the good is imported directly—

(i) from the territory of Morocco into the territory of the United States; or

(ii) from the territory of the United States into the territory of Morocco; and

(B)(i) the good is a good wholly the growth, product, or manufacture of Morocco or the United States, or both;

(ii) the good (other than a good to which clause (iii) applies) is a new or different article of commerce that has been grown, produced, or manufactured in Morocco, the United States, or both, and meets the requirements of paragraph (2); or

(iii)(I) the good is a good covered by Annex 4–A or 5–A of the Agreement;

(II)(aa) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in such Annex as a result of production occurring entirely in the territory of Morocco or the United States, or both; or

(bb) the good otherwise satisfies the requirements specified in such Annex; and

(III) the good satisfies all other applicable requirements of this section.

(2) REQUIREMENTS.—A good described in paragraph (1)(B)(ii) is an originating good only if the sum of—

(A) the value of each material produced in the territory of Morocco or the United States, or both, and

(B) the direct costs of processing operations performed in the territory of Morocco or the United States, or both,

is not less than 35 percent of the appraised value of the good at the time the good is entered into the territory of the United States.

(c) CUMULATION.—

(1) ORIGINATING GOOD OR MATERIAL INCORPORATED INTO GOODS OF OTHER COUNTRY.—An originating good or a material produced in the territory of Morocco or the United States, or both, that is incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

(2) MULTIPLE PROCEDURES.—A good that is grown, produced, or manufactured in the territory of Morocco or the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(d) VALUE OF MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the value of a material produced in the territory of Morocco or the United States, or both, includes the following:

(A) The price actually paid or payable for the material by the producer of such good.

(B) The freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant, if such costs are not included in the price referred to in subparagraph (A).

(C) The cost of waste or spoilage resulting from the use of the material in the growth, production, or manufacture of the good, less the value of recoverable scrap.

(D) Taxes or customs duties imposed on the material by Morocco, the United States, or both, if the taxes or customs duties are not remitted upon exportation from the territory of Morocco or the United States, as the case may be.

(2) EXCEPTION.—If the relationship between the producer of a good and the seller of a material influenced the price actually paid or payable for the material, or if there is no price actually paid or payable by the producer for the material, the value of the material produced in the territory of Morocco or the United States, or both, includes the following:

(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses.

(B) A reasonable amount for profit.

(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

(e) PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPMENT.—Packaging and packing materials and containers for retail sale and shipment shall be disregarded in determining whether a good qualifies as an originating good, except to the extent that the value of such packaging and packing materials and containers have been included in meeting the requirements set forth in subsection (b)(2).

(f) INDIRECT MATERIALS.—Indirect materials shall be disregarded in determining whether a good qualifies as an originating good, except that the cost of such indirect materials may be included in meeting the requirements set forth in subsection (b)(2).

(g) TRANSIT AND TRANSSHIPMENT.—A good shall not be considered to meet the requirement of subsection (b)(1)(A) if, after exportation from the territory of Morocco or the United States, the good undergoes production, manufacturing, or any other operation outside the territory of Morocco or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of the United States or Morocco.

(h) TEXTILE AND APPAREL GOODS.—

(1) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Morocco or the United States.

(C) YARN, FABRIC, OR GROUP OF FIBERS.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term "component of the good that determines the tariff classification of the good" means all of the fibers in the yarn, fabric, or group of fibers.

(2) GOODS PUT UP IN SETS FOR RETAIL SALE.—Notwithstanding the rules set forth in Annex 4–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

(i) DEFINITIONS.—In this section:

(1) DIRECT COSTS OF PROCESSING OPERATIONS.—

(A) IN GENERAL.—The term "direct costs of processing operations", with respect to a good, includes, to the extent they are includable in the appraised value of the good when imported into Morocco or the United States, as the case may be, the following:

(i) All actual labor costs involved in the growth, production, or manufacture of the good, including fringe benefits, on-the-job training, and the costs of engineering, supervisory, quality control, and similar personnel.

(ii) Tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the good.

(iii) Research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the good.

(iv) Costs of inspecting and testing the good.

(v) Costs of packaging the good for export to the territory of the other country.

(B) EXCEPTIONS.—The term "direct costs of processing operations" does not include costs that are not directly attributable to a good or are not costs of growth, production, or manufacture of the good, such as—

(i) profit; and

(ii) general expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and sales staff salaries, commissions, or expenses.

(2) GOOD.—The term "good" means any merchandise, product, article, or material.

(3) GOOD WHOLLY THE GROWTH, PRODUCT, OR MANUFACTURE OF MOROCCO, THE UNITED STATES, OR BOTH.—The term "good wholly the growth, product, or manufacture of Morocco, the United States, or both" means—

(A) a mineral good extracted in the territory of Morocco or the United States, or both;

(B) a vegetable good, as such a good is provided for in the HTS, harvested in the territory of Morocco or the United States, or both;

(C) a live animal born and raised in the territory of Morocco or the United States, or both;

(D) a good obtained from live animals raised in the territory of Morocco or the United States, or both;

(E) a good obtained from hunting, trapping, or fishing in the territory of Morocco or the United States, or both;

(F) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Morocco or the United States and flying the flag of that country;

(G) a good produced from goods referred to in subparagraph (F) on board factory ships registered or recorded with Morocco or the United States and flying the flag of that country;

(H) a good taken by Morocco or the United States or a person of Morocco or the United States from the seabed or beneath the seabed outside territorial waters, if Morocco or the United States has rights to exploit such seabed;

(I) a good taken from outer space, if such good is obtained by Morocco or the United States or a person of Morocco or the United States and not processed in the territory of a country other than Morocco or the United States;

(J) waste and scrap derived from—

(i) production or manufacture in the territory of Morocco or the United States, or both; or

(ii) used goods collected in the territory of Morocco or the United States, or both, if such goods are fit only for the recovery of raw materials;

(K) a recovered good derived in the territory of Morocco or the United States from used goods and utilized in the territory of that country in the production of remanufactured goods; and

(L) a good produced in the territory of Morocco or the United States, or both, exclusively—

(i) from goods referred to in subparagraphs (A) through (J), or

(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

(4) INDIRECT MATERIAL.—The term "indirect material" means a good used in the growth, production, manufacture, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the growth, production, or manufacture of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used in the maintenance of equipment and buildings;

(D) lubricants, greases, compounding materials, and other materials used in the growth, production, or manufacture of a good or used to operate equipment and buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other goods that are not incorporated into the good but the use of which in the growth, production, or manufacture of the good can reasonably be demonstrated to be a part of that growth, production, or manufacture.

(5) MATERIAL.—The term "material" means a good, including a part or ingredient, that is used in the growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in Morocco, the United States, or both.

(6) MATERIAL PRODUCED IN THE TERRITORY OF MOROCCO OR THE UNITED STATES, OR BOTH.—The term "material produced in the territory of Morocco or the United States, or both" means a good that is either wholly the growth, product, or manufacture of Morocco, the United States, or both, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of Morocco or the United States, or both.

(7) NEW OR DIFFERENT ARTICLE OF COMMERCE.—

(A) IN GENERAL.—The term "new or different article of commerce" means, except as provided in subparagraph (B), a good that—

(i) has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of Morocco, the United States, or both; and

(ii) has a new name, character, or use distinct from the good or material from which it was transformed.

(B) EXCEPTION.—A good shall not be considered a new or different article of commerce by virtue of having undergone simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good.

(8) RECOVERED GOODS.—The term "recovered goods" means materials in the form of individual parts that result from—

(A) the complete disassembly of used goods into individual parts; and

(B) the cleaning, inspecting, testing, or other processing of those parts that is necessary for improvement to sound working condition.

(9) REMANUFACTURED GOOD.—The term "remanufactured good" means an industrial good that is assembled in the territory of Morocco or the United States and that—

(A) is entirely or partially comprised of recovered goods;

(B) has a similar life expectancy to, and meets similar performance standards as, a like good that is new; and

(C) enjoys a factory warranty similar to that of a like good that is new.

(10) SIMPLE COMBINING OR PACKAGING OPERATIONS.—The term "simple combining or packaging operations" means operations such as adding batteries to electronic devices, fitting together a small number of components by bolting, gluing, or soldering, or packing or repacking components together.

(11) SUBSTANTIALLY TRANSFORMED.—The term "substantially transformed" means, with respect to a good or material, changed as the result of a manufacturing or processing operation so that—

(A)(i) the good or material is converted from a good that has multiple uses into a good or material that has limited uses;

(ii) the physical properties of the good or material are changed to a significant extent; or

(iii) the operation undergone by the good or material is complex by reason of the number of processes and materials involved and the time and level of skill required to perform those processes; and

(B) the good or material loses its separate identity in the manufacturing or processing operation.

(j) PRESIDENTIAL PROCLAMATION AUTHORITY.—

(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set out in Annex 4–A and Annex 5–A of the Agreement; and

(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

(2) MODIFICATIONS.—

(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Morocco pursuant to article 4.3.6 of the Agreement; and

(ii) before the end of the 1-year period beginning on the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

SEC. 204. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

(a) ACTION DURING VERIFICATION.—

(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Morocco to conduct a verification pursuant to article 4.4 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) DETERMINATION.—A determination under this paragraph is a determination—

(A) that an exporter or producer in Morocco is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 203 of this Act, or

(ii) is a good of Morocco,

is accurate.

(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection

(a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

(1) publication of the name and address of the person that is the subject of the verification;

(2) denial of preferential tariff treatment under the Agreement to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

(3) denial of entry into the United States of—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

SEC. 205. REGULATIONS.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (i) of section 203;

(2) amendments to existing law made by the subsections referred to in paragraph (1); and

(3) proclamations issued under section 203(j).

TITLE III—RELIEF FROM IMPORTS

SEC. 301. DEFINITIONS.

In this title:

(1) MOROCCAN ARTICLE.—The term "Moroccan article" means an article that qualifies as an originating good under section 203(b) of this Act or receives preferential tariff treatment under paragraphs 9 through 15 of article 4.3 of the Agreement.

(2) MOROCCAN TEXTILE OR APPAREL ARTICLE.—The term "Moroccan textile or apparel article" means an article that—

(A) is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

(B) is a Moroccan article.

(3) COMMISSION.—The term "Commission" means the United States International Trade Commission.

Subtitle A—Relief From Imports Benefiting From the Agreement

SEC. 311. COMMENCING OF ACTION FOR RELIEF.

(a) FILING OF PETITION.—

(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)).

(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Moroccan article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Moroccan article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (d).

(4) Subsection (i).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Moroccan article if, after the date on which the Agreement enters into force, import relief has been provided with respect to that Moroccan article under this subtitle.

SEC. 312. COMMISSION ACTION ON PETITION.

(a) DETERMINATION.—Not later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d) (1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930) (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

SEC. 313. PROVISION OF RELIEF.

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The import relief (including provisional relief) that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex IV of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(C) In the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles for the immediately preceding corresponding season; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization of such relief at regular intervals during the period in which the relief is in effect.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 3 years.

(2) EXTENSION.—

(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition and whether there is evidence that the industry is making a positive adjustment to import competition.

(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 5 years.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that—

(1) is subject to an assessment of additional duty under section 202(b); or

(2) has been subject to import relief under this subtitle after the date on which the Agreement enters into force.

SEC. 314. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle with respect to a good after the date that is 5 years after the date on which duty-free treatment must be provided by the United States to that good pursuant to Annex IV of the Agreement.

(b) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of a Moroccan article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Morocco has consented to such relief.

SEC. 315. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking "and"; and

(2) by inserting before the period at the end ", and title III of the United States-Morocco Free Trade Agreement Implementation Act".

Subtitle B—Textile and Apparel Safeguard Measures

SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

(a) DETERMINATION.—

(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Moroccan textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

SEC. 323. PERIOD OF RELIEF.

(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

(b) EXTENSION.—

(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 2 years, if the President determines that—

(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(B) there is evidence that the industry is making a positive adjustment to import competition.

(2) LIMITATION.—Any relief provided under this subtitle, including any extensions thereof, may not, in the aggregate, be in effect for more than 5 years.

SEC. 324. ARTICLES EXEMPT FROM RELIEF.

The President may not provide import relief under this subtitle with respect to any article if—

(1) the article has been subject to import relief under this subtitle after the date on which the Agreement enters into force; or

(2) the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974.

SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

SEC. 326. TERMINATION OF RELIEF AUTHORITY.

No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

SEC. 327. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

The President may not release information which is submitted in a proceeding under this subtitle and which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party also shall submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

EXECUTIVE SESSION

NOMINATION OF HENRY W. SAAD TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to executive session for the consideration of Calendar No. 705, the nomination of Henry W. Saad, of Michigan, to be U.S. Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The legislative clerk read the nomination of Henry W. Saad, of Michigan, to be U.S. Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to proceed, along with Senator COLLINS, as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LIEBERMAN and Ms. COLLINS pertaining to the introduction of S. 2701 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Might I inquire of the Chair what the pending business is.

The PRESIDING OFFICER. The pending business is the nomination of Henry Saad, of Michigan, to the Sixth Circuit Court of Appeals.

Mr. KYL. Mr. President, Senator HATCH is chairing a subcommittee hearing and asked that I open the debate with respect to the nomination and confirmation of Judge Henry Saad. So I think my comments are reflective of Chairman HATCH's views, but I will present them as my own as well.

I will first speak a little bit about Judge Saad and his nomination to this court and why we have had a problem in getting this far with his nomination but why I hope our colleagues will be willing to vote to confirm him.

As the Chair noted, he is a nominee to the U.S. Circuit Court for the Sixth Circuit. He was nominated, and I ask my colleagues to think of this date for a moment, on November 8, 2001. It is now 2004. He is a distinguished State court of appeals judge from the State of Michigan with nearly a decade of experience in that court. He has been there since 1994. In that capacity, he is actually elected and reelected, and he has been reelected twice to serve on the court of appeals with broad bipartisan support within the State of Michigan.

The American Bar Association has rated Judge Saad qualified to sit on the U.S. Court of Appeals for the Sixth Circuit. Therefore, his nomination should have come before us long before now. He should be confirmed, obviously.

I will mention a bit about the Sixth Circuit. There are 16 authorized seats on the circuit, but there are 4 vacancies. Obviously, one-fourth of the authorized seats on that court remain vacant today. President Bush has nominated four very well-qualified individuals from Michigan to fill these vacancies. The seat to which Judge Saad has been nominated has been deemed a judicial emergency and, of course, it is not hard to see why with that number of vacancies.

Interestingly, President George H.W. Bush, President Bush No. 41, first nominated Judge Saad to the Federal bench in 1992, but the Democratic Senate failed to act on his nomination at that time, as well as one other from Michigan, prior to the end of President Bush's term. So this is the second time he has been nominated for this prestigious court.

A bit about his personal history. Judge Saad was born in Detroit. He is a lifelong resident of the State. He would be the first Arab-American appointee to the Court of Appeals for the Sixth Circuit. According to the Detroit Free Press, Bush's nomination of Saad in the wake of the September 11 attacks—remember, it was only 2 months to the day following the September 11 attacks:

> conveys an important message to all the citizens and residents of this country that we embrace and welcome diversity and that we are extending the American dream to anyone who is prepared to work hard.

Judge Saad has had a distinguished career as a practicing attorney and law professor before serving on the State bench. From 1974 until 1994 he practiced law, first as an associate and then a partner with the prestigious Detroit firm of Dickinson, Wright. He built a national practice and reputation there in the areas of employment law, school law, libel law, and first amendment law. He serves as an adjunct professor at both Wayne State University Law School and the University of Detroit Mercy School of Law. He received his bachelor's degree in 1971 and his law degree, magna cum laude, in 1974, both from Wayne State University. He received a special Order of the Coif award in 2000, which is bestowed by a vote of the faculty of the school upon a distinguished graduate who has earned his degree before the law school was inducting members into the Order of the Coif.

Judge Saad has significant appellate experience in both civil and criminal matters, authoring well over 75 published majority opinions. His nomination has broad bipartisan support, including endorsements from such disparate groups as the United Auto Workers and the Michigan Chamber of Commerce.

Judge Saad is dedicated to improving the law and helping his State and local community through volunteer work. He was chairman of the board of the Oakland Community College Foundation, president of the Wayne State University Law School Alumni Association, and he is currently a member of the board of visitors to the Ave Maria Law School.

Judge Saad was a board member of the National Council of Christians and Jews and the American Heart Association, as well as trustee of WTVS Channel 56 Education Television Foundation.

Judge Saad received the "Salute to Justice John O'Brien Award" for outstanding volunteer service to the people of Oakland County in 1997, and he received the Arab-American and Chaldean Council Civic and Humanitarian Award for outstanding dedication to serving the community with compassion and understanding in 1995.

Let me read a few statements from people who have endorsed the nomination and confirmation of Judge Henry Saad. The Secretary of Energy, former Senator from the State of Michigan, said:

> I have known Henry for twenty years on a personal and professional level. He is a person of unimpeachable integrity and will serve our country and our justice system remarkably well.

John Engler, the former Governor of Michigan, said:

> The President selected individuals [including Henry Saad] who are experienced judges and whose reputations for intellect, knowledge of the law, diligence and temperament are well established. Judge Saad has established a distinguished reputation on Michigan's appellate court which he will take to the federal appeals court.

The President of the United Auto Workers, Stephen Yokich, said:

> I have known Judge Saad for twenty-five years. He is a man of the highest integrity and a judge who is fair, balanced and hard working. I strongly support President Bush's nomination of Judge Saad to the federal appellate bench.

Congressman JOSEPH KNOLLENBERG, who is a Representative from the State of Michigan, said:

> I have known Judge Saad for over twenty-five years. He was an outstanding lawyer and is a highly regarded appellate jurist, known for his scholarly opinions, balance and fairness. I am confident he will be a great addition to the Federal appellate bench.

Justice Stephen Markman from the Michigan Supreme Court said:

> In his seven years on the Michigan Court of Appeals, Judge Saad has been one of its most thoughtful and fair-minded jurists. His opinions and his judicial integrity have earned him the respect of a remarkably broad range of his colleagues.

Finally, Judge Hilda Gage of the Michigan Court of Appeals said:

> I have served with Judge Saad on the Michigan Court of Appeals for six years. I admire his judicial independence and his scholarly analysis of the law. I applaud the President's nomination of Judge Saad to the Sixth Circuit Court of Appeals.

Those are some of the people who have worked with him, who have known him a long time, who represent a diverse point of view within the State of Michigan, and yet all of whom endorse the President's nomination of Judge Saad to the Sixth Circuit.

Let me speak for a moment about the status of his circuit because, as I noted at the beginning, there are four vacancies. One-fourth of the active seats on this court, are vacant. The President has nominated four very well-qualified individuals to fill these vacancies. All four of these vacancies have been deemed judicial emergencies by the Administrative Office of the U.S. Courts.

I might, for those who are not aware, describe what this means. The Administrative Office of the U.S. Courts characterizes, in some rare circumstances, vacancies on the court as judicial emergencies by virtue of the caseload of the court, the nature of the cases before the court, the ability of the court to turn out decisions and opinions, and the number of judges available to serve on the court. They balance all of those considerations. When the court does not have enough people to do the job it is required to do, when litigants are taking too long to get their matters heard before the court, and in effect when justice is not being done because it is being delayed, then the Administrative Office of the U.S. Courts declares judicial emergencies.

All four of these vacancies in the Sixth Circuit have been so designated. The confirmation of two judges in late April and early May of this year filled two of then six vacancies, but the circuit remains overburdened.

By the way, let me quantify what I said a moment ago. When I spoke of judicial emergency, in the court of appeals, that occurs specifically when adjusted filings per panel are in excess of 700, or any vacancy is in existence more than 18 months where adjudicated filings are between 500 and 700. All four of the Michigan vacancies on the Sixth Circuit have been in existence for more than 18 months and the adjusted filings total 588. That is why it is so important that we act now to fill this vacancy.

Only a substantial commitment on the part of the senior judges of the Sixth Circuit, and the district judges from within the circuit filling in, as well as visiting appellate judges from other circuits, has kept the caseload of this important circuit manageable. It is the third busiest court of appeals in the country. Chief Judge Boyce Martin has asked Congress to authorize a 17th judge for the court.

So if we filled all four of these vacancies today, not only would we have at least filled those judicial emergencies, but the chief judge of the circuit has said we need additional judges in addition to these.

Among the 12 U.S. Courts of Appeals, the Sixth is the 11th in the timeliness in the disposition of cases. Only the Ninth Circuit takes longer to issue its opinions. I am familiar with that, having practiced before the Ninth Circuit. When it takes so long for litigants who have disputes before the court to get action on their cases, justice is denied. This circuit, being the next to the bottom in terms of the speed with which its decisions are made, makes it a clear candidate for the Senate to act. It is unconscionable that we have not been able to confirm Judge Saad as well as the other three nominees to this court.

The district court judges within the Sixth Circuit have complained that what has turned out to be regular duty as substitute judges on the court of appeals has slowed down their own dockets considerably. In other words, they have not been able to do their own jobs because they have had to fill in for the circuit court judges. According to Judge Robert Bell, who is a district judge from the Western District of Michigan:

> We're having to backfill with judges from other circuits, who are basically substitutes. You don't get the same sense of purpose and continuity you get with full-fledged court of appeals judges. . . . Putting together a federal appeals court case often takes a Herculean effort in a short time for visiting district judges. "We don't have the time or the resources that the circuit court has," Bell said. You can't help to conclude that if we had 16 full-time judges with a full complement of staff that each case might get more consideration, not to say results would be different.

This quote, by the way, was the Grand Rapids Press, February 21, 2002.

U.S. attorneys in Michigan likewise have complained that the vacancy rate in the Sixth Circuit has slowed justice and complicated the ability to prosecute wrongdoers. It has enabled defendants to commit more crime while awaiting trial. It has led to less consistencies in the court's jurisprudence and effectively deprived the use of en banc review in some cases. En banc review is the situation where a panel of three judges has made a decision and the litigants have asked the full court to hear—in effect to rehear or have a mini-appeal—a case from the decision of the panel of three. If you do not have the full complement of judges on the court, you can't have the same kind of en banc review.

Let me quote a letter from 31 assistant U.S. attorneys in the Eastern District of Michigan sent to our colleague, Senator CARL LEVIN, on January 16, 2002:

> In years past, it was the normal practice of the Sixth Circuit that a case would be heard by the Court approximately three months after all briefs were filed, and in most cases an opinion would issue in about three additional months. At present, due to the large number of vacancies on the Court . . . it has been taking on average between twelve and eighteen months longer for most appeals to be completed than was the case for most of the 1990's.

These are the prosecuting attorneys. These are the people who I noted have complained that the vacancy rate has complicated their ability to prosecute wrongdoers. Our failure to act in the Senate has real-life consequences on the people of Michigan. When justice cannot be dispensed with because there are not enough judges and wrongdoers are awaiting trial and they are able to go out and commit additional crimes, we have a responsibility to solve that problem. That is why it is so important for us to vote and to vote up or down on the confirmation of Judge Saad.

I serve on the Judiciary Committee. I heard some questions raised about whether he would be a good addition to the court. You heard just a summary of the many people who spoke on his behalf with a wide diversity of opinion. He has a "qualified" rating from the Bar Association.

If my colleagues want to vote no on his nomination, they are free to do so. On rare occasions, I have voted no against judicial nominees. I voted no on very few occasions when President Clinton was making the nominations, but I felt that I always had the right to express my view one way or the other. That is all Judge Saad is asking for. With the nomination pending now for almost 4 years, it is time that he have a vote up or down.

Let me read to you a letter from 31 assistant U.S. attorneys in the Eastern District to Senator LEVIN:

> [D]elays in criminal cases hurt the government; the government has the burden of proof, and the longer a case goes on the more chance there is that witnesses will disappear, forget, or die, documents will be lost, and investigators will retire or be transferred.

I go on from a different portion of this letter:

> In some cases, convicted criminal defendants are granted bond pending appeal. The elongated appellate process therefore allows defendants to remain on the street for a longer period of time, possibly committing new offenses. In addition, the longer delay makes retrials more difficult if the appeal results in the reversal of a conviction.

Further quoting from this letter:

> The Sixth Circuit has resorted to having more district judges sit by designation as panel members. This practice has contributed to a slowdown of the hearing of cases in district courts, because the district judges are taken out of those courtrooms. The widespread use of district judges also provides for less consistency in the appellate process than would obtain if full-time Circuit judges heard most of the appeals.
>
> In some cases, the small number of judges on the Court has served to effectively deprive the United States of en banc review. . . . Achieving a unanimous vote of all of those judges of the Court who were not part of the original panel is, as a matter of practice, impossible, and not worth seeking. However, if the Court was at full strength, an en banc review could have been granted with the votes of about two-thirds of the active judges who were not part of the original panel.

Why haven't we been able to vote on Judge Saad? The two Senators from the State, notwithstanding the fact that there are four vacancies in their own State, that the prosecutors from the State have written as I have just indicated, that people of wide disparate views in their State support his nomination, the two Senators from the State have urged their colleagues not to allow the vote to go forward. The reason is because two nominees to fill vacancies in Michigan were left without hearings at the end of the Clinton administration in 2001. It is not uncommon at the end of an administration for there to be nominations pending. I predict that because of opposition from the minority party, there will be a lot of nominations President Bush would like to have confirmed but which will not be confirmed because the other party will not allow it to happen. Sometimes nominations are made too late in the year for the vetting to be done, for the Bar Association to report, for the hearings to be held, for the executive work of the Judiciary Committee to report the judges to the Senate floor, and for the full Senate to vote. That is not an uncommon occurrence.

I note, for example, that Senators who are upset that two judges weren't considered at the end of the Clinton administration should also note that two nominees, including John Smietanka, the very well qualified U.S. attorney from the Western District of Michigan, were also left without hearings at the end of President Bush's term in 1993. So President Clinton got to appoint the same number of judges to the Sixth Circuit as the number of vacancies that came open during his Presidency. As with his predecessor, there were a couple of nominations still pending at the time his term ended.

But as these examples illustrate, both parties have had nominations left pending at end of their President's terms. The effort of the Senators from Michigan to block the consideration of Judge Saad as well as the other three nominations of President Bush at the outset of his term in 2001 is unheard of. It might be one thing if these nominations had just occurred and we didn't have time to consider them, but Judge Saad, as I said, was nominated on November 11, 2001, 2 months after the historic event of September 11. Five of the Sixth Circuit active judges—nearly half—were appointed by President Clinton—one President. I don't think it is possible to argue here that there is some kind of political agenda by Republicans or by President Bush to deny President Clinton nominations and confirmations of his nominations.

I might note that an editorial opinion in Michigan confirms this point. It is overwhelmingly opposed to the tactics of the minority to prevent confirmation of the nominees President Bush has made to fill these vacancies.

Let me quote from the Grand Rapids Press of February 24, 2002. This is only 3 months after the nomination of Judge Saad:

> The Constitution does not give these Senators from Michigan [Senators Levin and Stabenow] co-presidential authority and certainly does not support the use of the Court of Appeals to nurse a political grudge. . . . [Senators Levin and Stabenow] have proposed that the President let a bipartisan commission make Sixth Circuit nominations or that Mr. Bush re-nominate the two lapsed Clinton nominations. Mr. Bush has shown no interest in either retreat from his constitutional prerogatives. Nor should he. Movement in this matter should come from Senators Levin and Stabenow—and, clearly, it should be backward.

From the Detroit News, June 30, 2002:

> It was wrong for the Senate to fail to act on Clinton's Michigan nominees. But another wrong won't make things right for Michigan. Enough is enough. . . . Senators, it is long past time to fill Michigan's voids in the hall of justice.

I will conclude with one comment. Colleagues on the other side of the aisle will argue that we actually have confirmed a lot of President Bush's nominees. The truth is that we have confirmed about the same number of district court judges as is usual for the Senate during the first term of the President. In the first 3½ years of President Bush's term, we have confirmed, so far, 198 judges, and that is pretty close to the other President's by this overall statistic. President Bush would be on about the same pace as President Clinton, who appointed a total of 371 judges in 8 years—just 4 fewer than the 375 appointed by President Reagan. This would be about par.

The problem is, in the circuit court judges, Presidents ordinarily get most of their nominees confirmed, but President Bush is only getting about half of his confirmed.

Here are the statistics. President Clinton saw 71 percent of his circuit court nominees receive a full vote in the Senate; the first President Bush, 79 percent. President Reagan, 88 percent of his circuit nominees were confirmed; President Carter, 92 percent. But in the 107th Congress—our Congress—President Bush has only gotten 53 percent of his circuit court nominees voted on by the full Senate, 17 out of 32.

That is where the problem is and there is no secret why. As has been described many times by my friends on the other side of the aisle, the circuit court is just below the Supreme Court. It is viewed as more powerful and more important than the district courts. There are many more district court judges. They are the court of first resort. Their cases are appealed to the circuit courts.

Most of the time, circuit court decisions are not appealed or the appeals are not accepted by the Supreme Court. It can only hear maybe 300 cases or so a year, so, as a practical matter, the circuit courts become the court of last resort. That is why Democrats have refused to even vote on President Bush's nominees for circuit courts because they believe President Bush's nominees would not be as capable, have the right political philosophy, or serve the interests of justice as well as a President of their party.

As I have noted, whether Democrat or Republican, the full Senate under Republican control, as well as under Democratic control, has allowed votes on the vast majority of the circuit court nominees of previous Presidents. It is only President George Bush who has only received a vote on half of his circuit court nominees. That is what is going on. It is wrong. We need to vote. We need to vote on a nominee who has been pending now since November 11, 2001, Judge Henry Saad. I urge my colleagues when that opportunity comes within the next several hours, we will have that opportunity, they will agree to permit an up-or-down vote. That is all we are asking for.

If they have objections, and I see a couple of my colleagues are here, perhaps they would like to discuss their objections to Henry Saad. But let the Senate vote on this nominee as we do with most other issues. We bring it to the vote. Our Members want to vote. But at least this man, who has been waiting now for 3 years, would have a chance to have his nomination either confirmed or rejected.

I urge my colleagues to provide him that opportunity.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I ask unanimous consent that I be permitted to speak as in morning business and after I finish, in approximately 15 minutes, the Senator from New York be given an opportunity to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIN LADEN FLIGHT MANIFEST

Mr. LAUTENBERG. Mr. President, today I rise to discuss some disturbing information that was released to the public today. It concerns the aftermath of the terrorist attacks on the United States on September 11, 2001.

A little more than a week after September 11, precisely on September 19, 2001, a luxury airliner 727 took off from Boston Logan Airport. It was wheeled up, at 11 o'clock at night, under the cover of darkness. That airplane left the United States for Gander, Canada, then on to Paris, Geneva, and the final stop was Jeddah, Saudi Arabia.

The question was, Who was on this charter flight carrying people who will never again set foot in the United States? That charter flight, 1 week after September 11, carried 12 members of the bin Laden family out of our country. When they left, they took a million unanswered questions with them.

Now, on this chart is the flight manifest of that fateful flight. I will read the names of those with the last name of bin Laden: "Najia Binladen, Khalil Binladen, Sultan Binladen, Khalil Sultan Binladen, Shafig Binladen, Omar Awad Binladen, Badr Ahmed Binladen, Nawaf Bark Binladen, Mohammed Saleh Binladen, Salman Salem Binladen, Tamara Khalil Binladen, Sana's Mohammed Binladen, and Faisal Khalid Binladen."

I ask my colleagues, why in the world would we let 12 members of Osama bin Laden's family leave the country at that moment?

One of the first rules of a criminal investigation when you have the suspect on the run is to interrogate the family members. Osama bin Laden had just murdered over 3,000 Americans, but the administration let his family flee. The question is, Why?

There are reports that some of the bin Ladens were interviewed on the airplane by the FBI. Interviewed on the airplane? Everybody knows when the FBI is conducting a serious interview they do not do it within hearing of everyone else. These people were about to take off. Why would they disclose anything to U.S. law enforcement? They were getting out of here.

I have talked to law enforcement officials who said, at the very least, the bin Laden family should have been detained on a material witness warrant and put under oath and asked the question, Do you know where Osama bin Laden is? Do you know where his safe houses are? Where does he get his money? Who are his associates?

The Saudi PR machine has been spinning that Osama bin Laden is ostracized from his family; no one has any contact with him anymore. Most experts believe that is not the truth. It may be true for some family members but certainly not all.

It is, at the very least, unclear what bin Laden's position on Osama bin Laden really is. Osama bin Laden's brother, Yeslam bin Laden, was interviewed on television recently. He was asked the question, Would you turn Osama bin Laden in, if you knew where he was? He essentially said no.

Before it left this country, this charter flight stopped in several U.S. cities. It started by picking up one bin Laden, Najia bin Laden, in Los Angeles. It then flew to Orlando to pick up more members of the bin Laden family. Once in Orlando, the crew of this charter flight found out who they were carrying as passengers and threatened to walk out. They did not want to fly that flight but the charter company insisted they stay on the job. The airplane was flown from Orlando to Dulles, near Washington, to pick up more bin Ladens. Then the flight landed at Logan Airport in Boston to pick up additional family members to leave the country.

At Logan Airport, the officials there were not eager to let this plane full of bin Ladens take off so easily. The airport officials demanded clearances from the Bush administration before they let this airplane leave. But then, to their astonishment, the clearances quickly came through. Let them leave, was the order from the Bush administration. And we ask, Why?

Look at the names of the bin Laden family members who are allowed to leave the country. It is astounding, 12 of them, all of them with bin Laden last names. That is a pretty good indication that they ought to be questioned, ought to be interpreted, that they ought to tell what they know about Osama bin Laden, the murderer of our Americans.

Millions of Americans were still distraught on September 19. Thousands of foreigners were detained across our Nation and across the world, but the family of the perpetrator was let go. It makes no sense.

Some of these individuals' names raise specific concern. Take Omar bin Laden. He was under suspicion for involvement in a suspected terrorist organization. This was known on September 19, 2001, but the administration allowed him to flee. Once again, we must ask the question, why?

The President of the United States should explain to the American people why his administration let this plane leave. The American people are going to be shocked by this manifest, and they deserve an explanation.

These are 12 names that may have been inconvenienced in September 2001, if we detained them and subjected them to questioning under oath. They might not have liked it. That is 12 people potentially inconvenienced compared to the almost 3,000 names of those murdered on 9/11.

The American people deserve an answer. This information is reliable. Manifests are always filed with flights, especially those going out of the country. The destination: Saudi Arabia, Saudi Arabia, Saudi Arabia—all the way down the line. The passport numbers are blocked out on this chart, but their identity is quite clear.

This is a question that must be answered.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I know my colleagues are waiting, so I will try to be brief. I have come to the floor to talk about a resolution Senator CORNYN and I are submitting on human trafficking. Before I get into that, I want to mention a couple of points in reference to my good friend from Arizona. One is a numerical question. He talked about courts of appeals judges who have been approved under previous administrations and then mentioned the 107th Congress of this administration. It is sort of a bit of comparing not apples and oranges but apples and half apples.

I believe if you look at the number for the whole of President Bush's term, it goes up considerably. It might not be quite as high as some of the others, but it is much higher than the 53 percent Senator KYL mentioned. Senator KYL is a good friend of mine. I mentioned this to him while he was here.

But the second point I would make—I know my good colleague from Michigan, CARL LEVIN, will be bringing this up at some length—to me, the issue is not a tit-for-tat issue. They did a lot of wrongs previously when President Clinton was President and they did not let judges come through, and that created the vacancies in Michigan. But I have some sympathy for the Detroit News article Senator KYL quoted that said there should not be tit for tat here.

Two wrongs don't make a right. It is sort of anomalous for those creating the wrong to say two wrongs don't make a right. But there is a far more important point, and that is this: The reason we have no approval of judges in Michigan is the President has ignored the part of the Constitution that talks about advise and consent. For the vacancies in Michigan, if the President sat down with the Michigan Senators, Mr. LEVIN and Ms. STABENOW—both reasonable people, people who have engaged in many bipartisan relationships themselves—and said: "How do we work this out?" it would have been worked out in the first 6 months of the President's term.

The idea that, A, previous Senates have created vacancies, and then the President says to the Senators of that State or to the Senators of this body:

"It's my way or no way. I'm picking the judges. You have no say," that is what has created the deadlock.

The Constitution calls for advice as well as consent. In States where there has been advice, it has worked. In my State of New York we have no vacancies. Why? Because the administration has consulted with me. My colleague Senator CLINTON and I have nominated some judges to vacancies in New York. They have nominated the lion's share, but none of them would meet with this body's disapproval.

I am sure, if the President would simply sit down with Senator LEVIN and Senator STABENOW, and say: "How do we work this out?" it would be worked out, pardon the expression, in a New York minute. But they do not. They have an attitude: Here is what we want. You approve them. And if you don't approve every single one, then you are obstructionists.

As has been mentioned over and over again, of the 200 judges this body has dealt with, 6 have been disapproved and 194 have been approved. That is a darn good track record. I am a Yankee fan. The Yankees' percentage is up there around .700, .650 in terms of wins and losses. We are all proud of that. The President is doing a lot better than the Yankees.

The idea that "It's my way or no way" is not going to work. Furthermore, I would argue to my colleagues, it is not what the Founding Fathers wanted. If they wanted the President to appoint judges unilaterally, they would have said so in the Constitution. But they wanted the Senate to have a say.

I remind my colleagues, one of the first judges nominated by President Washington, John Rutledge of South Carolina, was rejected by the Senate because, of all things, of his views on the Jay treaty. And in that Senate were a good number of Founding Fathers, people who had actually written the Constitution, so clearly the Founding Fathers did not intend the Senate to be a rubberstamp.

Certainly they did not intend for the Senate to hold up a majority of judges, but when the President nominates people way out of the mainstream, when the President refuses to sit down and negotiate, these are the results. And I would guess—again, I defer to Senator LEVIN, who is on the floor—my view is, if the President or his counsel were to pick up the phone and say to Senator LEVIN: "How do we work this out?" it is still not too late, even as we enter the twilight of this Congress, to get it done.

That is all I will say on that matter. I will leave the rest to my colleague from Michigan.

(The remarks of Mr. SCHUMER pertaining to the submission of S. Res. 413 are printed in today's RECORD under "Submitted Resolutions.")

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senator from New York for his comments relative to judicial appointments. He is exactly right in terms of the number of judges that this Senate has confirmed with the support of this side of the aisle. He is exactly right when it comes to the willingness of Senator STABENOW and myself to compromise the deadlock that exists with this administration over the Michigan judges. We have been willing to do that from the beginning of this administration. We continue to be willing to attempt some kind of a compromise relative to these vacancies.

What we are unwilling to do is to allow a tactic, which was used relative to these two women who were nominated by President Clinton which denied them hearings for over 4 years and over 1½ years respectively, to succeed, as the good Senator from New York said, to either create these vacancies or to leave these vacancies opened for the next President to fill. That is not the way things should work. It is not the way the Constitution contemplated it. We are going to do our best to continue to press for a bipartisan solution in a number of ways but in the meantime to not simply say, OK, go ahead, fill vacancies which should not exist but only exist because of the denial of hearings for two well-qualified women who were appointed by President Clinton.

I thank the Senator from New York for his comments, for his perception, for his willingness and determination—more than willingness—to look at the full meaning of the Constitution so that it is not just the President who makes appointments in a situation such as this and assumes that the vacancies, which were created by denial of hearings for nominees of the previous administration, will be rubberstamped by this body.

Mr. SCHUMER. Mr. President, will my colleague yield?

Mr. LEVIN. I am happy to yield.

Mr. SCHUMER. First, I compliment my friend from Michigan for his steadfastness on this issue. Everyone knows the desire of the Senator and his colleague, Senator STABENOW from Michigan, to compromise. Over and over and over again, we on this side of the aisle have said: We don't expect the President to appoint judges that we agree with on most things. In fact, for 200 judges, the vast majority of us have voted for judges with whom we don't agree on many issues.

The point is, to blame these vacancies, as my friend from Arizona tried to do, on the Senators, when the President refuses to just pick up the telephone and call them and say, "How do we work this out," is very unfair.

I ask my colleague, once again, is he willing—and is Senator STABENOW, to his knowledge, willing—to sit down with the White House and come up with a compromise to fill these vacancies and that these vacancies don't have to remain vacant except for almost the intransigence of the White House to say, "If you don't do it our way, we are not doing it any way"? Am I wrong in that assumption?

Mr. LEVIN. The Senator from New York is decidedly right. We have expressed that willingness. There have been a number of suggestions which have been made for compromise. One of the suggestions which we have made was that there be a bipartisan commission appointed in Michigan to make recommendations to the White House to fill these vacancies. The recommendations do not have to include these two women. Bipartisan commissions have been appointed in other States without this kind of a deadlock existing but simply to promote bipartisanship. That suggestion has been rejected by the White House.

There was another suggestion that was made by Senator LEAHY when he was chairman of the Judiciary Committee for that period of time the Democrats were in the majority. That suggestion was actually supported by the then-Republican Governor of Michigan. There was a recommendation by then-Chairman LEAHY as to how to resolve this issue. That was also rejected by the White House. We continue to be open to suggestions to fill these vacancies, but we are deeply of the belief that the tactic that was used to deny hearings to qualified women—one of whom is a Michigan court of appeals judge and the other one of whom is a celebrated appellate lawyer in front of the Sixth Circuit—should not succeed. Maybe it succeeds in some places where there are not Senators in those States who will object because the new President of their party picks somebody they like and may have recommended.

But in a situation like this, when you have the advise-and-consent clause in the Constitution, and where there has been this kind of a tactic used, which the White House acknowledges was unfair—Judge Gonzalez has acknowledged that that tactic of denying hearings was unfair—simply to then fill the vacancies that were unfairly created is not something we can simply roll over and accept.

Mr. SCHUMER. Will my colleague yield further?

Mr. LEVIN. Yes.

Mr. SCHUMER. I thank the Senator for his steadfastness. He is hardly a person with a reputation of being unwilling to compromise and work things out. To my knowledge, he loves to do that kind of thing.

I will make one more point before yielding the floor. This involves my previous discussion with the Senator from Arizona, to corroborate and clarify the RECORD. There have been 35 court of appeals judges confirmed under President Bush. There were 65 in the 2 Clinton terms, twice as long. At least thus far, we are doing a better job confirming President Bush's court of appeals nominees than the previous Senates did in confirming President Clinton's. The numbers are fairly comparable, with President Bush doing a little bit better.

With that, I yield back to my colleague and tell him I fully support him in his quest for some degree of fairness and comity.

Mr. LEVIN. I thank my friend from New York.

Mr. President, I discussed with the Senator from New York the situation and the background relative to these Michigan vacancies. Two women, Helene White, a court of appeals judge, and Kathleen McCree Lewis, well known in Michigan as a very effective advocate—particularly appellate advocacy—were nominated by President Clinton to be on the Sixth Circuit Court of Appeals.

Judge White was denied a hearing for over 4 years, which is the longest time anyone has ever awaited a hearing in the Senate. She was never given a hearing by the Judiciary Committee. Kathleen McCree Lewis waited over a year and a half without a hearing in the Judiciary Committee.

For a time, there was a refusal to return blue slips on these two nominees by my then-colleague Spence Abraham. But even after Senator Abraham returned the blue slips in the spring of 2000, the women were not given hearings. They never got a vote in the Judiciary Committee or on the floor.

That distortion of the judicial nominating process was unfair to the two nominees. It deprived the previous administration of consideration by the Senate of those two nominees. Senator STABENOW and I have objected to proceeding to the current nominees until a just resolution is achieved.

Moving forward without resolving the impasse in a bipartisan manner could indeed deepen partisan differences and make future efforts to resolve this matter more difficult. I have said repeatedly that the number of Michigan vacancies on the Sixth Circuit provides an unusual opportunity for bipartisan compromise.

Judge Helene White was nominated to a vacancy on the Sixth Circuit on January 7, 1997. I returned my blue slip on Judge White's nomination. The junior Senator from Michigan, Mr. Abraham, did not. More than 10 months later, on October 22, 1997, Senator LEAHY, as ranking member of the Judiciary Committee, delivered what would be the first of at least 16 statements on the Senate floor, made over a 4-year period regarding Sixth Circuit nominations in Michigan. He called for the committee to act on Judge White's nomination. His appeal, like others that were to follow, was unsuccessful.

For instance, in October of 1998, more than a year and a half after Judge White was nominated, Senator LEAHY returned to the floor, where he warned the following:

> In each step of the process, judicial nominees are being delayed and stalled.

His plea was ignored. The 105th Congress ended without a hearing for Judge White.

On January 26, 1999, the beginning of the next Congress, President Clinton again submitted Judge White's nomination. That day, I sent one of many notes to both Senator Abraham and to the chairman of the Judiciary Committee. In that letter, I said the 105th Congress had ended without a Judiciary Committee hearing for Judge White and suggested that fundamental fairness dictated there be an early hearing in the 106th Congress. Again, no hearing.

On March 1, 1999, Judge Cornelia Kennedy took senior status, opening a second Michigan vacancy on the Sixth Circuit. The next day, Senator LEAHY returned to the floor, repeated his previous statement that nominations were being stalled, and raised Judge White's nomination as an example.

On September 16, 1999, President Clinton decided to nominate Kathleen McCree Lewis to that second vacancy. Soon thereafter, within 2 weeks, I spoke with Senator Abraham about both nominations, the Lewis and the White nominations. It had been more than 2½ years since Judge White was first nominated. Twice in the next month and a half, Senator LEAHY urged the committee to act, calling the treatment of judicial nominees unconscionable.

On November 18, 1999, I again wrote to Senator Abraham and Chairman HATCH, urging hearings in January 2000 for the two nominees. I then noted that Judge White had been waiting for nearly 3 years for a hearing, and I stated that confirmation of the two women was essential for fundamental fairness. My appeals were for naught, and 1999 ended without hearings in the Judiciary Committee.

In February of 2000, Senator LEAHY spoke again on the floor about vacancies on the Sixth Circuit. A few weeks later, in February of 2000, I made a personal plea to Senator Abraham and Chairman HATCH to hold hearings on the Michigan nominees. Again, I was unsuccessful and no hearing was scheduled.

On March 20, the chief judge of the Sixth Circuit sent a letter to Chairman HATCH expressing concerns about an alleged statement from a member of the Judiciary Committee that "due to partisan considerations," there would be no more hearings or votes on vacancies for the Sixth Circuit Court of Appeals during the Clinton administration. The judge's concern would turn out to be well-founded.

On April 13, 2000, Senator Abraham returned his blue slips for both Judge White and Ms. Lewis without indicating his approval or disapproval. The day Senator Abraham returned his blue slips, I spoke to Chairman HATCH and sent him a letter reminding him that blue slips had now been returned, that objections had not been raised, expressed my concern about the unconscionable length of time the nominations had been pending, and I urged that they be placed on the agenda of the next Judiciary Committee confirmation hearing.

Those efforts were unsuccessful. Two Michigan nominees were not placed on the agenda. I tried again early May 2000. I sent another note to Chairman HATCH, but those nominations were not placed on the committee's hearing agenda then or ever.

Over the next several months, Senator LEAHY went to the floor 10 more times to urge action on the Michigan nominees. More than once, I also raised the issue on the Senate floor.

In the fall of 2000, in a final attempt to move the nominations of two Michigan nominees, I met with the majority leader, Senator LOTT, and Senator DASCHLE to discuss the situation. I sent a letter to the majority leader urging him, stating, "The nominees from Michigan are women of integrity and fairness. They have been stalled in this Senate for an unconscionable amount of time without any stated reason."

Neither the meeting with the majority leader nor the letter resulted in the Judiciary Committee holding hearings on these nominations, and the 106th Congress ended without hearings for either woman.

Judge White's nomination was pending for more than 4 years, the longest period of time of any circuit court nominee waiting for a hearing in the history of the Senate. And Ms. Lewis's nomination was pending for over a year and a half.

There has been a great debate over the issue of blue slips. I am not sure this is the place for a lengthy debate on that issue, but I will say there has not been a consistent policy, apparently, relative to blue slips, although it would seem as though the inconsistency has worked one way.

In 1997, when asked by a reporter about a Texas nominee opposed by the Republican Senators from Texas, Chairman HATCH said the policy is that if a Senator returns a negative blue slip, that person is going to be dead. In October 7, 1999, Chairman HATCH said, with respect to the nomination of Judge Ronnie White:

> I might add, had both home-State Senators been opposed to Judge (Ronnie) White in committee, John White would never have come to the floor under our rules. I have to say, that would be true whether they are Democrat Senators or Republican Senators. That has just been the way the Judiciary Committee has operated. . . .

Apparently, it is not operating that way anymore because both Michigan Senators have objected to this nominee based on the reasons which I have set forth: that we cannot accept a tactic which keeps vacancies open, refusing hearings to the nominees of one President to keep vacancies open so they can then be filled by another President. That tactic should be stopped. It is not going to be stopped if these nominations are just simply approved without a compromise being worked out which would preserve a bipartisan spirit and the constitutional spirit about the appointment of Federal judges.

It is my understanding that not a single judicial nominee for district or circuit courts—not one—got a Judiciary Committee hearing during the Clinton administration if there was opposition from one home State Senator, let alone two. Now both home State Senators oppose proceeding with these judicial nominees absent a bipartisan approach.

Enough about blue slips. Senator Abraham then did return blue slips in April of 2000. He had marked them neither "support" nor "oppose", but they were returned without a statement of opposition. And what happened? What happened is, even though those blue slips were returned by Senator Abraham, there still were no hearings given to the Michigan nominees to the Sixth Circuit.

There was also an Ohio nominee named Kent Markus who was nominated to the Sixth Circuit. In his case, both home State Senators indicated their approval of his nomination, but nonetheless, this Clinton nominee was not granted a Judiciary Committee hearing, and his troubling account of that experience shed some additional light on the Michigan situation.

He testified before the Judiciary Committee last May, and said the following. This is the Ohio Clinton nominee to the Sixth Circuit:

> To their credit, Senator DeWine and his staff and Senator Hatch's staff and others close to him were straight with me. Over and over again they told me two things: One, there will be no more confirmations to the Sixth Circuit during the Clinton administration, and two, this has nothing to do with you; don't take it personally—it doesn't matter who the nominee is, what credentials they may have or what support they may have.

Then Marcus went on. This is his testimony in front of the Judiciary Committee:

> On one occasion, Senator DeWine told me "This is bigger than you and it's bigger than me." Senator Kohl, who kindly agreed to champion my nomination within the Judiciary Committee, encountered a similar brick wall. . . . The fact was, a decision had been made to hold the vacancies and see who won the Presidential election. With a Bush win, all those seats could go to Bush rather than Clinton nominees.

We are not alone in the view that what occurred with respect to these Sixth Circuit nominees was fundamentally unfair. Even Judge Gonzales, the current White House counsel, has acknowledged it was wrong for the Republican-led Senate to delay action on judicial nominees for partisan reasons, at one point even calling the treatment of some nominees "inexcusable," to use his word.

The tactic used against the two Michigan nominees should not be allowed to succeed, but as determined as we are that it not succeed, we are equally determined that there be a bipartisan solution, both to resolve a current impasse, but also for the sake of this process. There is such an opportunity to have a bipartisan solution because there are four Michigan vacancies on the Sixth Circuit.

In order to achieve a fair resolution, Senator STABENOW and I have made a number of proposals, and we have accepted a number of proposals. We proposed a bipartisan commission to recommend nominees to the President. Similar commissions have been used in other States. The commission would not be limited to any particular people. The two nominees of President Clinton may not be recommended by a bipartisan commission. Of greater importance, the existence of recommendations of a commission are not binding on the President.

The White House, in response to this suggestion—again, even though it was used in other States—has said that the constitutional power to appoint judges rests with the President, and of course it does. So there is no way anyone would propose or should propose that a bipartisan commission be able to make recommendations which would be binding upon the President of the United States, nor is the recommendation binding upon the Senate of the United States. It is simply a recommendation. This has occurred in other States under these and similar circumstances, and there is no reason why it should not be used here.

We also, again, were given a suggestion by the then-chairman of the Judiciary Committee, Senator LEAHY, who has tried his very best to figure out a solution to this deadlock. Senator LEAHY made a suggestion which was acceptable to both Senator STABENOW and me. It was acceptable even to the then-Republican Governor of the State of Michigan, Governor Engler, but it was rejected by the White House.

We have an unusual opportunity to obtain a bipartisan solution. It is an opportunity which has been afforded to us by the large number of vacancies in Michigan on the Sixth Circuit Court of Appeals. Finding that bipartisan path would be of great benefit, not just as a solution to this problem but to set a positive tone for the resolution of other judicial disputes as well.

In addition to the points which I have made, we made the additional point at the Judiciary Committee relative to the qualifications of Judge Saad. We indicated then and we went into some detail then that it is our belief that his judicial temperament falls below the standard expected of nominees to the second highest court in this country.

The Judiciary Committee considered a number of issues relating to that subject, judicial temperament or shortfall thereof, of this nominee in a closed session of the Judiciary Committee. I will not go into detail further, except to say we have made that point. We feel very keenly about that issue.

The vote in the Judiciary Committee was 10 to 9 to report out this nomination. It was a vote along party lines. The temperament issue, however, was raised, and properly so, in the Judiciary Committee, as well as this basic underlying issue which I have spent some time outlining this afternoon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

THE IRAQ DEBATE

Mr. McCONNELL. Mr. President, I rise today to discuss a matter of great relevance to the debate about the war in Iraq and the recent Senate report on the intelligence community. This report has illuminated a subject of considerable controversy and partisan criticism of the President.

I also rise to speak about the importance of maintaining a basic standard of fairness in American politics.

I am talking about the controversy that erupted over the infamous "16 words" in the State of the Union Address that Senator KERRY and numerous Senate Democrats and the media cited in accusations that the President misled the country into war.

On January 28, 2003, President Bush told the American people that:

> The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.

That was in the President's State of the Union address in January 2003.

When doubt surfaced about some—but not all—of the evidence supporting this claim, Joe Wilson, who had traveled to Niger to investigate an aspect of the intelligence, penned an op-ed in the New York Times accusing the administration of manipulating intelligence.

Not pausing for a full investigation, a partisan parade of Democratic Senators and Presidential candidates took to the streets to criticize the President and accuse him of misleading the Nation into war, a very serious charge.

Sensing a scandal, the media pounced.

NBC aired 40 reports on Wilson's claim. CBS aired 30 reports, while ABC aired 18.

Newspapers did not hold back either. The New York Times printed 70 articles reinforcing these allegations, while the Washington Post printed 98.

Pundits and politicians gorged themselves on the story.

Joe Wilson rose to great fame on the back of this inflammatory charge. He wrote a book for which he received a five-figure advance, he was lionized by the liberal left, and he became an adviser to Senator KERRY's Presidential campaign, a campaign to which he is also a financial contributor.

Of course, we now know Wilson's allegation was false. And we know the chief proponent of this charge, Joe Wilson, has been proven to be a liar.

After more than a year of misrepresentation and obfuscation, two bipartisan reports from two different countries have thoroughly repudiated Wilson's assertions and determined that President Bush's 16-word statement about Iraq's effort to procure uranium from Niger was well founded.

In fact, the real 16-word statement we should focus on is the one from Lord Butler's comprehensive report about British intelligence. Here is what he had to say:

> We conclude that the statement in President Bush's State of the Union address . . . is well founded.

Let me repeat Lord Butler's statement:

> We conclude that the statement in President Bush's State of the Union address . . . is well founded.

Those are 16 words to remember.

It is now worth the Senate's time to consider Mr. Wilson's claims.

Claim No. 1 is Wilson's assertion that his Niger trip report should have debunked the State of the Union claim.

On this bold allegation, the Senate's bipartisan report included this important conclusion:

> The report on the former Ambassador's trip to Niger, disseminated in March 2002, did not change any analysts' assessments of the Iraq-Niger uranium deal. For most analysts, the information in the report lent more credibility to the original CIA reports on the uranium deal. . . .

Let me repeat:

> For most analysts, the information in the report lent more credibility to the original CIA reports on the uranium deal. . . .

Claim No. 2 is similarly egregious.

According to the Washington Post, "Wilson provided misleading information to the Washington Post last June. He said then that the Niger intelligence was based on a document that had clearly been forged . . . " But "the documents . . . were not in U.S. hands until eight months after Wilson made his trip to Niger."

Predictably, this bombshell appeared on page A9. Page A9, Mr. President. After this story had previously enjoyed extensive coverage on Page A1.

There were indeed document forgeries, but these documents were not the only evidence that convinced foreign intelligence services about Iraq's efforts to purchase uranium.

Damningly, the former Prime Minister of Niger himself believed the Iraqis wanted to purchase uranium and according to the Financial Times:

> European intelligence officers have now revealed that three years before the fake documents became public, human and electronic intelligence sources from a number of countries picked up repeated discussion of an illicit trade in uranium from Niger. One of the customers discussed by the traders was Iraq.

And the Wall Street Journal has reported that:

> French and British intelligence (services) separately told the U.S. about possible Iraqi attempts to buy uranium in Niger.—7/19/04

Mr. President, when the French corroborate a story that Iraq is seeking WMD, you're probably in the right ballpark.

Indeed, the Senate's bipartisan report concluded that at the time:

> it was reasonable for analysts to assess that Iraq may have been seeking uranium from Africa based on CIA reporting and other available intelligence.

Claim No. 3 is Wilson's repeated denial that his wife, Valerie Plame, a CIA analyst, never recommended him for the Niger trip.

In his ironically titled book, The Politics of Truth, Wilson claimed:

> Valerie had nothing to do with the matter She definitely had not proposed that I make the trip.

In fact, the bipartisan Senate Intelligence Report includes testimony that Plame "offered up his name" and quotes a memo that Plame wrote that asserts "my husband has good relations with Niger officials."

The New York Times recently reported that:

> Instead of assigning a trained intelligence officer to the Niger case, though, the C.I.A. sent a former American Ambassador, Joseph Wilson, to talk to former Niger officials. His wife, Valerie Plame, was an officer in the counterproliferation division, and she had suggested that he be sent to Niger, according to the Senate report.

That story can be read on Page A14 of the New York Times.

Claim No. 4 is Wilson's allegation that the CIA warned the White House about the Niger claim and that the White House manipulated intelligence to bolster its argument for war. Wilson charged:

> The problem is not the intelligence but the manipulation of intelligence. That will all come out despite (Sen.) Roberts' effort to shift the blame. This was and is a White House issue, not a CIA issue.
>
> This reckless charge by Wilson was, we know, repeated by many of the President's critics.

Of course, it is not true. It simply is not true.

The Senate Intelligence Report determined the White House did not manipulate intelligence, but rather that the CIA had provided faulty information to policymakers. And the Washington Post recently reported that "Contrary to Wilson's assertions the CIA did not tell the White House it had qualms about the reliability of the Africa intelligence." (Susan Schmidt, Washington Post, A9, 7/10/04)

Again: Front page news on Page A9.

According to the New York Times and the Senate Intelligence Report, Joe Wilson admitted to Committee staff that some of his assertions in his book may have, quote, "involved a little literary flair."

"Literary flair" is a fancy way of saying what ordinary people shooting the breeze on their front porches all across America call by its real name: a lie. That is what it is.

So, the truth is Joe Wilson did not expose the Administration; in fact, he has been exposed as a liar.

He misrepresented the findings of his trip to Niger, he fabricated stories about recognizing forgeries he never saw, he falsely accused the White House of manipulating intelligence, and he misrepresented his wife's role in promoting him for the mission.

Joe Wilson's false claims have been exposed, but the networks aren't rushing to correct the story. Will NBC correct the 40 times it ran Wilson's claims, will CBS correct the 30 times, will ABC correct the 18?

To be sure, a few networks and newspapers have noted the Senate Intelligence Report conclusions, but where is the balance? Where are the lead stories? Where are the banner headlines? In short, where is the fairness?

Sadly, that is the state of political coverage in this election year. Screaming charges about the President made on A1, repudiation of the charges on A9, if they are made at all. Is that fair?

What of the political campaigns? It's a small wonder the Democrat candidates for President and their supporters aggressively picked up the Wilson claim. After all, the media was driving the train, so why not hitch a ride?

However, now that Wilson's false claims have been exposed, shouldn't a basic sense of fairness prevail? Shouldn't the partisans admit they were wrong, too?

For example, some of my colleagues in the Senate should ask themselves if it's now appropriate to distance themselves from Joe Wilson's distortions. Speaking on this floor on March 23, the Minority Leader praised Wilson and accused the Administration of retaliating against him:

> When Ambassador Joe Wilson told the truth about the administration's misleading claims about Iraq, Niger, and uranium, the people around the President didn't respond with facts. Instead they publicly disclosed

that Ambassador Wilson's wife was a deep-cover CIA agent.

Just last month, Senator DASCHLE noted:

> Sunlight, it's been said, is the best disinfectant. But for too long, the administration has been able to keep Congress and the American people in the dark . . . other serious matters, such as the manipulation of intelligence about Iraq, have received only fitful attention.

I hope he will acknowledge now the inaccuracy of his statement, and allow the sunlight to shine on Ambassador Wilson's fictions.

Senator KERRY welcomed Wilson onto his campaign team of advisors, and his campaign hosts Wilson's website, which carries a disclaimer that it is "Paid for by JOHN KERRY for President, Inc."

The Kerry/Wilson website includes a collection of articles by and about Joe Wilson that propound his baseless allegations against the Bush Administration, which I don't have time to go into today. Suffice it to say that showcasing Wilson's discredited views should at least be met with some acknowledgement that he was wrong all along.

Perhaps we can learn a thing or two from the recent episode involving Sandy Berger.

Berger, an advisor to President Clinton and Senator KERRY stepped down from the Kerry campaign. He's under investigation for removing and possibly destroying classified documents being reviewed by the 9/11 Commission.

Were I to engage in a little literary flair, I might say it seems Sandy walked out of the National Archives with some PDBs in his BVDs, and some classified docs in his socks. At any rate, I think it is appropriate, and politically wise, for him to leave the Kerry campaign.

It is clear Senator KERRY approved of Mr. Berger's departure. He should certainly ask the discredited Mr. WILSON to leave the team as well.

I close with a simple observation. I believe vigorous political disagreements are the heart of a strong democracy. When our debates are rooted in fact, impassioned political disagreement makes our country stronger.

I also believe Americans value fundamental fairness—fundamental fairness—and deserve a news media that reflects this value. How is it fair to report an accusation with blaring page 1 headlines and around-the-clock television coverage and not give a slamdunk repudiation of the charge the same kind of attention?

We will watch over the next few days to see if fundamental fairness will be met, and if those who championed Mr. WILSON's charges will set the record straight.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished majority whip, the assistant floor leader, for what is an excellent set of remarks, long overdue and very much on point.

I am on the Senate Select Committee on Intelligence. I remember when this whole brouhaha came up, how demeaned the President of the United States was, not only by the media but by this man, Ambassador Wilson, who immediately took great glee in slamming the President because of 16 words that happened to be accurate. We could not talk about it before now, but the British findings show the President was accurate. And I, for one, am very happy for the Butler report and for what came out.

I agree with the distinguished Senator from Kentucky that this was page 1 offensive media to the President of the United States, undermining what he was saying, what he was doing, and what we have backed him on this floor in doing. Now that this man has been caught in these shall I say discrepancies—some might be a lot stronger than that—we see hardly any comments about it. But having said that, I have to say I have been reading the Washington Post, and they have acted quite responsibly. Many of the other media have not acted that way. But the distinguished Senator from Kentucky covered this matter very well.

I feel sorry whenever partisan politics trumps truth, whenever, in the interest of trying to get a political advantage from one side or the other, anybody of the stature of a former Ambassador of the United States would participate in distorting the record, especially when he knew better.

So again, I thank my colleague.

Mr. McCONNELL. Mr. President, I thank my friend from Utah. Hopefully, this will be the beginning of a wave of coverage both on the networks and in the newspapers on correcting the record and making it clear that Mr. Wilson's assertions are demonstrably false and have been so found by two different important reports.

Mr. HATCH. Mr. President, I thank my colleague. I want to comment that anybody with brains, when they saw that Iraqi team and knew of the Iraqi team—of course, they could not say much about it until now—knew the Iraqi team had gone over to Niger, why else would they have spent the time? Niger had hardly any exportable products other than food, except for yellowcake uranium. Why would they waste their time going to Niger?

I remember at the time thinking: This smells, this argument that the President has misused 16 words and that the CIA should be held totally responsible because those 16 words were wrong. And now we find they were not necessarily wrong. In fact, they were right.

That smacks of this whole matter of partisanship with regard to the current Presidential race. We have our two colleagues on the other side who are now running for President and Vice President who voted for our actions in Iraq. At least one of them spoke out on how serious the actions of the Iraqi regime under Saddam Hussein were, voted for it, and now they are trying to weasel out because they voted against funding it, saying they wanted to get it done right. Well, that is a nice argument, except that we have well over 100,000 of our young men and women over there, and others as well, who are put at risk if we do not fund the effort once it has started.

Secondly, I heard lots of comments from the other side as to weapons of mass destruction. They knew Saddam Hussein had them in the early 1990s. The U.N. knew they had them. Almost every Democrat of substance spoke out that he had them, were concerned about the fact that he had weapons of mass destruction, that he was trying to obtain weapons of mass destruction, including the distinguished candidate for President in the Democratic Party.

And to get cheap political advantage, they have tried to undermine the President of the United States because, so far, we have not been able to discover except small evidences of actual weapons of mass destruction.

What has not been said, for the most part, is any basement in Baghdad, any swimming pool in Baghdad—a city the size of Los Angeles—could store all of the biological weapons necessary to kill a whole city such as Baghdad or Los Angeles and could store all of the chemical weapons that could cause havoc all over the world. The fact we have not found them yet does not mean they are not there.

It does appear the nuclear program Saddam Hussein had authorized in the early 1990s—and had been well on its way to accomplishing the development of a nuclear device—was not as forward advanced as many of us thought. But there is no question they had the scientists in place. There is no question they had the knowledge in place. There is no question they had the documents in place. There is no question he wanted to do that, no question that he would have done it if he could.

I think as time goes on, more and more information will come out that will indicate that the President of the United States has taken the right course, with the help of this whole body. It seems strange to me that so many are trying to weasel out of the position they took earlier in backing the President of the United States and in backing our country and in backing our soldiers, and are trying to make political advantage out of some of the difficulties we have over there.

Now that political advantage has been tremendously diminished—tremendously diminished—as of the time that jurisdiction was turned over to the Iraqis. They are now running their country, with us as backup to help them, to help bring about the freedoms all of us in America take for granted every day. I doubt they will ever have the total freedoms we take for granted every day, but they have a lot more freedom now than they ever even contemplated or thought possible under the Saddam Hussein regime.

That is because of our country. That is because of our young men and women who have sacrificed. I particularly resent it when, for cheap political advantage, some of our colleagues get up and moan and groan about what is going on over there. Every time they do it, it undermines the very nature of what our young men and women are sacrificing to accomplish.

Fortunately, it is the few who do that. But nobody on this floor on either side should be undermining our young men and women over in Iraq, who are heroically serving, some dying—over 900, as we stand here today.

Cheap political advantage—that is the era we are in, I take it. Both sides from time to time have used efforts to accomplish cheap political advantage, but I have never heard it worse than what I have seen this year against this President. I have never seen a more vicious group of people than the outside commentators who hate President Bush. In all honesty, we can sit back and let these terrorists run around this world and do whatever they want to do and act like it won't affect us or we can take action to try to solve the problem.

It is a long-term problem; it is not a short-term one. It is going to take a lot of courage and good leadership, and it is going to take people who don't just quit and hope they will go away. They are not going to go away. These people are committed ideologues. They are theocratic ideologues. And in many respects throughout the history of the world, that is where most of the really dangerous difficulties come. It is through vicious, radical, theocratic ideologues. Frankly, that is what we are facing. Anybody who thinks this is going to be just an easy slam dunk to resolve has not looked at any of the intelligence, has not thought it through, and really has not spent enough time worrying about it on the Senate floor or otherwise.

I have not always agreed with our President. I probably have been wrong when I haven't. The fact is, I sure agree with him in supporting our troops and supporting freedom in the world. Think about it. If Saddam Hussein had been allowed to go on unchecked, not only would millions of Iraqis be kept in terrible conditions, upwards of a million killed viciously by that regime, but ultimately he would have developed nuclear weapons, as he was trying to do in the early 1990s and came close to doing by everybody's measure who knew anything about it. Had that occurred and we didn't do anything about it, guess who would have had to. And if they had to, as they did in the early 1980s in taking out the nuclear reactor, we would have world war III without question.

So there is a lot involved here. This is not some simple itty-bitty problem, nor is it something conjured up by the President of the United States, nor is it something that really intelligent, honest, bipartisan people should ignore. We need to work together in the best interests of this country and of the world to make sure that these madmen do not control the world and continue to control our destinies and that these madmen don't get so powerful that they can do just about anything they want to in the world. You can see how they try to intimidate just by threats and even action. Well, great countries cannot give in to threats, nor can we give in to offensive action that needs to be dealt with. This country has led the world in standing for freedom.

I have to say that I loved the comment of Colin Powell when somebody in a foreign land snidely accused the United States of attempted hegemony or trying to be imperial. He basically said: Our young men and women have given their lives all over this world for freedom, and the only ground that we have ever asked in return is that in which we bury our dead. That is true to this day. I think if the rest of the world looks at it honestly, they will have to say America really does stand for that principle: freedom and decency and honor and justice, not just in this land but for other lands as well.

Mr. President, as I understand it, we are on the Saad nomination.

The PRESIDING OFFICER (Mr. TALENT). The Senator is correct.

Mr. HATCH. As we begin the debate on this nomination, I want to put it in the larger context of the judicial nomination process.

On May 9, 2001, President Bush nominated 11 outstanding individuals to serve on the Federal bench. I would note that this was months earlier than previous new Presidents, giving the Senate plenty of time to begin considering his nominees. In the 3-plus years—over 1,100 days—since those nominations, the Senate has confirmed only 8 of the first 11 nominees. By comparison, the previous 3 Presidents saw their first 11 appeals court nominees all confirmed in an average of just 81 days following their nomination. We are now 1,100 days past. Not so for President Bush.

While three of his first nominees were confirmed within 6 months, many others waited for 2 years or more before they were confirmed. But even this long wait was better than the fate of the three remaining nominees who have been subjected to filibusters.

One of those, Miguel Estrada, waited for more than 2½ years and became the target of the first filibuster against a judicial nominee in American history. This Hispanic man deserved better treatment, but he was mistreated for crass partisan purposes. Though a bipartisan majority of Senators supported Miguel Estrada, he had to withdraw after an unprecedented seven cloture votes, meaning seven attempts to try and get to a vote where he could have a vote up or down. Those seven cloture votes, any one of which would have ended the filibuster and allowed that vote up or down, he went through seven of them, the most in the history of this country for any judicial nominee. By the way, the only nominees who have ever had to go through cloture votes in a real filibuster or in real filibusters have been President Bush's nominees. We have had cloture votes before, but there never was any question that the nominees were going to get a vote in the end.

Several weeks prior to those first nominations, shortly after President Bush's inauguration, the Democratic leader stated that the Senate minority would use "whatever means necessary" to block judicial nominees they did not like. We have seen the fulfillment of that statement as a variety of techniques have been employed to delay or obstruct the confirmation of nominees, including bottling up nominees in committee, injecting ideology into the confirmation process, seeking all unpublished opinions, requesting nominees to produce Government-owned confidential memoranda, repeated rounds of written questions, and multiple filibusters. It is a sad commentary on the deterioration of the judicial confirmation process that we are now approaching double-digit filibusters in the U.S. Senate of 10 judges or more.

Let me reiterate a few points which I made yesterday concerning the process of confirming judges. Despite this range and frequency of obstructionist tactics which we have seen, some of them entirely new in American history, the Senate has confirmed 198 judges during the past 3 years. I will note that this is behind the pace of President Clinton in his first term. And the minority has made even these confirmations as difficult as possible. Yet some of my colleagues think that the constitutional duty to advise and consent has a time clock attached to it and that the time has run out for the Senate to do its duty. I reject this analysis, either that the previous agreement to allow the vote on the 25 judges was the sum total of our work in the Senate or the notion that judicial nominations cannot be confirmed after some mythical deadline is announced.

There are plenty of examples of confirmation of judges in Presidential election years during the fall, some of which occurred during or after the election was held. Stephen Breyer is a perfect illustration. He now sits on the Supreme Court of the United States. Stephen Breyer was confirmed to the First Circuit Court of Appeals. That is just one example. I was the one who helped make that possible because Reagan had been elected.

The Republicans had won the Senate for the first time in decades. There was no real reason to allow what many thought was a liberal Democrat to be appointed to any court at that point or to be confirmed to any court at that point. But Stephen Breyer was an exceptional man. He not only had been chief of staff to Senator KENNEDY on the Judiciary Committee, and not only was he a Harvard law professor and a brilliant legal theorist, he was a very honest, decent, honorable man. I helped carry that fight. It wasn't much of a fight in the end because the Republicans agreed, and we confirmed Stephen Breyer late in the year after the election took place.

I helped facilitate that confirmation which took place after the November 1980 presidential election. That nomination was made by President Carter, who had just been defeated by President Reagan, and yet we acted on it. I note that Senator Thurmond was the ranking member at that time. Yet his name continues to be invoked as the authority of a binding precedent. I reject the notion of this purported rule and would hope that the service of the longest serving and oldest Member to have served in this body would not be used in the manner I have heard repeated in the committee and on the Senate floor.

Besides, Senator Thurmond was chairman of the committee, and at one time he did say: We have had enough confirmations, and this is what we are going to do. We are going to stop this year.

But even then he didn't.

Under the Senate Democrats' theory, the Senate has apparently confirmed enough judges. The remaining vacancies, half of which are classified as judicial emergencies because of the backlog, just don't seem to matter to them. According to their analysis, because of some acceptable vacancy rate or because of the mythical time clock, the remaining 25 judges pending before the Senate should be dismissed out of hand. This is not logical, nor is it the proper approach to take under the Constitution.

I will also respond to some of the arguments made that Senate Democrats have only rejected six or seven nominees. The fact is, the Senate has not rejected the nominees which have been filibustered. If they have the votes to defeat the nominee, then let those votes be cast and let the results stand. But a minority of Senators are denying the Senate from either confirming or defeating some of these nominees. That is what we are seeking today—an up or down vote.

Mr. President, unfortunately, one of the battlegrounds of this judicial obstructionism has been the Sixth Circuit Court of Appeals. Despite President Bush's attempt to fill four critical vacancies on that court, and two district vacancies in Michigan, these nominations remained stalled in the Senate. There are many factors contributing to the stalemate we have found ourselves in with regard to confirmations on the Sixth Circuit, some of which go back to the Clinton administration. I will discuss that in detail at a later point, but for now, everyone knows that I have been working to reach an accommodation that would help move this process forward.

I have great respect for Senators LEVIN and STABENOW. I have worked for many years with Senator LEVIN and have reached agreements with him on many difficult issues. For example, Senator LEVIN and I worked with Senators BIDEN and MOYNIHAN to dramatically revise the regulations pertaining to heroin addiction treatment. That effort is paying off. I remain hopeful that we can do so here.

On this issue, I have continued to work with Senators LEVIN and STABENOW. I have carefully listened to their concerns. And while the Michigan Senators' negative blue slips were accorded substantial weight—that is why this has taken so long—I delayed scheduling a hearing on any of the Michigan nominees because of the Michigan Senators' views. Their negative blue slips are not dispositive under the committee's Kennedy-Biden-Hatch blue slip policy. It was started by Senator KENNEDY, confirmed by Senator BIDEN, and I have gone along with my two liberal colleagues on the committee.

I don't think there is any doubt that I have attempted to reach an accommodation that would fill these seats. Unfortunately, my efforts have not been successful. I remain hopeful that we can come to a resolution, and I will keep trying to do so. But I must emphasize, in my view, integral to any accommodation is the confirmation of Judge Saad, Judge Griffin, and Judge McKeague—at least votes up or down. Since they have a majority of people in the Senate who would vote for them, I believe they would be confirmed in the end.

These are exceptional individuals. Judge Saad and Judge Griffin both serve on the Michigan Court of Appeals. Judge McKeague is a district Judge for the United States District Court for the Western District of Michigan. He was unanimously confirmed by the U.S. Senate.

It has been nearly 1 year since the Judiciary Committee first considered the nomination of Henry W. Saad, who has been nominated for a position on the United States Court of Appeals for the Sixth Circuit. This is an historic appointment. Upon his confirmation, Judge Saad will become the first Arab-American to sit on the Sixth Circuit, which covers the States of Kentucky, Ohio, Tennessee, and Michigan.

It is long past time for the Senate to consider Judge Saad's nomination. He was first nominated to fill a Federal judgeship in 1992, when the first President Bush nominated him for a seat on the United States District Court for the Eastern District of Michigan. The fact that he did not get a hearing may have worked to his benefit, since he was appointed in 1994 by Governor Engler to a seat on the Michigan Court of Appeals. He was elected to retain his seat in 1996 and again in 2002, receiving broad bipartisan support in each election.

On November 8, 2001, President Bush nominated Judge Saad for a seat on the Sixth Circuit, the position for which we are considering him today. When no action was taken on his nomination during the 107th Congress, President Bush renominated him to the Sixth Circuit on January 7, 2003. All told, Judge Saad has been nominated for a seat on the Federal bench three separate times. It is high time the Senate completed action on his nomination.

Judge Saad's credentials for this position are impeccable. He graduated with distinction from Wayne State University in 1971 and magna cum laude from Wayne State University Law School in 1974. He then spent 20 years in the private practice of law with one of Michigan's leading firms, Dickinson, Wright, specializing in product liability, commercial litigation, employment law, labor law, school law and libel law. In addition, he has served as an adjunct professor at both the University of Detroit Mercy School of Law and at Wayne State University Law School.

Judge Saad is active in legal and community affairs. Some of the organizations he has been involved with include educational television, where he serves as a trustee, the American Heart Association, Mothers Against Drunk Driving, and other nonprofit organizations that serve the elderly and impaired. As a leader in the Arab-American community, Judge Saad has worked with a variety of organizations in promoting understanding and good relations throughout all ethnic, racial, and religious communities. He is an outstanding role model.

Judge Saad enjoys broad bipartisan support throughout his State, as evidenced by endorsements in his last election by the Michigan State AFL-CIO and the United Auto Workers of Michigan. He has received dozens of letters of support from leading political figures, fellow judges, law professors, private attorneys, the Michigan Chamber of Commerce, and a variety of other groups.

Let me quote from just a few of the letters received in support of Judge Saad's nomination. Maura D. Corrigan, Chief Justice of the Michigan Supreme Court, wrote: "Henry Saad has distinguished himself as a fair-minded and independent jurist who respects the rule of law, the independence of the judiciary, and the constitutional role of the judiciary in our tripartite form of government. . . . Judge Saad is a public servant of exceptional intelligence and integrity. He has the respect of the bench and the bar." Other judges have written that he is "a hard-working and honorable individual" and that he is "an outstanding appellate jurist with a strong work ethic." Roman Gribbs, a lifelong Democrat and retired judge, wrote, "Henry Saad is a man of personal and professional integrity, is fair-minded, very conscientious and is above all, an outstanding jurist." Judge Saad has clearly earned the respect and admiration of his colleagues on the Michigan State court bench. His nomination deserves consideration by this Senate.

I hope that our consideration of Judge Saad's nomination is not overshadowed by collateral arguments about the propriety of his nomination, the committee blue slip process, an attack on his personal character and qualifications, or other diversionary arguments. The question before the Senate is the qualifications of Judge Saad to sit on the Federal bench.

We have heard from the other side about the President just steamrolling these nominations, without consulting with the home state Senators.

Mr. SESSIONS. Mr. President, I join the distinguished chairman of the Judiciary Committee, Senator HATCH, in supporting Henry Saad for the U.S. Circuit Court for the Sixth Circuit. He is an exceptionally qualified nominee who has great support in his area. He graduated with distinction from Wayne State University and then magna cum laude at Wayne State University School of Law. He has served for a decade on the Michigan Court of Appeals. He was nominated for this position by former President Bush 10 years ago and was held up, blocked, and did not get a hearing, and now he is back and being held up again.

He has the necessary experience to serve. He has been active in his community. He is a Heart Association board member, Oakland College Community Foundation chairman, member of the board of the Judges Association, Michigan Department of Civil Rights hearing referee. He is a Community Foundation of Southeast Michigan board member. He has written a number of articles on subjects such as employment discrimination, AIDS in the workplace, libel standards, and legal ethics. He has given a number of speeches, primarily on appellate advocacy. He has been nominated for a position as an appellate judge, so this is good experience. Appellate judges do not try cases, as the Presiding Officer knows. Appellate judges review trials that went on before. They review briefs carefully and they hear arguments from attorneys involved in a case and who have written briefs in summary, and then they make written rulings to decide whether the trial was properly tried or not. We need him on this circuit.

I have to share some thoughts about this matter because it is important and something smells bad. It is not good what has occurred with regard to this nominee and other nominees to the Sixth Circuit. There has been an orchestrated effort to block rule of law nominees for some time now.

The House of Representatives had hearings on this matter some time ago and was highly critical about what has occurred. Frankly, I am not sure we fully know the story yet of all that occurred. Let's take recent history when the Democrats were in the majority in the Senate and they controlled the Judiciary Committee and could decide what nominees came up for vote.

The Democrats made a number of questionable decisions, and they took care of some outside groups, and they took certain steps that were quite significant. A number of nominees were delayed or blocked. As I recall, even then there were four, maybe six, vacancies in this circuit. Right now, 25 percent of the circuit is vacant. It is an emergency situation, according to the courts, because we have so many vacancies there.

Thirty-one assistant United States attorneys—these are the prosecutors who try cases every day, not a political group, but a group of workhorse attorneys trying cases—have expressed concern about the failure to fill these appointments and how long it takes their criminal appeals to be decided. But I want to share this with my colleagues because I think we might as well talk about it. I wish it had not happened, but it has.

Take the case of Julia Gibbons of Tennessee. She was a very talented nominee to the Sixth Circuit early on. When the Democrats were in control of the Judiciary Committee, her nomination in 2001 was mysteriously slowed down. It did not move. At one point in March of 2002, Senator MCCONNELL spoke on the floor, and he complained that she had waited 164 days and never had a hearing, and we wondered what was going on and why this fine nominee was being held up.

We now know through the release of internal memos that were published in newspapers, in the Wall Street Journal and other places that discussed this case, what happened. Frankly, I do not think these memos should have been made public—under the circumstances, they were, based on what I know. But things leak around here. That is the way it is. I have to share with this body what occurred.

What we know is that in April of 2002, there was a staff memorandum to Senator KENNEDY from his staff that indicates that the NAACP, which was a party to a Sixth Circuit case, the Michigan affirmative action case to be exact, that they considered to be an important case—this is what the memorandum says: That the NAACP

> would like the Judiciary Committee to hold off on any Sixth Circuit nominees until the University of Michigan case regarding the constitutionality of affirmative action in higher education is decided by the en banc, Sixth Circuit. . . .
>
> The thinking is that the current Sixth Circuit will sustain the affirmative action program, but that if a new judge with conservative views is confirmed before the case is decided, the new judge will be able . . . to review the case and vote on it.

The Kennedy memorandum further states that some "are a little concerned about the propriety of scheduling hearings based on the resolution of a particular case. We are also aware that the Sixth Circuit is in dire need of judges."

The memorandum goes on to conclude:

> Nevertheless we recommend that Gibbons be scheduled for a later hearing: The Michigan case is important.

Even though it was understood to be wrong to influence the outcome of a pending case, it was recommended that Gibbons be delayed.

Now, people like to suggest that the holdup in these nominations is some flap with the home State Senators, that it is tit for tat. I remember a good friend who former President Bush nominated, John Smietanka, for this circuit. He was blocked. He was a wonderful nominee, a saintly person really, a great judge. He was blocked, so they say this is all tit for tat, but I do not think so.

I am afraid what really is at work is this circuit was narrowly divided. In fact, as I recall, the University of Michigan case was decided by one vote. Had the new judge been confirmed and voted the other way, it would have been a tie vote. That verdict would not have come out as it did. So I think there is an attempt to shape the makeup of this court. Let's not make any mistake about this whole issue. The judiciary debate is not about politics; it is not Republican versus Democrat. This debate is about the beliefs, the value judgment, and the legal philosophy of President Bush, and I dare suggest a vast majority of American citizens. President Bush and the American people believe that judges should be bound by the law, they should follow the law, they should strictly follow the law, and that unelected, lifetime appointed Federal judges are not in power to set social policy because they are unaccountable to the public. So that is the big deal.

There are people who believe otherwise. There are people who can no longer win these issues at the ballot box, if they ever could. They want judges to declare things that they do not want to have their fingerprints on, like taking God out of the Pledge of Allegiance. These are activist decisions. So I believe this is a matter far deeper than just Republican versus Democrat; it represents a debate about the nature of the American judiciary—do we stay true to an Anglo-American tradition that judges are not political, that they are independent, that they wear that robe to distinguish themselves from the normal person, that they isolate themselves from politics, and that they study the law and rule on the law? That is what I believe a judge ought to do. That is the ideal of American law. It is very important that we maintain that.

When we have nominees held up explicitly to affect the outcome of a case that might come before them, a very important and famous case, indeed perhaps the most significant case that year—maybe even in the last half-dozen years—to be shaped and blocked simply because of that case is bad. In fact, after the case was over, Judge Gibbons was confirmed 95–0 by this body. There never was any objection to her other than they were afraid it would affect the outcome of the case.

There are vacancies on the Sixth Circuit. The President is empowered to make the appointments. He is empowered to make the appointments according to the legal philosophies and principles he announced to the American people when he ran for office. President Bush declared that he was going to nominate and fight for judges who would follow the law, not make law, who would show restraint, who would be true to the legitimate interpretation of the statutes and the Constitution, not using that document to further promote their own personal agendas. That is what he has done, and that is what Judge Saad's record is. He is not going to impose his values on the people of the Sixth Circuit. That is not his philosophy of judging. His philosophy is to follow the law, not to make the law. We have no fear of that kind of judge. We ought to confirm him.

The people of this Nation need to know that the Democratic leader, Senator DASCHLE, and the Democratic machine is time after time mustering 40 votes to block these nominees from even getting an up-or-down vote. In fact, when we vote on cloture to shut off debate and we have to have 60 votes, we are constantly getting 53, 54, 55 votes for these nominees, which is more than enough to confirm them, but we cannot shut off the debate and get an up-or-down vote. So by the unprecedented use of the filibuster, these judges are not getting an up-or-down vote. I say to the American people, they need to understand this. I believe the rule of law in this country is jeopardized by the politicization of the courts. We must not allow that to happen. I believe the collegiality and traditions of this Senate are being altered. There is no doubt we have not had filibusters of judges before. In fact, about 4 years ago, Senator LEAHY was denouncing filibusters when President Clinton was in office, and now he is leading it. The ranking member of the Judiciary Committee is leading a host of filibusters. It is an unprincipled thing.

I remember Senator HATCH, as chairman of the Judiciary Committee and a guardian of the principles and integrity of the Senate, on many occasions told Republicans when they said, Well, we do not like this judge, we ought to filibuster him, why do we not filibuster him, and he said, You do not filibuster judges; we have never filibustered judges; that is the wrong thing to do. And we never filibustered President Clinton's judges.

I voted to bring several of them up for a vote and cut off debate even though I voted against those judges because they should not be on the bench. I did not vote to filibuster the judge, and I think that is the basic philosophy of this Senate.

I hope we will look at this carefully. These nominees are highly qualified. They are highly principled. Many of them have extraordinary reputations, like Miguel Estrada, Judge Pickering, Bill Pryor, and Priscilla Owen from Texas, a justice on the Texas Supreme Court who made the highest possible score on the Texas bar exam. These are highly qualified people who ought to be given an up-or-down vote. If they were given an up-or-down vote, they would be confirmed just like that.

Unfortunately, we are having a slowdown, unprecedented in its nature. If this does not end and we cannot get an up-or-down vote on these judges, those of us on this side need to take other steps. And we will take other steps. We need to fight to make sure that the traditions of this Senate and the constitutional understanding of the confirmation process are affirmed and defeat the political attempts to preserve an activist judiciary that our colleagues, it appears, want to keep in power so that they can further their political agenda, an agenda they cannot win at the ballot box.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS SPENDING BILL

Mr. BYRD. Madam President, there are only 22 legislative days left in this fiscal year. The Senate seems to be frittering away those precious days. To date, the Senate has only passed one appropriations bill, the Defense bill. Only four bills have been reported from the Senate Appropriations Committee.

The House has passed nine appropriations bills, but apparently the Senate would rather work on political messagemaking than to take care of the Nation's vital business. So I fear, once again, that the Senate Republican leadership is setting a course for a massive omnibus spending bill. That is what it looks like. That is what we are going to do, have a massive omnibus spending bill, in all likelihood.

This year, with the failure of the Senate Republican leadership to even bring the Homeland Security bill before the Senate, the Omnibus appropriations bill may include as many as 12 of the 13 annual appropriations bills. That is very conceivable to ponder.

On July 8, Homeland Security Secretary Tom Ridge and FBI Director Robert Mueller announced that another terrorist attack is likely before the November elections, yet the Homeland Security appropriations bill, which the committee reported 4 weeks ago, has not even been presented to the full Senate for its consideration. What is wrong? What is wrong with this picture? Talk about fiddling while Rome burns. The flames are all around us.

The Senate Republican leadership is setting the stage for another one of these massive spending bills that may be brought up in the Senate in an unamendable form. And one shudders to think what will go on behind closed doors. Who among the 100 Senators will be in the meetings that produce a massive bill that appropriates over $400 billion for veterans, education, homeland security, highways, agriculture, and the environment? Who among the 100 Senators will be in the meetings when decisions are made about including provisions on drug importation, gun liability, farm bill issues, nuclear waste storage at Yucca Mountain, overtime rules, or on the outsourcing of government services? Does anybody know?

And, who knows what surprises, that were never debated or even contemplated in the Senate, will find their way into such an omnibus? What kind of interesting bugs will crawl into this big bad apple of a bill? I cannot tell you how many Senators will be in the room, but I can assure you of one thing. The White House will be there. You can bet on that. They will be there with their pet projects and their pet peeves and their opportunities to move certain items into their favorite States—doing their bidding, legislating right along with the Senators. They will be there. White House bureaucrats and soothsayers will suddenly become legislators for a day, or perhaps several days.

That is not the way our Constitution contemplated the writing of appropriations bills. The Framers believed that Congress ought to have the power of the purse. This White House would like to have it. They would like very much to have it. But all of those constitutional niceties get blurred and blended when it comes time to deal on Omnibus appropriations bills. The checks and balances gets thrown out the window when it comes time to deal with Omnibus appropriations bills.

One could conclude that the only thing the President wants from the fiscal year 2005 appropriations bill is the Defense appropriations bill. That is the only thing the President would want from the 2005 appropriations process—the Defense appropriations bill.

On June 24, 2004, in its Statement of Administration Policy, the White House urged the Congress to pass the Defense bill before the start of the August recess. Why?

In February, the President did not ask for one thin dime, not one thin dime did he ask for as far as the costs of the war in Iraq—nothing. Administration officials had the temerity to insist that the costs of the war were not knowable. Then suddenly, on May 12, 2004, the President saw the light and realized that he needed more money for the war in Iraq. It must have come to him in a sudden vision. So, like a teenage driver, he put the foot on the gas and insisted that the Congress give him a $25 billion blank check for the escalating costs of his war in Iraq.

With the help of Senator STEVENS of Alaska, the blank check got canceled, but the defense conference report will include the $25 billion in additional funds. The President will get the one thing he wanted out of this year's appropriations process; he will get the Defense appropriations bill.

So I must ask the American people, why is it the President has not sent messages to the Congress urging prompt action on the bill that funds the veterans health care system? I am sure the veterans are concerned about what is going to happen with respect to their needs.

Moreover, does the President not know that the bill that funds our Nation's schools is stuck in subcommittee? What about the appropriations bill that funds our highway system that has not yet been considered by the House or the Senate? In February, the President proposed to put a man on Mars, but the bill that funds the space program has not been marked up by either the House or Senate appropriations committees.

According to President Bush, Congress must urgently send him the Defense appropriations bill; but for all of the other appropriations bills, the attitude is ho hum; so what.

According to the administration, we are facing another terrorist attack. Are we not even going to debate whether a 5-percent increase for the Department of Homeland Security is enough?

Last year, we fell prey to a 7-bill omnibus, but at least the Senate debated as freestanding bills 12 of the 13 bills. Now we are down to only one debate this year on the Defense bill. That is one bill, and only one debate this year, on the Defense bill.

Where do we go from here on funding the needs of the people? One of the options that has been discussed by the Republican leadership is to pass the full-year continuing resolution and leave town, get out of town, catch the next train, all aboard. That is right. The exalted servants of the people may just decide to enjoy a summer vacation if some in the Republican leadership have their druthers. What does it matter if all of the Federal Government, except the Pentagon, operates on automatic pilot for a full year? Who needs guidance from the Congress on the priorities? Who needs careful scrutiny of Federal programs? What about the new initiatives? Shouldn't they be under careful scrutiny? Shouldn't questions be asked and questions answered?

Let me give you, my colleagues, a few examples of what would happen under a full-year continuing resolution. If that is what you want, I tell you what you are going to get.

If the Senate Republican leadership refuses to allow the Senate to debate the Homeland Security appropriations bill, important funding in new programs would not be available to the Department.

As we all know, on March 11, 2004, nearly 200 people were killed by a series of bombs detonated on the transit system in Madrid, Spain. The Department of Homeland Security responded by sending out a list of security recommendations for mass transit and rail systems in the United States. These recommendations included moving garbage cans and asking commuters to be more alert to suspicious people and packages, like unattended backpacks. However, despite my efforts, no moneys were approved for fiscal year 2004 for mass transit or rail security. Are we comatose in the Senate? Perhaps we better reach back in our desks somewhere and get our living wills.

On an average workday, 32 million people travel on mass transit. Get that, 32 million people travel on mass transit on an average workday. However, under a continuing resolution, there would be no funding to help secure our mass transit and rail systems. There would be no funds for additional law enforcement presence, no funds for additional K–9 teams, no funds for additional surveillance, no funds for additional public education about the threat. Is that OK with the Senate?

Following the tragic events of September 11, the administration established a firm goal for the number of Federal air marshals so that a high percentage of critical flights could be protected. The exact number of air marshals is classified, but the fact is, the Federal air marshals program has never reached the staffing level called for in the wake of the September 11 attacks.

Instead, the White House has allowed the number of air marshals to fall by 9 percent, falling far below the goal. As air marshals leave the program, budget constraints prohibit the hiring of replacements. The number of air marshals continues to dwindle and the number of critical flights they are able to cover remains on a steady downward spiral. If forced to operate under a continuing resolution, the number of air marshals protecting domestic and international flights could fall by another 6 percent, putting Americans in greater danger. How can we contemplate such irresponsibility? Doesn't public safety count?

How about funding for our Nation's schools? Two and a half years ago the President promised to leave no child behind. The No Child Left Behind Act authorized $20.5 billion in fiscal year 2005 for title I, the Federal program designed to help disadvantaged students in kindergarten through high school, those students who are most at risk of being left behind. A continuing resolution would freeze title I funding at just $12.3 billion. That would leave behind 2.7 million students who would not receive the title I services that were promised to them in the No Child Left Behind Act.

A continuing resolution would also freeze funding for special education. Two months ago, the Senate voted overwhelmingly by a vote of 96 to 1 to authorize a $2.3 billion increase for the Individuals With Disabilities Education Act—better known, perhaps, as IDEA—in fiscal year 2005, and fully fund the law within 7 years. A CR would put the lie to that pledge.

As candidate for President in 2000, President Bush said:

> College is every parent's dream for their children. It's the path to achievement. We should make this path open to all.

But, my dear friends, under the Bush administration, the cost of tuition has gone up by 26 percent, making it harder and harder for low- and middle-income students to pursue that dream.

The Pell grant: A maximum Pell grant now covers only 34 percent of the average annual cost of college compared to 72 percent in 1976. Under a continuing resolution, there would be no increase in the maximum Pell grant now set at $4,050. There would be no increases for the College Work-Study Program or for other campus-based aid programs. So much for dreams, so much for promises, so much for empty talk.

For the construction and restoration of our Nation's highways and bridges, a long-term continuing resolution would stifle the flow of billions of new dollars going to our States to improve safety conditions, minimize congestion, and create badly needed jobs.

Just this past February, more than three-quarters of the Senate, 76 Senators, approved a surface transportation bill that called for an overall commitment of highway funds for fiscal year 2005 of $37.9 billion. Under a long-term continuing resolution, highway funding would be $4.25 billion less than that amount, a $4.25 billion shortfall. That difference represents more than 200,000 jobs across America, jobs that are desperately needed all across our States. But the Senate is in gridlock, much like the gridlock on our Nation's highways.

Our Nation's military is serving gallantly in Iraq and Afghanistan, but under a continuing resolution the Veterans Health Administration, unbelievably, would get drastically reduced health care services for our fighting men and women. Approximately 237,000 veterans would not be able to receive care, and veterans outpatient clinics would schedule 2.6 million fewer appointments. The waiting list for veterans seeking medical care would grow to over 230,000. What a way to treat our brave men and women. Shabby and shameful are the two words that come to mind.

Al-Qaida operatives are in the United States preparing for another terrorist attack. The FBI must mobilize to find those terrorists before they attack us. But a full-year continuing resolution would force the FBI to freeze all hiring in fiscal year 2005. That would result in the FBI losing 500 special agents and negating the proposed increase of 428 special agents. Nor would the FBI be able to fund any of the new initiatives proposed in the fiscal year 2005 budget request, including resources for the new office of intelligence counterterrorism investigations, counterintelligence, and fighting cyber crime.

Another casualty of a full-year continuing resolution would be programs to combat HIV/AIDS, particularly in eastern Europe and Asia where the epidemic is spreading out of control. Only one in five people worldwide have access to HIV/AIDS prevention programs. Yet a continuing resolution would reduce funding for those programs by almost half a billion. That means there would be hundreds of thousands of new infections of the deadly virus—infections that could have been prevented, lives that could have been saved.

The list goes on and on and, like Tennyson's book, goes on. Members of this Congress have a duty and a responsibility to the American people. They do not want us to approve massive omnibus spending bills that no one has bothered to read. They do not want us to pass mindless continuing resolutions that put the Government on automatic pilot and their safety on the line. They do not want us to cash our own paychecks without doing the work we were sent here to do.

We are paid to debate legislation. We are paid to make careful choices on behalf of the people. The elections are coming, and if we are not going to do our work, then we should not claim the title of Senator. Just like Donald Trump, come November, the American people might decide to send us a very straightforward message: You're fired.

Last week, the Republican leadership jammed into the defense conference report a provision "deeming" the level of spending for fiscal year 2005 at the level in the budget resolution conference report. It seems now we are "deeming" our way through budget debates. "Deeming"—this provision was not contained in the Senate or House version of the Defense bill. It was not debated here on the Senate floor. Yet this innocuous-sounding "deeming" provision will have far-reaching consequences. That provision will result in appropriations bills that inadequately fund homeland security, education, veterans, transportation, and other programs to meet domestic needs. And the consequences are not just on paper. The American public is being cheated year after year by the steady erosion of money available to fund the public's priorities. They are being "deemed" down the river.

This year, even while the directors of Homeland Security, the FBI, and the CIA are warning us of al-Qaida in our midst, we still are unaccountably and stubbornly sitting on the Homeland Security appropriations bill as if in total defiance of the dangers to our country and to the people's safety.

None of this is the fault of our able Appropriations Committee chairman, Senator TED STEVENS. Early on, I encouraged Chairman STEVENS to move 13 freestanding, fiscally responsible appropriations bills through the committee and on to the Senate floor. Senator STEVENS instructed his 13 subcommittee chairmen to produce balanced and bipartisan bills; however, the Senate Republican leadership has refused to free up floor time for the appropriations bills.

I will not be a party to such chicanery, and I implore the leadership of this body to stop the games and stop the politics. And I ask the majority leadership to set aside the pending business and proceed to the consideration of Calendar Order No. 588, H.R. 4567, the fiscal year 2005 Homeland Security appropriations bill.

Madam President, I yield the floor.

Mrs. FEINSTEIN. Madam President, I echo the comments of Senator BYRD, the ranking member of the Appropriations Committee. While I do not have the perspective of his years of service in the Senate and on the Appropriations Committee, I share his concern about the breakdown we are seeing in this year's appropriations process.

There are only 2 days left before the Senate leaves for an extended August recess. Yet the Appropriations Committee has reported out only 4 of the 13 appropriations bills we must pass this year. The Senate has passed only one Appropriations bill—the Defense Appropriations bill. This is a dereliction of our primary duty in the Senate, funding the functions of Government.

The blame for this situation does not go, in my view, to the Appropriations Committee. In the limited work the committee has done this year, it has operated in an efficient, bipartisan manner. But we all know that the committee has been hampered by the failure to enact a budget resolution.

A budget is a clear articulation of priorities. We are having these problems because of a failure to prioritize, or because of skewed priorities. As we all know, the Congressional Budget Office is projecting a $477 billion deficit in fiscal year 2004.

But some in the Congress continue to believe that more tax cuts should be the priority in this Congress. And they refuse to subject these tax cuts to the discipline of pay-as-you-go rules, which would require offsetting revenue increases, or spending cuts.

They insist that we can balance the books by "controlling" nondefense, nonhomeland security, discretionary spending. Yet, no one has shown any inclination to significantly cut discretionary spending. Just the opposite. As BILL YOUNG, the chairman of the House Appropriations Committee notes:

> No one should expect significant deficit reduction as a result of austere non-defense discretionary spending limits. The numbers simply do not add up.

The notion of balancing the budget, while further reducing revenue, is simply wrong-headed. Or, as Chairman YOUNG succinctly puts it, "the numbers simply do not add up."

The Senate is scheduled for 19 legislative days after August. It does not appear that there is much hope for completing our appropriations work in that time. Indications in the media from the chairman and from the Republican leadership are that we will be faced with moving an omnibus appropriations bill when we return, possibly with some bills held over for a lame-duck session of Congress. That is a terrible way to do business, and I sincerely hope it does not come to that.

In the remaining 2 days before we recess, I am hopeful that we can at least take up my subcommittee's bill, the military construction bill. The subcommittee chairman, Senator HUTCHISON, and I have worked well together to craft a good bill with the support of Senators STEVENS and BYRD. I believe that it deserves the support of the full Senate.

And when the Senate reconvenes, in September, I hope that we on the Appropriations Committee will work efficiently, and on a bipartisan basis, to report freestanding bills to the Senate.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CORNYN pertaining to the submission of S. Res. 413 are printed in today's RECORD under "Submitted Resolutions.")

The PRESIDING OFFICER. The Senator from Michigan.

(Mr. CORNYN assumed the Chair.)

Ms. STABENOW. Mr. President, I rise today to express deep disappointment about what is taking place on the Senate floor in the cloture vote scheduled for tomorrow. For the past 3½ years, Senator LEVIN and I have been urging the Bush administration to work with us to develop a bipartisan solution regarding the Michigan nominees to the Sixth Circuit Court. We have met on several occasions with Judge Gonzales, the current White House counsel, and other White House staff, but the White House has rejected all of our efforts at a compromise. We also had numerous meetings with Chairman HATCH and testified before the Senate Judiciary Committee several times on the need for a bipartisan solution.

Chairman HATCH had expressed a willingness to work with us and to work with Senator LEAHY on a bipartisan solution to this impasse, but it seems these efforts have been abandoned by Republican leadership in favor of scoring political points before the party conventions.

I still believe the best way to end this impasse is to forge a compromise. I hope the Bush administration and the Republican leadership will not continue down this road of what appears to be politically motivated and partisan cloture votes instead of working with us to develop a fair solution. A "nay" vote on cloture will preserve potential negotiations toward the bipartisan compromise we have been seeking. A "yea" vote will destroy these efforts and, unfortunately, be a vote for preconvention politics.

Let me start by saying a few words about Judge Saad's nomination. Judge Saad is before us now. After listening to people in Michigan who have shared serious concerns with both Senator LEVIN and I, and having had an opportunity to review the FBI background materials, I have to say that I have serious concerns about Judge Saad's temperament and appropriateness for serving on this important bench. While I cannot go into specifics, I urge my colleagues to review the Judiciary Committee's FBI background materials for themselves.

Judge Saad's lack of fitness for this appointment is also evidenced in the record he has put together as it relates to his work on the Michigan Court of Appeals. Most troubling, perhaps, are his decisions and reversals in cases involving the application of the law in civil rights cases—particularly in sexual harassment cases.

His decisions also demonstrate hostility to the rights of whistleblowers. We know in this day and age, as we have learned through those who were courageous and came forward in the Enron and Halliburton cases, and others where employees have come forward, how important it is to be able to protect the rights of employees who see that something is wrong and they step forward. They are what we call whistleblowers.

His decisions also have been hostile to the rights of people who are injured. For example, in Coleman v. State, Judge Saad joined in deciding against the plaintiff in a sexual harassment case, which was later reversed by the Michigan Supreme Court. Coleman, a State prison employee, was subjected to comments by her supervisor about her allegedly provocative dress and to daily inspections of her clothing, after she was the victim of an attempted assault and rape by an armed prison inmate. She was the one who was questioned, as too often we hear as it relates to women who are told it was their fault, because of the way they dress, and that is why they were assaulted. The Michigan Supreme Court reversed the decision, holding that there was sufficient evidence for the victim to go to trial.

In Haberl v. Rose, Judge Saad dissented from the court of appeals' reinstatement of a jury verdict for the plaintiff who was injured by a Government worker who was doing Government work but driving her own automobile.

In the complicated case, the majority found that Michigan's sovereign immunity statute was not applicable, since a more specific civil liability statute said that car owners are not immune from liability. Car owners have liability in these kinds of cases.

The dissenting Judge Saad stated that the sovereign immunity statute applied but the civil liability statute did not and, thus, the injured plaintiff could not recover.

Judge Saad was harshly criticized for his dissent by the majority of the judges, who essentially called him a judicial activist:

> Indeed, it is the dissent that urges "rewriting" the statutes in question and advocates overstepping the bounds of proper judicial authority.

Based on these concerns, I do not believe Judge Saad has the necessary judicial temperament to serve a lifetime appointment—a lifetime appointment—on the Sixth Circuit Court of Appeals.

Mr. President, I wish to speak more broadly now about the process of bringing the Sixth Circuit nominees to the floor of the Senate. Senator LEVIN has spoken eloquently about the history of the Sixth Circuit nominees prior to my serving in the Senate. He has explained how two extremely well-qualified women—Judge Helene White and Kathleen McCree Lewis—failed to get a hearing before the Judiciary Committee for more than 4 years and 1½ years, respectively, during the previous administration.

In fact, if she had been confirmed, Kathleen McCree Lewis would have been the first African-American woman on the Sixth Circuit Court of Appeals.

Senator LEVIN and I are not alone in the view we hold that what occurred with respect to these nominees was fundamentally unfair.

On more than one occasion, Judge Gonzales, the current White House counsel, has acknowledged that it was wrong for the Republican-led Senate to delay action on judicial nominees for partisan reasons, at one point even calling the treatment of some nominees during the Clinton administration "inexcusable."

Senator LEVIN and I have repeatedly proposed to settle this longstanding conflict by appointing a bipartisan commission to make recommendations to the White House on judicial nominations.

Our proposal would be based on the commission that is set up and working just across Lake Michigan in Wisconsin. The State of Wisconsin commission has produced bipartisan nominees for both district and circuit courts since its inception under the Carter administration.

In fact, just recently, the Senate confirmed Judge Diane Sykes for a vacancy on the Seventh Circuit Court of Appeals. Judge Sykes, a Bush administration nominee, was recommended by the bipartisan Wisconsin commission and had the support of both of her Democratic home State Senators.

This process works. The Wisconsin commission includes representatives from the Wisconsin Bar Association, the deans of the State's law schools, as well as members appointed by both Republicans and Democrats. They only recommend qualified candidates who have the support of the majority of the commission. The President then looks to the recommendations of the commission when making his nominations.

The Wisconsin commission's recommendations have always been followed by the President, regardless of political party. Again, this system has worked.

This type of commission preserves the constitutional prerogatives of both the President and the Senate. It allows the President to pick one of the recommended nominees and protects the Senate's advise and consent role.

Wisconsin is not the only State where this type of bipartisan commission works. In a similar form, it has worked in several other States, including Washington, California, and Vermont.

Unfortunately, the White House continues to reject this proposal from Michigan, despite having agreed to similar commissions in other States with other Democratic Senators.

Senator LEVIN and I are interested in finding a real bipartisan solution to this problem. We have stated on numerous occasions that we are willing to accept the commission's recommended nominees, even if they do not include Helene White and Kathleen Lewis, or any other person we would choose if it were up to us.

Instead of divisive cloture votes, let's look to the future and restore civility to this process. It is time to do that with the Sixth Circuit.

I hope we can still accomplish this and that the Bush administration and Chairman HATCH will work with us to develop a fair compromise to this longstanding problem.

Let me take a moment to reiterate this is not about being unwilling to fill vacancies. As other colleagues have indicated, we have, in fact, confirmed 198 judicial nominees of this President, and I have voted for the overwhelming majority of those nominees. This is more judicial nominees than were confirmed for President Reagan in all 4 years of his first term, more nominees than were confirmed for first President Bush during his 4-year Presidency, and for President Clinton in all 4 years of his second term. Mr. President, 100 judges were confirmed in the 17 months of the Democratic Senate majority.

So under Democratic control, we confirmed 100 judges, and we were only in the majority for 17 months of the last almost 4 years. Now, 98 more judges have been confirmed in the 25 months of Republican leadership. In other words, the Democrats were in the majority less time and confirmed more judges for this President during the last 3½ years. So this is not about being unwilling to support filling judgeships, but it is about a very specific concern about what has been happening in Michigan and the lack of willingness of the administration to work with both Senators to fulfill our equal responsibilities of being able to pick the best people to serve our great State for a lifetime appointment.

These are not Cabinet appointments of this President. They are lifetime appointments. The reason the Framers of the Constitution divided the responsibility—half with the President and half with the Senate, as we know—is because this is a third branch of Government with lifetime appointments, and it is very important there be the maximum amount of input, balance, and thoughtfulness brought to this process.

Unfortunately, regarding the Sixth Circuit, until we have a fair solution, I believe I have no other option than to oppose this cloture vote and to urge my colleagues to do the same.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry, Mr. President. What is the business before the Senate?

The PRESIDING OFFICER. The nomination of Henry Saad to the Sixth Circuit Court of Appeals is the pending business.

Mr. HARKIN. I thank the Chair.

UNITED STATES-MOROCCO FREE-TRADE AGREEMENT

Mr. HARKIN. Mr. President, I wish to take a few minutes of the Senate's time to discuss the reasons behind my decision to vote against the Morocco free-trade agreement implementing legislation which the Senate passed earlier today. I want to make very clear that my vote was not in any way against a free-trade agreement with Morocco. My vote, as was my vote against the Chilean free-trade agreement, was a protest against the continued determination by this administration to undermine and to do away with provisions that address labor issues, especially the worst forms of child labor, that we had contained in the Jordan free-trade agreement and relevant provisions in the Generalized System of Preferences.

In fact, I welcome this affirmation of the strong economic and political relationship that exists between the United States and the Kingdom of Morocco which can be strengthened by this agreement. I recognize this legislation is almost certain to pass the House this week very easily, and the United States-Morocco Free-Trade Agreement will go into effect next January.

The Kingdom of Morocco is a politically moderate Muslim nation that has been a long-time friend of the United States, a friendship that has been demonstrated most recently with their support in the aftermath of the tragedy of September 11, 2001.

Morocco has been a valuable partner in fighting the global war on terror, and so it is appropriate for the U.S. Government to reciprocate that support with a bilateral free-trade agreement so long as it leads to expanded economic opportunities for both partners.

Once in place, this agreement will generate significant economic benefits to both Morocco and the United States, and with Morocco's strategic position on the continent of Africa and easy access into Europe through the Strait of Gibraltar, it could serve as a gateway to even more markets.

This bilateral free-trade agreement could also serve as the foundation for a far wider free-trade agreement with the entire region of the Middle East and northern Africa.

With respect to agriculture, this free-trade agreement provides modest but clear opportunities to a wide range of U.S. commodities.

The opportunities provided in the free-trade agreement in non-agricultural goods and services will be substantial as well, and it reflects the determination of the Government of Morocco to modernize their economy to the benefit of the people of Morocco.

So count me as a friend of Morocco. Morocco has been a strong ally of the United States. It is a moderate nation. I have had the privilege of visiting Morocco on at least two occasions, maybe more, and I have a great deal of respect and admiration for the Moroccan people. Nonetheless, I decided to vote against it because I intend to call attention to the decision of U.S. negotiators to retreat from the provisions under the Generalized System of Preferences that requires the U.S. Government to monitor our trading partners on their progress in meeting international standards on the use of child labor, and these provisions in the GSP also provide leverage to encourage those countries to continue to make progress by permitting sanctions to be imposed against those who backtrack.

The Bush administration has taken a weak stand toward child labor in this latest trade agreement. In 2000, I, along with then-Senator Helms of North Carolina, authored an amendment that unanimously passed the Senate that extended GSP benefits to countries that took steps to implement ILO Convention 182 on the worst forms of child labor, and it mandated that the President report on the progress of these countries. If the President determined that countries were not taking steps to implement the ILO Conventions, benefits would be withheld.

The trade agreement that we passed with Chile earlier, and with Morocco, takes a step backward. As I said at the time, I first proposed we have a free-trade agreement with Chile in 1993, 11 years ago. So I had mixed emotions when I had to vote against the free-trade agreement with Chile because Chile's Government is making great progress. But this administration sought to undermine what we had achieved in the Jordanian free-trade agreement and in the Generalized System of Preferences.

Morocco does have problems with child labor. Although not employed in regular manufacturing, child labor is commonly used in cottage industries, such as rug making, and many Moroccan middle-class households use children as domestic servants. The Government of Morocco did pass new labor laws last month which included raising the minimum working age from 12 to 15 and reducing the workweek from 48 to 44 hours, but a recent U.S. Department of Labor report indicates that enforcement of existing laws is severely constrained.

So while Morocco has been a good friend, while they are trying to make progress, I think our trade laws ought to bolster that progress in doing away with the worst forms of child labor.

I take into account these considerations when I determine whether I will support a given trade agreement, as well as the economic gains that may be generated.

As in the case of Chile, my concern about the lack of direct protection against the use of child labor was the overriding factor, so I voted no on the free-trade agreement with Morocco. Again, as I say, I do not want this to be misinterpreted in any way as any lack of support for our mutual friendship and the continued development of relations between the United States and Morocco.

APPROPRIATIONS

Mr. HARKIN. I was watching on the monitor when Senator BYRD was recently on the floor talking about the lack of considering appropriations bills. In 2 days, we are going to adjourn for recess. What do we have to show for it? By this point, the Senate should have passed most, if not all, of the 13 appropriations bills, but this year under the Republican leadership we have only passed one, the Defense bill. We have not even debated the 12 others, much less put them to a vote.

Why is that? Is it because we are so busy in the Senate that we cannot debate these? Hardly. We spent days talking about judges who stand no chance of being confirmed; days on an amendment to ban gay unions that everyone knew would not pass, could not even get a majority vote, let alone 67 votes needed for a constitutional amendment. We spent weeks on a class action bill because Republican leadership did not want to consider amendments on which they thought they might lose.

Meanwhile, the Senate leadership has taken no action on increasing the minimum wage or extending unemployment benefits that could really make a difference for hard-working Americans.

The highway bill, which would create thousands of jobs, is now almost a year overdue, hung up by a veto threat of the White House. The bill to authorize Corps of Engineers projects that are important to farmers in my State was passed by the committee a month ago. There is no sign of any consideration in the Senate.

According to the Senate leadership, there is no time to take up appropriations bills that provide funding for critically important Government services. Passing the appropriations bills ought to be one of our top priorities. These bills pay for everything from roads and veterans health to homeland security and education. But here it is, July 21, with only 21 legislative days remaining in the fiscal year, and we have passed one appropriations bill.

That is all.

As the ranking Democrat on the Labor, Health, Human Services and Education Appropriations Committee, I find this very troubling. It is not the committee chairman's fault. I know Senator STEVENS is anxious to pass these bills. The same goes for the chairman of the Labor, Health, Human Services and Education Appropriations Subcommittee, Senator SPECTER. Our staffs have worked together closely on a bill. We are ready to mark it up on a moment's notice, but the White House and the Republican leadership in the Senate seem to have no interest in moving any appropriations bill other than Defense.

The reason is simple when one thinks about it. If these appropriations bills get debated on the Senate floor, everyone will see what the Republican Party's priorities are. It will be very clear. The Republican Party is out of touch with middle-class and low-income Americans. Education is a case in point. Two and a half years after President Bush signed the No Child Left Behind Act, it is obvious he has no intention of providing the funding to make it work. President Bush's budget for next year shortchanges the No Child Left Behind Act by a whooping $9.4 billion.

No wonder we hear from school boards, teachers, and principals all over our States complaining about the No Child Left Behind Act. It is an unfunded Government mandate, the biggest of all, telling our local schools what they have to do, and yet we do not provide the funding that was promised by the President, $9.4 billion less than what he promised, and it is shortchanging our schools.

Look at title I in education. That is the Federal program that specifically serves disadvantaged children who are at the most risk of falling behind and being left behind. The President's budget shortchanges this program by more than $7 billion. Now we are up to $16 billion in two cases of education.

It is the same story with kids with disabilities. The President's budget provides less than half of the level Congress committed to paying when the Individuals with Disabilities Education Act was passed in 1975. Meanwhile, Mr. Bush continues to oppose the bipartisan legislation Senator HAGEL and I have offered to fully fund this law.

On higher education, the President offers virtually no help to low- and middle-income students who cannot afford to go to college. Under President Bush's budget, the maximum Pell grant award would be frozen for the third straight year while college tuitions continue to rise through the roof.

The level of Pell grants in the President's budget next year will be lower than it was in 2002. One wonders why so many students cannot afford to go to college now or why they are borrowing more money and graduating with these big debts. Well, maybe that is the administration's goal: Get these kids to borrow more money from the banks, pay these big interest rates, pay it back, rather than making Pell grants, which they should be providing.

Meanwhile, President Bush's budget eliminates funding entirely for programs like school counselors, arts and education, gifted and talented programs, and dropout prevention, all zeroed out in the President's education budget.

The administration says there is no money to do this, no money to make good on the pledges made only 2 years ago.

Well, I am sorry if I strongly disagree. Bear in mind that in this same budget with all of these cuts to education, the President calls for another $1 trillion in tax cuts.

It seems to me if there is room for $1 trillion in tax cuts, surely there is room for $9.4 billion to fund the No Child Left Behind education bill. That would be less than 1 percent of the proposed new tax cuts.

Time and again we hear this administration say, well, education reform is not about money. It is true, education reform is not only about money, but let's be real: If we are going to modernize school buildings, it costs money. If we are going to buy up-to-date textbooks and school technology, guess what. It costs money. If we are going to reduce class sizes, it costs money. If, under the No Child Left Behind Act, we want highly qualified teachers in the subjects in which they teach, guess what. It costs money. And if we want to ensure all kids with disabilities are learning at the proficient level as required by the new law, guess what. It costs money. If we want to ensure all young people, regardless of income, have a shot at going to college, guess what. It costs money. Unfortunately, money is something we do not get very much of in the President's education budget.

If they want a tax break for the wealthy, they get $1 trillion. If we want to fund education, forget it in the President's budget.

We Democrats tried to increase funding for education during the debate on the budget resolution in March. We offered amendments on the No Child Left Behind Act, on afterschool centers and Pell grants, but the Republican majority rebuffed us every time. Now the Republican leadership in the Senate will not even give us a chance to debate an education appropriations bill and offer amendments on the floor of the Senate. They will not even give us a chance to do that.

A couple of years ago when the President signed the No Child Left Behind bill, he seemed to think that education was an important Federal responsibility—Federal, not local. The President signed the No Child Left Behind Act, a Federal mandate to local schools. If the President thought 2 years ago that education was an important Federal responsibility, why is the President so reluctant to have us take up an appropriations bill that would fund this law?

I believe I know why. The Republicans have backed themselves into a corner. They are doling out so many tax cuts for the rich that they do not have any money left to fund our Nation's schools. They know if they offer an education bill with the limited amount of money they are willing to spend on students, there is going to be a huge outcry across the country. The American people would see what the President really stands for. They would see, in black and white, that this administration has no real interest in leaving no child behind.

Four years ago we were looking at over $5 trillion in surpluses over 10 years, with the Federal Reserve talking about the great economic effects of completely paying off the Federal debt by 2009. That was 4 years ago.

Four years later, now, this year, we are facing a record deficit of over $400 billion just this year. There are many reasons for that turnaround, but the biggest by far is the tax cuts. About half of the tax cuts we have passed here go to people averaging an income of over $1 million a year. Let me repeat that: Over one-half of those tax cuts that we have passed here go to people averaging an income of over $1 million a year.

This administration's misguided tax policies are undermining our Nation's fiscal strength; they are weakening our economy, jeopardizing Social Security, and reducing our ability to provide for the needs of our children and our Nation's education. It is no wonder that the Senate Republican leadership wants to avoid the issue of education funding. They do not want to bring the education funding bill out on the floor for open debate and amendments. They just want to sweep it under the rug and hope that no one notices.

The Republican Party controls the Senate schedule, so they have that power. But I urge them to reconsider. Let's mark up the bill in subcommittee, to the full committee, and bring it to the floor.

As I said, Senator SPECTER has done his job. My staff worked with his staff. We have a bill that is ready to go. Bring it out here. Let's have a good debate about how much we want to fund education. Give the public a chance to weigh in and see an open debate. Let's have amendments. Let's vote on them. I thought that was the way the process was supposed to work.

Maybe my friends on the other side of the aisle are right. Maybe people really do care more about tax cuts for the rich than about funding education. I don't think that is so, but there is only one way to find out. That is to bring the education appropriations bill to the floor in open debate and let Senators on both sides of the aisle offer their amendments. Let's vote on those amendments, and let's see how the elected Representatives of the people of this country feel about funding education after those debates and after those votes. As I said, it seems to me this is the way our democratic system is supposed to work.

Again, I urge the Republican leadership: Bring out our appropriations bills. I focus on education because I happen to be the ranking member on the appropriations subcommittee dealing with education, health, and labor. There are so many more, as I mentioned, such as the highway bill and homeland security, that we need to get through on the Senate floor. There are 21 days left, and we have passed only one appropriations bill.

The Senate is not doing its business. It is time we do.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized to speak as if in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Thank you, Mr. President.

DARFUR, SUDAN

Mr. DURBIN. Mr. President, 1,000 people died there yesterday, 1,000 people will die there today, 1,000 more will die tomorrow and the day after that, and then the next day for as long as we can possibly imagine. I am speaking of Darfur, Sudan. In that region of the world this year, 300,000 people may be dead; 1½ million people in Sudan are homeless. Villages have been decimated, women have been systematically raped, crops have been destroyed, and wells have been poisoned with human corpses. This is genocide. Let us not mince words. It demands action.

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide requires signatories, including the United States of America, to prevent and punish acts that are "committed with the intent to destroy, in whole or in part, a national, ethical, racial or religious group." That is exactly what is taking place in Sudan today.

We in the United States have to join with civilized nations around the world to stop the genocide in Darfur because we have failed sometimes before. We failed knowingly time and time again in the 20th century. Ten years ago we failed the people of Rwanda.

Samantha Power is the author of a book which I have read, a book which haunts and inspires me. It is a book entitled "A Problem From Hell: America and the Age of Genocide." She wrote, "The United States had never in its history intervened to stop genocide and had in fact rarely even made a point of condemning it as it occurred."

That is a terrible condemnation on our Nation, and it is one that I think calls us all to action in Sudan.

This is not a partisan issue. I want to salute my colleagues on the Democratic side, Senator JON CORZINE of New Jersey, and on the Republican side Senator SAM BROWNBACK of Kansas and Senator MIKE DEWINE of Ohio. They have spoken out on this floor time and time again about the genocide in Sudan. They remember, as I remember, what happened in Rwanda—what happened while I was a Member of Congress, and while I did not pay as much attention as I should have.

Ten years ago, between 800,000 and a million people were butchered in Rwanda. The killings took place with terrifying efficiency. The weapons of mass destruction were simple: the machete, the club, the torch. Those with enough money in Rwanda were sometimes able to pay their killers to shoot them rather than hack them to death with a machete. These killings were crudely carried out and executed, but they were carefully orchestrated. They were designed to wipe out an ethnic group, the Rwandan Tutsis, from the face of the Earth, along with any other moderate Hutus who dared to question the ruling ideology.

Bill Clinton, a man I count as a friend, was President of the United States when this occurred. He read a series of articles about the killings in Rwanda. He turned to his National Security Adviser Sandy Berger and asked, Is what they are saying true? How did this happen? Bill Clinton came to realize after the genocide in Rwanda that the United States had made a historic, tragic mistake of not speaking up, of not moving with other nations to stop what happened in Rwanda. He visited that country and apologized on behalf of our country and the rest of the world for ignoring, for standing idly by, while a million people died. That happened in Rwanda because the United States allowed it to happen.

I am dwelling on Rwanda today, but the crisis is in Sudan. Why? Because years from now I don't want those of us serving in Congress to be asked about Sudan, How did this happen? We know how it is happening, and we know it continues to happen even as we speak.

Ten years ago, seven Tutsi pastors trapped in a hospital that was no sanctuary wrote to the world pleading for intervention and assistance. Here are their words: "We wish to inform you that we have heard that tomorrow we will be killed with our families." There was no intervention. There was no help. And the next day, these Christian pastors and their families were killed, and hundreds of others with them.

We failed to act in Rwanda. We cannot fail to act in Darfur, Sudan. For months, in western Sudan, the janjaweed, Arab militias—death squads—have waged war on the ethnic African villagers. They have killed thousands outright. They have engaged in massive, systematic rape and told their victims that they hoped they would produce "light-skinned" babies. They have made 1.5 million people homeless, some internally displaced and some forced into Chad and other neighboring nations. The Sudanese Government, a government which should be protecting its people, has conspired in this mass murder and contributed to it by deliberately shutting out international humanitarian efforts to reach the refugees. Starvation, disease, and exposure to the elements are also the weapons of genocide.

My family grew up in Springfield, IL in a typical American community and typical American neighborhood. Next door were our closest friends, the Mays family. There was a young woman, a young girl when I first met her, who grew up with my kids. Her name is Robin Mays. She is an amazing young woman who succeeded in so many different facets of life and decided to enlist in the Air Force right out of college. She was in the Air Force for 7 years as an officer in charge of logistics. When she came out of the Air Force, she came to me and said, I would like to do something that uses my skills that might help people. I put her in contact with the World Food Program. She went to Ethiopia, and she was involved in dealing with the refugee problems and feeding thousands. She came back to the United States and went to work for USIA. A few months ago, she was sent to the Sudan, and she is there. She is working in Sudan now with the victims of genocide, with the refugees. The other day she sent an e-mail to her family. She shared it with me. She was so excited because she heard there were actually people in the United States talking about what was happening in Sudan. It was encouraging to her that the rest of the world even knew what was happening in Sudan. She didn't hold any great hope that we would run to her aid and find some relief for these poor victims, but she was so encouraged that we even knew and that we even cared.

What a sad commentary on a great nation like the United States and many other great nations around the world, that that is the best we can do to acknowledge the problem, to express our concern.

An estimated 180,000 Sudanese have fled to Chad, one of the poorest countries in the world. Hundreds of thousands more are displaced within Sudan, roaming around, trying to look for a safe place or something to feed their children. When you look at the images of the mothers in the Darfur region, Sudanese mothers and their children with matchstick legs, covered with flies, dying, starving right before our eyes, we have to ask, are we doing what we should? Is the United States doing what it should?

We have to take steps, and we have to take them now, to stop this mass slaughter. We start by calling it what it is—genocide—and by labeling it a genocide. It calls all who signed the treaty to action to prevent genocide, not just to care but to do something. The United States and the United Nations must both label this for what it is. Secretary of State Powell has stated that Sudan is "moving toward a genocidal conclusion." That is short of calling it a genocide, but I give the Secretary of State credit. In many times gone by, when a genocide was occurring, we could not even bring ourselves at the official level to acknowledge it. Secretary of State Powell is doing that, and I salute him for it. Sudan has reached the stage of genocide, but that genocide has not reached its final conclusion. There is still time to save the lives of hundreds of thousands.

On Friday of this week, many of us will leave this Chamber. We will be off to political conventions, campaigns, time with our families, vacations. The first part of September, we will return. Six weeks from now, 45 days from now, we will be back, but during that 45-day period of time, 40,000 or 50,000 innocent people will die in the Sudan. There is no vacation from genocide. There is certainly no vacation from the Sudan. I try to imagine, as I stand here with all the comforts of being a U.S. Senator in this great country, what it must be like to be a mother or a father in that country now watching your children starve to death, fearing systematic rape, torture, and killing, which have become so routine.

We have to do something. We have to do it now. Congress should move to pass resolutions to let the world know we are prepared to move forward. Senator BROWNBACK, a Republican from Kansas, and Senator CORZINE, a Democrat from New Jersey, are pushing forward a resolution that we should not leave this city for any length until it is enacted. But we need not just words. We need to continue to send assistance, as we have, and we deserve credit as a nation for caring and reaching out, but we need to do more—food, water, medicine, but also security for foreign aid workers to get in and to allow the Sudanese refugees to return home.

The United Nations Security Council has failed as well. It has been stymied by several nations which don't want to hold the Sudanese Government responsible for what is happening. We need to move immediately. I know our new U.N. ambassador, Jack Danforth, a man whom I greatly respect, a man of conscience, understands this, as we do. He needs to push those members of the Security Council to get the United Nations to act on Darfur and the Sudan immediately. We need to intervene. We need to see whether, in the 21th century, international institutions such as the United Nations can succeed where others have failed.

The United States also has rich intelligence resources and capabilities that track militia activity. We have 1,800 troops on Dijibouti who could join an international humanitarian mission. Ultimately, it is the African Union that must supply the personnel to enforce security, but we can help.

President Bush—and I disagree with him on so many things, but I have to give him credit where it is due—helped in Liberia with a handful of marines prepared to act. They brought stability to a situation that seemed out of control. We need that same leadership again from this White House, from this Department of Defense, from the State Department, and from this Congress.

Security is a prerequisite in this country of Sudan for helicopter and truck transport which is going to carry supplies to those who are literally starving to death. The Sudanese Government has to rein in these militias. It cannot continue to look the other way. It recently allowed some relief supplies to be offloaded, but the Government has helped unleash the genocide in the Sudan, helped arm and direct the Janjaweed. They cannot be trusted to see to their disarmament without international supervision. We have voted to extend millions in emergency assistance to Sudan, but that assistance will never reach them unless we create conditions on the ground that allow its distribution.

Mine is only one voice in a Chamber of 100 Senators, in a nation of millions of people. I don't know that what I have to say in the Senate will have an impact on anyone, but I could not and many of my colleagues could not countenance leaving Washington in good conscience for an August vacation recess and acting like the carnage in Sudan is not occurring. It is genocide. Those in the civilized world must stand up and not only condemn it but take action to bring it to an end as quickly as possible.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Minnesota.

Mr. COLEMAN. Madam President, I rise to speak on a matter different than what my friend and colleague from Illinois has spoken about, but before I do, I associate myself with his comments.

I stand with him and others on both sides of the aisle in asking the question, Are we doing all that we should be doing in the Sudan? Genocide is occurring. We can have debate about the legal definition of genocide, but for the folks who are experiencing the pain and the suffering, the torture, they are not interested in legal debate.

I hope we heed the call of my friend from Illinois, that before we leave, before we go home to be with our families and do the things we do in our State and throughout this country, that we at a minimum speak out, that at a minimum the voice of this Congress be heard, and that we then move forward on the path, beyond speaking out, that will provide some action, that will provide a level of safety, security, and comfort, the basic things that need to be done in the Sudan.

As I listened, I want my friend from Illinois to know that his words have had impact. I hope they echo far beyond these halls and that we do what should be done, that we make a statement in this Congress, that statement be turned into action, and that action has some impact.

(The remarks of Mr. COLEMAN pertaining to the introduction of S. 2715 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COLEMAN. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Madam President, last night I filed a cloture motion on the Sixth Circuit judicial nomination of Henry Saad. That vote will occur tomorrow morning. Two additional Sixth Circuit nominations are on the Executive Calendar, ready for consideration. I am prepared to ask unanimous consent for time agreements and up-or-down votes on these nominations; however, I understand that there will be objection from the other side.

I ask the Democrat leadership if it is true they would not agree to a time agreement on these Sixth Circuit nominations?

Mr. REID. The majority leader is correct.

NOMINATION OF RICHARD A. GRIFFIN TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

NOMINATION OF DAVID W. McKEAGUE TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

Mr. FRIST. With that objection, I ask unanimous consent that the Senate proceed en bloc to the nominations of Calendar No. 789, Richard Griffin, to be U.S. Circuit Judge for the Sixth Circuit, and No. 790, David McKeague, to be U.S. Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. Without objection, the clerk will report the nominations.

The legislative clerk read the nominations of Richard A. Griffin, of Michigan, to be United States Circuit Judge for the Sixth Circuit;

David W. McKeague, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

CLOTURE MOTIONS

Mr. FRIST. I send a cloture motion to the desk on the first nomination.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in according with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 789, Richard A. Griffin of Michigan, to be U.S. circuit judge for the Sixth Circuit.

Bill Frist, Orrin Hatch, Lamar Alexander, Charles Grassley, Mike Crapo, Pete Domenici, Lincoln Chafee, Mitch McConnell, Ted Stevens, George Allen, Lindsey Graham, John Warner, Jeff Sessions, John Ensign, Trent Lott, Jim Talent, Pat Roberts.

Mr. FRIST. I now send a cloture motion to the desk on the second nomination.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 790, David W. McKeague of Michigan, to be U.S. circuit judge for the Sixth Circuit.

Bill Frist, Orrin Hatch, Lamar Alexander, Charles Grassley, Mike Crapo, Pete Domenici, Lincoln Chafee, Mitch McConnell, Ted Stevens, George Allen, Lindsey Graham, John Warner, Jeff Sessions, John Ensign, Trent Lott, Jim Talent, Pat Roberts.

Mr. FRIST. I ask the mandatory quorums under rule XXII be waived and further that the votes on these nominations occur tomorrow in a stacked sequence, on Thursday, following the Saad cloture vote, unless cloture is invoked on any of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent there now be a period for morning business with Senators speaking for 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING EL MUNDO ON 24TH ANNIVERSARY

Mr. REID. Madam President, I rise today to congratulate El Mundo on its 24th anniversary and to recognize the tremendous importance of this weekly newspaper to Nevada's Spanish-speaking community.

The oldest continuing Spanish language newspaper in southern Nevada, El Mundo has grown dramatically over the last 24 years to a current readership of more than 120,000. The newspaper not only provides insightful coverage of important issues facing Nevada and the Nation, but also provides a window into the life and times of southern Nevada's Latino community.

By giving consumers the information they need to make important purchase decisions about everything from clothing to cars to homes, El Mundo's commercial listings have helped thousands of new residents acclimate to life in the region, and fueled the economic engine of southern Nevada.

The growth of El Mundo has paralleled the growth of Nevada's Latino community. When El Mundo was founded in 1980, about 50,000 Latinos lived in Nevada, representing 6 to 7 percent of the population. Today the Latino population approaches the half million mark and accounts for as much as 25 percent of our State's population.

El Mundo not only reflects the growing prominence of Latinos in Southern Nevada but also provides a channel through which this vibrant and diverse community is helping to shape the future of Nevada's economic, political, and cultural life.

I also want to take a moment to recognize Edward Escobedo, the founder and publisher of El Mundo, whose dedication and leadership has been indispensable to the growth of the newspaper. He and his colleagues can take great pride in transforming their vision into a southern Nevada institution. Eddie has been a leader in charitable and civic affairs in the greater Las Vegas area for decades. Nevada is a better place because of Eddie Escobedo.

LAS VEGAS INTERNATIONAL FOLK FESTIVAL

Mr. REID. Madam President, I rise today to recognize the Las Vegas International Folk Festival, which was held June 18 through 20.

Hosted by the Mexico Vivo Dance Company, the Festival brought together artists from around the world to celebrate the artistic traditions of the United States, Latin America, Europe, Asia, Africa, and the Caribbean.

All of the festival's performances were free to the public, providing the residents of Las Vegas with a wonderful opportunity to experience the world's diverse artistic and cultural heritages. Some 500 performing artists and dance students participated in this 3-day event.

I want to take a moment to recognize Ixela Gutierrez, the festival's founder and artistic director, who helped make this wonderful event possible. Among the leading artists in Nevada, Ms. Gutierrez has enjoyed a successful soloist dance career with The National Folkloric Ballet of Mexico, served as company director of Ballet Ollimpaxqui, and choreographed six seasons for the Las Vegas Civic Ballet. She also founded the Mexico Vivo Dance Company in Las Vegas in 1995 to preserve and share the rich artistic heritage of Mexican and Latin American folk dances.

Ms. Gutierrez has been recognized by many organizations throughout her career, and she received a special Award of Distinction in Culture from the Latin Chamber of Commerce of Las Vegas. She also has enjoyed the honor of performing for President Bush at the White House's Cinco de Mayo celebration. She is now focusing her energy and talent on building a new Las Vegas tradition, by making the International Folk Festival an annual event.

I also recognize the sponsors of this outstanding event: Fitzgerald's Hotel and Casino, Fremont Street Experience, Nevada Youth Alliance, and Mexican Patriotic Committee.

The inaugural Las Vegas International Folk Festival was a great success, and I am sure everyone who attended is looking forward to next year's event.

HONORING OUR ARMED FORCES

SERGEANT 1ST CLASS LINDA TARANGO-GRIESS

Mr. NELSON of Nebraska. Madam President, I rise today to honor SFC Linda Tarango-Griess of Sutton, NE.

Sergeant First Class Tarango-Griess served bravely in the 267th Ordnance Company of the Nebraska National Guard, which was deployed in February from Fort Riley, KS. She selflessly gave her time and her expertise to preserving American ideals through her service to the Guard. At the time of her death, she was serving in Samarra, Iraq, when an improvised explosive device detonated near her convoy vehicle.

Those who knew Sergeant First Class Tarango-Griess were continually inspired by the example of leadership she set, her positive attitude and her confidence were great assets to her and her colleagues. Her family recently set up a memorial in North Platte, NE. One poster, especially, demonstrated the ongoing optimism that she helped others to see. This poster reads: "We will miss you. No goodbyes. See you later."

My thoughts and prayers are with the family and friends of SFC Linda Tarango-Griess, but she will remain as a beacon of dedication and patriotism to all Americans from her shining example of commitment through her service to the Armed Forces.

SERGEANT JEREMY FISCHER

Mr. NELSON of Nebraska. Mr. President, I rise today to honor SGT Jeremy Fischer of Lincoln, NE.

SGT Jeremy Fischer bravely dedicated his life to our Nation through his service with the 267th Ordnance Company of the Nebraska National Guard. Sergeant Fischer was deployed in February from Fort Riley, KS, and was serving in Samarra, Iraq at the time of his death on July 11, 2004, when an improvised explosive device detonated near his convoy vehicle.

While SGT Fischer was in Iraq, he used his knowledge and skills to serve the National Guard as a chemical repair specialist, and was part of a team that installed armor kits on Humvees to protect soldiers.

Those who knew him know that he embodied all the qualities people admire about Nebraskans. His presence was an asset in any situation. His warmth and personality will be missed among his fellow troops, his friends, and especially his wife and his family.

I extend my sincerest thoughts and my deepest thanks to the family of SGT Fischer. He will be remembered for the service he has given to the American Armed Forces, and the ultimate sacrifice he has made for our country.

REMEMBERING THE NAPER 28

Mr. NELSON of Nebraska. Madam President, August 3, 2004 marks the 60th anniversary of what is believed to be the worst military aviation disaster in the history of the State of Nebraska. At 8:25 p.m. an Army C–47 transport airplane dropped from the sky near Naper, NE, killing 28 brave World War II servicemen. The dead included 26 Army pilots, one flight surgeon, and an aircraft crew chief. They were traveling from the Bruning, NE air base to Pierre, SD to complete their training before being shipped off to war.

On August 8, Naper Historical Society of Boyd County, NE will dedicate a permanent memorial to the Naper 28. They raised funds for the Naper 28 Memorial through a donation campaign. What is perhaps most touching about this fundraising effort is not the funds themselves, not even the speed with which they came, but it was the sentiments attached by way of note or letter from other World War II veterans or their widows. At the time of the disaster, very little attention was paid to this aviation disaster. Though it commemorates the tragedy that befell the Naper 28, the memorial at Knollcrest Cemetery in Naper, NE, also bears witness to a more enduring lesson in bravery and valor and preserving the freedom that defines America.

No doubt, the town of Naper, and citizens throughout Boyd County are delighted finally to have a fitting memorial for the 28 servicemen who lost their lives in 1944. It is fitting that the Naper 28 Memorial will be dedicated the same year as the National World War II Memorial in Washington, DC. This year marks an especially commemorative year for America's veterans, and is a year when all Americans gratefully remember and honor the bravery and valor with which America fought in World War II.

Anniversaries, like the 60th anniversary of D–Day and the 60th anniversary of the Naper 28, are important reminders about our history as a Nation, and about our character as Americans.

As America pauses to recall the thankless bravery and sacrifice of those who died protecting our freedoms on D–Day, the people of Naper and all Nebraska also pause to remember the tragedy and sacrifices and lost opportunities of the Naper 28.

I submit the names of the brave souls of the Naper 28, as they appear on the memorial in Naper, NE, as further commemoration of their sacrifice.

They are as follows:

THE NAPER 28

F/O John F. Albert
2nd Lt. Willam F. Acree
2nd Lt. William Armstrong
2nd Lt. Millard F. Arnett, Jr.
2nd Lt. Herbert A. Blakeslee
2nd Lt. George E. Broeckmann
2nd Lt. Robert K. Bohle
2nd Lt. Jack L. Brown
2nd Lt. Richard E. Brown
2nd Lt. James C. Burke, Jr.
2nd Lt. Donald J. Clarkson
2nd Lt. Lloyd L. Hemphill
Sgt. Orson I. Hutslar
2nd Lt. Arthur Johnson
Capt. Clayton R. Jolley
Capt. Leonard C. Jolley
2nd Lt. Gerald C. Keller
2nd Lt. Jack E. Lytle
Capt. Stanley J. Meadows
2nd Lt. Robert E. Nesbitt, Jr.
2nd Lt. Bernard W. O'Malley
2nd Lt. Anthony J. Paladino
2nd Lt. Bruce S. Patterson
2nd Lt. Lelan A. Pope
2nd Lt. Charles V. Porter
Capt. Leslie B. Roberts
2nd Lt. Pat N. Roberts, Jr.
2nd Lt. LaVon H. Sehorn

MASS MURDER OF ROMA AT AUSCHWITZ SIXTY YEARS AGO

Mr. CAMPBELL. Madam President, during World War II, some 23,000 Roma were sent to Auschwitz, mostly from Germany, Austria, and the occupied Czech lands. Sixty years ago, on the night of August 2 and 3, the order was given to liquidate the "Gypsy Camp" at Auschwitz. Over the course of that night, 2,898 men, women, and children were put to death in the gas chambers. In all, an estimated 18,000 Roma died at Auschwitz-Birkenau.

During the intervening years, Aug. 2 and 3 have become days to remember the Porrajmos, the Romani word that means "the Devouring," and to mourn the Romani losses of the Holocaust.

As the U.S. Holocaust Memorial Museum has suggested, Roma are "understudied victims" of the Nazis. What we don't know about the Romani experiences during the war is far greater than what is known.

But we do know that the fate of the Roma varied from country to county, and depended on many factors. We know that, in addition to the atrocities in Auschwitz, thousands of Roma were gassed at Chelmno. We know that an estimated 90 percent of Croatia's Romani population—tens of thousands of people—were murdered. We know that approximately 25,000 Roma were deported by the Romanian regime to Transnistria in 1942, where some 19,000 of them perished there in unspeakable conditions. We know that in many places, such as Hungary, Roma were simply executed at the village edge and dumped into mass graves. We know that in Slovakia, Roma were put into forced labor camps, and that in France, Roma were kept in internment camps for fully a year after the war ended.

Still, far more research remains to be done in this field, especially with newly available archives like those from the Lety concentration camp in the Czech Republic. I commend the Holocaust Museum for the efforts it has made to shed light on this still dark corner of the past, and I welcome the work of nongovernmental organizations, such as the Budapest-based Roma Press Center, for collecting the memories of survivors.

I do not think I can overstate the consequences of the Porrajmos. Some scholars estimate that as many as half of Europe's Romani minority perished. For individuals, for families, and for surviving communities, those losses were devastating. Tragically, the postwar treatment of Roma compounded one set of injustices with others. Those who were most directly involved in developing the Nationalist-Socialist framework for the racial persecution of Roma—Robert Ritter and Eva Justin—were never brought to justice for their crimes and were allowed to continue their medical careers after the war. The investigative files on Ritter—including evidence regarding his role in the forced sterilization of Roma—were destroyed. German courts refused to recognize, until 1963, that the persecution of Roma based on their ethnic identity began at least as early as 1938. By the time of the 1963 ruling, many Romani survivors had already died.

During my years of service on the leadership of the Helsinki Commission, I have been struck by the tragic plight of Roma throughout the OSCE region. It is not surprising that, given the long history of their persecution, Roma continue to fight racism and discrimination today. I commend Slovakia for adopting comprehensive antidiscrimination legislation in May. As the OSCE participating states prepare for a major conference on racism, discrimination, and xenophobia, to be held in September, I hope they will be prepared to address the persistent manifestations of racism against Roma—manifestations that often carry echoes of the Holocaust.

NEED FOR THE INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD

Mr. GRAHAM of Florida. Madam President, I am delighted to join my colleagues Senator WYDEN, Senator LOTT and Senator SNOWE in introducing a bipartisan bill that will begin to address our Government's dangerous tendency toward excessive secrecy.

I start from the belief that, in our democratic society, the people should have access to all information which their Government holds in their behalf. The only exceptions should be for necessary personal and company privacy concerns, such as tax returns, and for legitimate national security threats, such as protecting the sources and methods of gathering extremely sensitive information. The current level of abuse of our classification system is so egregious as to be laughable.

To make matters worse, when the Congress has sought to declassify important information, we have allowed the fox to guard the henhouse—we have allowed the CIA and other agencies to determine what gets released to the American public from reports that are critical of their conduct.

I am personally most familiar with the report of the House and Senate Intelligence Committees' Joint Inquiry into the intelligence failures surrounding 9/11. After our report was filed in December 2002, it took 7 months to get a declassified version that we could release. And after all those months, the intelligence agencies and the White House refused to declassify pages and pages of information that might have caused them embarrassment—but certainly did not threaten our national security.

The most famous instance of censorship is the 27 pages that detail foreign sources of support of two of the 19 hijackers while they were living among us and finalizing their evil plot. For all we know, that pattern of support continues to this day. But our report found a number of instances where failures to share information were in and of themselves threats to national security.

Had Federal agencies' watch lists of terrorist suspects been shared, especially with State and local law enforcement officials, police might have detained prior to 9/11 several of the hijackers when they were stopped for traffic offenses. We also have learned that the President's Daily Brief of August 6, 2001, listed a number of pending threats to our homeland, including hijackings of commercial aircraft. If only that information had been shared with the airlines through the FAA, the airlines could have heightened security on board aircraft and more thoroughly screened their passenger lists. Instead, no steps were taken.

One of the Joint Inquiry's recommendations, No. 15, called on the President and the intelligence agencies to review executive orders, policies and procedures that govern national security classification of intelligence information:

> in an effort to expand access to relevant information for Federal agencies outside the Intelligence Community, for State and local authorities, which are critical to the fight against terrorism, and for the American public.

The recommendation also called on Congress to review statutes, policies and procedures governing classification. As the recommendation states:

> Among other matters, Congress should consider the degree to which excessive classification has been used in the past and the extent to which the emerging threat environment has greatly increased the need for real-time sharing of sensitive information.

The report called on the Director of Central Intelligence, the Attorney General, the Secretary of Defense, the Secretary of Homeland Security and the Secretary of State to review and report to the House and Senate committees with "proposals to protect against the use of the classification process as a shield to protect agency self-interest."

Regrettably, none of the executive branch agencies have responded to the Joint Inquiry's directives on this issue. So I am pleased to join my colleagues in cosponsoring this legislation, which will create an Independent National Security Classification Board within the executive branch to force the administration and the intelligence agencies to respond and to implement new procedures and standards. Once a new classification system has been adopted, the independent board will have access to all documents that are classified on the basis of national security concerns and the authority to review classification decisions made by executive branch employees. If the board disagrees with a decision, it can make a recommendation to the President to reverse or alter the classification.

If the President doesn't adopt the board's recommendation, he must within 60 days explain his decision to Congress:

and post such notification and written justification on the White House website.

This will, at the very least, let the American people know that they are being denied information.

COSPONSORSHIP OF S. 2623

Mr. FEINGOLD. Madam President, I discuss a very important issue to my home State of Wisconsin, and that is the time limits placed on Supplemental Security Income, SSI, benefits for refugees and other humanitarian immigrants.–

Due to a provision included in the 1996 welfare reform law, some refugees and other humanitarian immigrants legally residing in the United States, including many members of the Hmong ethnic group, are beginning to lose their eligibility for SSI. The provision states that refugees and other humanitarian immigrants are only eligible for SSI for 7 years. Some of these legal immigrants have already lost their benefits, and for others the 7-year deadline is quickly approaching.

Many of the Hmong who currently reside in Wisconsin and throughout the U.S. provided invaluable assistance to the U.S. military during the Vietnam War. The Hmong made great sacrifices in fighting against communists in Laos and providing intelligence to the CIA, and could no longer stay in the region out of fear for their safety. In return for their sacrifices for our Nation, we relocated them to the United States, along with their families, to live under refugee or humanitarian immigrant status.

The refugees and other humanitarian immigrants who depend on SSI are elderly or disabled and often lack any other financial resources. Many Hmong currently have applications for citizenship pending, and have been waiting for over 2 years for their applications to be processed by the Immigration and Naturalization Service and now the Department of Homeland Security. Others are suffering from serious mental or physical disabilities that prevent them from completing the requirements necessary to obtain citizenship. Losing their SSI eligibility will cause significant strain to those Hmong who rely on SSI as their only financial means.

I am proud to cosponsor S. 2623, the SSI Extension for Elderly and Disabled Refugees Act, which was introduced by Senator SMITH. This bill would extend the 7-year deadline by 2 years, giving those refugees who depend on SSI some additional time to navigate the naturalization process.

It is my sincere hope that this bill will be taken up and passed quickly, since time is of the essence for this population. Many of the Hmong risked their lives to help the United States and I believe that the U.S. Government should do all it can to provide for them in their time of need.

AMERICAN HOSTAGES IN COLOMBIA

Mr. DODD. Madam President, last February, I rose before the Senate to draw attention to the fate of three Americans taken hostage by the Revolutionary Armed Forces of Colombia (FARC)—Marc Gonsalves, Keith Stansell, and Thomas Howes. It has been 5 months since then—17 months since Marc, Keith and Tom were captured. Since that tragic day, these Americans and their families have lived in fear, never knowing what tomorrow may bring. I say today what I said then—there must be no higher priority than ensuring that Marc, Keith and Tom return safely home. I commend the actions taken thus far by United States and Colombian officials to find these brave Americans, but I urge them to redouble their efforts.

Marc, Keith and Tom were taken captive when their plane crashed in FARC controlled territory on February 13, 2003. Two individuals, an American pilot, Tom Janis, and a Colombian intelligence officer, were killed by the FARC at the crash site, and Marc, Keith and Tom have remained in captivity since that time. A video documentary released last year containing interviews with the three men dramatically underscores the urgency of their dire situation.

I know that all of our prayers remain with these Americans and their families. As any parent knows, it is impossible to describe the pain these families suffer knowing that their sons are in danger, unable to communicate with them, and uncertain whether they will ever see them again. Marc Gonsalves' mother, Jo Rosano, is a Connecticut resident. When I met with her in February, I pledged that I would do everything possible to return her son. I stand by that pledge today.

To that end, I have met with President Uribe and Colombian officials and urged them to secure Marc, Keith and Tom's release. President Uribe has assured me that Colombian authorities are working to locate these Americans and that Colombia will not end its search until they are found.

I have likewise urged the Bush administration to provide all necessary assistance to locate and gain the release of Marc, Keith and Tom. During a hearing last year before the Senate Foreign Relations Committee, I urged William Wood, Ambassador to Colombia, to make their well-being and safe release his highest priority. Ambassador Wood agreed to do so and promised to keep me informed about developments as they occur. I thank him for his efforts to date.

Unfortunately, rescuing these three Americans will not be easy. But while doing so may not be easy, it is essential—it is our duty. We must leave no stone unturned in our efforts to secure their release. And we must make sure that their families know that we have not forgotten their sons and will not rest until we find them. I will continue to work tirelessly on behalf of Marc, Keith and Tom, and I urge the Bush administration and the Colombian government, to do everything in their power to expedite their return.

NOMINATION OF WILLIAM G. MYERS III

Mr. JOHNSON. Madam President, yesterday the Senate voted on the nomination of William G. Myers III who has been nominated for a position on the Ninth Circuit Court of Appeals. The Ninth Circuit includes most western States as well as Alaska and Hawaii. These western States contain a vast portion of our natural resources and is home to many of our Native Americans, Alaskan Natives and Hawaiian natives.

President Bush nominated Mr. Myers on May 15, 2003 while he served as Solicitor General for the Department of Interior. He was voted out of the Judiciary Committee on April 1, 2004, by a party line vote of 10–9.

A large portion of Mr. Myers' 22-year legal career. has been in Washington working as a lobbyist and as a governmental lawyer in Republican administrations. During his legal career, Mr. Myers has never served in a judiciary capacity; he has never participated in a trial, and has received a partial Not Qualified rating from the American Bar Association, its lowest rating.

During his tenure as Solicitor General he has shown his contempt for environmental protections and has disregarded the necessary input of Native Americans into decisions that directly affect them. As Solicitor, he reversed an opinion made by his predecessor during the Clinton administration regarding the interpretation of a statute. This reversal led to the issuanc of a permit to the Glamis Company to open and operate the Glamis Imperial Mine on Quechan Indian Sacred land. The decision to overturn this opinion was done without government-to-government consultation with the Quechan Indian Tribe, which is required by the policies implemented by the executive branch. Despite requests made by the Quechan Indian Tribe to meet with the Interior Department, he never made any attempts to convene with the tribe while Solicitor, yet had several meetings with the Glamis Company regarding this gold mine.

Mr. Myers placed his mining industry ties before all others. It is his judgment demonstrated here that lead the nonpartisan National Congress of American Indians to oppose this judicial nomination for the first time in this organization's 60-year existence.

The nomination of Mr. Myers is opposed by more than 175 environmental, Native American, labor, civil rights, disability rights, women's rights and other organizations. The New York Times, the Los Angeles Times, and the San Francisco Chronicle have editorialized in opposition to his confirmation.

Now, I point out that I have voted and the Senate has confirmed many conservative judges. Do I like their politics? Probably not. Will I be happy with their rulings all of the time? No. Do I think they can resist partisan activism while serving on the bench? Yes. Regardless of a judge's political leanings, I will support a nominee who understands and is respectful of the rule of law. It is apparent that Mr. Myers will put industry ahead of our environment, the sacred land rights of Native Americans, and most importantly what is in the best interest of the general public.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On April 2, 2000, in Cedar Rapids, IA, Jason Allen was charged with allegedly attacking another man because he believed the man was gay.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION

• Mr. KERRY. Madam President, I am pleased to join my colleagues in the Senate—Chair of the Committee on Small Business and Entrepreneurship OLYMPIA SNOWE and former House Small Business Committee Chairman JIM TALENT—in support of legislation that will ensure the National Veterans Business Development Corporation is able to continue serving veteran small business owners.

In a letter to the Office of Management and Budget on March 19, 2004, the Department of Justice concluded that the Veterans Corporation is a government agency, and therefore subject to the laws, regulations, and guidance applicable to all executive branch agencies. This opinion by the admiration not only goes against congressional intent, but it severely undermines the ability of the corporation to deliver needed assistance to veteran entrepreneurs.

As a supporter of the original legislation that established the Veterans Corporation, I can tell you that Congress fully intended the Veterans Corporation to be a private entity and not a Federal agency. This bipartisan legislation simply clarifies the status of the Veterans Corporation and reaffirms Congress's original objective.

I urge all of my colleagues to support this legislation, which we seek to pass today. Passing this legislation expeditiously will mean that the Veterans Corporation can continue to carry out its congressionally mandated mission and that our veteran-owned small business are able to receive the development assistance they need to start and expand.•

THE SMART PROGRAM

• Mr. SMITH. Madam President, today I rise to recognize a proven early literacy program called SMART, which stands for "Start Making A Reader Today." The program gives children who have difficulty reading the extra support and one-on-one attention they need to learn to read and succeed.

Each year, SMART matches more than 11,000 young children in Oregon with adult volunteers for weekly one-on-one reading sessions. Independent research shows that these relationships have a measurable impact on the students' reading performance. At a time when we are striving to better serve our Nation's students, this Oregon program is a model for the Nation. SMART has improved young Oregonians' performance on important benchmark exams, and has given students an important boost of confidence for continued academic success.

Twelve years ago, Johnell Bell was a first grader struggling to learn to read. His teacher noted Johnell toiling to keep pace with his classmates, and recommended him for SMART. For several years, Johnell worked with one of SMART's 10,000 volunteers to develop his reading skills. With free books at his disposal, Johnell practiced reading at home and quickly developed into a star student and a dynamic young leader. Now a student at Portland State University, he is returning the favor. Every week, he spends time between classes with two SMART readers.

We should learn from proven successes and invest in programs that have a measurable impact on our children's future. By successfully mobilizing communities to improve the lives of thousands of children, SMART, and other programs like it, provide hope for America's children.•

U.S. INSTITUTE OF PEACE 2004 NATIONAL PEACE ESSAY CONTEST WINNER

• Mrs. CLINTON. Madam President, I would like to bring to my colleagues' attention the nationally recognized essay of one of my constituents, Vivek Viswanathan, a junior at Herricks High School in New Hyde Park, NY. I had the pleasure of meeting Mr. Viswanathan on June 23, 2004, when he visited my office during the United States Institute of Peace 2004 National Peace Essay Contest, NPEC Awards Week in Washington. The mandate of the United States Institute of Peace, as established by Congress, is to support the development, transmission, and use of knowledge to promote peace and curb violent international conflict. The Institute's annual NPEC, one of its oldest programs, is based on the belief that expanding the study of peace, justice, freedom and security is vital to civic education.

Mr. Viswanathan's essay, "Establishing Peaceful and Stable Postwar Societies Through Effective Rebuilding Strategy" was awarded first-place among the essays of his peers representing all 50 States, U.S. territories and overseas schools. In his essay, Mr. Viswanathan argues that to be effective, reconstruction efforts should be tailored to the specific post-war situation, obtain a large commitment of resources and assistance from the international community, and involve "a nation's own people in a way that allows them to ultimately control their destiny and that eventually provides a clear exit strategy for international actors." I am proud of Mr. Viswanathan's commendable essay and congratulate him and his teachers at Herricks High School. Mr. Viswanathan is a bright and energetic student who will be a leader in his future endeavors. I would like to share with my colleagues a copy of Mr. Viswanathan's first-place essay. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTABLISHING PEACEFUL AND STABLE POSTWAR SOCIETIES THROUGH EFFECTIVE REBUILDING STRATEGY

While the resolution of armed conflict may bring initial order within a war-torn nation, it does not guarantee long-term peace and stability. Establishing an orderly society from the ruins of war—enacting a workable political, economic, and social structure in a place where violence and instability have been the rule—is an undertaking that is necessarily complex. Moreover, the discontinuation of armed conflict does not imply resolution of the underlying concerns that caused the conflict. Humanitarian crises can compound problems. An inability to deal with these factors intelligently and effectively can cripple the rebuilding process and lead to renewed strife.

History has shown that the most effective rebuilding efforts integrate three important strategies. Firstly, they are tailored to the postwar situation with which they are dealing. An assessment of which factors-pose the gravest challenges to rebuilding in each post-conflict situation is absolutely necessary. Factors that destabilize rebuilding must not be addressed haphazardly but rather at their roots. Secondly, successful rebuilding involves a vast commitment of resources and assistance on the part of the international community. Piecemeal efforts will not suffice. Finally, rebuilding efforts must involve a nation's own people in a way that allows them to ultimately control their destiny and that eventually provides a clear exit strategy for international actors.

Case studies of the Marshall Plan in Western Europe and the U.N. and U.S.'s rebuilding efforts in Somalia in the early 1990s demonstrate the necessity of correctly identifying the most fundamental and pressing challenges of rebuilding, dealing with them in a powerful and forceful way, and involving a nation's people in rebuilding efforts in order to build a strong, self-sustaining society.

The Marshall Plan is a study in successful rebuilding. When World War II ended in 1945, the European continent was in tatters. America initially believed that limited aid and relaxed trade barriers would be enough to spur Europe to economic recovery. But by 1947, the economic situation was dire. The UN reported that postwar labor productivity in Europe was 40–50% of prewar levels, and low wages and food shortages compounded the problems. As the economy tanked, support for the Communist party in various countries began to grow. The U.S. began to fear Soviet domination of Western Europe.

By 1947, Secretary of State George Marshall understood the plight of the European continent and the danger it faced. "The patient is sinking while the doctors deliberate," he told the American people. In a now-famous speech that year at Harvard University, Marshall laid out the European Recovery Program—the Marshall Plan—and brilliantly addressed the three important strategies of rebuilding. Firstly, he correctly assessed the situation in Europe. Marshall realized that the root problem that afflicted rebuilding efforts was economic and not political in nature. He emphasized that the effective way to stifle Communism was to address Europe's economic troubles. "Our policy is directed not against any country or doctrine but against hunger, poverty, desperation, and chaos," Marshall said. "Its purpose should be the revival of a working economy . . . to permit the emergence of political and social conditions in which free institutions can exist."

Secondly, Marshall understood that for rebuilding to succeed, a massive investment of resources into Europe on the part of the U.S. was necessary. "Assistance . . . must not be on a piecemeal basis . . . [it] should provide a cure rather than a mere palliative," he said.

Finally, Marshall understood that the chances of a rational and cohesive rebuilding effort would be greatly increased by allowing Europeans to retain much control over the rebuilding program. The U.S., he said, should limit itself to "friendly aid" and advice. The Marshall Plan's four-year timetable also provided a framework for success.

Eventually, between 1948 and 1952, the U.S. appropriated $13.3 billion dollars—a staggering sum in that day—for the Marshall Plan. The money was spent toward greatly increasing European productivity and modernizing factory and transport systems. And the Europeans had a hand in formulating a workable rebuilding policy.

The Plan was incredibly successful. Western Europe's gross national product climbed 32 percent during the Marshall Plan, and by 1952 agricultural production and industrial output exceeded prewar levels by 11 and 40 percent, respectively. Through the revived economy, Western Europe had been re-integrated into the free world; even as the U.S.S.R. dominated Eastern Europe, Western Europe would stand for four decades as a bulwark against Soviet expansion. Calling him a man who "offered hope to those who desperately needed it," TIME named him its 1947 Man of the Year. And in 1953, Marshall was awarded the Nobel Peace Prize.

In contrast, the U.N. and U.S.'s post-conflict reconstruction experience in Somalia in the early 1990s demonstrates the consequences of an incompetent and halfhearted approach to nation-building. With the collapse of Mohamed Siad Barre's regime in 1991, Somalia plunged into civil war as various Somali clans engaged in a power struggle. The chaos triggered a great humanitarian crisis. Finally, after thousands were killed in intense fighting in Mogadishu, a U.N.-brokered cease-fire between rival clan leaders Mohamed Farah Aidid and Ali Mahdi Mohamed was achieved in March of 1992.

However, the U.N. and U.S.'s response afterward showed a disregard for the three important strategies of rebuilding. Firstly, the U.N. and the U.S. did not accurately assess the Somali situation. The immense humanitarian crisis blinded the international actors to the fact that the root problem that was afflicting reconciliation was political in nature. The initial U.N. and U.S. response in Operation Restore Hope sought to be purely humanitarian in nature, when in fact the humanitarian and political situations were intertwined. The U.S. Deputy Chief of Mission to Somalia later wrote, "The country's entire political and economic systems essentially revolved around plundered food" that was stolen from the relief effort. Eventually, confronted with the deteriorating political situation, the U.N. Security Council authorized Resolution 794 in December of 1992, which allowed U.S. and international troops to use "'all necessary means" to establish "a secure environment for humanitarian relief operations in Somalia." Even at this point, guaranteeing political stability was seen as only a means for providing humanitarian relief, rather than an end in itself. This is a fine strategy for saving people's lives in the short-term—in fact, the intervention in Somalia saved tens of thousands of lives—but it is a poor strategy for rebuilding the fabric of a nation.

Secondly, the international community was not eager to put forth the significant monetary and troop commitment that successful nation-building entails. However, reductions in the troop force—from 25,000 to 4,200 by June of 1993—ultimately proved counterproductive. As James Dobbins, who oversaw various postwar reconstruction efforts (including Somalia) while serving Bush and Clinton, put it, "Only when the number of stabilization troops has been low in comparison to the population have U.S forces suffered or inflicted significant casualties." The international effort in Somalia was strikingly deficient.

Finally, the Somali mission failed to include many of the Somali people in rebuilding efforts. The cease-fire efforts attempted to treat the conflict as one between two major warlords, when there were actually many other disaffected people who went uninvited to peace talks. In fact, warlord Ali Mahdi Mohamed, given stature by his inclusion in the talks, attacked smaller clans the day after the U.N. invitation to talks. One U.N. advisor wrote that the international community's inability to recognize the importance of representation in Somali politics was "central to nearly every failed peace conference." In the end, the concept of an effective exit strategy for international actors, which is designed to focus efforts on goals and results, instead degenerated in Somalia into a rationale for getting out.

After a clash between warlord Mohamed Farah Aidid and a U.N. force on June 5, 1993, and the battle between Aidid and U.S. forces on October 3, 1993 that left eighteen soldiers dead, Clinton ordered a withdrawal of American troops that was completed by March of 1994. The final U.N. troops left in February of 1995 as rival clans continued to fight. As his troops prepared to leave Somalia, Pakistani brigadier general Saulat Abbas lamented, "We've been able to save a lot of people from hunger, disease. But we've not been able to contribute anything politically." The nation-building effort had failed.

The lessons of the Marshall Plan and international efforts in Somalia are clear. For those nations overrun by war, the cessation of violence is only a beginning. A careful and well-reasoned rebuilding and reconciliation effort that is uniquely relevant to the intricacies of each situation is necessary for the re-emergence of a strong society that can endure. In addition, international actors such as the U.N. and U.S. must truly be committed to investing all the resources necessary to build an orderly environment. This often means going against the prevailing political winds. Finally, the rebuilding of a nation must involve that nation's own people and provide for their society to eventually prosper on its own. With the proper approach and commitment in place, post-conflict rebuilding efforts can lead to societies that are peaceful, stable, and secure.●

WALTER JOHNSON—HALF A CENTURY OF SERVICE

● Mrs. BOXER. Madam President, I am pleased and honored to salute Walter Johnson, the distinguished secretary-treasurer of the San Francisco Labor Council, AFL–CIO. Walter is retiring after nearly two decades in this position and more than 50 years of outstanding service to the labor community and the people of the San Francisco Bay Area.

Born in North Dakota, Walter Johnson served his country in World War II and settled in San Francisco after his discharge. He got a job as an appliance salesperson at Sears Roebuck and joined Local 1100 of the Department Store Employees Union. Rising through the ranks of the union, he became its business agent in 1957 and was elected president a year later. He was elected secretary-treasurer in 1964 and reelected 11 times.

Walter was elected secretary-treasurer of the labor council in 1985, and has held this top post ever since. As the leader of more than 80,000 workers in 140 local unions and constituency groups, Walter Johnson represents the face and voice of San Francisco's labor movement.

He also embodies its heart. Walter's compassion and commitment to social justice are legendary. In the 1950s, he played a key role in breaking the color line by helping the first African American woman secure a position behind the counter at Woolworth's. Over the past half century, he has fought for workers' rights at home and in foreign lands including China and South Korea. A cancer survivor himself, he has been a leader in the fight against breast cancer. He is also active in his church, in promoting sports for children, and in the United Way of the Bay Area.

Walter has become a trusted friend and adviser to me and to other elected officials, but he never lets us forget that we work for the people not the other way around. Even after he retires, I will still hear Walter's voice and feel him tapping on my shoulder, reminding me never to forget the working men and women I represent.

After more than 50 years of service, even Walter Johnson needs a little time off. Along with thousands of his friends and admirers throughout the Bay Area, I wish him a long and pleasurable retirement.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3574. An act to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

H.R. 3936. An act to amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, DC, metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes.

H.R. 4259. An act to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

H.R. 4816. An act to permit the Librarian of Congress to hire Library of Congress Police employees.

H.R. 4850. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 308. Concurrent resolution recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS National Charter Day.

The message further announced that the House has passed the following joint resolution and bill, without amendment:

S.J. Res. 38. Joint resolution providing for the appointment of Eli Broad as a citizen regent of the Board of Regents of the Smithsonian Institution.

S. 741. An act to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

At 5:36 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4600. An act to amend section 227 of the Communications Act of 1934 to clarify the prohibition on junk fax transmissions.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 4492. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes.

S. 2694. A bill to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes.

S. 2695. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 2704. A bill to amend title XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

S. 2714. A bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8614. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model BAE 125 Series 800A, 800A (C–29A0), and 800B Airplanes and Model Hawker 800 Airplanes Doc. No. 2003–NM–244" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8615. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model 330-202, 203, 223, and 243 Airplanes and A330–300 Airplanes Doc. No. 2003–NM–183" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8616. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC9081 MD82, DC–9–83 MD 83, DC 9–87 MD87, and MD 88 Airplanes Doc. No. 2000–NM–110" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8617. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-600, 700, 700C, 800, and 900 Airplanes Doc. No. 2002–NM–323" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8618. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330, A340-200, and A340-300 Airplanes Doc. No. 2003–NM–111" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8619. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Przedsiediorstwo Doswiadczalno Prdoukcykne Szybownictwa “PZL–Bielsko” Model SZD–50–3 “Puchacz” Doc. No. 2003–CE–66 Doc. No. 2003–CE–66” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8620. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Alexander Schleicher Model ASW 27 Sailplanes Doc. No. 2003–CE–53” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8621. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A318, 319, 320, and 321 Airplanes Doc. No. 2004–NM–100” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8622. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: BAE Sytems (Operations) Limited Model BAE Airplanes Doc. No. 2003–NM–94” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8623. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A300 B2 and A300 B4 Airplanes Doc. No. 2002–NM–337” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8624. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Raytheon Model BAe 125 Series 800A Including C–29A and U–125 Variant and 800 B Airplanes; and Model Hawker 800 (Including U–125A Variant) and 800 XP Airplanes Doc. No. 2003–NM–216” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8625. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747–400 and 400F Airplanes Equipped With Rolls-Royce Engines Doc. No. 2003–NM–202” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8626. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Defense and Space Group Model 234 Helicopters Doc. No. 2004–SW–09” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8627. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter France Model EC 130 B4 and AS 350 B3 Helicopters Doc. No. 2003–SW–29” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8628. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Augusta S.p.A. Model A109E Helicopters Doc. No. 2003–SW–32” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8629. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Fokker Model F28 Mark 0070 Airplanes Doc. No. 2002–NM–251” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8630. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Saab Model SAAB SF340A and SAAB 340B Airplanes Doc. No. 2003–NM–18” (RIN2120–AA64) received on July 19 , 2004; to the Committee on Commerce, Science, and Transportation .

EC–8631. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A319 and A320 Airplanes Doc. No. 2003–NM–187” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8632. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Saab Model SAAB SF340A and SAAB 340B Airplanes Doc. No. 2003–NM–17” (RIN2120–AA64) received on July 19 , 2004; to the Committee on Commerce, Science, and Transportation .

EC–8633. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Bombardier Model CL–600 2B19 (Regional Jet Series 100 and 440) Airplanes” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8634. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747–100, 200B, and 200F Airplanes Doc. No. 2002–NM–149” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8635. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Empresa Brasilera de Aeronautica S.A. (EMBRAER) Model EMB–135 and 145 Airplanes Doc. No. 2003–NM–104” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8636. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Bombardier Model DHC–8–102, 103, 106, 201, 202, 301, 311, and 315 Doc. No. 2001–NM–331” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8637. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Bombardier Model DHC–301, 3100, 315 Airplanes Doc. No. 2002–NM–297” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8638. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747–400 and 400 D Series Airplanes Doc. No. 2003–NM–126” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8639. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: BAE Systems (operations) Limited (Jetstream) Model 4101 Airplanes Doc. No. 2002–NM–208” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8640. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A300 B2 Airplanes Model A300 B4 Airplanes and Model A300 B4 Airplanes and Model A300 B4–600R Variant F, and F4–600R (Collectively Called A300–600 Airplanes) Doc. No. 2003–NM–53” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8641. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Short Brothers Model SD3–60 SHERPA Airplanes Doc. No. 2003–NM–200” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8642. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Short Brothers Model SD3–60 Airplanes Doc. No. 2003–NM–236” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8643. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Aircraft Equipped with Garmin AT Apollo GX Series Global Positioning System (GPS) Navigation Units with Software Versions 3.0 through 3.4 Inclusive Doc. No. 2002–NM–254” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8644. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Empresa Brasilera de Aeronautica S.A. (EMBRAER) Model EMB–120 Airplanes Doc. No. 2003–NM–65” (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8645. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211 Trent 875–17, Trent 877–17, Trent 884–18, Trent 884B–17, Trent 892–17, Trent 892B–17, and Trent 895–17 Turbofan Engines Doc. No 202–NE–19" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8646. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Augusta S.p.A. Model A109C, A109E, and A109K2 Helicopters Doc. No. 2001–SW–15" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8647. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Short Brothers Model SD3–SHERPA Airplanes Doc. No. 2003–NM–235" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8648. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter Deutschland Model MBB–BK 117, A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters Doc. No. 2003–SW–38" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8649. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Lycoming Engines (Formerly Textron Lycoming) Direct-Drive Reciprocating Engines CORRECTION Doc. No. 89–ANE–10" (RIN2120–AA64) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8650. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Kimball, NE Doc. No. 04–ACE–31" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8651. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Scottsbluff, NE Doc. No. 04–ACE–28" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8652. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Zanesville OH CORRECTION Doc. No. 03–AGL–14" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8653. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; CORRECTION Broken Bow, NE Doc. No. 04–CE–39" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8654. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Trinidad, CO CORRECTION Doc. No. 03–ANM–04" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8655. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (16) Amendment No. 3099" (RIN2120–AA65) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8656. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (16) Amendment No. 449" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8657. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D Airspace; St. Cloud, MN Modification of Class E Airspace; St. Cloud, MN Doc. No. 03–AGL–21" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8658. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Restricted Area 6604; Chincoteague Inlet, VA Doc. No. 04–AEA–05" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8659. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Cooperstown, NY Doc. No. 04–AEA–04" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8660. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D and E Airspace; Goldsoro, NC Doc. No. 04–ASO–5" (RIN2120–AA66) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8661. A communication from the FMCSA Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Carrier Regulations; Hazardous Materials Safety Permits" (RIN2126–AA07) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8662. A communication from the Attorney-Advisor, Maritime Administration, Department, transmitting, pursuant to law, the report of a rule entitled "Maritime Security Program" (RIN2133–AB62) received on July 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8663. A communication from the Acting Under Secretary of Defense, Comptroller, Department of Defense, a report relative to a multiyear procurement for the Tomahawk Cruise Missile (Block IV All-Up-Round (AUR)) Fiscal Year 2004 through 2008; to the Committee on Armed Services.

EC–8664. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to information for 2003 on the country of origin and the sellers of uranium and uranium enrichment services purchased by owners and operators of U.S. civilian nuclear power reactors; to the Committee on Energy and Natural Resources.

EC–8665. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, a draft of proposed legislation entitled the "Lowell National Historical Park Boundary Adjustment Act"; to the Committee on Energy and Natural Resources.

EC–8666. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Guidance Regarding Certain Cross Chain Transactions" (Rev. Rul. 2004–83) received on July 19, 2004; to the Committee on Finance.

EC–8667. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Transfers to Provide for Satisfaction of Contested Liabilities" (RIN1545–BA90) received on July 19, 2004; to the Committee on Finance.

EC–8668. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Application of Section 904 to Income Subject to Separate Limitations" (RIN1545–AX88) received on July 19, 2004; to the Committee on Finance.

EC–8669. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—August 2004" (Rev. Rul. 2004–84) received on July 19, 2004; to the Committee on Finance.

EC–8670. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Bankruptcy Implications on Golden Parachute Payments" (Rev. Rul. 2004–87) received on July 19, 2004; to the Committee on Finance.

EC–8671. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Participation on Department of Health and Human Services Programs by Religious Organizations; Providing for Equal Treatment of All Department of Health and Human Services Program Participants" (RIN0991–AB34) received on July 19, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–8672. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the Department's activities during Calendar Year 2003 pursuant to the Equal Credit Opportunity Act; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–474. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to income guidelines for senior citizens; to the Committee on Agriculture, Nutrition, and Forestry.

House Concurrent Resolution No. 5

Whereas, Louisiana's senior citizens, with their wealth of lifetime experiences and knowledge, represent a valuable asset to our state; and

Whereas, according to the latest federal decennial census, 108,634 Louisiana citizens age sixty or older live at or below the federal poverty level; and

Whereas, only 40,754, less than thirty-eight percent, of these low-income senior citizens qualified for participation in the federal food stamp program at the end of February 2004, according to the Louisiana Department of Social Services; and

Whereas, many of these low-income senior citizens subsist on fixed incomes or have supplemental security income (SSI) as their only source of income; and

Whereas, many of these low-income senior citizens find that, even after being allowed certain medical deductions from income, their incomes disqualify them from receiving assistance through the federal food stamp program or qualify them only for a minimal amount of assistance; and

Whereas, as a result, many of these low-income senior citizens find themselves at the end of the month without enough money to buy food after meeting other monthly expenses: Therefore, be it

Resolved, That the Louisiana Legislature does hereby memorialize the Congress of the United States of America to study and consider revising the income guidelines for senior citizens and reduce them by ten percent so that they may participate in or receive more assistance through the federal food stamp program; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–475. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to eliminating the "new shipper" bonding privilege; to the Committee on Agriculture, Nutrition, and Forestry.

Senate Concurrent Resolution No. 152

Whereas, antidumping and countervailing duties on imports are implemented to protect domestic fishery, agricultural, and industrial industries from unfairly subsidized imports; and

Whereas, under the present United States antidumping law, a "new shipper" may choose to post low-cost bonds on their imports or the full cash deposit as security for the amount of duties the United States Customs and Border Protection may assess against the imports; and

Whereas, many exporters, especially from China, are claiming "new shipper" status as means of evading the payment of any duties on their imports; and

Whereas, some "new shippers" evade payment of any duties by defaulting or dissolving the company, as shown by the fact that in 2003, the United States Customs and Border Protection failed to collect on $130 million in import duties, with over $100 million of such uncollected duties from Chinese imports; and

Whereas, the elimination of the option of posting a bond over a full cash deposit will close the loophole used by "new shippers" to avoid the payment of antidumping and countervailing duties on imports: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to enact legislation eliminating the "new shipper" bonding privilege; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and clerk of the United States House of Representatives, and to each member of the Louisiana congressional delegation.

POM–476. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to emergency supplemental appropriations to strengthen security and increase staffing at United States-Canada border crossings; to the Committee on Appropriations.

Senate Resolution No. 118

Whereas, for generations, the friendly, shared border of 4,000 miles between our country and our Canadian neighbors has been a symbol of the blessings of peace. The recent terrorist attacks have, however, shattered our sense of security and prompted a reexamination of how we can better protect ourselves; and

Whereas, a major component of any new strategy must be making a stronger investment of resources and personnel along our northern border, especially at the crossings between the United States and Canada. The free flow of people and materials crossing our northern border every day reflects our close economic and cultural ties with Canada. The hard lessons learned on September 11, 2001, make it clear that greater scrutiny must be applied at entry points. The United States Customs Service processed 489 million passengers in 2000. To monitor this volume of traffic effectively, especially in the era of increased terrorist threats we now face, will require a far greater allocation of staffing, funding, and technology; and

Whereas, there is widespread agreement that the Customs Service and the Immigration and Naturalization Service are seriously understaffed. This seems to be especially true along our Canadian border when compared to efforts along the Mexican frontier. Allocating a significant portion of the emergency appropriations the President has called for is fundamentally important to our national security and the security of our Canadian neighbors: Now, therefore, be it

Resolved by the Senate, That we memorialize Congress and the President of the United States to provide emergency supplemental appropriations to strengthen security and increase staffing at United States-Canadian border crossings; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–477. A concurrent resolution adopted by the Senate of the General Assembly of the state of Ohio relative to retention and expansion of all military bases and centers in Ohio; to the Committee on Armed Services.

Senate Concurrent Resolution No. 31

Whereas, the United States Department of Defense is required by law to prepare a list of military bases to be closed or realigned for the Base Closure and Realignment Commission by May 16, 2005. The Department has announced that the 2005 round of closures could have an impact as great as the previous four rounds combined, closing nearly 100 bases; and

Whereas, the Commission will submit its list to the President of the United States by September 8, 2005, and, if the President approves the list, he will forward it to the United States Congress by September 23, 2005. The Congress will either vote on the approved list, or it will become effective 45 days after submission; and

Whereas, Ohio's military bases and centers are critical to our national security and impact the present and future capability of our defense force structure nationwide. The state of Ohio has always worked on behalf of a strong national defense and has a long history of outstanding community and state support of Ohio's military bases and centers; and

Whereas, Ohio has 38,000 defense jobs with a more than $4 billion economic impact on our state and local economies, including Wright Patterson Air Force Base as the largest single-site employer in Ohio. Thus, significant closures or defense job losses during the 2005 base realignment and closure process would have an extremely detrimental effect at both the state and local levels: Now therefore be it

Resolved, That we, the members of the 125th General Assembly of the State of Ohio, express our support for retention and expansion of all military bases and centers in Ohio and encourage all local governments to support the continued operation of those bases and centers at full capacity; and be it further

Resolved, That we, the members of the 125th General Assembly of the State of Ohio, urge the Governor's All-Ohio Task Force to Save Defense Jobs to work with communities, legislators, local officials, and industry and labor leaders to protect any threatened defense bases and centers and urge local governments and community, industry, and labor leaders to work with the Task Force to enhance the efficiency and effectiveness of Ohio's military bases and centers so that the Department of Defense will fully appreciate the military value of Ohio's defense contributions and exploit those capabilities by moving additional missions to our state, thereby strengthening national defense; and be it further

Resolved, That the Clerk of the Senate transmit copies of this resolution to the President of the United States, to the United States Secretary of Defense, to the Speaker and Clerk of the United States House of Representatives, to the President Pro Tempore and the Secretary of the United States Senate, to the members of the Ohio Congressional delegation, to the Governor of Ohio, and to the news media of Ohio.

POM–478. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of New Hampshire relative to the posthumous promotion of Colonel Edward Ephraim Cross; to the Committee on Armed Services.

House Concurrent Resolution No. 17

Whereas, Colonel Edward Ephraim Cross, a native of Lancaster, New Hampshire, was named a colonel by the governor of New Hampshire in 1861 at the outbreak of the Civil War and was given command of the 5th Regiment, New Hampshire Volunteers; and

Whereas, Colonel Cross valiantly led his regiment through many battles of the Civil War, including the battles of Fair Oaks, Glendale, Antietam, Chancellorsville, Fredericksburg, and Gettysburg, and was wounded several times; and

Whereas, prior to Colonel Cross's untimely death after suffering a wound by a sniper at the Battle of Gettysburg on July 2, 1863, he was informed by his division commander, Major General Winfield Scott Hancock, that he was to be promoted to brigadier general; and

Whereas, a number of Civil War historians and enthusiasts have over the years made requests of New Hampshire's governor and congressional delegation that Colonel Cross be promoted to brigadier general or brevet brigadier general: Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That the New Hampshire general court finds that Colonel Cross's record of conduct, performance, and devotion to duty reflect his allegiance to the highest standards of the military profession and that, if not for his untimely death at Gettysburg, Colonel Cross would have received a promotion to brigadier general; and

That the New Hampshire general court urges the governor and the federal government to take the procedural steps necessary to posthumously promote New Hampshire native Colonel Edward Ephraim Cross to the rank of brigadier general; and

That copies of this resolution be sent by the house clerk to the governor, the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives, and the members of the New Hampshire Congressional delegation.

POM–479. A joint resolution adopted by the General Assembly of the State of Colorado relative to Colorado's reservists and national guard members; to the Committee on Armed Services.

HOUSE JOINT RESOLUTION NO. 04–1006

Whereas, our volunteer military is one of the best in the world; and

Whereas, a key to the success of this force is its ability to combine active duty troops from the Army, Navy, Air Force, and Marines with the citizen soldiers of the Colorado Reserve and National Guard; and

Whereas, throughout the history of this state Coloradans have contributed commendable service to this country, and currently Colorado is the proud home of active military bases as well as the "Home of Heroes", which has produced 5 Congressional Medal of Honor winners; and

Whereas, the War on Terrorism may go on for many years and may consist of smaller deployments of troops requiring mass support and rapid response; and

Whereas, there is a great reliance on our Colorado Reserve and National Guard units; and

Whereas, currently there are over 3,000 Colorado citizen soldiers who have been called up to fight this War on Terrorism both at home and abroad; and

Whereas, these citizen soldiers are our friends and neighbors; people who live, work, and raise their families here in Colorado; and

Whereas, these citizen soldiers are standing in the gap for us, activated to fill an essential need, protecting us both here at home and abroad from those who wish us harm; and

Whereas, while these citizen soldiers stand in the gap for us in our armed forces, keeping the War on Terrorism away from our homes and families, a gap is created in the families they leave behind; and

Whereas, these Colorado Reservists and members of the Colorado National Guard are often not only spouses, but also parents and frequently the primary breadwinners for their families; and

Whereas, the stress and financial difficulties resulting from the gap created by the volunteer's absence adds to the burdens of an already worried family; and

Whereas, while limited emergency relief funds do exist to help ease these financial burdens, these funds are not enough. It is unacceptable for us to stand by and let the burdens that our Reservists, National Guard members, and their families face continue to mount. It is time for the people of Colorado to take action and stand in the gap here at home for Colorado's fighting men and women; and

Whereas, neighbors helping neighbors is a Western tradition that is still alive and well here in Colorado; and

Whereas, we, the people of Colorado, must do our part to ensure that our fighting forces may take comfort in knowing that the entire state of Colorado is helping to fill the gap occasioned by their absence from their families so that they may focus on protecting us; and

Whereas, our role as citizens in the War on Terrorism is not only to function at a heightened state of vigilance throughout our daily lives in order to help prevent another terrorist attack, but also to ensure that our brave Colorado fighting men and women and their families are supported financially, emotionally, and spiritually; and

Whereas, currently, no Colorado organization exists that allows citizens to help their fellow citizen soldiers who serve either in the Reserves or National Guard lessen these financial burdens; and

Whereas, recently, The Stand in the Gap Project, Inc., was formed as a not-for-profit organization under section 501(c)(3) of the Internal Revenue Code to unite leaders and citizens in working toward a real, financial, and long-term solution for the burdens carried by military families; and

Whereas, the Stand in the Gap Project, Inc., aims to provide a method by which Colorado citizens can help by contributing their time, treasure, and talent to assist their fellow Coloradans who are standing in the gap through military service; and

Whereas, the Stand in the Gap Project, Inc., hopes to serve as a catalyst and a focal point for other organizations within the state to help effectively and efficiently reduce the stresses experienced by National Guard and Reserve families here in Colorado: Now, therefore, be it

Resolved by the House of Representatives of the Sixty-fourth General Assembly of the State of Colorado, the Senate concurring herein:

(1) That we, the members of the Sixty-fourth General Assembly, support the efforts of The Stand in the Gap Project, Inc., and urge our fellow Coloradans to join us in taking responsibility for our troops and their families who struggle to help protect us.

(2) That we, as Colorado citizen legislators, are committed to doing everything humanly possible to address this problem and that we pledge to stand in the gap for Colorado Reservists, National Guard members, and their families in our own districts and throughout Colorado.

(3) That we encourage our fellow Coloradans to contact The Stand in the Gap Project, Inc., at www.thestandinthegapproject.org to find out how to contribute to this effort, both financially and through the organization of Stand in the Gap events in their own communities.

(4) That we urge all Coloradans to join in this effort and to continue to work to stand in the gap for our citizen soldiers until they all come safely home; be it further

Resolved, That copies of this joint resolution be sent to George W. Bush, President of the United States; Dick Cheney, Vice President of the United States; Donald H. Rumsfeld, Secretary of Defense; J. Dennis Hastert, Speaker of the United States House of Representatives; Ted Stevens, President Pro Tempore of the United States Senate; the members of Colorado's congressional delegation; The Stand in the Gap Project, Inc.; and the local affiliates of the Colorado Reserve and National Guard.

POM–480. A joint resolution adopted by the Legislature of the State of California relative to military airfares; to the Committee on Armed Services.

SENATE JOINT RESOLUTION NO. 16

Whereas, many thousands of Californians are serving in the United States military in stations spread throughout the world; and

Whereas, many of these men and women are in grave danger due to their engagement in, or exposure to, combat situations; and

Whereas, military service often requires individuals to be separated from their families on short notice for long periods of time under stressful conditions; and

Whereas, it is the patriotic duty of all Americans to support the men and women of the United States Armed Forces who are defending American interests around the world at great personal sacrifice: Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges all airline companies in the United States to permanently establish, for active duty military personnel, a reduced price airfare equal to, or lower than, the lowest airfare offered for each ticketed flight, and that the airfare be free from time restrictions and fees or penalties for changes; and be it further

Resolved, That the Legislature of the State of California expresses gratitude to the commercial airline companies currently supporting our active duty military personnel through company policies that provide reduced airfares, flexible policies, and the use of frequent flyer award programs; and be it further

Resolved, That the Legislature of the State of California commends those commercial airline companies that support their employees who participate in National Guard and Military Reserve duty and are on leave from those companies for military duty; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to all Members of the Congress of the United States, to the Chair of the Federal Aviation Administration, and to the chief executive' officer of every airline company in the United States.

POM–481. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to funding for the dredging of canals around the city of Gibraltar; to the Committee on Commerce, Science, and Transportation.

SENATE RESOLUTION NO. 234

Whereas, the city of Gibraltar in Wayne County is a unique community, with more than five miles of canals bisecting the city and its four islands of residences. These public transportation routes include access to public and private facilities, including boat ramps and marinas. Thousands of people use the canals each year; and

Whereas, with no dredging of the Gibraltar canals since the late 1950s, the use of the canals is today significantly threatened by the buildup of sediment throughout the system. Boating traffic is hampered by the buildup. The task of dealing with the Gibraltar canals is made more complex by the results of testing that has identified contamination in the sediment. This fact will greatly increase the costs of dredging and disposal of the sediment; and

Whereas, the costs of dredging the canals is far beyond the resources available within the community of Gibraltar, and the canals are available to and used by many more people than residents of Gibraltar. This work clearly needs to be completed. The Gibraltar canals are notable components of the Detroit River system, and maintaining the quality of the canals is work that is strongly related to the quality of this vital part of our water transportation network. It is essential that necessary resources be directed to this task: Now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to provide funding for the dredging of canals around the city of Gibraltar; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–482. A concurrent memorial adopted by the House of Representatives of the Legislature of the State of Arizona relative to responsibility for surface transportation policy; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT MEMORIAL NO. 2003

Whereas, the motoring public in this state pays a federal fuel tax of 18.4 cents per gallon, and Congress has recently considered raising that tax by 5.4 cents per gallon, an increase of nearly one-third, with ongoing increases by indexation thereafter; and

Whereas, for nearly half a century the federal fuel tax has supported the Federal Highway Administration, which was formed in 1956 to build the interstate highway system and which successfully completed that mission by the mid-1980s; and

Whereas, most of the transportation problems that confront travelers today are local or regional, and state and local governments can respond to them more effectively than distant bureaucracies; and

Whereas, a growing share of the federal fuel tax is diverted to purposes other than highways and roads, including urban mass transit, ferry boats, commuter rails, historic renovation, hiking trails, landscaping, covered bridges, scenic byways and Appalachian redevelopment, which benefit narrow yet influential constituencies at the expense of the motoring public; and

Whereas, the federal government often threatens to withhold a state's share of federal highway money in order to force the state to comply with a variety of federal mandates, including clean air and safety standards, law enforcement and union contracts; and

Whereas, the federal management of highway funding results in a subsidy to wealthier states and slower growing states at the expense of less affluent states and fast growing states with greater transportation needs; and

Whereas, "turnback" legislation that would give each state full control of the federal fuel tax revenues collected by that state has been proposed in several past sessions of Congress and has again been introduced as H.R. 3113, the Transportation Empowerment Act.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Congress of the United States enact legislation that would return to the states full responsibility to formulate and implement their own surface transportation priorities by allowing each state to retain the revenues from the federal tax on fuel that is sold within its borders.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the President of the Senate and the Speaker of the House of Representatives of each state's legislature and each Member of Congress from the State of Arizona.

POM–483. A resolution adopted by the Senate of the Legislature of the State of Illinois relative to the cost of motor fuel; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 102

Whereas, the price of gasoline has reached an average $1.70 per gallon nationwide; and

Whereas, the price of gasoline continues to climb, to the extent that some experts have predicted prices of $2.50 per gallon in the near future: Therefore, be it

Resolved, by the Senate of the Ninety-Third General Assembly of the State of Illinois, That we call upon the United States Congress to investigate and determine why the cost of motor fuel is so high and climbing; and be it further

Resolved, That suitable copies of this resolution be delivered to the President pro tempore of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois congressional delegation.

POM–484. A resolution adopted by the Council of the City of Parma of the State of Ohio relative to the No Oil Producing and Exporting Cartels Act of 2004 (NOPEC); to the Committee on Energy and Natural Resources.

POM–485. A concurrent memorial adopted by the House of Representatives of the Legislature of the State of Arizona relative to Luke Air Force Base and Yuma Army Proving Ground; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT MEMORIAL NO. 2011

Whereas, the State of Arizona, its local governments and its people recognize the vital role Arizona's Barry M. Goldwater Range and other military facilities play in ensuring our military's unparalleled training, combat readiness and air superiority in protecting American freedom; and

Whereas, Luke Air Force Base has operated continuously since 1951 as a top rate pilot training facility, plays a vital role in our nation's military superiority, is the home of the largest fighter wing in the United States Air Force, trains all F–16 pilots and crew chiefs for the United States Air Force and is strategically located within fifty miles of the Barry M. Goldwater Range; and

Whereas, in 1951 Luke Air Force Base and its related auxiliary fields was located in an unurbanized, agricultural portion of the Phoenix metropolitan area, but is now within one of the fastest growing counties and municipal areas in the Nation and State of Arizona, which has exacerbated the challenges caused by urbanization in the Phoenix metropolitan area; and

Whereas, the preservation of Luke Air Force Base is an issue of national, state and local concern; and

Whereas, the State of Arizona, local communities and landowners surrounding Luke Air Force Base and its related auxiliary fields have made substantial strides in preserving the mission of Luke Air Force Base and those efforts have been held as a model around the Nation for military facilities preservation; and

Whereas, the preservation efforts have placed a considerably disproportionate burden on the surrounding landowners of protecting a vital national defense asset; and

Whereas, despite the efforts Luke Air Force Base and its related auxiliary fields continue to face the increasing challenges caused by considerable growth; and

Whereas, additional land use restrictions surrounding Luke Air Force Base and its related auxiliary fields are impractical to implement without imposing an even greater and disproportionate burden on the landowners, many of whom's families have owned and farmed the surrounding lands before the presence of Luke Air Force Base; and

Whereas, the federal government has extraordinary landholdings in Arizona and the best long-term public policy solution for the preservation of Luke Air Force Base and its related auxiliary fields is a voluntary land exchange between the United States Bureau of Land Management and the owners of the vacant land and farm land within the high noise or accident potential zones surrounding Luke Air Force Base and its related auxiliary fields; and

Whereas, the United States Army Yuma Proving Ground was established in 1942 and has continuously operated as a multipurpose training and testing facility able to test nearly every weapon system in the ground combat arsenal; and

Whereas, at one thousand three hundred square miles, Yuma Army Proving Ground has the size to allow Army weapon systems to fully exercise their capabilities, and to continue testing advanced systems capable of reaching greater distances requiring a larger footprint without endangering the public; and

Whereas, Yuma Army Proving Ground is a national and international testing site for innovations in security, surveillance and weaponry systems; and

Whereas, Yuma Army Proving Ground is the United States Army's center for desert natural environment testing and its climate, terrain and excellent range facilities make almost perfect testing and training conditions; and

Whereas, in the last ten years, Yuma Army Proving Ground has become a key location for training operations for all services because of the similarity of its terrain and climate to the Middle East; and

Whereas, the mission of Yuma Army Proving Ground is an issue of national, state and local concern; and

Whereas, there remains within the boundaries of the Yuma Army Proving Ground testing and training ranges many parcels of property owned by both private land owners and the State of Arizona; and

Whereas, these privately and publicly owned lands within the boundaries of the Yuma Army Proving Ground testing and training ranges are a safety concern and compromise the overall mission and safety of the base; and

Whereas, the federal government has vast land holdings in the vicinity of Yuma Army Proving Ground and the best long term policy solution for the preservation of the Yuma Army Proving Grounds is a voluntary exchange of land between the United States Bureau of Land Management and the owners of private property, and between the Bureau of Land Management and the State of Arizona for the property that is located within the boundaries of the testing and training ranges; and

Whereas, such land exchanges would otherwise compromise the overall safety establish protections needed to eliminate the challenges caused by growth, pressures.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the United States Congress, through statutory authority, authorize the United States Bureau of Land Management to prepare and execute a land trade of equitable value between the United States and the landowners of vacant land and farm land within the high noise or accident potential zones of Luke Air Force Base and its related auxiliary fields.
2. That the United States Congress, through statutory authority, authorize the United States Bureau of Land Management to prepare and execute a land trade between the United States and the private property owners and between the United States and the State of Arizona for land outside the boundaries of the Yuma Army Proving Ground testing and training ranges.
3. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM-486. A resolution adopted by the California State Lands Commission relative to the federal moratorium on oil and gas leasing off the California Coast; to the Committee on Energy and Natural Resources.

POM-487. A resolution adopted by the California State Lands Commission relative to the Commission on Ocean Policy and the Pew Oceans Commission report; to the Committee on Energy and Natural Resources.

POM-488. A concurrent resolution adopted by the Legislature of the House Representatives of the Legislature of the State of Louisiana relative to water-related environmental infrastructure and resource development and protection projects in Louisiana; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 61

Whereas, during Fiscal Year 2000, the United States Congress appropriated the sum of twenty-five million dollars through Section 592 of the Water Resources Development Act for the establishment of water-related environmental infrastructure and resource protection and development projects in the state of Mississippi; and

Whereas, it has been indicated that congress is now considering the allocation of additional Section 592 funds to the state of Mississippi; and

Whereas, the state of Louisiana is experiencing water-related environmental problems, such as the depletion of portions of the Sparta and Chicot Aquifers and the contamination of available water supplies by effluent from wastewater treatment plants; and

Whereas, the public interest is served by utilizing federal funds to establish programs in the state of Louisiana to provide water-related environmental infrastructure and resource development and protection projects, including but not limited to wastewater treatment and related facilities, elimination or control of combined sewer overflows, water supply and related facilities, environmental restoration, and surface water resource protection and development: Therefore, be it

Resolved, That the Louisiana Legislature does hereby memorialize the United States Congress to appropriate funds for design and construction assistance for water-related environmental infrastructure and resource development and protection projects in Louisiana; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-489. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to Mississippi River Gulf Outlet; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 68

Whereas, the Mississippi River Gulf Outlet (MRGO), a seventy-mile long manmade navigation channel which connects the Gulf of Mexico to the Port of New Orleans was authorized by the United States Congress in 1956 to be six hundred fifty feet wide at the surface, five hundred feet at the bottom, and to have a guaranteed channel depth of thirty-six feet; and

Whereas, initial expectations were that the channel would create a regional economic boom in the short term due to construction jobs, but also in the long term due to the industrial development associated with the commerce that would come to the area through the shipping concerns; and

Whereas, the impact of the MRGO on the surrounding parishes has been more loss than boom—loss of nearly three thousand five hundred acres of fresh and intermediate marsh, loss of over ten thousand acres of brackish marsh, loss of over four thousand acres of saline marsh, loss of nearly fifteen hundred acres of cypress swamps and forest; and

Whereas, although the channel was authorized for only six hundred fifty feet across and thirty-six feet deep, today the channel is more than twenty-two hundred feet across, and the United States Army Corps of Engineers has routinely dredged the channel to over forty feet deep to accommodate bigger ships than were authorized by the United States Congress at an average cost of more than twenty-two million dollars; and

Whereas, the loss of marsh and land has put the surrounding area at much greater risk for more frequent and more drastic tidal surges and more prolonged flooding as a result of tropical storms and hurricanes, with the severity getting worse as there is greater and greater loss; and

Whereas, the loss of marsh habitat has altered the ecosystem throughout the basin resulting in the loss of habitat for more than six hundred fifty thousand fur-bearing animals and similar losses to waterfowl, a movement from a dominant white shrimp fishery toward a dominant brown shrimp fishery, and the movement of oyster production farther and farther inland with the movement inland of the saltwater line, all of which alters the economic foundation for the region; and

Whereas, in addition to the alterations caused in the fishery and wildlife dependent enterprises, there are impacts on the everyday lives of the people who live in the area—impacts which are being felt by a significantly larger population that must live with the threat of storm-driven flood surge, which will cause death and destroy personal property, both land and homes, and their communities through the loss of schools, libraries, public facilities including water purification plants and sewerage treatment plants; and

Whereas, also in danger of destruction due to the loss of land caused by the MRGO are major oil refineries and miles of pipelines, a sugar refinery, gas condensate recovery plants, and manufacturing plants which together can be valued in excess of three hundred billion dollars with a work force of nearly fifty thousand people at a time when the state is desperately seeking economic development opportunities; and

Whereas, as long ago as the 1960s it was becoming apparent that the anticipated economic benefits were not likely to materialize, and St. Bernard Parish officials began to call attention to the environmental impacts and damages to the point where by the 1980s the MRGO began to be termed an "environmental nightmare"; and

Whereas, in 1993 the Lake Pontchartrain Basin Foundation first called for the closure of the MRGO because of its environmental impact throughout the Pontchartrain Basin, and this was followed in 1998 by the "Coast 2050 Plan", adopted by the Department of Natural Resources, including its recommendation for closure of the MRGO; and

Whereas, in 1999, a MRGO task force convened by the Environmental Protection Agency at the request of Congressman Tauzin also recommended closure of the channel; and

Whereas, the Congress of the United States has authorized the construction of a new lock on the Inner Harbor Navigation Canal which will serve to provide access to ocean going vessels which are now using the MRGO; and

Whereas, the Congress of the United States has failed to provide full funding capability for the lock project and thereby delayed its completion: Therefore be it

Resolved by the Legislature of Louisiana, That the United States Congress and the Louisiana Congressional Delegation are hereby memorialized to authorize the full funding capability of the United States Army Corps of Engineers for the Inner Harbor Navigation Canal lock project; be it further

Resolved by the Legislature of Louisiana, That the time for study and recommendation has passed and that the United States Congress, the Louisiana Congressional Delegation, and the United States Army Corps of Engineers are hereby memorialized to promptly close the Mississippi River Gulf Outlet in the manner contemplated by the Coast 2050 Plan; be it further

Resolved, That a copy of this Resolution be forwarded to the United States Congress, the Louisiana Congressional Delegation, and the United States Army Corps of Engineers.

POM-490. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to a hurricane evacuation route in Louisiana Mississippi; to the

Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 20

Whereas, every hurricane season raises the prospect and threat of a hurricane hitting southeastern Louisiana from such a direction as to wreak enormous flooding, loss of life, and other devastation; and

Whereas, Louisiana's hurricane evacuation routes are growing increasingly vulnerable to coastal storm surge and flooding, and measures need to be taken as soon as possible to ensure the safe navigation of the residents inland; and

Whereas, due to the large population in the southern part of Louisiana and vulnerability to the destruction of property and businesses due to hurricanes and tropical storms, the development of a hurricane evacuation route is necessary for the protection and safe evacuation of the residents of south Louisiana; and

Whereas, the proposed evacuation route would offer a four-lane route from New Orleans, Louisiana along Highway 25 to the Mississippi state line, and continue along Mississippi Highway 27 to Crystal Springs, Mississippi to intersect with Interstate 55; and

Whereas, additionally, the proposed evacuation route should include a four-lane route from Paris Road, which is also known as Louisiana Highway 47, and connect in New Orleans into the proposed four-lane evacuation route from New Orleans, Louisiana to the Mississippi state line; and

Whereas, since Highway 25 and Highway 47 are already designated as evacuation routes, each of the proposed four-lanes would become a critical element to move thousands of people from New Orleans and the North Shore to safe areas northward: therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to appropriate and expedite funding for the development of a hurricane evacuation route in Louisiana and Mississippi; be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–491. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to ownership of mineral rights and surface rights on state and federal lands in Michigan; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 171

Whereas, State-owned land in Michigan amounts to approximately 12 percent of the acreage, and the federal government manages another 8 percent of Michigan's surface area. This large percentage of state and federal land ownership is especially significant in the situations in which ownership of mineral rights is not consistent with the ownership of the surface rights; and

Whereas, the degree to which the rights to minerals do not align with rights to the surface of the land is cause for considerable litigation and frustration in Michigan. This frustration is felt by citizen groups, energy companies, local units of government, and all consumers of gas and oil; and

Whereas, the state of Michigan has jurisdiction over both mineral and surface rights on 3.8 million acres of land and mineral rights alone on another 2.1 million acres. Maps showing ownership of property in Michigan reflect a crazy quilt of ownership. The common situation of surface land ownership differing from ownership of the mineral rights below presents many problems to our state. This nonalignment of ownership makes it difficult to protect land from development and difficult to develop to extract the energy that our society needs. Instead, expensive and minimally productive litigation can be the result; and

Whereas, it would be far more productive for the state and federal governments to work together to do all possible to minimize conflicts in ownership between surface rights and mineral rights: now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States, the Department of Interior, the Bureau of Land Management, the National Forest Service, and the Department of Energy to work with Michigan officials to exchange property to align the ownership of mineral rights and surface rights on state and federal lands in Michigan and to express our intent to take actions to achieve this goal; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the Bureau of Land Management, the Department of Interior, the National Forest Service, and the Department of Energy.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Ms. COLLINS for the Committee on Governmental Affairs.

*Neil McPhie, of Virginia, to be Chairman of the Merit Systems Protection Board.

*Barbara J. Sapin, of Maryland, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2007.

By Mr. ROBERTS for the Select Committee on Intelligence.

*Larry C. Kindsvater, of Virginia, to be Deputy Director of Central Intelligence for Community Management.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mrs. CLINTON):

S. 2701. A bill to provide incentives for the sharing of homeland security information, promote the development of an information sharing network, provide grants and other support to achieve communications interoperability, and establish an Office of Information Sharing, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CHAMBLISS (for himself, Mr. INHOFE, Mr. ALLEN, and Mr. LOTT):

S. 2702. A bill to amend the Federal Election Campaign Act of 1971 to repeal the requirement that persons making disbursements for electioneering communications file reports on such disbursements with the Federal Election Commission and the prohibition against the making of disbursements for electioneering communications by corporations and labor organizations, and for other purposes; to the Committee on Rules and Administration.

By Mrs. HUTCHISON:

S. 2703. A bill to provide for the correction of a certain John H. Chafee Coastal Barrier Resources System map; to the Committee on Environment and Public Works.

By Mr. GRAHAM of Florida:

S. 2704. A bill to amend title XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs; read the first time.

By Mr. BIDEN (for himself and Mr. DEWINE):

S. 2705. A bill to provide assistance to Sudan, and for other purposes; to the Committee on Foreign Relations.

By Mrs. CLINTON (for herself, Ms. SNOWE, and Mr. DASCHLE):

S. 2706. A bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes; to the Committee on Finance.

By Mr. LOTT:

S. 2707. A bill to amend title XVIII of the Social Security Act to recognize the services of respiratory therapists under the plan of care for home health services; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 2708. A bill to develop the National Strategy for Homeland Security, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SMITH:

S. 2709. A bill to provide for the reforestation of appropriate forest cover on forest land derived from the public domain, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GREGG (for himself, Mr. SESSIONS, and Mr. FRIST):

S. 2710. A bill to amend the Public Health Service Act to improve the quality and efficiency of health care delivery through improvements in health care information technology, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NELSON of Florida:

S. 2711. A bill to establish a National Windstorm Impact Reduction Program; to the Committee on Commerce, Science, and Transportation.

By Mr. REED (for himself, Mr. SARBANES, Mr. BOND, Ms. MIKULSKI, and Mr. SHELBY):

S. 2712. A bill to preserve the ability of the Federal Housing Administration to insure mortgages under sections 238 and 519 of the National Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself and Mr. KENNEDY):

S. 2713. A bill to amend the Public Health Service Act to revise the amount of minimum allotments under the Projects for Assistance in Transition from Homelessness program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE:

S. 2714. A bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs; read the first time.

By Mr. COLEMAN:

S. 2715. A bill to improve access to graduate schools in the United States for international students and scholars; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORNYN (for himself, Mr. SCHUMER, Mr. GRAHAM of South Carolina, Mr. LEAHY, and Mrs. CLINTON):

S. Res. 413. A resolution encouraging States to consider adopting comprehensive legislation to combat human trafficking and slavery and recognizing the many efforts made to combat human trafficking and slavery; to the Committee on the Judiciary.

By Mr. CORNYN (for himself, Mr. SCHUMER, Mr. GRAHAM of South Carolina, Mr. LEAHY, and Mrs. CLINTON):

S. Res. 414. A resolution encouraging States to consider adopting comprehensive legislation to combat human trafficking and slavery and recognizing the many efforts made to combat human trafficking and slavery; considered and agreed to.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. Con. Res. 129. A concurrent resolution encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CRAIG, Mr. BIDEN, Mr. FEINGOLD, Mr. KENNEDY, and Mr. DEWINE):

S. Con. Res. 130. A concurrent resolution expressing the sense of Congress that the Supreme Court of the United States should act expeditiously to resolve the confusion and inconsistency in the Federal criminal justice system caused by its decision in Blakely v. Washington, and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1223

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1223, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1368

At the request of Mr. LEVIN, the names of the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. CONRAD), the Senator from Missouri (Mr. BOND), the Senator from Arizona (Mr. MCCAIN) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1840

At the request of Mr. CONRAD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1840, a bill to amend the Food Security Act of 1985 to encourage owners and operations of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 2077

At the request of Mr. CRAIG, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2077, a bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2199

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2199, a bill to authorize the Attorney General to make grants to improve the ability of State and local governments to prevent the abduction of children by family members, and for other purposes.

S. 2202

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2202, a bill to amend title 28, United States Code, to give district courts of the United States jurisdiction over competing State custody determinations, and for other purposes.

S. 2283

At the request of Mr. GREGG, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2283, a bill to extend Federal funding for operation of State high risk health insurance pools.

S. 2352

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2352, a bill to prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes.

S. 2395

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2437

At the request of Mr. ENSIGN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2515

At the request of Ms. SNOWE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2515, a bill to establish the Inspector General for Intelligence, and for other purposes.

S. 2519

At the request of Ms. MIKULSKI, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2519, a bill to authorize assistance for education and health care for women and children in Iraq during the reconstruction of Iraq and thereafter, to authorize assistance for the enhancement of political participation, economic empowerment, civil society, and personal security for women in Iraq, to state the sense of Congress on the preservation and protection of the human rights of women and children in Iraq, and for other purposes.

S. 2526

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2526, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 2566

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2566, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2603

At the request of Mr. SMITH, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 2603, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. 2659

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2659, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S.J. RES. 41

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S.J. Res. 41, a joint resolution commemorating the opening of the National Museum of the American Indian.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 33

At the request of Mr. CRAIG, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Washington (Mrs. MURRAY), the Senator from South Dakota (Mr. DASCHLE), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Con. Res. 33, a concurrent resolution expressing the sense of the Congress regarding scleroderma.

S. CON. RES. 110

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Con. Res. 110, a concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Con. Res. 110, supra.

S. CON. RES. 124

At the request of Mr. BROWNBACK, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. Con. Res. 124, a concurrent resolution declaring genocide in Darfur, Sudan.

At the request of Mr. CORZINE, the names of the Senator from California (Mrs. BOXER) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Con. Res. 124, supra.

S. RES. 223

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. Res. 223, a resolution expressing the sense of the Senate that the life and achievements of Antonio Meucci should be recognized, and for other purposes.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 318

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Res. 318, a resolution expressing the sense of the Senate that a postage stamp should be issued in commemoration of Diwali, a festival celebrated by people of Indian origin.

S. RES. 389

At the request of Mr. CAMPBELL, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 389, a resolution expressing the sense of the Senate with respect to prostate cancer information.

S. RES. 398

At the request of Mr. LUGAR, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Wyoming (Mr. ENZI), the Senator from Illinois (Mr. DURBIN), the Senator from Michigan (Ms. STABENOW) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 398, a resolution expressing the sense of the Senate on promoting initiatives to develop an HIV vaccine.

S. RES. 401

At the request of Mr. BIDEN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Nebraska (Mr. NELSON) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. Res. 401, a resolution designating the week of November 7 through November 13, 2004, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 408

At the request of Mr. SMITH, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Oklahoma (Mr. INHOFE), the Senator from Missouri (Mr. TALENT), the Senator from Florida (Mr. NELSON) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

At the request of Mr. SCHUMER, the names of the Senator from California (Mrs. BOXER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Res. 408, supra.

S. RES. 409

At the request of Mr. BAYH, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Washington (Ms. CANTWELL), the Senator from New York (Mr. SCHUMER), the Senator from Louisiana (Mr. BREAUX), the Senator from Nebraska (Mr. NELSON), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Delaware (Mr. CARPER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 409, a resolution encouraging increased involvement in service activities to assist senior citizens.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, and Mrs. CLINTON):

S. 2701. A bill to provide incentives for the sharing of homeland security information, promote the development of an information sharing network, provide grants and other support to achieve communications interoperability, and establish an Office of Information Sharing, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Madam President, I rise today with Senator COLLINS to introduce legislation that would promote the sharing of homeland security information across all levels of our Government, and to provide funding and support necessary to enable our first responders to communicate better with one another than they are able to do now during a terrorist attack.

I am delighted that the chairman of the Governmental Affairs Committee, Senator COLLINS, is my lead cosponsor on this legislation, and that another member of the committee, Senator AKAKA, is a cosponsor, as is Senator CLINTON.

One of the most painful and enduring lessons we should have learned from the September 11 attacks is that information about terrorist activities must be shared among Federal and other agencies to protect the American people's security. Unfortunately, almost 3 years after the attacks we have still not seen the kind of improvement and information sharing at all levels we need to have.

The widely respected, nonpartisan Markle Foundation, in alliance with the Brookings Institution and the Center for Strategic and International Studies, has looked at this problem at length and concluded that an entirely new approach is needed to the sharing of security information.

According to the Markle Foundation, the cold war paradigm that strictly limited access to information is simply ill-suited to the challenges we face today in an age of terrorism. Sharing information among relevant law enforcement agencies and other public agencies is vital to protecting our people's security precisely because we cannot predict from which direction the first signs of potential attack will come as we pretty much could during the cold war. Yet the Federal Government has still developed neither a comprehensive strategy nor actual policies to change the 50-year-old cold war paradigm. We have to catch up quickly to win the war on terrorism.

Equally troubling is that too many first responders still lack, believe it or not, the basic ability to talk to one another when responding to emergencies, including, of course, a terrorist attack, because their equipment does not communicate directly. We use a complicated term called "interoperability" to describe this situation.

One of the most painful parts of the September 11 attacks in New York was the loss of more than 300 New York City firefighters and other law enforcement personnel who perished inside the collapsing Twin Towers of the World Trade Center. The look-backs at that day, probably including the one we will hear tomorrow from the September 11 Commission, lead a lot of people to conclude that we lost a lot of New York's finest—firefighters, police officers, other public servants—because they could not communicate with one another on the equipment they had. That is no longer acceptable.

The legislation we are introducing today addresses those challenges. First, we authorize $3.3 billion over 5 years to provide reliable and consistent funding to help law enforcement agencies around the country find solutions to this so-called interoperability problem. We create an Office of Information Sharing within the Department of Homeland Security to develop and implement a national strategy to achieve that goal. It simply is outrageous that those who are in uniform every day to protect our security cannot communicate with one another in a time of emergency because we have not given them good enough equipment to do that.

Second, our legislation would require the Secretary of Homeland Security, in conjunction with the intelligence community and other Federal agencies, to establish a broad information exchange network modeled after the Markle Foundation recommendations which would break out of the cold war paradigm and allow full sharing of security information.

Third, our legislation requires implementation of performance measures and genuine incentives to encourage employees to implement the changes that are necessary.

As part of the continuing fight to keep America safe from terrorism, the test of our generation, all the cultural, technological, and administrative barriers that impede the flow of critically important homeland security information among different levels of Government and among agencies at the same level simply must be broken down. That requires an act of will and leadership, and then it requires funding. It is not going to come cheaply, but security of the American people never does come cheaply. We have the best military in the history of the world because we have invested in it. We are only going to have the best security at home from terrorism if we invest with similar generosity.

A nonpartisan task force of the Council on Foreign Relations recommended that the Nation spend double what Senator COLLINS and I are proposing in this bill to ensure dependable interoperable communications. What we are asking seems like a lot of money, but it is half of what an independent group thinks is necessary to protect our Nation. This legislation will help us develop a new structure, a new paradigm of information sharing to guarantee that first responders and preventers can communicate effectively with one another and with other governmental agencies when they respond to terrorist attacks or any other emergencies that threaten the safety or well-being of people throughout our country.

Madam President, I ask unanimous consent that text of the legislation Senator COLLINS and I are introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeland Security Interagency and Interjurisdictional Information Sharing Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The effective use of information is essential to the Nation's efforts to protect the homeland. Information that may prove important to those efforts, however, is often widely dispersed and may be uncovered or held by any of a number of Federal agencies, by 50 States or by the Nation's 650,000 local law enforcement officers who form the front lines of the war against terrorism, among others. Finding ways to share this information in an efficient and timely manner with those who need it is central to both preventing and responding to potential terrorist attacks on our Nation.

(2) Current approaches to information sharing are woefully inadequate and largely ad hoc. State and local officials frequently report that they do not receive adequate homeland security information from Federal officials, nor is there a consistent, easy way for State and local officials to effectively provide homeland security information in their possession to Federal officials. Federal agencies have often not shared information even with other Federal agencies, and State and local governments have few formalized means to share information with other States and localities.

(3) There are a number of barriers, both structural and cultural, to the more effective sharing of homeland security information including—

(A) a lingering cold war paradigm that emphasizes information security and maintaining strict limits on access to information;

(B) mistrust among historically rival agencies and between Federal and State officials; and

(C) few incentives to reward Government employees who share information outside their agencies.

(4) A further barrier to information sharing among police, firefighters and others who may be called on to respond to terrorist attacks and other large-scale emergencies is the lack of interoperable communications systems, which can enable public safety agencies to communicate and share important, sometimes critical, information in an emergency.

(5) A new approach to the sharing of homeland security information (a new "information architecture") is urgently needed to overcome these barriers and to meet the homeland security needs of the Nation. One useful model for such a network is the Systemwide Homeland Analysis and Resource Exchange Network (SHARE) proposed by the Markle Foundation in reports issued in October 2002 and December 2003. Like the envisioned SHARE Network, a new approach, to be successful, must be comprehensive, encompassing the many participants, at many levels of government, who strive to protect the homeland, and the system should be largely decentralized, permitting participants throughout the system to exchange information directly in a timely and effective matter without having to go through a central hub.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(2) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(3) HOMELAND SECURITY INFORMATION.—The term "homeland security information" means information relevant to, or of potential use in, the prevention of, preparation for, or response to, terrorist attacks upon the United States.

(4) NETWORK.—The term "Network" means the Homeland Security Information Sharing Network established under section 4.

SEC. 4. HOMELAND SECURITY INFORMATION SHARING NETWORK.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish a Homeland Security Information Sharing Network.

(2) FUNCTIONS.—The Network shall—

(A) to the maximum extent possible, consistent with national security requirements and the protection of civil liberties, foster the sharing of homeland security information—

(i) among offices and divisions within the Department;

(ii) between the Department and other Federal agencies;

(iii) between the Department and State, local, and tribal governments;

(iv) among State, local, and tribal governments; and

(B) provide for the analysis of homeland security information obtained or made available through the Network.

(b) COOPERATIVE DEVELOPMENTS.—In developing the Network, the Secretary shall work with representatives of other governmental entities that possess homeland security information or will otherwise participate in the network, including the Intelligence Community, the Department of Justice and Federal Bureau of Investigation, and the Department of Health and Human Services, and State, local government and tribal officials.

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit status reports on the development and implementation of the Network to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Select Committee on Homeland Security of the House of Representatives; and

(C) the Committee on Government Reform of the House of Representatives.

(2) CONTENTS.—The status reports shall include—

(A) a detailed description of the work completed to date with attached relevant documents produced in the development of the Network, including documents describing the strategy for the Network and the Network's design or architecture; and

(B) a detailed timetable and implementation plan for remaining work.

(3) SUBMISSION.—Status reports under this subsection shall be submitted—

(A) not later than 6 months after the date of enactment of this Act;

(B) not later than 12 months after the date of enactment of this Act; and

(C) at 1-year intervals thereafter.

SEC. 5. HOMELAND SECURITY INFORMATION COORDINATING COUNCIL.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

"TITLE XVIII—HOMELAND SECURITY INFORMATION COORDINATING COUNCIL

"SEC. 1801. HOMELAND SECURITY INFORMATION COORDINATING COUNCIL.

"(a) DEFINITION.—In this section, the term 'homeland security information' means information relevant to, or of potential use in, the prevention of, preparation for, or response to, terrorist attacks upon the United States.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, in coordination with the Attorney General, the Director of Central Intelligence, the Secretary of Health and Human Services, and other Federal departments and agencies in possession of homeland security information, as identified by the President, shall establish the Homeland Security Information Coordinating Council (in this section referred to as the 'Coordinating Council').

"(2) COMPOSITION.—The Coordinating Council shall be composed of—

"(A) a representative of the Department;

"(B) a representative of the Department of Justice;

"(C) a representative of the Central Intelligence Agency;

"(D) a representative of the Department of Health and Human Services;

"(E) a representative of any other Federal department or agency in possession of homeland security information, as identified by the President; and

"(F) not fewer than 2 representatives of State and local governments, to be selected by the Secretary.

"(3) RESPONSIBILITIES.—The Coordinating Council shall—

"(A) develop, monitor, and update procedures and protocols for sharing homeland security information among Federal departments and agencies;

"(B) develop, monitor, and update procedures and protocols for sharing homeland security information with State and local governments so as to minimize the difficulties of State and local governments in receiving information that may reside in multiple departments or agencies;

"(C) establish a dispute resolution process to resolve disagreements among departments and agencies about whether particular homeland security information should be shared and in what manner;

"(D) review, on an ongoing basis, current issues related to homeland security information sharing among Federal departments and agencies and between those departments and agencies and State and local governments;

"(E) where appropriate, promote the compatibility and accessibility of technology, including computer hardware and software, used by Federal departments and agencies to facilitate the sharing of homeland security information; and

"(F) ensure that there is coordination—

"(i) among Federal departments and agencies that maintain homeland security information;

"(ii) multi-organization entities that maintain homeland security information, including the Terrorist Threat Integration Center and Joint Terrorism Task Forces; and

"(iii) the Homeland Security Information Network, in actions and policies relating to the sharing of homeland security information.

"(c) ADMINISTRATION.—The Department shall provide administrative support to the Coordinating Council, which shall include—

"(1) scheduling meetings;

"(2) preparing agenda;

"(3) maintaining minutes and records; and

"(4) producing reports.

"(d) CHAIRPERSON.—The Secretary shall designate a chairperson of the Coordinating Council.

"(e) MEETINGS.—The Coordinating Council shall meet—

"(1) at the call of the Secretary; or

"(2) not less frequently than once a month.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 note) is amended by adding at the end the following:

TITLE XVIII—HOMELAND SECURITY
INFORMATION COORDINATING COUNCIL

"Sec. 1801. Homeland Security Information Coordinating Council.".

SEC. 6. INCENTIVES TO PROMOTE SHARING OF HOMELAND SECURITY INFORMATION.

(a) AGENCY PERFORMANCE MEASURES.—

(1) PERFORMANCE PLAN.—Consistent with the requirements of section 1115 of title 5, United States Code, the Secretary shall prepare an annual performance plan that establishes measurable goals and objectives for information sharing between the Department and other appropriate entities in Federal, State, local, and tribal governments. The plans shall identify action steps necessary to achieve such goals.

(2) PERFORMANCE REPORT.—Consistent with the requirements of section 1116 of title 5, United States Code, the Secretary shall prepare and submit to Congress an annual report including an evaluation of the extent the Department's information sharing goals and objectives were met. The report shall include the results achieved during the year relative to the goals established in the previous year's performance plan.

(3) PERFORMANCE MANAGEMENT.—The Secretary shall incorporate the performance measures in the performance plan required under paragraph (1) into the Department's performance appraisal system. These performance measures shall be used in evaluating the performance of appropriate managers and employees. If appropriate, determinations for performance awards, bonuses, achievement awards, and other incentives for Departmental managers and employees shall include consideration of these performance measures.

(b) INCENTIVES PROGRAMS.—

(1) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—AWARDS TO PROMOTE HOMELAND SECURITY INFORMATION SHARING

"§4521. Awards to promote homeland security information sharing

"(a) In this section—

"(1) the terms 'agency' and 'employee' have the meanings given under paragraphs (1) and (2) of section 4501, respectively; and

"(2) the term 'homeland security information' means information relevant to, or of potential use in, the prevention of, preparation for, or response to, terrorist attacks upon the United States.

"(b)(1) The head of an agency may pay a cash award to, grant time-off without charge to leave or loss of pay, or incur necessary expense for the honorary recognition of, an employee who—

"(A) develops and implements innovative policies, practices, procedures, or technologies to foster appropriate sharing of homeland security information with other agencies and with State, local, and tribal governments; and

"(B) through such innovations, achieves measurable results.

"(2) A cash award under this section may not exceed the greater of—

"(A) $10,000; or

"(B) 20 percent of the basic pay of the employee.

"(3) A cash award may not be paid under this section to an individual who is appointed to, or who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(4) Consistent with paragraphs (1), (2), and (3), the Secretary of Homeland Security shall establish an awards program specifically designed to recognize and reward employees (including managers) of the Department of Homeland Security. An employee of the Department of Homeland Security may not receive an award under paragraph (1).

"(5) Not later than 1 year after the date of enactment of this section, and annually for 5 years thereafter, the Secretary of Homeland Security shall submit to the Committee on

Governmental Affairs of the Senate, the Select Committee on Homeland Security of the House of Representatives, and the Committee on Government Reform of the House of Representatives a report detailing the implementation of programs under this section, including—

"(A) the number of managers and employees recognized;

"(B) the type of recognition given;

"(C) the number and dollar amount of awards paid to individuals holding positions within each pay grade, pay level or other pay classification;

"(D) the relationship between awards under this program and other incentive or awards programs; and

"(E) the extent to which the program is assisting in overcoming cultural and other barriers to sharing homeland security information.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—AWARDS TO PROMOTE HOMELAND SECURITY INFORMATION SHARING

"4521. Awards to promote homeland security information sharing.".

SEC. 7. OFFICE OF INFORMATION SHARING.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding after section 801 the following:

"SEC. 802. OFFICE OF INFORMATION SHARING.

"(a) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) COMMUNICATIONS INTEROPERABILITY.—The term 'communications interoperability' means the ability of public safety service and support providers, including law enforcement, firefighters, and emergency management, to communicate with other responding agencies and Federal agencies if necessary, through information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

"(2) DIRECTOR.—The term 'Director' means the Director of the Office of Information Sharing.

"(3) ELIGIBLE STATE.—The term 'eligible State' means a State that—

"(A) has submitted a plan under subsection (d)(3); and

"(B) the Secretary determines has not achieved adequate statewide communications interoperability.

"(4) OFFICE.—The term 'Office' means the Office of Information Sharing established under subsection (b).

"(5) PUBLIC SAFETY AGENCIES.—The term 'public safety agencies' means law enforcement, firefighters, emergency technicians, public health officials, and such other persons that the Secretary determines must communicate effectively with one another to respond to emergencies.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established the Office of Information Sharing within the Office for State and Local Government Coordination and Preparedness, which shall be headed by a Director of Information Sharing appointed by the Secretary.

"(2) ADMINISTRATION.—The Secretary shall provide the Office with the resources and staff necessary to carry out the purposes of this section, including sufficient staff to provide support to each State, consistent with the responsibilities set forth in paragraph (3).

"(3) RESPONSIBILITIES.—The Office established under paragraph (1) shall—

"(A) foster the sharing of homeland security information among State and local governments and public safety agencies, and regional consortia thereof, and between these entities and the Federal Government by—

"(i) facilitating the creation of regional task forces with representation from State and local governments and public safety agencies and from the Federal Government to address information sharing needs; and

"(ii) facilitating the establishment of 24-hour operations centers in each State to provide a hub for Federal and State and local government intelligence and public safety agencies to share information;

"(B) foster the development of interoperable communications systems by State and local governments and public safety agencies, and by regional consortia thereof, by—

"(i) developing and implementing a national strategy to achieve communications interoperability;

"(ii) developing and maintaining a task force that represents the broad customer base of State and local governments, public safety agencies, as well as Federal agencies, involved in public safety disciplines such as law enforcement, firefighting, public health, and disaster recovery, in order to receive input and coordinate efforts to achieve communications interoperability;

"(iii) promoting a greater understanding of the importance of interoperability among all levels of Federal, State and local government;

"(iv) facilitating collaborative planning and partnerships among Federal, State, and local government agencies in all States where necessary;

"(v) facilitating the sharing of information on best practices for achieving interoperability;

"(vi) identifying and working to overcome the cultural, political, institutional, and geographic barriers within the public safety community that can impede interoperability among public safety agencies, including among Federal agencies;

"(vii) developing appropriate performance measures and systematically measuring the Nation's progress toward interoperability;

"(viii) coordinating with other offices in the Department and other Federal agencies providing grants for communications interoperability or for other equipment and training necessary to prevent, respond to, or recover from terrorist attacks, including the development of common guidance for such grants and consistent technical advice; and

"(ix) making recommendations to Congress about any changes in Federal law necessary to remove barriers to achieving communications interoperability;

"(C) provide technical assistance to State and local governments and public safety agencies, and regional consortia thereof, on the design of regional information sharing networks and technology needed to support such governments, agencies, and consortia;

"(D) provide technical assistance to State and local governments and public safety agencies, and regional consortia thereof, on planning, interoperability architectures, acquisition strategies, and other functions necessary to achieve communications interoperability;

"(E) in conjunction with the Directorate for Science and Technology—

"(i) provide research, development, testing, and evaluation for public safety communications technologies and equipment;

"(ii) evaluate and validate new technology concepts, and promote the deployment of advanced broadband communications technologies; and

"(iii) encourage the development of flexible and open architectures and standards, with appropriate levels of security, for short- and long-term solutions to interoperability; and

"(F) in coordination with State and local governments, develop a system for collecting and distributing best practices in homeland security.

"(c) BASELINE ASSESSMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Director, shall conduct a nationwide assessment to determine the degree to which communications interoperability has been achieved to date and to ascertain the needs that remain for interoperability to be achieved.

"(2) REPORTS.—The Secretary, acting through the Director, shall submit to the Committee on Governmental Affairs of the Senate, the Select Committee on Homeland Security of the House of Representatives, and the Committee on Government Reform of the House of Representatives—

"(A) not later than 1 year after the date of enactment of this section, a report of the findings of the assessment required by subsection (c); and

"(B) not later than 18 months after the date of enactment of this section, a plan for achieving all necessary communications interoperability throughout the Nation.

"(d) PREPAREDNESS GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary, through the Office, shall make grants to—

"(A) eligible States for initiatives necessary to achieve interoperability within each State, including—

"(i) statewide communications planning;

"(ii) system design and engineering;

"(iii) procurement and installation of equipment;

"(iv) operations and maintenance of equipment; and

"(v) testing and technology development initiatives; and

"(B) local governments (including a consortium of local governments), and public safety agencies within eligible States, to assist with any aspect of the communications life-cycle, including—

"(i) planning, system design, and engineering;

"(ii) procurement and installation of equipment;

"(iii) operations and maintenance of equipment; and

"(iv) testing and technology development.

"(2) COORDINATION.—The Secretary shall ensure that the Office coordinates its activities with other entities of the Department and other Federal entities so that grants awarded under this subsection, and other grant programs related to homeland security, fulfill the purposes of this Act and facilitate the achievement of communications interoperability nationally.

"(3) ELIGIBILITY.—

"(A) SUBMISSION OF PLAN.—To be eligible to receive a grant under this subsection, each eligible State, or local governments or public safety agencies within an eligible State, shall submit a communications interoperability plan to the Secretary that—

"(i) addresses any aspect of the communications life cycle, including planning, system design and engineering, procurement and installation, operations and maintenance, and testing and technology development;

"(ii) if the applicant is not a State, includes a description of how the applicant addresses the goals specified in any applicable State plan or plans submitted under this section; and "(iii) is approved by the Secretary.

"(B) INCORPORATION AND CONSISTENCY.—A plan submitted under subparagraph (A) may be part of, and shall be consistent with, any other homeland security plans required of the submitting party by the Department.

"(4) AWARD OF GRANTS.—

"(A) CONSIDERATIONS.—In approving plans and awarding grants under this subsection, the Secretary shall consider—

"(i) the nature of the threat to the eligible State or local jurisdiction;

"(ii) the location, risk, or vulnerability of critical infrastructure and key national assets;

"(iii) the number, as well as the density, of persons who will be served by interoperable communications systems;

"(iv) the extent of the partnerships, existing or planned, established between local jurisdictions and agencies participating in the development of interoperable communications systems, and their coordination with Federal and State agencies;

"(v) the extent to which the communications interoperability plan submitted under paragraph (3) adequately addresses steps necessary to implement short-term or long-term solutions to communications interoperability;

"(vi) the extent to which eligible States and local governments, in light of their financial capability, demonstrate their commitment to expeditiously achieving communications interoperability by supplementing Federal funds with non-Federal funds;

"(vii) the extent to which grants will expedite the achievement of interoperability in the relevant jurisdiction with Federal, State, and local agencies; and

"(viii) the extent to which grants will be utilized to implement advanced communications technologies to promote interoperability.

"(B) COORDINATION.—To the maximum extent practicable, the Secretary shall ensure that any grant made under this subsection is coordinated with neighboring jurisdictions, contiguous local governments, and within State and regional entities.

"(C) LOCAL FUNDING.—If the Secretary makes grants awards to States, the Secretary shall—

"(i) make it a priority to ensure that funding or resources reach local governments; and

"(ii) require applicants to demonstrate how such funding will reach local governments.

"(D) ALLOCATION.—In awarding grants under this subsection, the Secretary shall ensure that—

"(i) not less than .75 percent of the total amount appropriated for grants in any fiscal year shall be awarded, subject to clause (ii), to each eligible State, including the District of Columbia and the Commonwealth of Puerto Rico; and

"(ii) not less than .25 percent of the total amount appropriated for grants in any fiscal year shall be awarded to the territories of the United States, including American Samoa, the Commonwealth of Northern Mariana Islands, Guam, and the United States Virgin Islands.

"(E) PROCESS.—In awarding grants under this subsection, the Secretary shall, to the maximum extent practical, employ a peer review process such as that used to review applications awarded under the Assistance to Firefighters Grant Program.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2005 through 2008, and such sums as are necessary each fiscal year thereafter, for the operations of the Office, and for other entities within the Department whose activities facilitate the purposes of this section and the Homeland Security Interoperability Act of 2004.

"(2) PREPAREDNESS GRANT PROGRAM.—There are authorized to be appropriated to carry out the grant program under subsection (d)—

"(A) $400,000,000 for fiscal year 2005;

"(B) $500,000,000 for fiscal year 2006;

"(C) $600,000,000 for fiscal year 2007;

"(D) $800,000,000 for fiscal year 2008;

"(E) $1,000,000,000 for fiscal year 2009; and

"(F) such sums as are necessary each fiscal year thereafter.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by striking the item relating to section 801 and inserting the following:

"801. Office for State and Local Government Coordination and Preparedness.
"802. Office of Information Sharing.".

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I am very pleased to join my good friend, the Senator from Connecticut, Mr. LIEBERMAN, in introducing legislation that will strengthen our capabilities to prevent and respond to acts of terrorism. The bill we are introducing will improve communications among the various levels of Government and will assist our State and local first responders in upgrading their communications equipment. I thank Senator LIEBERMAN and his staff for their efforts in putting together this very important legislation and for working with me to make this bill a bipartisan effort.

In the immediate aftermath of September 11, the phrase "connect the dots" gained a prominent place in our national lexicon. The agencies charged with intelligence gathering, analysis, and enforcement did not have structures in place that would have enabled them to effectively share information and coordinate responses. The dots were there, but our intelligence and law enforcement personnel were, in far too many cases, unable to connect them.

The heroism of our first responders on September 11 will never be forgotten. Their devotion to duty, their courage, and their training saved a great many lives that terrible day. Yet we now know that the lack of a unified command structure, the uneven and in some cases outright absence of interdepartmental coordination and incompatible communications equipment may have prevented them from saving even more lives, and it cost many first responders their own lives.

Throughout the Nation on that day, there was another problem. False reports of car bombings and other terrorist acts spread quickly, overwhelming the immediate efforts and response, preventing a full comprehension of what had actually occurred, and causing needless fear. Our frontline civilian and military agencies struggled to improvise a defense against an attack of unknown nature and scope. As the Chairman of the Joint Chiefs of Staff told the 9/11 Commission:

> We fought many phantoms that day.

The enemy we are fighting is no phantom. It is real, and it is deadly. From the agencies of the Federal Government down to the State and local levels, we have dedicated personnel who can defeat that enemy. We must enable them to work together more effectively in this great cause. We cannot expect them to connect the dots if so many dots are hidden from view.

Although the Department of Homeland Security has made remarkable progress in forging cohesive strategies, State and local officials still tell Senator LIEBERMAN and they still tell me that they have difficulty in obtaining needed information from Federal agencies and that they lack a reliable way to convey their own information to Federal officials.

Turf battles, unfortunately, are still being fought among some agencies. There still is no effective system in place for State and local governments to share information with one another.

From computer systems to emergency radios, the technology that should allow these different levels of government to communicate with each other too often is silenced by incompatibility. Clearly, the barrier to a truly unified effort against terrorism is a matter of both culture and equipment. This legislation will help break down that barrier.

A General Accounting Office report on interoperable communications released last week notes that the lives of first responders and those they are trying to assist can be lost when first responders cannot communicate effectively. That is the crux of the matter that the Lieberman-Collins bill seeks to address. A substantial barrier to effective communications, according to the GAO, is the use of incompatible wireless equipment by many agencies and levels of government when they are responding to a major emergency.

Among the GAO recommendations are that Federal grants be used to encourage States to develop and implement plans to improve interoperable communications and that the Department of Homeland Security needs to establish a long-term program to coordinate these same communications upgrades throughout the Federal Government. Our legislation would do much to implement these sensible recommendations.

It is vitally important that we assist the States in getting the right communications technology into the hands of their first responders. That would be accomplished by the interoperability grant program in this legislation. I believe that grant program is the most important feature of our legislation.

At a homeland security conference held in my home State of Maine in May, one of the most persistent messages that I heard from Maine's first responders concerned the lack of compatibility in communications equipment. It remains a substantial impediment to their ability to respond effectively in the event of a terrorist attack. For a State like mine that has three deepwater cargo ports, two international airports, key defense installations, hundreds of miles of coastline, and a long international border, compatible communications equipment is essential. Yet it remains an illusive goal.

Maine's firefighters, police officers, and emergency medical personnel do an amazing job in providing aid when a neighboring town is in need. Fires, floods, and accidents are local matters in which they have great expertise and experience. Their defense of the front lines in the war against terrorism, however, is a national matter. Maine's first responders, along with first responders across the country, are doing their part, but they need and deserve Federal help.

The grant program established by our bill would guarantee every State a share of interoperability funding and makes additional funding available for States with special needs and vulnerabilities. It is designed to get this vital funding to first responders quickly, in coordination with a statewide plan.

At that Maine conference, I was joined by Under Secretary Asa Hutchinson. He, perhaps, best described the mutual responsibilities of this Federal-State partnership when he said:

> We cannot secure the homeland of America from Washington, D.C.

In other words, we have to rely on State and local officials and on our first responders.

There is no question, however, that the security of the homeland requires the involvement, leadership, and expertise of Washington, DC, and, yes, it also requires our financial commitment.

As Senator LIEBERMAN mentioned, a recent study by the Council on Foreign Relations estimates the total cost of nationwide communications compatibility at $6.8 billion. Our legislation authorizes $3.3 billion over 5 years. That is a reasonable and necessary contribution by the Federal Government to this important partnership.

The legislation will also help to foster a culture of information sharing through all levels of government and across all boundaries.

It directs the Secretary of Homeland Security to establish a homeland security information-sharing network that will expedite the gathering, analysis, and distribution of information that is relevant to preventing or responding to terrorism anywhere in the Nation. The council established by this legislation will bring together representatives from all the relevant Federal agencies, and from State and local governments as well, to develop, monitor, and update procedures to enhance information sharing.

This bill would make an important contribution to the security of our Nation and the safety of our people. It would help us clear the barriers that now prevent agencies at all levels of government from cooperating and communicating to the fullest extent, whether those barriers are due to a lack of coordination or whether they are due to technology and incompatible equipment.

At the risk of piling one cliché on top of another, it is apparent to me that in order to connect the dots, we must think outside the box. Our enemy is cunning and remorseless. We must be clever and resourceful. This legislation is designed to foster innovative thinking by rewarding it, through a program that provides cash awards or other forms of recognition to agency employees who solve a homeland security problem. We already use pay-for-performance awards to recognize Federal employees who devise ways to deliver Government services more effectively and efficiently. We certainly can do the same for employees who think up ways to make our country safer.

The new Office of Information Sharing this legislation would establish in the Department of Homeland Security will continue the substantial progress being made by addressing specific issues related to improving cooperation among the various levels of government. A key element of improved cooperation will be getting technology, computer systems and communications equipment in particular, to work across the frontiers of government agencies.

The security of our Nation and the safety of our people require that we clear the barriers that prevent agencies at all levels of government from cooperating and communicating to the fullest extent. There is an additional reason why this is important.

Effective information-sharing is the best way in which we can protect ourselves from harm as we protect the civil liberties we cherish. We need borders that are closed to our enemies, but that remain open to our friends. We need to be able to travel safely, but also freely. We need to be able to protect ourselves against threats from abroad, but we also need to engage in open and vigorous trade. The greatest threats to these freedoms are the fear, suspicion and doubt that come from not knowing as much as we can about the enemy and from having the best, most coordinated defense possible.

I urge my colleagues to join me in supporting this legislation to build a better and stronger homeland security partnership.

I hope the legislation that Senator LIEBERMAN and I have introduced will enjoy widespread support.

Mr. AKAKA. Mr. President, I rise today to join my colleagues Senators LIEBERMAN and COLLINS in introducing the Homeland Security Interagency and Interjurisdictional Information Sharing Act of 2004, a piece of legislation critical to improving the communication capabilities of first responders and among all levels of government.

One of the most important lessons our Nation learned on September 11 is that information sharing, both between agencies and levels of government and between emergency first responders, is critical to the prevention of and response to a terrorist attack on our homeland. There has been much talk about breaking down stove pipes and fully equipping our heroic first responders in the past 3 years, but this bill points out those goals have not yet been met.

The world watched as firefighters perished in the World Trade Center because their radios could not function inside the buildings and they did not have updated information about the imminent collapse of the towers. Ten months later it was reported that officers responding to a shooting at Los Angeles International Airport missed crucial information because they were not using the same radio frequency.

Yet almost all cities and counties in the United States still lack an interoperable communications system today and many still lack the infrastructure to provide 100 percent coverage for the radio systems they do have. In my home State of Hawaii, first responders are unable to communicate through radios in 25 percent of the island of Hawaii because of a combination of lack of infrastructure and diverse geography.

This problem can be solved, but it will require a commitment of not only funding but planning, communication and cooperation. The current SAFECOM initiative, which is supposed to address the interoperability problem, has failed in most, if not all, of these areas. While this issue clearly cannot be solved by one agency alone, the cross-government nature of SAFECOM crippled the program from the start. SAFECOM is supposed to be funded by multiple agencies meaning that if one agency is not in agreement with the others it can withhold funding and slow or stop activities. This formula has proven ineffective.

The Homeland Security Interagency and Interjurisdictional Information Sharing Act will address these issues. The bill creates an Office of Information Sharing within the Department of Homeland Security to develop and implement a national strategy and provide the leadership, outreach, and technical assistance necessary to achieve interoperability. The new office would receive a direct line of funding for its operations as well as to provide grants to States and localities to develop interoperable networks.

The bill would also require the Secretary of Homeland Security to develop a Homeland Security Information Sharing Network. The problem of informational stove piping will not be eradicated with ad hoc measures as is the practice today. The administration must institutionalize a system of sharing critical homeland security information among all levels of government. We are no longer in a "need to know" world. We must switch to a "need to share" mentality.

Three years is too long for the lessons of September 11 to not be implemented. I urge my colleagues to support this important piece of legislation and I thank Senators LIEBERMAN and COLLINS for their work on this issue.

By Mr. CHAMBLISS (for himself, Mr. INHOFE, Mr. ALLEN, and Mr. LOTT):

S. 2702. A bill to amend the Federal Election Campaign Act of 1971 to repeal the requirement that persons making disbursements for electioneering communications file reports on such disbursements with the Federal Election Commission and the prohibition against the making of disbursements for electioneering communications by corporations and labor organizations, and for other purposes; to the Committee on Rules and Administration.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the First Amendment Restoration Act of 2004, a companion bill to H.R. 3801, which was introduced earlier this year in the House by my former colleague, Congressman Roscoe Bartlett. In the last few years, we've seen some remarkable restrictions placed on the ability of organizations to exercise their first amendment rights with respect to campaign contributions. One particular example is the Bipartisan Campaign Reform Act of 2002, or BCRA, which contains some provisions that have always troubled me. Although in McConnell v. FEC, the Supreme Court upheld BCRA's restrictions as constitutional, this is not the first time that I've disagreed with the Court's conclusions on what kind of conduct I think is or is not constitutionally protected.

Specifically, I am concerned with the provisions of BCRA that limit the ways in which some organizations can contribute funds within certain time frames before an election. Under BCRA, labor unions and corporations, which include trade associations and interest groups as diverse as the ACLU and the NRA, are limited to only contributing PAC funds within 30 days of a primary and 60 days of a general election. These limitations apply to contributions for what are know as "electioneering communications," which are any broadcast, cable, or satellite communications that refer to a clearly identified Federal candidate and that reach 50,000 or more people in the relevant district or State.

I believe that Congress can go beyond what the Supreme Court's decision in McConnell v. FEC envisions as what is constitutionally protected speech and that Congress should provide further first amendment protections for organizations wanting to make political contributions. This is why today I am introducing the First Amendment Restoration Act. This bill would repeal those provisions of BCRA that limit corporations and labor unions from making any other contributions than those run through political action committees within the 30- and 60-day periods set out in the act. I am proud to say that Senators JIM INHOFE, GEORGE ALLEN, and TRENT LOTT have agreed to cosponsor this bill. I look forward to the debate on the First Amendment Restoration Act and on issues of campaign-finance reform in general, as we see how the restrictions we place on speech really play out in the real world.

By Mr. BIDEN (for himself and Mr. DEWINE):

S. 2705. A bill to provide assistance to Sudan, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, Senator DEWINE and I have introduced a bill to address the atrocities and human rights abuses inflicted by the Government of Sudan upon its citizens living in the western region of Darfur.

By now you are aware of the terrible violence being perpetrated against civilians by the Government of Sudan and its allied militias in Darfur, Sudan. As many as 30,000 black Africans have been killed. Rape has routinely been used as a weapon of war by the Sudanese Government's janjaweed militia proxies. The Government of Sudan has obstructed the delivery of humanitarian assistance—as a result, over 300,000 people are expected to die of disease and malnutrution. Entire villages have been razed to the ground. Crimes against humanity have and are taking place with frightening regularity. Any reasonable person would agree that at the very least, we are witnessing ethnic cleansing. However, I believe that what we are actually seeing is genocide, and that the burden of proof should be on those who deny that such is the case.

Secretary of State Powell visited Darfur at the end of June. I applaud him for going. His visit as well as that of United Nations Secretary General Kofi Annan served to shine a much needed international spotlight on Khartoum's brutal actions.

However, I am disappointed in the actions taken by the administration in the wake of the Secretary's visit.

The administration is circulating a draft United Nations Security Council resolution which puts sanctions on the janjaweed. I do not think pursuing a resolution which would impose an arms and travel embargo on the janjaweed will improve the security situation in Darfur. I am sure there must be a strategy behind this resolution, but on its face, it is hard to see. The janjaweed is not a state actor. It is not even an independent actor. It certainly is not accepting arms shipments from foreign governments. The janjaweed is armed and supplied by the Government of Sudan. And last I heard the only place the janjaweed has traveled is across the border into Chad to further harass its victims. I was not aware that militia members applied for visas to do so. So I would like to know what exactly the thought process behind pursuing such sanctions is.

I would also like to know just why the administration does not believe the Genocide Convention has been triggered. Article II of the Convention defines genocide as any of the following acts committed with the intent to destroy, in whole or substantial part, a national ethnic, racial or religious group: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group.

Let's consider what we know to be the case in Darfur and compare it to the criteria set out in the Convention.

Is there an intent to destroy a national ethnic racial or religious group? A U.N. interagency fact finding team found in April that while villages populated by black Africans were destroyed, villages in the same area populated by Arabs were undisturbed. In some cases the villages that were left undisturbed were less than 500 meters away from those that were bombed and burned to the ground, its residents murdered, raped or tortured, its wells poisoned, its food stores and crops destroyed. This seems to me to be a pretty profound indicator that black Africans are being deliberately targeted. The scorched earth policy of the janjaweed makes it virtually impossible for those who live through the attacks to survive. One can reasonably assume that they were not meant to.

We know that the Government of Sudan, through it janjaweed proxies, has murdered an unknown number of people—perhaps 30,000—because of their ethnicity.

We also know that the militia has caused serious bodily and mental harm to black Africans in Darfur. According to the Convention only one or the other is necessary to qualify as genocide, but the janjaweed and the Sudanese military have done both. As a recent Washington Post article points out, the text of which I ask unanimous consent be printed in the RECORD, the janjaweed have engaged in widespread systematic rape in an effort to populate Darfur with Arab babies.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 30, 2004]

'WE WANT TO MAKE A LIGHT BABY'; ARAB MILITIAMEN IN SUDAN SAID TO USE RAPE AS WEAPON OF ETHNIC CLEANSING

(By Emily Wax)

GENEINA, SUDAN, June 29.—At first light on Sunday, three young women walked into a scrubby field just outside their refugee camp in West Darfur. They had gone out to collect straw for their family's donkeys. They recalled thinking that the Arab militiamen who were attacking African tribes at night would still be asleep. But six men grabbed them, yelling Arabic slurs such as "zurga" and "abid," meaning "black" and "slave." Then the men raped them, beat them and left them on the ground, they said.

"They grabbed my donkey and my straw and said, 'Black girl, you are too dark. You are like a dog. We want to make a light baby,'" said Sawela Suliman, 22, showing slashes from where a whip had struck her thighs as her father held up a police and health report with details of the attack. "They said, 'You get out of this area and leave the child when it's made.'"

Suliman's father, a tall, proud man dressed in a flowing white robe, cried as she described the rape. It was not an isolated incident, according to human rights officials and aid workers in this region of western Sudan, where 1.2 million Africans have been driven from their lands by government-backed Arab militias, tribal fighters known as Janjaweed.

Interviews with two dozen women at camps, schools and health centers in two provincial capitals in Darfur yielded consistent reports that the Janjaweed were carrying out waves of attacks targeting African women. The victims and others said the rapes seemed to be a systematic campaign to humiliate the women, their husbands and fathers, and to weaken tribal ethnic lines. In Sudan, as in many Arab cultures, a child's ethnicity is attached to the ethnicity of the father.

"The pattern is so clear because they are doing it in such a massive way and always saying the same thing," said an international aid worker who is involved in health care. She and other international aid officials spoke on condition of anonymity, saying they feared reprisals or delays of permits that might hamper their operations.

She showed a list of victims from Rokero, a town outside of Jebel Marra in central Darfur where 400 women said they were raped by the Janjaweed. "It's systematic," the aid worker said. "Everyone knows how the father carries the lineage in the culture. They want more Arab babies to take the land. The scary thing is that I don't think we realize the extent of how widespread this is yet."

Another international aid worker, a high-ranking official, said: "These rapes are built on tribal tensions and orchestrated to create a dynamic where the African tribal groups are destroyed. It's hard to believe that they tell them they want to make Arab babies, but it's true. It's systematic, and these cases are what made me believe that it is part of ethnic cleansing and that they are doing it in a massive way."

Secretary of State Colin L. Powell flew to the capital, Khartoum, on Tuesday to pressure the government to take steps to ease the humanitarian crisis in Darfur. U.S. officials said Powell may threaten to seek action by the United Nations if the Sudanese government blocks aid and continues supporting the Janjaweed. U.N. Secretary General Kofi Annan is due to arrive on Khartoum this week.

The crisis in Darfur is a result of long-simmering ethnic tensions between nomadic cattle and camel herders, who view themselves as Arabs, and the more sedentary farmers, who see their ancestry as African. In February 2003, activists from three of Darfur's African tribes started a rebellion against the government, which is dominated by an Arab elite.

Riding on horseback and camel, the Janjaweed, many of them teenagers or young adults, burned villages, stole and destroyed grain supplies and animals and raped women, according to refugees and U.N. and human rights investigators. The government used helicopter gunships and aging Russian planes to bomb the area, the U.N. and human rights representatives said. The U.S. government has said it is investigating the killings of an estimated 30,000 people in Darfur and the displacement of the more than 1 million people from their tribal lands to determine whether the violence should be classified as genocide.

The New York-based organization Human Rights Watch said in a June 22 report that it investigated "the use of rape by both Janjaweed and Sudanese soldiers against women from the three African ethnic groups targeted in the 'ethnic cleansing' campaign in Darfur." It added, "The rapes are often accompanied by dehumanizing epithets, stressing the ethnic nature of the joint government-Janjaweed campaign. The rapists use the terms 'slaves' and 'black slaves' to refer to the women, who are mostly from the Fur, Masalit and Zaghawa ethnic groups."

Despite a stigma among tribal groups in Sudan against talking about rape, Darfur elders have been allowing and even encouraging their daughters to speak out because of the frequency of the attacks. The women consented to be named in this article.

In El Fasher, the capital of North Darfur, about 200 miles east of Geneina, Aisha Arzak Mohammad Adam, 22, described a rape by militiamen. "They said, 'Dog, you have sex with me,'" she said. Adam, who was receiving medical treatment at the Abu Shouk camp, said through a female interpreter that she was raped 10 days ago and has been suffering from stomach cramps and bleeding. "They said, 'The government gave me permission to rape you. This is not your land anymore, abid, go.'"

Nearby, Ramadan Adam Ali, 18, a frail woman, was being examined at the health clinic. She was pregnant from a rape she said took place four months ago. She is a member of the Fur tribe and has African features.

"The man said, 'Give me your money, slave,'" she said, starting to cry. "Then I must tell you very frankly, he raped me. He had a gun to my head. He called me dirty abid. He said I was very ugly because my skin is so dark. What will I do now?"

In Tawilah, a village southeast of El Fasher, women and children are living in a musty school building. They said it was too dangerous to leave and plant food.

Fatima Aisha Mohammad, once a schoolteacher, stood in a dank classroom describing what happened to her three weeks ago, when she left the school to collect firewood.

"Very frankly, they selected us ladies and had what they wanted with us, like you would a wife," said Mohammad, 46, who has five children. "I am humiliated. Always they said, 'You are nothing. You are abid. You are too black.' It was disgusting."

During a recent visit, government minders warned people at the school to stop talking about the rapes or face beatings or death. Minders also were seen handing out bribes to keep women from speaking to foreign visitors. But those at the school spoke anyway. A group of people handed a journalist two letters in Arabic that listed 40 names of rape victims, and wanted the list to be sent to Sen. Sam Brownback of Kansas and Rep. Frank R. Wolf of Virginia, Republicans who were touring the region and pressing the government to disarm the Janjaweed.

"I was sad. I am now very angry. Now they are trying to silence us. And they can't," Mohammad said. "What will people think of all of us out here? That we did this to ourselves? People will know the truth about what is happening in Darfur."

Later that day in Tawilah's town center, Kalutum Kharm, a midwife, gathered a crowd under a tree to talk about the rapes. Everyone was concerned about the children who would be born as a result.

"What will happen? We don't know how to deal with this," Kharm lamented. "We are Muslims. Islam says to love children no matter what. The real problem is we need security. We don't trust the government. We need this raping to stop."

Aid workers and refugees in Geneina said that despite an announcement last week by Sudan's president, Lt. Gen. Omar Hassan Bashir, that the Janjaweed would be disarmed, security had not improved. Janjaweed dressed in military uniforms and clutching satellite phones roamed the markets and the fields, guns slung over their shoulders. Last week, the Janjaweed staged a jailbreak and freed 13 people, aid workers said. They also killed a watermelon salesman and his brother because they did not like their prices, family members of the men said.

A government official, speaking with a reporter, described the rapes as an inevitable part of war and dismissed accusations by human rights organizations that the attacks were ethnically based.

In Geneina, two women told their stories while sitting in front of their makeshift straw shelter. One of the women, a thin 19-year-old with dead eyes, moved forward.

"I am feeling so shy but I wanted to tell you, I was raped too that day," whispered Aisha Adam, the tears rushing out of her eyes as she covered her face with her head scarf. "They left me without my clothing by the dry riverbed. I had to walk back naked. They said, 'You slave. This is not your area. I will make an Arab baby who can have this land.' I am hurting now so much, because no one will marry me if they find out."

Sitting on mats outside the shelter, Sawela Suliman's father talked with village elders about what to do if his daughter became pregnant.

"If the color is like the mother, fine," he said as a crowd gathered to listen. "If it is like the father, then we will have problems. People will think the child is an Arab."

Then his daughter looked up.

"I will love the child," she said, as other women in the crowd agreed. "But I will always hate the father."

Then the rains came. They pounded onto the family's frail shelter, turning their roof into a soggy and dripping clump of straw. Suliman started to shiver as the weather shifted from steaming hot to a breezy rain. She will no longer leave the area of her hut to collect straw. She will stay here, hiding as if in prison, she said, and praying that she is not pregnant.

Mr. BIDEN. Mr. President, in the article, which appeared on the front page of the Post on Wednesday, June 30, a woman tells of how she and other women were gang raped by six janjaweed militia men as they went out to gather fuel for fire. "They grabbed my donkey and my straw and said 'Black girl, you are too dark. You are like a dog. We want to make a light baby. . . .'" They said "You get out of this area and leave the child when it's made." If that isn't inflicting mental and bodily harm on a group, what is?

We know for a fact that the Government of Sudan has prevented the delivery of humanitarian aid such that, as I mentioned before, over 300,000 people—black Africans—will probably die. I would say that qualifies as deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

I can not speak to the final two elements. I have not yet heard that the Government or janjaweed have imposed measures intended to prevent births within the group or forcibly transferred children of the group to another group. However, the Convention does not require that all five acts be committed. Any one of the acts qualify as genocide.

Let me make one thing perfectly clear. I completely agree with the Secretary Powell that we must urgently meet the needs of the people of Darfur regardless of whether what is happening is genocide. And the Genocide Convention makes clear that we are to prevent, suppress and punish the crime. So whether one believes what is happening is actual or potential genocide, we are obligated to act.

However, I also believe it is imperative that we acknowledge what is going on. Failure to call the crime what it is and respond fosters a sense of impunity, and emboldens the bad actors in other parts of the world to carry out these sorts of atrocities. I do not believe that the argument I and others are making about whether or not what is going on is genocide is academic, or misses the point about the necessity of helping those suffering in Sudan.

U.N. Secretary General Kofi Annan visited Darfur at the end of June as well. The United Nations and the Government of Sudan issued a joint communique in which the Government agreed to allow unfettered access of assistance and to disarm the janjaweed. The bill Senator DEWINE and I have introduced puts pressure on Khartoum to make good on the promises it has made.

The bill requires the President to certify 30 days from its enactment and every 90 days thereafter whether or not the Government of Sudan has made credible, sincere and genuine efforts to demobilize and disarm the janjaweed, and allowed truly free access to Darfur, without using red tape as a way to prevent aid delivery.

The Government is subject to three different types of sanctions 120 days after the bill becomes law unless that certification is made. First, senior members of the military and Government in Khartoum as well as their families will have any U.S. held assets frozen, and be denied entry into the United States. Second, prohibitions on assistance in this year's appropriations bill will remain in place beyond the end of the fiscal year.

Finally, unless the President issues this certification, the sanctions that are part of the original Sudan Peace Act are triggered: Our representatives to the multilateral development banks are directed to use their voice and vote to oppose any loans to Sudan. The President is asked to consider downgrading our diplomatic representation to Sudan, and directed to seek a UN Security Council Resolution to impose an arms embargo on Sudan and to deny Khartoum oil revenue.

As a further means of pressuring the Government of Sudan, the bill takes the extra steps of prohibiting the normalization of relations between the Government of Sudan and the United States and the disbursement of any U.S. funds to support a comprehensive north-south agreement unless the President certifies in six months the Government of Sudan has stopped attacking civilians, demobilized and disarmed the janjaweed, ceased harassing aid workers, and cooperated with the deployment of the African Union ceasefire monitoring team. And for every 6 months the government of Sudan continues its reign of terror in Darfur, the amount that otherwise would have been available to support the north-south peace agreement—$800 million—is reduced by $50 million.

Perhaps the most important piece of this bill is an authorization for $200 million to provide much needed relief for the people of Darfur. The money is offered with no strings attached. The needs on the ground in Darfur and Chad are urgent and we must respond quickly and robustly without conditions or caveats.

I hope my colleagues will support this bill, as it provides both help for Sudanese civilians affected by war in western Sudan and an incentive for Khartoum to stop the violence and allow the international community to assist the victims of what our own Government has called the world's worst humanitarian crisis.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Peace for Sudan Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Government of Sudan has engaged in an orchestrated campaign of genocide in Darfur, Sudan, and has severely restricted humanitarian and human rights workers' access to Darfur in an attempt to inflict further harm on the Fur, Masalit, and Zaghawa people of Darfur and to prevent the collection of evidence of war crimes and crimes against humanity.

(2) As a result of this campaign, as many as 30,000 people have been killed, more than 1,000,000 people have been displaced within Sudan, and approximately 200,000 have been made refugees in Chad.

(3) As many as 320,000 people may die unless humanitarian aid is immediately delivered to the affected individuals.

(4) The United Nations High Commissioner for Human Rights issued a report which "identified... massive human rights violations in Darfur perpetrated by the Government of Sudan and its proxy militia, which may constitute war crimes and/or crimes against humanity".

(5) The Government of Chad, under President Idriss Deby, has served an important role in facilitating a renewable "humanitarian cease-fire" between the Government of Sudan and the two rebel groups challenging that Government in Darfur, the Justice and Equality Movement and the Sudan Liberation Movement, and has been a crucial partner in permitting humanitarian assistance to reach refugees who have crossed from Darfur to Chad in the tens of thousands.

(6) The cooperation and mediation of the SPLM is critical to bringing about a political settlement between the Government, the Sudanese Liberation Army, and the Justice and Equality Movement.

(7) Practical implementation of a comprehensive peace agreement between the SPLM and the Government of Sudan is impossible without the implementation of a peace agreement for Darfur.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) SPLM.—The term "SPLM" means the Sudan People's Liberation Movement.

SEC. 4. SENSE OF CONGRESS REGARDING ACTIONS TO ADDRESS THE CONFLICT IN DARFUR.

It is the sense of Congress that—

(1) the United Nations Security Council should immediately pass a resolution—

(A) condemning the actions of the Government of Sudan in Darfur; and

(B) setting out specific actions that such Government must take to avoid the reimposition of sanctions;

(2) the United States Ambassador at Large for War Crimes should travel to the region to investigate allegations of war crimes, crimes against humanity, and genocide brought against the Government of Sudan;

(3) the President should immediately name a new Special Envoy to Sudan whose responsibilities include support for conflict mitigation throughout Sudan;

(4) the SPLM should take advantage of the opportunity afforded by the May 26, 2004, signing of the three protocols to help broker a political settlement to the conflict in Darfur;

(5) restrictions pursuant to Executive Order 13067 (50 U.S.C. 1701 note) should not be lifted unless there is peace in Darfur; and

(6) upon implementation of a peace agreement in Darfur, the signing of a comprehensive peace agreement between the SPLM and the Government of Sudan, and full cooperation from the Government of Sudan on the war against terrorism, the Government of the United States should immediately begin discussions of the necessary steps to normalize relations with Sudan, including the lifting of all economic and political sanctions.

SEC. 5. ASSISTANCE FOR SUDAN.

(a) HUMANITARIAN ASSISTANCE FOR CHAD AND DARFUR.—The President is authorized to provide $200,000,000 in fiscal year 2005 in assistance to meet the humanitarian crisis in Chad and Darfur pursuant to section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) and section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) to provide shelter, health, water and sanitation, protection of vulnerable populations, food, and other appropriate relief items.

(b) ASSISTANCE TO SUPPORT A COMPREHENSIVE NORTH-SOUTH PEACE AGREEMENT.—Notwithstanding any other provision of law, and subject to subsection (d), the President is authorized to provide $800,000,000 in assistance to support a comprehensive North-South peace agreement in Sudan for purposes including commercial assistance, infrastructure rehabilitation, disarmament and demobilization of fighters, and training and technical assistance to integrate members of the SPLM into the interim Government of Sudan.

(c) CERTIFICATION.—The President shall submit a certification to the appropriate congressional committees not later than 180 days after the date of enactment of this Act, and every 180 days thereafter, that the Government of Sudan has—

(1) ensured that the armed forces and the militias, known as the Janjaweed, are not attacking civilians;

(2) taken significant demonstrable and verifiable steps to demobilize and disarm the Janjaweed in Darfur;

(3) ceased harassment of aid workers, including those who report human rights abuses, and allowed unfettered humanitarian access to Darfur; and

(4) fully cooperated with the deployment and operation of the African Union monitoring team for Darfur.

(d) PROHIBITION AND SUSPENSION OF ASSISTANCE.—

(1) PROHIBITION.—If the President does not submit the certification described in subsection (c) then the President may not provide the assistance authorized in subsection (b).

(2) SUSPENSION.—If, on a date after the President submits the certification described in subsection (c), the President determines such Government has ceased taking such actions, the President shall immediately suspend the provision of the assistance authorized in subsection (b) until the date on which the President certifies that such Government has resumed taking such actions.

SEC. 6. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) MEASURES AND SANCTIONS IN SUPPORT OF PEACE.—On the date that is 120 days after the date of enactment of this Act, if the President has not submitted the certification described in subsection (c)(1)—

(1) the President shall implement the measures set forth in section 6(b)(2) of the Sudan Peace Act (50 U.S.C. 1701 note); and

(2) notwithstanding section 428(b) of the Homeland Security Act of 2002 (6 U.S.C. 236(b)), the Secretary of State shall prohibit the granting of a visa to—

(A) a senior member of the Government of Sudan;

(B) a senior official of the military of Sudan; or

(C) a family member of an individual described in subparagraph (A) or (B).

(b) CONTINUATION OF RESTRICTIONS.—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Division D of Public Law 108–199; 118 Stat. 143) shall remain in place until the President makes the certification described in subsection (c)(1).

(c) CERTIFICATION.—The certification referred to in subsections (a) and (b) is a certification submitted by the President to the appropriate congressional committees not later than 30 days after the date of enactment of this Act, and every 90 days thereafter, that—

(A) the armed forces of the Government of Sudan and militias allied with such Government have not attacked civilians in Sudan since the date of enactment of this Act; and

(B) the Government of Sudan is allowing unfettered humanitarian access to people in Darfur.

SEC. 7. MULTILATERAL EFFORTS.

The Secretary of State shall direct the United States Permanent Representative to the United Nations to pursue a Security Council Resolution that condemns the Government of Sudan for its actions in Darfur and calls for—

(1) accountability for those who are found responsible for orchestrating and carrying out the atrocities in Darfur; and

(2) member states of the United Nations to—

(A) freeze the assets of senior members of the Government of Sudan and their families held in each such member state;

(B) cease to import Sudanese oil;

(C) restrict the entry or transit of senior members of the Government of Sudan and their families through each such member state;

(D) deny permission for any aircraft registered in Sudan to take off from, land in, or overfly each such member state; and

(E) cease selling arms to the Government of Sudan.

SEC. 8. REPORTING REQUIREMENTS.

Not later than 30 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report that includes—

(1) plans for and resources needed to assist with the reconstruction of Sudan to support a comprehensive peace agreement between the Government of Sudan and the SPLM, including a description of the effect that the crisis in Darfur will have on the resources needed;

(2) contingency plans for the delivery of humanitarian assistance through non-military means should the Government of Sudan continue to obstruct or delay the international humanitarian response for the 2,000,000 Sudanese civilians declared vulnerable in Darfur;

(3) an assessment of the United States military personnel, platforms, equipment, and their associated costs required (should other efforts fail) to—

(A) deliver humanitarian assistance to Darfur; or

(B) provide security for the delivery of humanitarian assistance; and

(4) a strategy for providing medical and psycho-social assistance to victims of torture and sexual violence in Darfur.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the President—

(1) for fiscal year 2005, $200,000,000 to carry out the activities described in section 5(a); and

(2) for fiscal years 2005 through 2008, a total of $800,000,000 to carry out the activities described in section 5(b).

(b) REDUCTION OF AVAILABLE FUNDS.—The amount authorized to be appropriated under subsection (a)(2) shall be reduced by $50,000,000 180 days after the date of enactment of this Act if the President has not made the certification described in section 5(c) by the end of that 180-day period, and shall be reduced by an additional $50,000,000 at the end of each 180-day period thereafter that has ended before the President has made such certification.

By Mrs. CLINTON (for herself, Ms. SNOWE, and Mr. DASCHLE):

S. 2706. A bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, today I am pleased to be introducing legislation that expands the supports and services available to grandparents and other relatives who are raising children when their biological parents can no longer take care of them. I am happy to have worked with my friend and colleague, Senator OLYMPIA SNOWE, in crafting this important bill.

Today there is a phenomenon that is quietly changing the face of the American family and creating new challenges for our Nation's child welfare system—the growth of kinship care. According to the Census, more than 6 million children—1 in 12—live in households headed by grandparents or other relatives.

New York alone has over 409,000 children living in these households. The majority of these children—54 percent—live with their grandparents, while the rest live with aunts, uncles, siblings, and cousins. Sadly, one-fifth of families headed by grandparents are living in poverty.

While extended families have always stepped in to raise children when parents could not, over the past two decades we've seen a rise in the number of children living with grandparents and other relatives. A study conducted by the American Association of Retired Persons found that the number of children living in grandparent-headed households increased by 30 percent between 1990 and 2000.

Parents are unable to raise their own children for many different reasons, and we still have a lot to learn about this trend, but a few statistics are illuminating: Mothers are the fastest growing segment of the U.S. prison population. Approximately 7 in 10 women in correctional facilities have children under age 17. The number of women living with HIV/AIDS increased from 4,000 in the early 80s to close to 60,000 in 2000.

Many of these women are unable to raise their children and often rely on their relatives to fill in. Many other parents die or contract debilitating diseases that also make it impossible for them to fulfill their parental obligations.

Grandparents and other relatives have stepped forward, often at great personal sacrifice, to provide safe and loving homes for the children in their care. This has allowed tens of thousands of children to live with extended family rather than strangers.

Extended families can provide a sense of belonging and a connection with their family history. Children are traumatized when they are separated from their natural parents—being cared for by grandparents or other relatives can soften that blow.

But kinship families, especially those without formal legal custody of the children under their care, face a number of unnecessary barriers. Let me give you an example. Maria Lemmons, of Albany, lost her daughter, a single mother of 3, in a tragic car crash when Maria was 67. Maria immediately stepped in to take custody of her grandchildren, aged 11, 13, and 15. But as you can imagine, she struggled. Maria was financially secure, but she hadn't raised a teenager in over 20 years. She needed guidance about parenting and a support group to help her navigate the tough terrain of parenting.

At the other extreme is Susan Smith. Susan's daughter Cathy almost lost custody of her son, Jacob, when she became addicted to heroin and neglected him for days at a time. Susan intervened to take care of Jacob even though doing so required a significant financial sacrifice. Susan lives on a Social Security check of less than $300 a month. She can barely afford her groceries and her medicine. But she was not willing to let Jacob be raised by a stranger.

At the very least, both of these women need and deserve our compassion. But I believe they also deserve our support as they assume the awesome responsibility of raising children. The Kinship Caregiver Support Act will help women like Maria and Susan in three important ways.

First, it will establish a "kinship navigator" program. This program will provide funds to social service agencies to establish toll-free hotlines, websites, and resource guides on the local and State parenting support available to kinship families. These hotlines and websites will give grandparents critical information about enrolling children in school, obtaining SCHIP, Medicaid and other health insurance, safeguarding their homes for small children, applying for housing assistance, obtaining legal services, finding childcare, and identifying parental support groups so that women like Maria have someone to talk to about their experiences.

The kinship navigator program will promote partnerships between government agencies, not-for-profit and faith-based organizations to help them better serve the needs of kinship care families.

The second part of this legislation will make it possible for kinship families who serve as permanent legal guardians to receive the same payments that foster families would receive. This is extremely important because many grandparents want to raise their grandchildren but, like Susan, simply cannot afford to do so.

States will have the option to use their title IV–E funds to provide payments to grandparents and other relatives who have assumed legal guardianship of the children they've cared for as foster parents. Families would be eligible if the child has been under the care of the State agency for at least 12 months and was eligible for foster care maintenance payments.

There are a few States, such as Illinois and Maryland, that have already implemented subsidized guardianship waivers through the Health and Human Services demonstration project. These States have shown that subsidized guardianship is a cost-neutral and effective way to keep families together. My legislation will make it possible for all States to follow in their path. It values families that care for each other.

The final part of this legislation will require States to notify grandparents when children enter the foster care system. Unfortunately, grandparents and other relatives often do not know when their grandchildren or nieces and nephews come under the care of the State. By notifying grandparents and other relatives when children enter the foster care system, we can make it a lot easier for families to stay together.

I also want to note that in May of this year, the Pew Commission on Children in Foster Care recommended that children who live with a permanent legal guardian should receive federal guardianship assistance. This commission is widely considered to be one of the most comprehensive investigation of child welfare financing policy in decades and is chaired by a bipartisan group of child welfare experts, including legislators, state administrators, family service providers, judges, foster and adoptive parents, and former foster youth. It is encouraging that their recommendations are in line with the legislation I am introducing today.

I am very pleased with this legislation; it shows that we are moving in the right direction toward helping the thousands of children and the relatives that care for them in this country. I look forward to working with my colleagues to pass this bill in the Senate.

By Mr. LIEBERMAN:

S. 2708. A bill to develop the National Strategy for Homeland Security, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation to forge a comprehensive and effective strategy for our homeland security.

Before 9/11, we did not truly perceive the threat of terrorism on our own soil, and what homeland security efforts we did have underway were badly divided. Dozens of agencies responsible for pieces of our homeland security were scattered across the Federal Government, and were largely unconnected to state and local officials and first responders on the front lines in our Nation's cities and towns. There were confusing overlaps and, more critically, treacherous gaps. And because everyone was responsible for parts of the effort, no one was ultimately in charge.

We took one large step to remedy these weaknesses by creating the Department of Homeland Security. The Department brings more than two dozen of the Federal Government's critical homeland security agencies and programs under one roof, allowing for unprecedented coordination and cooperation. It also created a Cabinet Secretary charged with managing the budgets and personnel of these agencies, and capable of providing a focal point for homeland programs and issues in the Cabinet and beyond.

But we knew that in addition to creating a better organization, we would need to lay out a clear roadmap to galvanize our homeland defenses—at all levels of government and the private sector. That is what many of us called for and, regretfully, it is something this Nation still sorely lacks.

The Administration did produce a "National Strategy for Homeland Security" in July 2002 that correctly identified many of the challenges we face in preparing to meet the threat of terrorism. But that document predates the creation of the Department of Homeland Security and is already out of date. More significantly, it failed to set priorities, clear deadlines and accountability for the vast array of homeland security tasks we face.

As the highly regarded Gilmore Commission on terrorism noted in its final report last December: "Much is still required in order to achieve an effective, comprehensive, unified national strategy and to translate vision into action.

Notably absent is a clear prioritization for the use of scarce resources against a diffuse, unclear threat as part of the spectrum of threats—some significantly more common than terrorism. The panel has serious concern about the current state of homeland security efforts along the full spectrum from awareness to recovery, worried that efforts by the government may provide the perception of enhanced security that causes the Nation to become complacent about the many critical actions still required."

While it is true that the Department of Homeland Security is proceeding with some more targeted strategies regarding specific areas of concern, these cannot replace a comprehensive strategy that sets the ultimate policies and priorities for our homeland effort.

That is why I am introducing legislation requiring a new homeland security strategy that can provide the strong, precise national guidance we need on this critical issue.

In a February 3, 2004 report, the General Accounting Office surveyed seven existing Federal strategies related to terrorism—including the National Strategy for Homeland Security—and laid out guiding principles to improve these strategies. My legislation incorporates these principles, which stress accountability and prioritization as requirements for a new homeland security strategy. The new strategy must include a hierarchy of strategic goals and indicate the specific activities needed to achieve those goals, as well as the likely costs, and how such funds should be generated. In other words, the strategy must make real choices about priorities and resources. The current strategy identifies many goals, but rarely provides deadlines for action, standards or performance measures to assess progress, or details on the resources required for stated initiatives.

The strategy must clearly spell out organizational roles and responsibilities, including the proper roles of State, local, private and international actors and the coordinating mechanisms to bring these actors together. Almost three years after 9/11, we still too often must ask "who is in charge?" of key pieces of our homeland security agenda. And, critically, the homeland security strategy must address how it relates to other Federal strategies regarding terrorist threats, and how the strategies will be integrated.

The legislation also highlights certain substantive areas that should be addressed, such as a thoroughgoing strategy to maximize information sharing related to homeland security throughout the Federal Government and with state and local officials and, where appropriate, the private sector. The strategy must look at preparing the public health sector to detect and respond to terrorist attacks, at integrating military capabilities into our homeland security planning, at building all-hazards preparedness throughout all levels of government and the private sector, and securing our critical infrastructure, much of which is in private hands.

The bill would require that the strategy be written every four years, with updates every two years and annual progress reports to be submitted in conjunction with the President's annual budget request. Recognizing that many Federal agencies outside the Department of Homeland Security play a critical part in homeland security, it calls on the Assistant to the President for Homeland Security to help the Secretary construct the strategy.

Importantly, it would create an independent panel of experts to review the strategy and offer alternative proposals as appropriate—a so-called "Team B" to provide decision makers with alternative perspectives and solutions for consideration. This nonpartisan panel, to be called the Homeland Security Commission, would consist of nine members appointed by the Secretary in consultation with Congress. The members would be recognized experts in the field of homeland security and cannot be current officers or employees of the Federal Government. This Commission is modeled on the successful National Defense Panel, which helped guide strategic planning for our military forces. This Commission can help ensure that we marshal all the best ideas to defend our homeland and do not fall into complacent, or narrow ways of thinking about the threats we face. We know that terrorists are always adapting their strategies and techniques. We must do no less.

We meet today amid ongoing, and indeed heightened, threats of terrorist attacks on our homeland. We need not be intimidated, but we must be prepared. A new and more forceful national strategy will help energize and organize our resources—at all levels of government and within the private sector—to meet this threat. I urge my colleagues to support this legislation to give us such a strategy.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Strategy for Homeland Security Act of 2004".

SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) COMMISSION.—The term "Commission" means the Homeland Security Strategy Commission established under section 4.

(2) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(3) STRATEGY.—The term "Strategy" means the National Strategy for Homeland Security developed under this Act.

SEC. 3. NATIONAL STRATEGY FOR HOMELAND SECURITY.

(a) DEVELOPMENT AND SUBMISSION OF STRATEGY.—

(1) DEVELOPMENT.—The Secretary, under the direction of the President, and in collaboration with the Assistant to the President for Homeland Security and the Homeland Security Council, shall develop the National Strategy for Homeland Security for the detection, prevention, protection, response, and recovery with regard to terrorist threats to the United States.

(2) SUBMISSION TO CONGRESS.—

(A) INITIAL SUBMISSION.—Not later than December 1, 2005, and not later than December 1st of each year in which a President is inaugurated, the Secretary shall submit the Strategy to Congress.

(B) BIENNIAL UPDATE.—Not later than 2 years after each submission of the Strategy under subparagraph (A), the Secretary shall submit to Congress an updated version of the Strategy.

(C) PROGRESS REPORTS.—Each year, in conjunction with the President's budget request, the Secretary shall provide an assessment of progress on implementing the Strategy, including the adequacy of resources to meet the objectives of the Strategy, and recommendations to improve and implement the Strategy.

(3) CLASSIFIED MATERIAL.—Any part of the Strategy that involves information that is properly classified under criteria established by Executive Order shall be submitted to Congress separately in classified form.

(b) COORDINATION WITH THE ASSISTANT TO THE PRESIDENT FOR HOMELAND SECURITY.—The Secretary shall seek the assistance of the Assistant to the President for Homeland Security and the Homeland Security Council to—

(1) coordinate the input of Federal departments and agencies outside the Department of Homeland Security, which have homeland security responsibilities; and

(2) work with the Secretary on all aspects of the Strategy.

(c) CONTENTS.—

(1) IN GENERAL.—The Strategy shall include—

(A) a comprehensive statement of purpose, mission, and scope;

(B) threat, vulnerability, and risk assessment and analysis, including an analysis of the threats and vulnerabilities regarding critical infrastructure, assets, and operations and a description of the role of the Homeland Security Institute in conducting such risk assessments;

(C) a statement of desired end-states, including a hierarchy of strategic goals and subordinate objectives, as well as specific activities for achieving results and specific priorities, milestones, and performance measures to monitor progress toward goals;

(D) an assessment of necessary resources and investments to achieve strategic goals, including the types of necessary resources involved and resource allocation mechanisms;

(E) a delineation of organizational roles and responsibilities across the many entities involved in homeland security efforts, including—

(i) the proper roles and responsibilities of State, local, private, and international sectors, and a designation of coordinating mechanisms; and

(ii) other specific measures to enhance cooperative efforts between the Federal government and the sectors described in clause (i); and

(F) an explanation of the relationship between the Strategy and other Federal strategies addressing terrorist threats, including how these strategies will be integrated, and details on subordinate strategies within the Department of Homeland Security regarding specific aspects of homeland security.

(2) ADDITIONAL CONTENTS.—In addition to the items listed in paragraph (1), the Strategy shall include—

(A) policies and procedures to maximize the collection, translation, analysis, exploitation, and dissemination of information relating to combating terrorism and the homeland security response throughout the Federal government, and with State and local authorities, and, as appropriate, the private sector;

(B) plans for countering chemical, biological, radiological, nuclear and explosive, and cyber threats;

(C) plans for the coordination with, and integration of, the capabilities and assets of the United States military into all aspects of the Strategy, as appropriate;

(D) plans for improving the resources of, coordination among, and effectiveness of, health and medical sectors for preventing, detecting, and responding to terrorist attacks on the homeland;

(E) measures needed to enhance transportation security with respect to potential terrorist attacks, including aviation and non-aviation modes of transportation;

(F) measures, based on the risk assessments under paragraph (1)(B), to identify and prioritize the need for protective and support measures for critical infrastructure and plans to secure these key assets;

(G) an assessment of the Nation's ability to prevent, respond to, and recover from threatened and actual domestic terrorist attacks, and measures to enhance such preparedness across all levels of government and the private sector;

(H) measures to secure the Nation's borders from terrorist threats, including agroterror, while continuing to facilitate the flow of legitimate goods and visitors;

(I) plans for identifying, prioritizing, and meeting research and development objectives to support homeland security needs; and

(J) plans for addressing other critical homeland security needs.

(d) COOPERATION.—At the request of the Secretary or the Assistant to the President for Homeland Security, Federal agencies shall provide necessary information or planning documents relating to the Strategy.

SEC. 4. NATIONAL HOMELAND SECURITY COMMISSION.

(a) ESTABLISHMENT.—The Secretary shall establish a nonpartisan, independent commission to be known as the Homeland Security Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 9 members, including a chair, who shall be appointed by the Secretary, in consultation with the chairman and ranking member of—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Select Committee on Homeland Security of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission appointed under paragraph (1)—

(A) shall be recognized experts in matters relating to the homeland security of the United States; and

(B) shall not be officers or employees of the Federal Government.

(3) PERIOD OF APPOINTMENT.—Each member of the Commission shall be appointed to the Commission for an 18-month term, which shall begin on December 1, 2005.

(4) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings. A quorum is required to approve any report issued by the Commission, but a minority of members may submit an appendix to be included in such report.

(c) DUTIES.—The Commission shall conduct an independent, alternative assessment of the optimal policies and programs to improve homeland security against terrorist threats, including, to the extent practicable, an estimate of the funding required each fiscal year to support such policies and programs.

(d) COMPENSATION.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

(e) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(f) STAFF.—

(1) IN GENERAL.—The Chair of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director (subject to Commission confirmation) and such other additional personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—The Chair of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and, subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and all employees of the Commission shall be employees under section 2015 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of such title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not apply to members of the Commission.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(g) ADMINISTRATIVE PROVISIONS.—

(1) USE OF MAIL AND PRINTING.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) SUPPORT SERVICES.—The Secretary shall furnish the Commission any administrative and support services requested by the Commission.

(3) GIFTS.—The Commission may accept and dispose of gifts or donations of services or property.

(h) PAYMENT OF COMMISSION EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Commission shall be paid out of funds available to the Department for the payment of compensation, travel allowances and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Commission shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

(i) REPORT.—Not later than December 1, 2006, the Commission shall submit, to the committees referred to under subsection (b)(1), a report that—

(1) describes the activities, findings, and recommendations of the Commission; and

(2) provides recommendations for legislation that the Commission considers appropriate.

By Mr. NELSON of Florida:

S. 2711. A bill to establish a National Windstorm Impact Reduction Program; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, I rise today in support of a bill I introduced today to set up a national program to reduce the loss of life and property due to windstorms.

This bill recently passed the House of Representatives and it will be addressed and hopefully passed during the Senate Commerce Committee markup tomorrow.

We all know the catastrophic damage that windstorms can cause. In fact, the highest level of material damage and loss of life in this country has been attributed to hurricanes, tropical storms, tornadoes and thunderstorms.

My State of Florida, as a coastal State, has been especially affected.

In 1992, Hurricane Andrew caused losses in excess of $26.5 billion.

And annually the average financial loss due to tornadoes, thunderstorms and hurricanes is $6.3 billion. So increasing our understanding of windstorms, assessing the performance of our buildings, structures and infrastructures during windstorms, reducing the impact of wind hazards through retrofitting buildings and changing construction practices and transferring this knowledge to the pubic and building professionals is desperately needed.

And this bill accomplishes all of those things.

It is a coordinated plan to reduce material losses and human suffering.

An interagency working group consisting of representatives of the National Science Foundation, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology and the Federal Emergency Management Agency will be responsible for planning and managing this program.

The program will have three goals: Improved understanding of windstorms, windstorm impact assessment, and windstorm impact reduction.

How do we achieve this? Data collection and analysis, outreach, technology transfer, and research and development.

As a result of this program, we will translate existing and future information and research findings into cost-effective and affordable practices for design and construction professionals, and State and local officials.

And this interagency group will provide biennial updates of their progress to Congress so we know what progress has been made and what more needs to be done.

We'll also get a broad cross-section of interests involved through an advisory committee—so that real-life issues are addressed and onsite expertise is utilized.

And my hope is that the devastation of Hurricane Andrew will never be experienced again in my State of Florda or in any other State.

This bill and help us achieve that and I urge my collegues' support.

By Mr. DOMENICI (for himself and Mr. KENNEDY):

S. 2713. A bill to amend the Public Health Service Act to revise the amount of minimum allotments under the Projects for Assistance in Transition from Homelessness program; to the Committee on Health, Education, Labor, and Pensions.

Mr. DOMENICI. Mr. President, I rise today with my friend Senator KENNEDY to introduce a bill that will raise the minimum grant amounts given to States and territories under the PATH program. The PATH program provides services through formula grants of at least $300,000 to each State, the District of Columbia and Puerto Rico and $50,000 to eligible U.S. territories. Subject to available appropriations, this bill will raise the minimum allotments to $600,000 to each State and $100,000 to eligible U.S. territories.

When the PATH program was established in FY1991 as a formula grant program, Congress appropriated $33 million. That amount has steadily increased over the years with Congress appropriating $50 million this past year. However, despite these increases, States and territories such as New Mexico that have rural and frontier populations, have not received an increase in their PATH funds. Under the formula, as it currently exists, many States and territories will never receive an increase to their PATH program, even with increasing demand and inflation. This problem is occurring in my home state of New Mexico as well as twenty-five other States and territories throughout the United States.

The PATH program is authorized under the Public Health Service Act and it funds community-based outreach, mental health, substance abuse, case management and other support services, as well as a limited set of housing services for people who are homeless and have serious mental illnesses. Program services are provided in a variety of different settings, including clinic sites, shelter-based clinics, and mobile units. In addition, the PATH program takes health care services to locations where homeless individuals are found, such as streets, parks, and soup kitchens.

PATH services are a key element in the plan to end chronic homelessness. Every night, an estimated 600,000 people are homeless in America. Of these, about one-third are single adults with serious mental illnesses. I have worked closely with organizations in New Mexico such as Albuquerque Health Care for the Homeless and I have seen firsthand the difficulties faced by the more than 15,000 homeless people in New Mexico, 35 percent of whom are chronically mentally ill or mentally incapacitated.

PATH is a proven program that has been very successful in moving people out of homelessness. PATH has been reviewed by the Office of Management and Budget and has scored significantly high marks in meeting program goals and objectives. Unquestionably, homelessness is not just an urban issue. Rural and frontier communities face unique challenges in serving PATH eligible persons and the PATH program funding mechanisms must account for these differences.

Thank you and I look forward to working with my colleague Senator KENNEDY on this important issue.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINIMUM ALLOTMENTS UNDER THE PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS PROGRAM.

Section 524 of the Public Health Service Act (42 U.S.C. 290cc–24) is amended to read as follows:

"SEC. 524. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) DETERMINATION UNDER FORMULA.—Subject to subsection (b), the allotment required in section 521 for a State and Territory for a fiscal year is the product of—

"(1) an amount equal to the amount appropriated under section 535 for the fiscal year; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the population living in urbanized areas of the State involved, as indicated by the most recent data collected by the Bureau of the Census; and

"(B) an amount equal to the population living in urbanized areas of the United States, as indicated by the sum of the respective amounts determined for the States under subparagraph (A).

"(b) MINIMUM ALLOTMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the allotment for a State under section 521 for a fiscal year shall, at a minimum, be the greater of—

"(A) the amount the State or Territory received under section 521 in fiscal year 2004; and

"(B) $600,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $100,000 for each of Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(2) CONDITION.—If the funds appropriated in any fiscal year under section 535 are insufficient to ensure that States and Territories receive a minimum allotment in accordance with paragraph (1), then—

"(A) no State or Territory shall receive less than the amount they received in fiscal year 2004; and

"(B) any funds remaining after amounts are provided under subparagraph (A) shall be used to meet the requirement of paragraph (1)(B), to the maximum extent possible.".

By Mr. DASCHLE:

S. 2714. A bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs; read the first time.

Mr. DASCHLE. Recently, the Majority Leader pulled the class-action reform legislation from consideration after the Senate failed to invoke cloture on the bill. We all know he would have had the votes for cloture if he had not played games with the amendment process. Instead, he proposed allowing Democrats only five non-germane amendments and insisted that he choose which amendments could be offered. He insisted that under no circumstances could we offer a bipartisan bill to legalize the safe importation of lower-priced prescription drugs from Canada and other industrialized countries. The Majority Leader no doubt feared that the re-importation legislation would pass as a result of the broad bipartisan support it enjoys. But the drug industry didn't want lower prices, and we were prevented from offering our amendment.

The re-importation bill is just one of many health measures currently pending in Congress that would help Americans who are struggling with the high costs of care, drugs, and insurance. These bills have broad support—some even have Republican lead sponsors—and we should be considering them here in the Senate. In fact, it is our obligation to do so. Yet most of these bills continue to languish in committee while the majority plays procedural games with the amendment process and spends countless hours on bills and measures that the Majority Leader knows do not have the votes to pass.

In response, over the past week, we have begun the process of putting these measures on the calendar. We are doing so to highlight that these critical bills are available for consideration on the Senate floor, and to show how important it is to pass them and send them to the President for his signature as soon as possible.

Today, I would like to discuss a measure I first introduced on the day the conference report to the Medicare bill passed the Senate. This proposal was included in a broader piece of legislation that we introduced that day in response to the conference report, and, on December 9, I introduced it as a stand-alone measure. It is a very simple bill. It would strike the prohibition contained in last year's Medicare legislation that prohibits the government from using the power of 41 million beneficiaries to negotiate lower drug prices for seniors. Senators on both sides of the aisle have expressed support for striking that provision. Senators who supported the conference report have joined with those who opposed it, such as myself, in cosponsoring my bill. That's because it just makes sense.

The new Medicare law does almost nothing to rein in skyrocketing prescription drug costs. In fact, it actually prohibits Medicare from using its bargaining power to negotiate lower prices. We have seen the VA's success at negotiating lower prices. Similarly, we should use the power of Medicare's beneficiary population to obtain lower prices for seniors and people with disabilities. Rather than fragmenting the population to dilute our ability to negotiate lower costs, we have an obligation—both to Medicare beneficiaries and to American taxpayers—to secure the lowest possible prices. That's what my bill would do.

It's time for the Senate to side with seniors and taxpayers over the drug industry. It's time for the Senate to pass this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Prescription Drug Price Reduction Act of 2004".

SEC. 2. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following:

"(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that each part D eligible individual who is enrolled under a prescription drug plan or an MA–PD plan pays the lowest possible price for covered part D drugs, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements of this part and in furtherance of the goals of providing quality care and containing costs under this part.".

By Mr. COLEMAN:

S. 2715. A bill to improve access to graduate schools in the United States for international students and scholars; to the Committee on the Judiciary.

Mr. COLEMAN. Madam President, September 11, 2001, was a day that changed America forever. It taught us that oceans cannot protect us from those who are fanatically devoted to harming us. The world has changed after September 11. The American experience, realities, changed after September 11. We live with greater uncertainty. We live with greater fear and concern about attack. We have, even those in this Chamber, gone through the process of thinking the unthinkable, thinking about attacks on our soil, on our towns, on our country.

The good news is that in the last 2½ years since September 11, America has not experienced another experience like that. It appears as if the measures we have taken have had some effect. The PATRIOT Act was passed with overwhelming support. It is now the subject of some debate, but let's not debate the importance of doing those things that protect this country from attack. The PATRIOT Act has clearly been part of that.

The efforts of our President in rooting out the Taliban and getting rid of Saddam have all had an impact on making this country safer. But there are no guarantees. Clearly, even today—we have the September 11 Commission report coming out tomorrow; we have the Senate Intelligence Committee report coming out, reviewing what we did, should have done, and what we could do better.

The bottom line is we want to make sure this never happens again. The effort to improve our safety and security is important. This is not a game. This is not to raise the fear for political purposes; this is the reality of the world in which we live.

But I do believe there is at least one area where our policy regarding security and measures we are taking to improve security should be examined and changed. That is why today I am introducing the International Student and Scholar Access Act.

Again, we all know there is absolutely no such thing as an absolute guarantee of absolute security in a free society, so what we do is measure the level of threat against the loss of certain other values and then we try to strike a balance. In the area of student visas, I believe we have pushed security concerns beyond the logical point and need to make adjustments to our policy.

This is what I am talking about. America has been home to foreign students in great numbers for many years. If you go to the University of Minnesota, you see students from all over the world. The same is true in our private schools in Minnesota. The University of St. Thomas has a great international student program. Those are good programs.

What those programs do is provide young people from around the world an opportunity to study in America, to understand the American experience, to understand American values, to understand the American way of life. That is a good thing.

Unfortunately, I believe one of the terrorist hijackers on September 11 was an individual who had a student visa. He did not attend school. No one followed up. As a result of that, what happened is we looked at that student visa policy and said: We have to make changes.

I understand that. I understand we have to tighten up standards. I understand we have to be more careful about those who claim to be students who come into our country.

But I believe the result of what has been well intentioned—what is important, the security of our country; nothing is more important than the role of Government to make sure we are secure—in regard to student visas has been to push the ball a little too far. I think what we are seeing now is there are scores of young people who would like to be part of the American experience, who would like to study in our schools, who would like to understand American culture and American values, young people who, 20 or 30 years from now, when they are the Presidents and Vice Presidents and Ambassadors and Ministers of their country, would have a relationship, saying: I went to the University of Minnesota. I went to the University of Maine. I went to the University of Saint Thomas. I went to Bowdoin College. I understand what you are about and would like to be a partner with you.

I think we are at a point now where, in reaction to 9/11, what we are doing with student visas is to have kind of turned it around. Now that it is a national security issue, I think we are missing the opportunity for a lot of young people to become part of and understand and share in the American experience.

So now we have visa processes that are structured in a way that produces results that I don't think we want. They require that consular officers in our Embassies spend far too much time on people who do not threaten this country and excluding too many of them. That does not leave them enough time to deal with those folks who are a genuine threat.

It is the equivalent of a police roadblock. We are stopping so many innocent people that it calls into question if this is a good use of Government resources and power.

Again, it is in the interest of the United States of America to bring in the best and brightest foreign students to study in America. These are people who will lead their nations one day. The experience they gain with our democratic system and our values gives them a better understanding of what America is and who Americans are.

I had an opportunity the other day to spend time with a young woman from Iraq, a Kurd from Kirkuk. She was there to kind of shadow us and understand a little bit about American—this system of government. I thought—she had 1 day—just think if we had 4 years of her being here, or 5 years, and she came to understand this country and its history and its people and its culture and its ways and its values, and she carried that in her heart back to her country, with the opportunities we would have along the way to strengthen those relationships.

We hear so much today about anger at Americans, about hate directed toward Americans. But this is in a world that, at times, I think may hate us because they don't know us. They don't know us. They know what they see on Al-Jazeera or they know what they hear from some political leader who may disagree with the kind of government and the democracy and the values we have.

International education represents an opportunity to break down those barriers. I think some who hate this Nation do so out of ignorance. Foreign students who return to their nations many times become ambassadors of good will and understanding.

And don't discount the personal relationships. In our lives, we may see friends who we met back in college, people we have not seen in 20 years. When we run into those friends, there is a bond. Our young educated people become our leaders, not just in Government but in business, in industry, in education. The same is true throughout the world. The world is not such a big place. It is not such a big place when you have these human connections.

So these young people go back to their countries, young people who studied here, who learned of our ways, and they become ambassadors of good will and understanding, and they speak with credibility about the freedoms that spur American success.

Foreign students also help our economy. Higher education is a major service sector export, bringing in $12 billion to the U.S. economy every year. Competitors, such as the United Kingdom, Canada, and Australia are gaining market share while the United States is losing. Total international applications to U.S. graduate schools for the fall of 2004 declined 32 percent from the fall of 2003. Fifty-four percent of English as a second language programs have reported declines in applications.

When you think about the economy, it is not just a tourist economy. People are coming here to spend money. I had an opportunity to be involved in a series of meetings with some of my colleagues, chaired by Senator BAUCUS, the ranking member of the Finance Committee, and bringing in leaders of American industry, the CEOs of some of the largest corporations in America, to talk about what we have to do to ensure American competitiveness in this global economy. One of the issues these CEOs mentioned was the difficulty in having foreign students come to our country and the impact it has on their opportunities for success and innovation, and the impact that has on the American economy.

It is not just a long-term national security issue; it is an economic development and opportunity issue. We are shortchanging ourselves by losing access to talent.

The legislation I introduce today is an effort to reverse the decline in foreign access to U.S. education. My legislation seeks to promote foreign study in America by urging strategic thinking and by making commonsense changes to the way we process visa applications.

This legislation would help to clarify the often overlapping roles between lead agencies that work on international education—the Departments of State, Commerce, Homeland Security, and Education.

It proposes improvements related to SEVIS fees for tracking foreign students, by prorating fees for short-term students and allowing them to make payments in their local currencies. There is a process of payments that are made. If you are here for a short term, you pay as much as for a long term. It is another barrier, another impediment to providing an opportunity for foreign students to be here.

It would set goals for more timeliness and certainty in the visa process. It would press the State Department for commonsense improvements to give more discretion on personal appearance requirements and on the duration of security clearances. It would improve the interoperability between databases of the FBI and the State Department.

Perhaps the most critical part of my bill deals with the criteria for student visas. Currently, consular officers have to prove that a student visa applicant has essential ties which will ensure his or her return to his or her own country after study is complete. This requirement poses an unrealistic burden on students who are typically not yet sufficiently well established in their societies to be able to demonstrate a likelihood of return. In reality, international students are often encouraged to stay in the U.S. after they have completed their studies, by changing their status to that of H-1B, for example.

An observation on this, and let me go just a little bit more about the legislation, because what it does is it calls for a more realistic standard for student visas. That is what we really need.

My legislation replaces the criteria of expected return with two other criteria. Students would have to demonstrate that they intend to come to the U.S. to complete a legitimate course of study, and that they have the financial means for doing so.

Let me explain why that makes so much more sense. The reality is, if we have a bright and enterprising student from Africa, from Uganda, or from Argentina, from Latin America somewhere, the issue we need to be concerned about is whether they are really coming here to study. The concern over 9/11 is, you had folks who came here who were using that to gain entry into this country. Are they coming here to study? Is it a legitimate course of study? Do they have the means to do so? Are they coming here for the purpose they intended?

Afterwards, if we have a highly trained and highly qualified college graduate from Uganda and they do whatever has to be done legally in terms of dealing with immigration, what is the issue? Why would you not want to have them here a little longer if they are going to contribute to the economic growth, to the increase in brainpower, to all the things that need to be done to make sure America stays competitive in this new global economy?

America is never going to compete with low-scale wages. We are past that. There is no way we can compete with China. Mexico can't compete with China today. America's economic success is tied to innovation and brainpower. That is our future. What we do to encourage that, certainly among folks here but also students from other countries who become part of that pool, who help us become more creative and entrepreneurial, is important.

I have to say—and I wouldn't be surprised if the Senator from Maine has not had the same experience—this issue consumes a lot of my time and that of my case workers back in Minnesota. Time and again they are asked by Minnesota colleges and universities to make a plea to the State Department to help process a foreign student's visa. These are students who want to come to the United States, who have the intellectual assets that all can gain from, who have scholarships or other resources to take care of themselves while in America. But because they don't have spouses or homes in their native lands, they are rejected for their student visas. What sense does that make? How does that further the interests of those in the United States? How does it further the interests of our colleges and universities that benefit from quality students, benefit from the diversity brought by students from Africa or from Asia, benefit from having a broader kind of dialog and exchange about what this world is all about?

I had a particular case of a talented young man from Uganda named Humphrey. Humphrey had a full ride to St. Thomas University in St. Paul, MN, which—I note with great pride—my son entered. He had his orientation just the other day. I have a personal interest in St. Thomas, but that is not the reason I advocated for Humphrey. Humphrey was a research assistant with Professor Martin O'Reilly at Uganda Martyrs University. Dr. O'Reilly stated:

> With service for 22 years in African countries, this is the most impressive student and human being I have ever known. He is one in a million.

Humphrey is a psychology student. His goal is to return to Africa and offer counseling services on a continent where the psychological scars are so deep. We just heard my friend and colleague from Illinois talking about the brutality, the genocide in Sudan. We know of what happened in Rwanda. We know the scars that need to be healed. Humphrey wants to go back and offer services where psychological scars are deep. Yet his visa application was rejected more than once because he could not prove to a consular officer that he intended to return to Uganda. I called that consular officer at one time, not to pressure as a Senator but just to ask them to take a look at the application. Don't let it just kind of get processed run of the mill because we have a process now that makes it difficult for students to come here. Take a look at it and then make a judgment, if the judgment is pretty clear.

I am happy to say that Humphrey's visa application was finally accepted and he began study in January. I fear that there are too many people like him who will not be educated in America. We will lose not only their wisdom but also the chance to show them what makes America so great. I believe in the tougher measures we implemented after September 11, but I think we have to be smarter with how we use these tools. I think we can strike a better balance between security and the value of bringing the world here to be educated. And that is in America's long-term interest.

I urge my colleagues to consider this important issue and to support this legislation. It is in many ways a national security issue, national security not just in having a process in place that weeds out those who shouldn't be here but long-term national security, making sure that America has those relationships and those contacts with the future leaders of countries around this world and gives them the opportunity to be educated here. Right now they are being educated in other places, in England and France and Germany. We are missing an opportunity. There is no reason. We can do better than that.

Let us look at this issue. It is still my first term, and I haven't finished yet. I haven't finished the second year. I know it takes a while to get things done. But I think the clock is ticking on this issue. Each and every day we are missing an opportunity. Each and every day as we see the numbers of international student applications decline, as we see less and less of the opportunities to establish those relationships because of the policies we have in place, it cries out for change.

My legislation offers that change. I hope this body considers it, and I hope we make the change. As a result, I know we will build a stronger America. We will build a better America. That is the reason I think we are all here.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Student and Scholar Access Act of 2004".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States has a strategic need to improve its student visa screening process to protect against terrorists who would abuse the system to harm the United States.

(2) At the same time, openness to international students and exchange visitors serves longstanding and important United States foreign policy, educational, and economic interests, and the erosion of such exchanges is contrary to United States national security interests.

(3) Educating successive generations of future world leaders in the United States has long been an important underpinning of United States international influence and leadership.

(4) Open scientific exchange, which enables the United States to benefit from the knowledge of the world's top scientists, has long been an important underpinning of United States scientific leadership.

(5) The United States has seen a dramatic increase in requests for Visa Mantis checks designed to protect against illegal transfers of sensitive technology, from 1,000 in fiscal year 2000 to 20,000 in fiscal year 2003.

(6) Delays in issuing Visa Mantis security clearances have discouraged some international scholars from coming to the United States.

(7) International students and their families studying in the United States contribute close to $12,000,000,000 to the United States economy each year, making higher education a major service sector export.

(8) Delays in obtaining student visas have discouraged many international students from studying in the United States.

(9) Total international applications to graduate schools in the United States for fall 2004 declined 32 percent from fall 2003.

(10) The number of international students enrolled in the United States, which in raw numbers consistently increased over time and grew by 6 percent during both the 2000–2001 and 2001–2002 school years, leveled off dramatically during the 2002–2003 school year to an increase of only .6 percent.

(11) Concerns related to the anticipated international student monitoring system known as "SEVIS" have contributed to the decline in the number of foreign applicants to educational institutions in the United States.

(12) The United States requires a visa system for exchange programs that maximizes United States national security.

(13) The United States requires a comprehensive strategy for recruiting international students as well as enhancing the access of international students to higher education in the United States.

TITLE I—NATIONAL STRATEGY FOR ENHANCING INTERNATIONAL STUDENT ACCESS TO THE UNITED STATES

SEC. 101. STRATEGIC PLAN.

Not later than 180 days after the date of enactment of this Act, the President, in consultation with United States higher education institutions, organizations that participate in international exchange programs, and other appropriate groups, shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a strategic plan for enhancing international student access to the United States for study and exchange activities that includes:

(1) A marketing plan to makes use of Internet and other media resources to promote and facilitate study in the United States by international students.

(2) A clear division of responsibility that eliminates duplication and promotes interagency cooperation with regard to the roles of the Departments of State, Commerce, Education, and Homeland Security in promoting and facilitating access to the United States for international student and exchange visitors.

(3) A mechanism for institutionalized coordination of the efforts of Departments of State, Commerce, Education, and Homeland Security in facilitating access to the United States for international student and exchange visitors.

(4) An effective mandate and strategic plan for use of the overseas educational advising centers of the Department of State to promote study in the United States and to prescreen visa applicants.

(5) Well-defined lines of authority and responsibility for international students in the Department of Commerce.

(6) A clear mandate related to international student access for the Department of Education.

(7) Streamlined procedures within the Department of Homeland Security related to international student and exchange visitors.

SEC. 102. ANNUAL REPORTS TO CONGRESS.

(a) IN GENERAL.—The President, acting through the Secretary State and in consultation with the Secretary of Education, Secretary of Commerce, and Secretary of Homeland Security shall submit an annual report on the implementation of the national strategy developed in accordance with section 101 to Congress that would describe the following:

(1) Measures undertaken to enhance international student access to the United States and improve inter-agency coordination with regard to international students and exchange visitors as provided in section 101.

(2) Measures taken to implement section 202.

(3) The number of student and exchange visitors who apply for visas from the United States, and the number whose visas are approved.

(4) The average processing time for student and international visitor visas.

(5) The number of student and international visitor visas requiring inter-agency review.

(6) The number of student and international visitor visas approved after submission of the visa applications during each of the following durations:

(A) Less than 15 days.

(B) 15–30 days.

(C) 31–45 days.

(D) 46–60 days.

(E) 61–90 days.

(F) More than 90 days.

(b) SUBMISSION OF REPORT.—Not later than May 30 of 2005, and annually thereafter through 2008, the President shall submit to Congress the report described in subsection (a).

SEC. 103. REFORMING SEVIS FEE PROCESS.

(a) REDUCED FEE FOR SHORT-TERM STUDY.—Section 641(e)(4)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(e)(4)(A)) is amended in the second sentence, by inserting before the period the following: "or the admission of an alien under section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) for a program that does not exceed 90 days".

(b) IMPROVING FEE COLLECTION.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of State shall jointly submit to the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives a report on the feasibility of collecting the fee required by section 641(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(e))—

(1) in local currency at local financial institutions under procedures established by the Secretary of State; and

(2) by universities as part of a student's tuition and fees.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of State, Department of Education, Department of Homeland Security, and Department of Commerce such sums as may be necessary to carry out the activities described in section 101.

TITLE II—IMPROVING THE VISA PROCESS

SEC. 201. SENSE OF CONGRESS; PURPOSE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) improvements in visa processing would enhance the national security of the United States by—

(A) permitting closer scrutiny of visa applicants who might pose risks; and

(B) permitting the timely adjudication of visa applications of those whose presence in the United States serves important national interests; and

(2) improvements must include—

(A) an operational visa policy that articulates the national interest of the United States in denying entry to visitors who seek to harm the United States and in opening entry to legitimate visitors, to guide consular officers in achieving the appropriate balance;

(B) a greater focus by the visa system on visitors who require special screening, while minimizing delays for legitimate visitors;

(C) a timely, transparent, and predictable visa process, through appropriate guidelines for inter-agency review of visa applications; and

(D) a provision of the necessary resources to fund a visa processing system that meets the requirements of this title.

(b) PURPOSE.—It is the purpose of this title to specify the improvements described in subsection (a).

SEC. 202. VISA PROCESSING GUIDANCE.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of State—

(1) shall issue appropriate guidance to consular officers in order to—

(A) give consulates appropriate discretion to grant waivers of personal appearance in order to minimize delays for legitimate travelers while permitting more thorough interviews of visa applicants in appropriate cases;

(B) give consulates appropriate discretion to allow security clearances under the Visas Mantis system to be valid for the duration of status or program, in order to avoid repetitive reviews of those visitors who leave the United States temporarily; and

(C) establish a presumption of visa approval for frequent visitors who have previously been granted visas for the same purpose and who have no status violations; and

(2) in consultation with the Director of the Office of Science and Technology Policy and appropriate representatives of the United States scientific community, shall issue appropriate guidance to consular officers in order to refine controls on the entry of visitors who propose to engage in study or research in advanced science and technology in order to ensure that only cases of concern, and not nonsensitive cases, are subjected to special review.

(b) TIMELINESS STANDARDS.—Not later than 60 days after the date of enactment of this Act, the President shall institute guidelines for inter-agency review of visa applications requiring security clearances which establish the following standards for timeliness in international student and visitor visas:

(1) Establish a 15-day standard for responses to the Department of State by other agencies involved in the clearance process.

(2) Establish a 30-day standard for completing the entire inter-agency review and advising the consulate of the result of the review.

(3) Provide for expedited processing of any visa application with respect to which a review is not completed within 30 days, and for advising the consulate of the delay and the estimated processing time remaining.

(4) Require the establishment of a process by which the applicant, or the program to which the applicant seeks access, can inquire about the application's status and the estimated processing time remaining.

(5) Establish a special review process to resolve any cases whose resolution is still pending after 60 days.

SEC. 203. INTEROPERABLE DATA SYSTEMS AT THE FBI.

(a) RESPONSIBILITIES OF THE FBI DIRECTOR.—The Director of the Federal Bureau of Investigation shall take the steps necessary to ensure that—

(1) the Federal Bureau of Investigation's databases and systems used in the National Name Check Program are interoperable with the requisite databases and systems at the Department of State;

(2) the files of the Federal Bureau of Investigation are automated and a common database is set up between the field offices and headquarters of the Federal Bureau of Investigation; and

(3) the Federal Bureau of Investigation has full connectivity to the Consular Consolidated Database through the Open Source Information System.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall report to the Committees on the Judiciary of the Senate and the House of Representatives on progress in implementing subsection (a).

SEC. 204. SETTING REALISTIC STANDARDS FOR VISA EVALUATIONS.

(a) IN GENERAL.—Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) is amended—

(1) by striking "having a residence in a foreign country which he has no intention of abandoning" and inserting "having the intention, capability, and sufficient financial resources to complete a course of study in the United States"; and

(2) by striking "and solely" after "temporarily".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is amended by striking "subparagraph (L) or" and inserting "subparagraph (F), (J), (L), or".

SEC. 205. REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on—

(1) the feasibility of expediting visa processing for participants in official exchange programs, and for students, scholars, and exchange visitors through prescreening of applicants by sending countries, sending universities, State Department overseas educational advising centers, or other appropriate entities;

(2) the feasibility of developing abilities to collect biometric data without requiring a visit to the Embassy by the visa applicant; and

(3) the implementation of the guidance described in subsections (a) and (b) of section 202, including the training of consular officers, and the effect of this guidance and training on visa processing volume and timeliness.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out to carry out this Act for the consular affairs function of the Department of State, the visa application review function of the Department of Homeland Security, and for database improvements in the Federal Bureau of Investigations as specified in section 203.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 413—ENCOURAGING STATES TO CONSIDER ADOPTING COMPREHENSIVE LEGISLATION TO COMBAT HUMAN TRAFFICKING AND SLAVERY AND RECOGNIZING THE MANY EFFORTS MADE TO COMBAT HUMAN TRAFFICKING AND SLAVERY

Mr. CORNYN (for himself, Mr. SCHUMER, Mr. GRAHAM of South Carolina, Mr. LEAHY, and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 413

Whereas it has been nearly 2 centuries since the abolition of the transatlantic slave trade, and well over a century since the ratification of the 13th amendment to the Constitution of the United States;

Whereas most Americans would be shocked to learn that the institutions of slavery and involuntary servitude continue to persist today—not just around the world, but hidden in communities across the United States;

Whereas according to Federal Government estimates, approximately 800,000 human beings are bought, sold, or forced across the world's borders each year—including approximately 16,000 human beings into the United States each year—and are coerced into lives of forced labor or sexual servitude that amount to a modern-day form of slavery;

Whereas the 13th amendment to the Constitution of the United States, ratified in 1865, abolishes the institutions of slavery and involuntary servitude;

Whereas numerous provisions of chapter 77 of title 18 of the United States Code have criminalized slavery since 1909;

Whereas the late Senator Paul Wellstone joined in a bipartisan manner with Senator Sam Brownback and many other Senators and Representatives to advance legislation to strengthen those laws, leading to the enactment of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.), which was signed into law by President Bill Clinton;

Whereas Congress made further bipartisan improvements to the law when it enacted the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193), which was signed into law by President George W. Bush;

Whereas the Department of Justice, under the leadership of its Civil Rights Division, has worked during the Clinton and Bush presidencies to strengthen anti-trafficking laws and to increase its own efforts to combat human trafficking and slavery in light of those recent bipartisan enactments;

Whereas the Trafficking in Persons Office of the Department of State continues to fight human trafficking around the world;

Whereas many nongovernmental organizations have made exceptional contributions to the prevention of human trafficking and to the care and rehabilitation of victims of human trafficking;

Whereas survivors of human trafficking crimes risk their lives and the lives of their families to assist in the investigation and prosecution of their former captors;

Whereas effective prosecution of human trafficking crimes will not be possible unless adequate protections are offered to the survivors;

Whereas the fight to eliminate human trafficking and slavery requires the involvement of State and local law enforcement officials, as well as Federal law enforcement efforts;

Whereas the enactment of comprehensive State laws criminalizing human trafficking and slavery may be necessary to ensure that Federal efforts are accompanied by robust efforts at the State and local levels;

Whereas the States of Texas, Washington, Missouri, and Florida have recently enacted comprehensive State criminal laws against human trafficking and slavery;

Whereas the Department of Justice recently announced a comprehensive model State anti-trafficking criminal statute, and encouraged States to adopt such laws, at its first "National Conference on Human Trafficking," held in Tampa, Florida; and

Whereas the Department of Justice's model State anti-trafficking criminal statute is available at the Department's website, http://www.usdoj.gov/crt/crim/ model state law.pdf: Now, therefore, be it

Resolved, That the Senate—

(1) supports the bipartisan efforts of Congress, the Department of Justice, and State and local law enforcement officers to combat human trafficking and slavery;

(2) strongly encourages State legislatures to carefully examine the Department of Justice's model State anti-trafficking criminal statute, and to seriously consider adopting State laws combating human trafficking and slavery wherever such laws do not currently exist;

(3) strongly encourages State legislatures to carefully examine the Federal benefits and protections for victims of human trafficking and slavery contained in the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003, and to seriously consider adopting State laws that, at a minimum, offer these explicit protections to the victims; and

(4) supports efforts to educate and empower State and local law enforcement officers in the identification of victims of human trafficking.

SENATE RESOLUTION 414—ENCOURAGING STATES TO CONSIDER ADOPTING COMPREHENSIVE LEGISLATION TO COMBAT HUMAN TRAFFICKING AND SLAVERY AND RECOGNIZING THE MANY EFFORTS MADE TO COMBAT HUMAN TRAFFICKING AND SLAVERY

Mr. CORNYN (for himself, Mr. SCHUMER, Mr. GRAHAM of South Carolina, Mr. LEAHY, and Mrs. CLINTON) submitted the following resolution; which was considered and agreed to:

S. RES. 414

Whereas it has been nearly 2 centuries since the abolition of the transatlantic slave trade, and well over a century since the ratification of the 13th amendment to the Constitution of the United States;

Whereas most Americans would be shocked to learn that the institutions of slavery and involuntary servitude continue to persist today—not just around the world, but hidden in communities across the United States;

Whereas according to Federal Government estimates, approximately 800,000 human beings are bought, sold, or forced across the world's borders each year—including approximately 16,000 human beings into the United States each year—and are coerced into lives of forced labor or sexual servitude that amount to a modern-day form of slavery;

Whereas the 13th amendment to the Constitution of the United States, ratified in 1865, abolishes the institutions of slavery and involuntary servitude;

Whereas numerous provisions of chapter 77 of title 18 of the United States Code have criminalized slavery since 1909;

Whereas the late Senator Paul Wellstone joined in a bipartisan manner with Senator Sam Brownback and many other Senators and Representatives to advance legislation to strengthen those laws, leading to the enactment of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.), which was signed into law by President Bill Clinton;

Whereas Congress made further bipartisan improvements to the law when it enacted the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193), which was signed into law by President George W. Bush;

Whereas the Department of Justice, under the leadership of its Civil Rights Division, has worked during the Clinton and Bush presidencies to strengthen anti-trafficking laws and to increase its own efforts to combat human trafficking and slavery in light of those recent bipartisan enactments;

Whereas the Trafficking in Persons Office of the Department of State continues to fight human trafficking around the world;

Whereas many nongovernmental organizations have made exceptional contributions to the prevention of human trafficking and to the care and rehabilitation of victims of human trafficking;

Whereas survivors of human trafficking crimes risk their lives and the lives of their families to assist in the investigation and prosecution of their former captors;

Whereas effective prosecution of human trafficking crimes will not be possible unless adequate protections are offered to the survivors;

Whereas the fight to eliminate human trafficking and slavery requires the involvement of State and local law enforcement officials, as well as Federal law enforcement efforts;

Whereas the enactment of comprehensive State laws criminalizing human trafficking and slavery may be necessary to ensure that Federal efforts are accompanied by robust efforts at the State and local levels;

Whereas the States of Texas, Washington, Missouri, and Florida have recently enacted comprehensive State criminal laws against human trafficking and slavery;

Whereas the Department of Justice recently announced a comprehensive model State anti-trafficking criminal statute, and encouraged States to adopt such laws, at its first "National Conference on Human Trafficking," held in Tampa, Florida; and

Whereas the Department of Justice's model State anti-trafficking criminal statute is available at the Department's website, http://www.usdoj.gov/crt/crim/ model state law.pdf: Now, therefore, be it

Resolved, That the Senate—

(1) supports the bipartisan efforts of Congress, the Department of Justice, and State and local law enforcement officers to combat human trafficking and slavery;

(2) strongly encourages State legislatures to carefully examine the Department of Justice's model State anti-trafficking criminal statute, and to seriously consider adopting

State laws combating human trafficking and slavery wherever such laws do not currently exist;

(3) strongly encourages State legislatures to carefully examine the Federal benefits and protections for victims of human trafficking and slavery contained in the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003, and to seriously consider adopting State laws that, at a minimum, offer these explicit protections to the victims; and

(4) supports efforts to educate and empower State and local law enforcement officers in the identification of victims of human trafficking.

SENATE CONCURRENT RESOLUTION 129—ENCOURAGING THE INTERNATIONAL OLYMPIC COMMITTEE TO SELECT NEW YORK CITY AS THE SITE OF THE 2012 OLYMPIC GAMES

Mr. SCHUMER (for himself and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 129

Whereas the Olympic Games further the cause of world peace and understanding;

Whereas the country hosting the Olympic Games performs an act of international goodwill;

Whereas if New York City were chosen to host the 2012 Olympic Games, there would be a substantial local, regional, and national economic impact, which would include 7 years of international sports events, meetings, and related nationwide tourism activity in New York City;

Whereas the Olympic movement celebrates competition, fair play, and the pursuit of dreams;

Whereas the United States and, in particular, New York City, celebrate these same ideals; and

Whereas New York City has never hosted the Olympic Games: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) encourages the International Olympic Committee to choose New York City as the site of the 2012 Olympic Games; and

(2) hopes that the United States will be selected as the host country of the 2012 Olympic Games, and pledges its cooperation and support for their successful fulfillment in the highest Olympic tradition.

SENATE CONCURRENT RESOLUTION 130—EXPRESSING THE SENSE OF CONGRESS THAT THE SUPREME COURT OF THE UNITED STATES SHOULD ACT EXPEDITIOUSLY TO RESOLVE THE CONFUSION AND INCONSISTENCY IN THE FEDERAL CRIMINAL JUSTICE SYSTEM CAUSED BY ITS DECISION IN BLAKELY v. WASHINGTON, AND FOR OTHER PURPOSES

Mr. HATCH (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CRAIG, Mr. BIDEN, Mr. FEINGOLD, Mr. KENNEDY, and Mr. DEWINE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 130

Whereas Congress enacted the Sentencing Reform Act of 1984 to provide certainty and fairness in sentencing, avoid unwarranted disparities among defendants with similar records found guilty of similar offenses, and maintain sufficient flexibility to permit individualized sentences when warranted;

Whereas Congress established the United States Sentencing Commission as an independent commission in the Judicial branch of the United States to establish sentencing policies and practices for the Federal criminal justice system that meet the purposes of sentencing and the core goals of the Sentencing Reform Act;

Whereas Congress has prescribed both statutory minimum and statutory maximum penalties for certain offenses and the Sentencing Reform Act authorizes the Sentencing Commission to promulgate guidelines and establish sentencing ranges for the use of a sentencing court in determining a sentence within the statutory minimum and maximum penalties prescribed by Congress;

Whereas the statutory maximum penalty is the maximum penalty provided by the statute defining the offense of conviction, including any applicable statutory enhancements, and not the upper end of the guideline sentencing range promulgated by the Sentencing Commission and determined to be applicable to a particular defendant;

Whereas both Congress and the Sentencing Commission intended the Federal Sentencing Guidelines to be applied as a cohesive and integrated whole, and not in a piecemeal fashion;

Whereas in Mistretta v. United States, 488 U.S. 361 (1989), the Supreme Court of the United States upheld the constitutionality of the Sentencing Reform Act and the Federal Sentencing Guidelines against separation-of-powers and non-delegation challenges;

Whereas in Blakely v. Washington, 124 S. Ct. 2531 (2004), the Supreme Court held that the sentencing guidelines of the State of Washington violated a defendant's Sixth Amendment right to trial by jury;

Whereas despite Mistretta and numerous other Supreme Court opinions over the past 15 years affirming the constitutionality of various aspects of the Guidelines, the Blakely decision has raised concern about the continued constitutionality of the Federal Sentencing Guidelines;

Whereas the Blakely decision has created substantial confusion and uncertainty in the Federal criminal justice system;

Whereas the lower Federal courts have reached inconsistent positions on the applicability of Blakely to the Federal Sentencing Guidelines;

Whereas there is a split among the circuit courts of appeal as to the applicability of Blakely to the Federal Sentencing Guidelines, and the Second Circuit Court of Appeals has certified the question to the Supreme Court;

Whereas the orderly administration of justice in pending and resolved trials, sentencings and plea negotiations has been affected by the uncertainty surrounding the applicability of the Blakely decision to the Federal Sentencing Guidelines;

Whereas the current confusion in the lower Federal courts has and will continue to produce results that disserve the core principles underlying the Sentencing Reform Act;

Whereas two and one-half weeks after the Supreme Court issued its decision in Blakely, the Senate Judiciary Committee convened a hearing to consider the implications of the decision for the Federal criminal justice system; and

Whereas the Department of Justice, the Sentencing Commission, and others advised the Committee that corrective legislation was not necessary at this time, with the hope that the Supreme Court would clarify the applicability of its Blakely decision to the Federal Sentencing Guidelines in an expeditious manner: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), Thatit is the sense of Congress that the Supreme Court of the United States should act expeditiously to resolve the current confusion and inconsistency in the Federal criminal justice system by promptly considering and ruling on the constitutionality of the Federal Sentencing Guidelines.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 21, 2004, at 9:30 a.m., in open session to consider the following nominations:

1. Vice Admiral Timothy J. Keating, USN, for appointment to the grade of Admiral and to be Commander, United States Northern Command/Commander, North American Aerospace Defense Command;
2. Lieutenant General Bantz J. Craddock, USA, for appointment to the grade of General and to be Commander, United States Southern Command;
3. Peter Cyril Wyche Flory to be Assistant Secretary of Defense for International Security Policy; and
4. Valerie Lynn Baldwin to be Assistant Secretary of the Army for Financial Management and Comptroller.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 21, 2004, at 10 a.m., to conduct an oversight hearing on "Regulation N.M.S. and Developments in Market Structure."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, July 21, 2004, at 10 a.m., to hear testimony on "Bridging the Tax Gap."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Wednesday, July 21, 2004 at 9:30 a.m. to hold a hearing on "The Multilateral Development Banks."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 21, 2004, at 10 a.m., to hold a business meeting to consider pending committee business.

Agenda

Legislation

1. S. 1230, a bill to provide for additional responsibilities for the Chief Information Officer of the Department of Homeland Security relating to geospatial information.

2. S. 2347, a bill to amend the District of Columbia Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act.

3. S. 2409, a bill to provide for continued health benefits coverage for certain federal employees.

4. S. 2628, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

5. S. 2536, the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004.

6. S. 2635, a bill to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security needs of Federal, State, and local governments.

7. S. 2657, a bill to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes.

8. S. 2639, a bill to reauthorize the Congressional Award Act.

9. S. 2275, the High Risk Nonprofit Security Enhancement Act of 2004.

10. S. 593, Reservists Pay Security Act of 2003.

11. H.R. 3797, the 2004 District of Columbia Omnibus Authorization Act.

Post Office Naming Bills

1. S. 2501/H.R. 4427, a bill to designate the facility of the United States Postal Service located at 73 South Euclid Avenue in Montauk, New York, as the "Perry B. Duryea, Jr. Post Office".

2. S. 2640, a bill to designate the facility of the United States Postal Service located at 1050 North Hills Boulevard in Reno, Nevada, as the "Guardians of Freedom Memorial Post Office Building" and to authorize the installation of a plaque at such site, and for other purposes.

3. H.R. 3340, an act to redesignate the facilities of the United States Postal Service located at 7715 and 7748 S. Cottage Grove Avenue in Chicago, Illinois, as the "James E. Worsham Post Office" and the "James E. Worsham Carrier Annex Building", respectively, and for other purposes.

4. H.R. 4222, an act to designate the facility of the United States Postal Service located at 550 Nebraska Avenue in Kansas City, Kansas, as the "Newell George Post Office Building".

5. H.R. 4327, an act to designate the facility of the United States Postal Service located at 7450 Natural Bridge Road in St. Louis, Missouri, as the "Vitilas 'Veto' Reid Post Office Building".

6. H.R. 4380, an act to designate the facility of the United States Postal Service located at 4737 Mile Stretch Drive in Holiday, Florida, as the "Sergeant First Class Paul Ray Smith Post Office Building".

Nominations

1. Neil McPhine to be Chairman, Merit Systems Protection Board.

2. Barbara J. Sapin to be a Member, Merit Systems Protection Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in Executive Session during the session of the Senate on Wednesday, July 21, 2004.

Agenda

S. ____, Reauthorization of Vocational Education Act.

S. 2158, Pancreatic Islet Cell Transplantation Act of 2003.

S. 2283, State High Risk Pool Funding Extension Act of 2004.

S. 2493, Drug Importation.

H.R. 3908, to provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio.

S. Res. 389—A Sense of the Senate that physicians inform prostate cancer patients of the benefits and limitations of prostate cancer screening and treatment options.

S. Con. Res. 119—a resolution declaring the week of September 19, 2004, as Yellow Ribbon Suicide Awareness and Prevention Week dedicated to raising awareness about suicide and suicide prevention programs.

Presidential Nominations

To be a Member of the Board of Directors of the National Board for Education Sciences: Jonathan Baron, of Maryland; Elizabeth Bryan, of Texas; James R. Davis, of Mississippi; Frank H. Handy, of Florida; Eric Hanushek, of California; Caroline Hoxby, of Massachusetts; Roberto Lopez, of Texas; Richard Milgram, of New Mexico; Sally Shaywitz, of Connecticut; Joseph Torgesen, of Florida; and Herbert Walberg, of Illinois.

To be a Member of the National Council on the Humanities: Herman Belz, of Maryland; Craig Haffner, of California; James Hunter, of Virginia; Tamar Jacoby, of New Jersey; Harvey Klehr, of Georgia; Thomas Lindsay, of Texas; Iris Love, of Vermont; Thomas Mallon, of Connecticut; and Ricardo Quinones, of California.

To be a Member of the Board of Directors of the United States Institute of Peace, Maria Otero, of District of Columbia.

To be Assistant Secretary of Labor, Veronica Stidvent.

To be a Member of the National Institute for Literacy Advisory Board: Juan Olivarez and William Hiller.

Public Health Service Nominees: PN 1632–2; PN 1633–8; PN 1634–652; and PN 1511–224.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 21, 2004, at 2 p.m. in Room 216 of the Hart Senate Office Building to conduct an oversight hearing on pending legislation to reauthorize the Indian Health Care Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 21, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by a hearing on S. 519, the Native American Capital Formation and Economic Development Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, July 21, 2004, at 10 a.m., on "An Overview of the Radiation Exposure Compensation Program" in the Dirksen Senate Office Building room 226.

Witness List

Panel I: Jeffrey S. Bucholtz, Deputy Assistant Attorney General for the Civil Division, Department of Justice, Washington, DC.

Panel II: Helen Bandley Houghton, San Antonio, TX; Jeffrey Thompson, San Antonio, TX; Jeffrey Thompson, Jacksonville, AK; Rita Torres, Surprise, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families and Committee on Armed Services, Subcommittee on Personnel be authorized to meet for a joint hearing on The Needs of Military Families: How Are States and the Pentagon Responding, Especially for the Guard and Reservists? during the session of the Senate on Wednesday, July 21, 2004., at 2 p.m., in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on July 21, 2004, at 2 p.m., in open session to receive testimony on how States have responded to military families' unique challenges during military deployments and what the Federal Government can do to support States in this important work.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 21, at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 738, to designate certain public lands in Humboldt, Del Norte, Mendocino, Lake, Napa, and Yolo counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California, as a wild or scenic river, and for other purposes; S. 1614, to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System; S. 2221, to authorize the Secretary of Agriculture to sell or exchange certain National Forest System land in the State of Oregon, and for other purposes; S. 2253, to permit young adults to perform projects to prevent fire and suppress fires, and provide disaster relief on public land through a Healthy Forest Youth Conservation Corps; S. 2334, to designate certain National Forest System Land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System; and S. 2408, to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND PROTOCOL TO CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 25, treaty document No. 108–10 on today's Executive Calendar. I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; further, that the committee declaration be agreed to, that any statements be printed in the RECORD, and the Senate immediately proceed to a vote on the resolution of ratification; further, that when the resolution of ratification is voted on, the motion to reconsider be laid upon the table, the President be notified of the Senate's action following the disposition of the treaty, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The treaty will be stated.

The legislative clerk read as follows:

Treaty document No. 108–10, Convention on International Interests in Mobile Equipment and Protocol to Convention on International Interests in Mobile Equipment.

Mr. FRIST. Madam President, I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolution of ratification will stand and be counted.

Those opposed will stand and be counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

The Resolution of Ratification is as follows:

TREATY DOCUMENT

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO DECLARATIONS.

The Senate advises and consents to the ratification of the Convention on International Interests in Mobile Equipment (hereafter in this resolution referred to as the "Convention") and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment (hereafter in this resolution referred to as the "Protocol"), concluded at Cape Town, South Africa, November 16, 2001 (T. Doc. 108–10), subject to the declarations of section 2 and section 3.

SEC. 2. DECLARATIONS RELATIVE TO THE CONVENTION.

The advice and consent of the Senate under section 1 is subject to the following declarations relative to the Convention:

(1) Pursuant to Article 39 of the Convention—

(A) all categories of non-consensual rights or interests which under United States law have and will in the future have priority over an interest in an object equivalent to that of the holder of a registered international interest shall to that extent have priority over a registered international interest, whether in or outside insolvency proceedings; and

(B) nothing in the Convention shall affect the right of the United States or that of any entity thereof, any intergovernmental organization in which the United States is a member State, or other private provider of public services in the United States to arrest or detain an aircraft object under United States law for payment of amounts owed to any such entity, organization, or provider directly relating to the services provided by it in respect of that object or another object.

(2) Pursuant to Article 54 of the Convention, all remedies available to the creditor under the Convention or Protocol which are not expressed under the relevant provision thereof to require application to the court may be exercised, in accordance with United States law, without leave of the court.

SEC. 3. DECLARATIONS RELATIVE TO THE PROTOCOL.

The advice and consent of the Senate under section 1 is subject to the following declarations relative to the Protocol:

(1) Pursuant to Article XXX of the Protocol—

(A) the United States will apply Article VIII of the Protocol;

(B) the United States will apply Article XII of the Protocol; and

(C) the United States will apply Article XIII of the Protocol.

(2)(A) Pursuant to Article XIX of the Protocol—

(i) the Federal Aviation Administration, acting through its Aircraft Registry, FAA Aeronautical Center, 6400 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125, shall be the entry point at which information required for registration in respect of airframes or helicopters pertaining to civil aircraft of the United States or aircraft to become a civil aircraft of the United States shall be transmitted, and in respect of aircraft engines may be transmitted, to the International Registry; and

(ii) the requirements of chapter 441 of title 49, United States Code, and part 49 of title 14, Code of Federal Regulations, shall be fully complied with before such information is transmitted at the Federal Aviation Administration to the International Registry.

(B) For purposes of the designation in subparagraph (A)(i) and the requirements in subparagraph (A)(ii), information is transmitted at the Federal Aviation Administration in accordance with procedures established under United States law.

(C) In this paragraph, the term "civil aircraft of the United States" has the meaning given that term in section 40102(17) of title 49. United States Code.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CAPE TOWN TREATY IMPLEMENTATION ACT OF 2004

Mr. FRIST. Madam President, I ask unanimous consent that the Commerce

Committee be discharged from further consideration of H.R. 4226, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4226) to amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the "Cape Town Treaty."

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Madam President, I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4226) was read the third time and passed.

EMERGENCY FOOD AND SHELTER ACT OF 2004

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 636, S. 2249.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2249) to amend the Stewart B. McKinney Homeless Assistance Act to provide for emergency food and shelter.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2249) was read the third time and passed, as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Food and Shelter Act of 2004".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $160,000,000 for fiscal year 2005, $170,000,000 for fiscal year 2006, and $180,000,000 for fiscal year 2007.".

SEC. 3. NAME CHANGE TO NOMINATING ORGANIZATION.

Section 301(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331(b)) is amended by striking paragraph (5) and inserting the following:

"(5) United Jewish Communities.".

SEC. 4. PARTICIPATION OF HOMELESS INDIVIDUALS ON LOCAL BOARDS.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended by striking paragraph (6) and inserting the following:

"(6) guidelines requiring each local board to include in their membership not less than 1 homeless individual, former homeless individual, homeless advocate, or recipient of food or shelter services, except that such guidelines may waive the requirement of this paragraph for any board that is unable to meet such requirement if the board otherwise consults with homeless individuals, former homeless individuals, homeless advocates, or recipients of food or shelter services.".

60TH ANNIVERSARY OF THE WARSAW UPRISING

Mr. FRIST. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 125 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Con. Res. 125) recognizing the 60th anniversary of the Warsaw Uprising during World War II.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 125) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 125

Whereas August 1, 2004, marks the 60th anniversary of the Warsaw Uprising, when against seemingly insurmountable odds and extreme hardships, Polish citizens revolted against the Nazi occupiers in Warsaw, Poland, in one of the most heroic battles during World War II;

Whereas the Warsaw Uprising was a part of a nationwide resistance against the Nazi occupation, was started by the underground Home Army, and lasted 63 days;

Whereas the Polish resistance, many of them teenagers, while heavily outnumbered and armed with mostly homemade weapons, fought bravely against the German soldiers and lost approximately 250,000 civilians and troops;

Whereas, to punish Poland for the uprising, the Nazis systematically razed 70 percent of Warsaw, including monuments, cultural treasures, and historical buildings;

Whereas the heroism and spirit of the Polish resistance are an inspiration to all peoples in their pursuit of liberty and democracy and are evident today in Polish contributions to the global war against terrorism and the more than 2,300 Polish troops currently deployed in Operation Iraqi Freedom; and

Whereas the heroic undertaking of the Polish underground represents one of the most important contributions to the Allied war effort during World War II and remains venerated in the Polish consciousness, even for the generations born after it ended: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the 60th anniversary of the Warsaw Uprising during World War II which will forever serve as a symbol of heroism in the face of great adversity and the pursuit of freedom.

COMBATING HUMAN TRAFFICKING IN SLAVERY

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 414, which was submitted earlier today by Senator CORNYN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 414) encouraging States to consider adopting comprehensive legislation to combat human trafficking in slavery and recognizing the many efforts made to combat human trafficking and slavery.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CORNYN. Madam President, I want to speak on the resolution that I believe will be passed by unanimous consent of the Senate which pertains to something I thought we would never be talking about now in the year 2004, and that is human slavery and trafficking in human beings.

The good work that has been done by the U.S. Congress, since, of course, the ratification of the 13th amendment in 1865 abolishing slavery and involuntary servitude, includes a remarkable tradition, and a bipartisan tradition, I might add, starting, after 1865, in 1909, when the United States Code criminalized slavery.

In 2000, the late Senator Paul Wellstone and Senator SAM BROWNBACK joined together as the lead sponsors, together with a number of other Senators and Representatives, to advance legislation to strengthen those laws, specifically the Trafficking Victims Protection Act of 2000, which was later signed into law by President Bill Clinton. That legislation was reauthorized in 2003 by a bipartisan effort and signed into law by President George W. Bush.

I expressly recognize the contributions of Senator SCHUMER, Senator GRAHAM of South Carolina, Senator LEAHY of Vermont, and Senator CLINTON, who joined in cosponsoring this resolution. Indeed, this resolution lays out the terrible tale of the fact that as many as 800,000 human beings are literally bought and sold worldwide into some form of slavery or involuntary servitude. Approximately 16,000 of those human beings are brought into the United States each year, coerced into lives of forced labor or sexual servitude which, of course, is another way of describing slavery.

This has been a bipartisan effort. It is refreshing to know, particularly during an election year where there are differences that divide us, where we know sometimes the rhetoric gets a little overwrought, that we can come together on such an important issue.

The fact is the current administration has responded to the call by dramatically increasing efforts into devoting substantially more resources toward combating human trafficking. This has been done principally under the auspices of the civil rights division at the Justice Department which has prosecuted and convicted three times the number of traffickers over the past 3 years as had been done in the preceding 3 years, three times more in this last 3 years than had been done in the preceding 3 years.

The Department of Justice has created the Office of Special Counsel for Trafficking Issues to coordinate antitrafficking efforts. It has also published educational and awareness-raising materials and circulated them to officials across America and provided assistance to victims of this trafficking by installing among other things a toll-free hotline. Last week the Department of Justice sponsored a historic national conference on human trafficking in Tampa, FL, bringing together Federal, State, and local officials, social service agencies, and nongovernmental organizations to provide training and coordination to antihuman trafficking efforts across the country as provided in the fiscal year 2004 appropriations bill.

The problem we uncovered was brought home during a recent hearing I chaired for the Subcommittee on the Constitution, Civil Rights, and Property Rights of the Judiciary Committee. We heard testimony about the men, women, and children who continue to be trafficked into the United States. Each of these stories is tragic, disturbing, and heartrending. It is hard to imagine that this sort of thing continues to happen today. Let me mention two of them.

In January of 2004, several defendants were sentenced to prison terms ranging from 4 months to 14 years after a ringleader of a human trafficking ring admitted to running a human trafficking operation bringing women from Central America and then holding them in this country once they were smuggled into the country. They were held against their will. Many of them were sexually assaulted. All of them were forced to work against their will until their smuggling fees were paid by their families.

Another instance involved a research assistant and his wife at a university located in my State of Texas who were prosecuted for leading a trafficking ring that victimized young women. These young women were brought from Uzbekistan. They were lured to the United States by promises of lucrative modeling jobs, extravagant lifestyles, and also based on the promise that they would be able to bring their families once they were established here in the United States.

The defendants in this case used fraudulently obtained J–1 visas to bring women into the United States through El Paso, TX. The visas purported to show that the women were scientists traveling to the United States to do scientific research. But once here, their immigration documents were confiscated, and these women were forced to work at local strip clubs for the benefit of the defendants who ultimately collected more than $700,000 as a result of their criminal enterprise. These defendants were ultimately convicted and sentenced to 5 years in prison and ordered to pay more than a half million dollars in restitution to their victims.

One of the things that was brought home to me as a result of this hearing was that the same routes, the same criminal enterprises that engage in smuggling of human beings, who prey on their hopes or their desire for jobs and economic opportunity, it is the same people in many instances and the same routes and organizations that engage in illegal smuggling of human beings who want nothing more than to be able to come here and work and then send money home to their families. It is just that the ones who are the victims of this trafficking are not freed when they are brought into this country but literally kept in involuntary servitude and slavery, some approximately 16,000, we think, although the numbers have to be suspect. They have to be low because, indeed, we know the victims of this activity are reluctant to come forward because they may have come illegally into the country.

This is a persistent problem, one that touches on a larger issue, and that is, as we go forward with border security measures, to try to make sure that we protect our sovereign borders and to make sure our immigration laws are brought into modern times and the realities of our demand and indeed our reliance on labor provided by immigrants in this country. I hope we will view this as one of the terrible symptoms of a larger problem, and that is the need for us, as we establish the security of our borders, consistent with the post 9/11 world, that we also address the need to bring our immigration laws into this century. The President's call for immigration reform is part of it.

Particularly for those who are, once they are brought into this country based on promises of jobs and opportunity, but then enslaved, that we redouble our efforts to make sure we bring an end to this scourge.

I appreciate the bipartisan effort we have seen, the expressions of support for the work that has been done across the years by this administration, by previous administrations in combating the scourge of human slavery. I commend the Justice Department in particular for tripling the number of prosecutions they have obtained in these last 3 years over the preceding 3 years. This is a fight worth fighting. These are some of the most vulnerable victims we could possibly imagine. Their punishment is well deserved.

Mr. SCHUMER. Madam President, I come to the floor to speak about a bipartisan measure; that is, the resolution Senator CORNYN and I are submitting on human trafficking. I thank my friend from Texas for working with me to address this growing problem that devastates the lives of so many.

Human trafficking is one of the most heinous crimes in our world today. Everyone knows it is a heinous crime to take a person, often a young woman, kidnap her, and put her into, basically, sexual servitude. It is an absolute abomination.

What I think most people are not aware of is the large number of people who are so enslaved. Our State Department estimates 800,000 people are trafficked across international borders each year. Some are for domestic slavery, some are for farm slavery, and many are for sexual servitude.

According to these State Department estimates, approximately three-quarters of those trafficked are female, and 70 percent of these women are trafficked for sexual exploitation. So a little quick math would indicate it is pretty close to 400,000 a year who are engaged in sexual exploitation, and you cannot be too relieved that the other half are in other kinds of slavery.

The victims are kidnapped or lured with false promises of money, and then thrown into slavery. Their captors subject their victims to forced prostitution. They are sexually assaulted sometimes 20 times a day. The lack of protection against HIV and AIDS means an effective death sentence for many sexual trafficking victims.

The victims of forced labor fare only slightly better.

In the vast majority of cases, they are worked to near death. They are routinely assaulted, sometimes killed. The truly sad fact is that at least half of the human trafficking victims are children, sometimes as young as 9 or 10 years old. The traffickers abuse the children, keep them in line by threatening to kill their parents or other family members if they don't comply. Beatings and rape are part of their everyday experience. Their lives are more horrific than many of us could even imagine. To think I am the father of two daughters, just think of your young children being put in this situation, and you can see the gravity and the horror of the situation.

Here is another thing I will bet most Americans are not aware of. We think maybe this is happening in Africa or Asia or Europe. No, it is also occurring right here in the United States. Sixteen thousand people are trafficked into the United States every year. Most are forced into sexual slavery in our own country. I have read in newspapers in New York about how some of these rings have been exposed. It is often among immigrant groups, but we are not immune.

We have taken some important strides against this evil. In the year 2000, President Clinton signed into law the bipartisan Trafficking Victims Protection Act. This act gave law enforcement real tools to fight against sexual trafficking and the money to fund that fight. Last year I was proud to join Senator BROWNBACK as the Democratic sponsor of the Trafficking Victims Protection Reauthorization Act of 2003.

Of course, with the death of Senator Wellstone, who had been such a leader on this issue, a void has been left. I am doing my best to at least fill a little bit of it. We added new tools to fight against these traffickers and refined the tools we already had created to better serve law enforcement. We have made some strides. The laws are working. But the bottom line is, there is still a whole lot more to be done.

I am pleased to join Senator CORNYN today in sponsoring this resolution. I thank him for his important work on this issue. The resolution recognizes the fact we need more awareness of this horrible crime, particularly at the State and local level. State and local law enforcement officers are often the first point of contact with victims in trafficking in the course of their normal work. This resolution puts the Senate on record supporting efforts to educate and empower State and local law enforcement officers in identifying trafficking victims. By raising awareness at the State and local level, we can better make use of the many tools we have in this fight.

T-visas are a vital part of the fight against sex trafficking. These visas enable victims of trafficking to testify against their traffickers and help put these criminals in jail. We have had the situation where we have the victims and they are sent home, and the people who did it go free. Currently, we issue less than 2 percent of the T-visas available, and yet we know that tens of thousands of victims go without T-visas every year, condemning them to lives of abuse and terror instead of the protection they deserve and that is available under the visa.

By educating and empowering State and local law enforcement officers to recognize trafficking crimes and raising awareness of this issue, we can identify more victims and get them the help they need and, most importantly, take their traffickers off the streets. We are also calling on the States to do a close examination of their current laws to see if they are adequate in the face of the human trafficking threat.

We must make sure we are prepared to deal with this crime at all levels. We must also make sure the victims of trafficking receive the same level of services regardless of what laws are used to prosecute their traffickers.

Far too often we find ourselves at odds with one another in the Senate. Our efforts on this issue show we can work together in a bipartisan way to protect some of the most endangered children in our world and put some of the most awful criminals behind bars. This resolution is an important step in the battle to save the lives of hundreds of thousands of women and children who are trafficked each year.

Along with Senator CORNYN, I urge my colleagues to support its immediate passage. Together, if we work hard, we can greatly and dramatically reduce this horrible crime.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I thank the Senator from New York for submitting the resolution about which he has just spoken.

Mr. LEAHY. Madam President, I am pleased to sponsor this anti-trafficking resolution with Senators CORNYN, SCHUMER, LINDSEY GRAHAM, and CLINTON, and to have worked with Senator CORNYN to emphasize the bipartisan commitment to eliminate trafficking. The resolution encourages States to join the 106th and 108th Congresses in passing legislation to combat human trafficking.

We cannot know with any certainty how many people are trafficked, but some experts estimate that nearly a million people worldwide every year are bought, sold, or trafficked, with about 16,000 of those people trafficked to the United States. These people are forced into involuntary servitude or, often, prostitution. Until recently, this issue was not a priority for governments around the world, but we are seeing signs of change, some prompted by our passage in 2000 of the bipartisan Trafficking Victims Protection Act, (TVPA) and last year's reauthorization of that law.

In 2000, I served on the conference committee for the TVPA, which passed in the House and Senate by overwhelming margins and was signed by President Clinton, whose Justice Department was intimately involved in the legislative process. This bill—on which our late colleague Senator Wellstone worked so tirelessly—signaled a bipartisan congressional commitment to the prosecution of traffickers and the protection of their victims. I am proud to have played a role in creating the law, and in reauthorizing it.

In forging the TVPA, Senators Wellstone and BROWNBACK, and Congressmen CHRISTOPHER SMITH and GEJDENSEN, sought both to eliminate trafficking at home and to make combating trafficking and slavery a foreign policy priority. We are seeing signs of progress in this area, and I believe we will see even more if States become more involved in this issue.

Combating trafficking has been a bipartisan issue. Senators and Representatives who are otherwise ideological opposites have worked together closely on anti-trafficking legislation, and the Justice Departments under both President Clinton and Bush have made it a priority to prosecute those who would deprive others of their most basic liberties. This resolution, too, provides an example of Senators from both sides of the aisle working together to further the cause of eliminating trafficking by punishing its perpetrators. I urge the Senate to pass it today.

Mr. FRIST. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 414) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 414

Whereas it has been nearly 2 centuries since the abolition of the transatlantic slave trade, and well over a century since the ratification of the 13th amendment to the Constitution of the United States;

Whereas most Americans would be shocked to learn that the institutions of slavery and involuntary servitude continue to persist today—not just around the world, but hidden in communities across the United States;

Whereas according to Federal Government estimates, approximately 800,000 human beings are bought, sold, or forced across the world's borders each year—including approximately 16,000 human beings into the United States each year—and are coerced into lives of forced labor or sexual servitude that amount to a modern-day form of slavery;

Whereas the 13th amendment to the Constitution of the United States, ratified in 1865, abolishes the institutions of slavery and involuntary servitude;

Whereas numerous provisions of chapter 77 of title 18 of the United States Code have criminalized slavery since 1909;

Whereas the late Senator Paul Wellstone joined in a bipartisan manner with Senator Sam Brownback and many other Senators and Representatives to advance legislation to strengthen those laws, leading to the enactment of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.), which was signed into law by President Bill Clinton;

Whereas Congress made further bipartisan improvements to the law when it enacted the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193), which was signed into law by President George W. Bush;

Whereas the Department of Justice, under the leadership of its Civil Rights Division, has worked during the Clinton and Bush presidencies to strengthen anti-trafficking laws and to increase its own efforts to combat human trafficking and slavery in light of those recent bipartisan enactments;

Whereas the Trafficking in Persons Office of the Department of State continues to fight human trafficking around the world;

Whereas many nongovernmental organizations have made exceptional contributions to the prevention of human trafficking and to the care and rehabilitation of victims of human trafficking;

Whereas survivors of human trafficking crimes risk their lives and the lives of their families to assist in the investigation and prosecution of their former captors;

Whereas effective prosecution of human trafficking crimes will not be possible unless adequate protections are offered to the survivors;

Whereas the fight to eliminate human trafficking and slavery requires the involvement of State and local law enforcement officials, as well as Federal law enforcement efforts;

Whereas the enactment of comprehensive State laws criminalizing human trafficking and slavery may be necessary to ensure that Federal efforts are accompanied by robust efforts at the State and local levels;

Whereas the States of Texas, Washington, Missouri, and Florida have recently enacted comprehensive State criminal laws against human trafficking and slavery;

Whereas the Department of Justice recently announced a comprehensive model State anti-trafficking criminal statute, and encouraged States to adopt such laws, at its first "National Conference on Human Trafficking," held in Tampa, Florida; and

Whereas the Department of Justice's model State anti-trafficking criminal statute is available at the Department's website, http://www.usdoj.gov/crt/crim/model_state_law.pdf: Now, therefore, be it

Resolved, That the Senate—

(1) supports the bipartisan efforts of Congress, the Department of Justice, and State and local law enforcement officers to combat human trafficking and slavery;

(2) strongly encourages State legislatures to carefully examine the Department of Justice's model State anti-trafficking criminal statute, and to seriously consider adopting State laws combating human trafficking and slavery wherever such laws do not currently exist;

(3) strongly encourages State legislatures to carefully examine the Federal benefits and protections for victims of human trafficking and slavery contained in the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003, and to seriously consider adopting State laws that, at a minimum, offer these explicit protections to the victims; and

(4) supports efforts to educate and empower State and local law enforcement officers in the identification of victims of human trafficking.

EXPEDITIOUS SUPREME COURT ACTION IN BLAKELY v. WASHINGTON

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Con. Res. 130.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 130) expressing the sense of Congress that the Supreme Court of the United States should act expeditiously to resolve the confusion and inconsistency in the Federal criminal justice system caused by its decision in Blakely v. Washington, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HATCH. Madam President, S. Con. Res. 130 expresses the sense of Congress that the Supreme Court should expedite consideration of the applicability of Blakely v. United States to the Federal Sentencing Guidelines.

As one of the original cosponsors of the Sentencing Reform Act of 1984, which created the United States Sentencing Commission, and a proponent of reducing sentencing disparity across the nation, I have a strong interest in preserving the integrity of the Federal guidelines against constitutional attack. Congress enacted the Sentencing Reform Act to reduce unwarranted disparity in Federal sentencing, including racial, geographical, and other unfair sentencing disparities by establishing standardized sentencing rules while leaving judges enough discretion to impose just sentences in appropriate cases.

As many here may already know, criminal defendants are routinely sentenced by judges who decide sentencing facts based upon a preponderance of the evidence standard. This has all changed in recent weeks. On June 24, 2004, in Blakely v. Washington, the Supreme Court held that any fact that increases the maximum penalty under a State statutory sentencing guidelines scheme must be presented to a jury and proved beyond a reasonable doubt even though the defendant's sentence falls below the statutory maximum sentence.

Although the Supreme Court explicitly stated in a footnote that "The Federal Guidelines are not before us, and we express no opinion on them," it also characterized the government's amicus brief as questioning whether differences between the State and Federal sentencing schemes are constitutionally significant. The ambiguity apparent in Blakely and the strong suggestions by the dissent that it will apply to the Federal sentencing guidelines, has understandably created angst throughout the Federal justice system.

In just 2½ weeks after the Supreme Court's decision, we already had a split among the Federal circuit courts of appeal. In addition, at least two dozen lower Federal courts—and probably many more—have ruled the Federal Sentencing Guidelines unconstitutional. Some judges disregard the Federal sentencing guidelines in their entirety. Other judges apply mitigating sentencing factors but disregard any relevant aggravating factors. Still other judges are convening juries to decide some of these sentencing facts.

In fact, as I learned when the Judiciary Committee held a hearing on this very issue just last week, in my home State of Utah, the district judges adopted four different approaches to sentencing defendants after Blakely.

Let me briefly describe a couple of examples of the havoc caused by this Blakely decision. I'm sure we all recall Dwight Watson, the man who sat in a tractor last year outside the U.S. Capitol for 47 hours and threatened to blow up the area with organophosphate bombs. The day before the Blakely opinion, Mr. Watson was sentenced to a 6-year prison sentence. Less than a week after the Supreme Court's opinion, he was resentenced to 16 months, which was essentially time served. He is now a free man.

A defendant in West Virginia had an offense level that was off the sentencing charts. Although he would have been subject to a life sentence under the guidelines, the statutory maximum penalty was 20 years. He was given a 20-year sentence three days before Blakely was decided. A week later, his sentence was drastically reduced to 12 months. The judge did not rely on any relevant conduct or any sentencing enhancements in calculating the defendant's sentence. In other words, he only applied a portion of the sentencing guidelines—those that he thought remained valid after Blakely.

The concurrent resolution I introduce today urges the Supreme Court to act expeditiously to resolve whether the Federal sentencing guidelines can be constitutionally applied in light of Blakely v. Washington. While I wish we could have done more, unfortunately, we were unable to do so in such a short period of time.

As we go forward, I believe we should adopt legislation that would render the Federal sentencing guidelines constitutional regardless of whether Blakely applies. Unfortunately, while I have worked diligently with my colleagues on both sides of the aisle and in both Houses, we simply just ran out of time. While I hope that the Supreme Court will find application of the Federal sentencing guidelines constitutional under the 6th Amendment, I will continue to work with my colleagues over the next several months in preparation of a contingency plan to ensure that regardless of what the Supreme Court decides, that we will be able to preserve a system that promotes uniformity and reduces sentencing disparity across this country.

Mr. LEAHY. Mr. President, the Supreme Court's decision last month in Blakely v. Washington has raised significant concerns about the validity of the Federal sentencing guidelines. Blakely held that sentencing procedures used by the State of Washington violated the defendant's constitutional right to a jury trial because they allowed the judge to impose an enhanced sentence based on facts that were neither found by a jury nor admitted by the defendant.

Within days of this decision, a split developed among the Federal district and circuit courts regarding the applicability of Blakely to the Federal Sentencing Guidelines, and one circuit court invoked a rarely used procedural mechanism to certify the question to the Supreme Court. Lower Federal courts continue to reach inconsistent positions on Blakely issues on virtually a daily basis. By all accounts, the confusion and uncertainty is frustrating the orderly administration of justice in courts across the country.

Two and one-half weeks after the Court issued its Blakely decision, the Senate Judiciary Committee convened a hearing to consider the implications of the decision for the Federal criminal justice system. As witness after witness described the disarray in the lower Federal courts, it became increasingly clear that the not-hypothetical application of Blakely to the Federal Sentencing Guidelines is threatening to undo 20 years of sentencing reform.

Twenty years after enactment of the Sentencing Reform Act of 1984, we must remind ourselves about the core values and principles that accounted for the bipartisan popularity of the original Federal Guidelines concept. The 1984 act was written and enacted against a history of racial, geographical, and other unfair disparities in sentencing. Congress sought to narrow these disparities while leaving judges enough discretion to do justice in the particular circumstances of each individual case. The task of harmonizing sentencing policies was deliberately placed in the hands of an independent, expert Sentencing Commission.

The Guidelines as originally conceived were about fairness, consistency, predictability, reasoned discretion, and minimizing the role of congressional politics and the ideology of the individual judge in sentencing. Blakely threatens a return to the bad old days of fully indeterminate sentencing when improper factors such as race, geography and the predilections of the sentencing judge could drastically affect the sentence. While I favor Federal judges exercising their discretion in pursuit of individual justice in individual cases, I do not want to see a return to the bad old days.

It may be that the Blakely decision was occasioned in part by recent tinkering with the Sentencing Reform Act that went too far. In recent years, Congress has seriously undermined the basic structure and fairness of the Federal Guidelines system through posturing and ideology. There has been a flood of legislation establishing mandatory minimum sentences for an ever-increasing number of offenses, determined by politics rather than any systemic analysis of the relative seriousness of different crimes. There has been ever-increasing pressure on the Sentencing Commission and on individual district court judges to increase Guidelines sentences. The culmination of these unfortunate trends was the so-called Feeney Amendment to the PROTECT Act, in which this Congress cut the Commission out altogether and rewrote large sections of the Guidelines manual, including commentary, and in which Congress also provided for a judicial "black list" to intimidate judges whose sentences were insufficiently draconian to suit the current Justice Department.

The Feeney Amendment was a direct assault on judicial independence. It was forced through the Congress with virtually no debate and without meaningful input from judges or practitioners. That process was particularly unfortunate given that the Republican majority's justification for the Feeney Amendment—a supposed "crisis" of downward departures—was unfounded. In fact, downward departure rates were well below the range contemplated by Congress when it authorized the Federal Sentencing Guidelines, except for departures requested by the Government itself. But having a false factual predicate for forcing significantly flawed congressional action has become all too familiar during the last few years.

The attitude underlying too many of these recent developments seems to be that politicians in Washington are better at sentencing than the Federal trial judges who preside over individual cases, and that longer sentences are always better. Somewhere along the line we appear to have forgotten that justice is not just about treating like cases alike; it is also about treating different cases differently.

These are issues that need to be examined in the future, in a thoughtful and deliberative fashion. The Sentencing Reform Act was the product of many years of work by members on both sides of the aisle. The current Sentencing Guidelines reflect more than a decade of work by the Sentencing Commission. If the Blakely decision ultimately requires some modification of our Federal sentencing system, we must proceed with extreme care. The last thing that any of us want is to risk making an already chaotic situation even worse by enacting ill-considered legislation that is itself subject to constitutional attack.

The Department of Justice, the Sentencing Commission, and other experts who testified before the Judiciary Committee have urged Congress not to act precipitously. I agree that corrective legislation is not immediately necessary and could be counter-productive, provided that the Supreme Court expeditiously clarifies the scope of its Blakely decision.

For these reasons, I am pleased to join Senator HATCH and other Judiciary Committee members in introducing a resolution regarding the Blakely decision. The words of the resolution are clear, unambiguous and unassailable: The Supreme Court of the United States should act expeditiously to resolve the current confusion and inconsistency in the Federal criminal justice system by promptly considering and ruling on the constitutionality of the Federal Sentencing Guidelines. Congress should take up and pass this resolution without delay.

Mr. FRIST. Madam President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Con. Res. 130) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 130

Whereas Congress enacted the Sentencing Reform Act of 1984 to provide certainty and fairness in sentencing, avoid unwarranted disparities among defendants with similar records found guilty of similar offenses, and maintain sufficient flexibility to permit individualized sentences when warranted;

Whereas Congress established the United States Sentencing Commission as an independent commission in the Judicial branch of the United States to establish sentencing policies and practices for the Federal criminal justice system that meet the purposes of sentencing and the core goals of the Sentencing Reform Act;

Whereas Congress has prescribed both statutory minimum and statutory maximum penalties for certain offenses and the Sentencing Reform Act authorizes the Sentencing Commission to promulgate guidelines and establish sentencing ranges for the use of a sentencing court in determining a sentence within the statutory minimum and maximum penalties prescribed by Congress;

Whereas the statutory maximum penalty is the maximum penalty provided by the statute defining the offense of conviction, including any applicable statutory enhancements, and not the upper end of the guideline sentencing range promulgated by the Sentencing Commission and determined to be applicable to a particular defendant;

Whereas both Congress and the Sentencing Commission intended the Federal Sentencing Guidelines to be applied as a cohesive and integrated whole, and not in a piecemeal fashion;

Whereas in Mistretta v. United States, 488 U.S. 361 (1989), the Supreme Court of the United States upheld the constitutionality of the Sentencing Reform Act and the Federal Sentencing Guidelines against separation-of-powers and non-delegation challenges;

Whereas in Blakely v. Washington, 124 S. Ct. 2531 (2004), the Supreme Court held that the sentencing guidelines of the State of Washington violated a defendant's Sixth Amendment right to trial by jury;

Whereas despite Mistretta and numerous other Supreme Court opinions over the past 15 years affirming the constitutionality of various aspects of the Guidelines, the Blakely decision has raised concern about the continued constitutionality of the Federal Sentencing Guidelines;

Whereas the Blakely decision has created substantial confusion and uncertainty in the Federal criminal justice system;

Whereas the lower Federal courts have reached inconsistent positions on the applicability of Blakely to the Federal Sentencing Guidelines;

Whereas there is a split among the circuit courts of appeal as to the applicability of Blakely to the Federal Sentencing Guidelines, and the Second Circuit Court of Appeals has certified the question to the Supreme Court;

Whereas the orderly administration of justice in pending and resolved trials, sentencings and plea negotiations has been affected by the uncertainty surrounding the applicability of the Blakely decision to the Federal Sentencing Guidelines;

Whereas the current confusion in the lower Federal courts has and will continue to produce results that disserve the core principles underlying the Sentencing Reform Act;

Whereas two and one-half weeks after the Supreme Court issued its decision in Blakely, the Senate Judiciary Committee convened a hearing to consider the implications of the decision for the Federal criminal justice system; and

Whereas the Department of Justice, the Sentencing Commission, and others advised the Committee that corrective legislation was not necessary at this time, with the hope that the Supreme Court would clarify the applicability of its Blakely decision to the Federal Sentencing Guidelines in an expeditious manner: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Supreme Court of the United States should act expeditiously to resolve the current confusion and inconsistency in the Federal criminal justice system by promptly considering and ruling on the constitutionality of the Federal Sentencing Guidelines.

MEASURES PLACED ON THE CALENDAR—S. 2694, S. 2695, AND H.R. 4492

Mr. FRIST. Madam President, I understand there are three bills at the desk which are due for a second reading.

The PRESIDING OFFICER. The clerk will read the titles of the bills for a second time en bloc.

The legislative clerk read as follows:

A bill (S. 2694) to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes.

A bill (S. 2695) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations.

A bill (H.R. 4492) to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes.

Mr. FRIST. Madam President, I object to further proceedings on the measures en bloc at this time.

The PRESIDING OFFICER. Objection is heard.

The bills will be placed on the calendar.

MEASURES READ THE FIRST TIME—S. 2704 AND S. 2714

Mr. FRIST. Madam President, I understand there are two bills at the desk, and ask unanimous consent that they be read for the first time en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the titles of the bills for the first time en bloc.

The legislative clerk read as follows:

A bill (S. 2704) to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

A bill (S. 2714) to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs.

Mr. FRIST. Madam President, I now ask for their second reading and, in order to place the bills on the calendar under the provisions of rule XIV, object to further proceedings on these matters en bloc.

The PRESIDING OFFICER. Objection is heard.

The bills will receive their second reading on the next legislative day.

ORDERS FOR THURSDAY, JULY 22, 2004

Mr. FRIST. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, July 22. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business, for statements only, for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate proceed to executive session and resume consideration of Calendar No. 705, the nomination of Henry Saad to be a U.S. circuit judge of the Sixth Circuit; provided further that the time until 11 a.m. be equally divided between the chairman and ranking member of the Judiciary Committee or their designees. I further ask consent that at 11 a.m., the Senate proceed to the cloture votes on the nominations, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume debate on the three Sixth Circuit judges. At 11 a.m., the Senate will proceed to three consecutive votes on the motions to invoke cloture on the three judicial nominations.

For the remainder of the day, the Senate will consider the Department of Defense appropriations conference report when it becomes available. Therefore, Senators should expect a busy day, and additional rollcall votes are expected following the scheduled cloture votes.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Madam President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 706, 793, 798, and 799. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS

DEPARTMENT OF STATE

Thomas Fingar, of Virginia, to be an Assistant Secretary of State (Intelligence and Research).

DEPARTMENT OF JUSTICE

Robert Clark Corrente, of Rhode Island, to be United States Attorney for the District of Rhode Island for the term of four years.

DEPARTMENT OF THE TREASURY

Juan Carlos Zarate, of California, to be an Assistant Secretary of the Treasury.

Stuart Levey, of Maryland, to be Under Secretary of the Treasury for Enforcement.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:16 p.m., adjourned until Thursday, July 22, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 21, 2004:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

LLOYD O. PIERSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE CONSTANCE BERRY NEWMAN.

AFRICAN DEVELOPMENT FOUNDATION

LLOYD O. PIERSON, AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2009, VICE JOHN F. HICKS, SR., TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTION 9335:

To be brigadier general

COL. DANA H. BORN, 3051

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT L. VAN ANTWERP JR., 8468

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES J. LOVELACE JR., 0304

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES M. DUBIK, 1344

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. GERALD E. FERGUSON JR., 6004

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL IN THE UNITED STATES NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND TITLE 50, U.S.C., SECTION 2406:

To be admiral

To be director, Naval Nuclear Propulsion Program

VICE ADM. KIRKLAND H. DONALD, 3953

CONFIRMATIONS

Executive nominations confirmed by the Senate July 21, 2004:

DEPARTMENT OF STATE

THOMAS FINGAR, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (INTELLIGENCE AND RESEARCH).

DEPARTMENT OF THE TREASURY

JUAN CARLOS ZARATE, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

STUART LEVEY, OF MARYLAND, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

ROBERT CLARK CORRENTE, OF RHODE ISLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF FOUR YEARS.

HOUSE OF REPRESENTATIVES—*Wednesday, July 21, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. KIRK).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 21, 2004.

I hereby appoint the Honorable MARK STEVEN KIRK to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend James Patterson, Pastor Emeritus, Lakewood United Methodist Church, Erie, Pennsylvania, offered the following prayer:

God of our fathers, grant that we may greet this day's duties and responsibilities with a constant remembrance of the great traditions that make this hallowed place echo with debate, compromise, and eternal guidance.

May the realization of Your presence guide all of our decisions. Be with us in our silence and in our speech, in our haste and in our leisure, in our companionship, and in our solitude.

May the freshness of this morning and the weariness of the evening crown all with the desire to help Your people, our folks at home, as well as the strangers in other States and territories.

May we give them and You our very best, so that some day we may hear Your words, "Well done, good and faithful servant." Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Pennsylvania (Mr. PITTS) come forward and lead the House in the Pledge of Allegiance.

Mr. PITTS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 1914. An act to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

H.R. 2768. An act to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

H.R. 3277. An act to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 2700. An act to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 17, 2004, and for other purposes.

The message also announced that pursuant to Public Law 96–114, as amended, the Chair, on behalf of the Majority Leader, appoints the following individuals to the Congressional Award Board:

Kelly Didawick, of Virginia and
Michael Carozza of Maryland.

The message also announced that the Secretary be directed to return to the House of Representatives (H.R. 4766) entitled "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes", in compliance with a request of the House for the return thereof.

WHAT HAPPENED TO THOSE DOCUMENTS?

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, at a time when our national security is of paramount importance, President Clinton laughed when asked what he thought about his former National Security Adviser stealing and losing highly classified national terrorism documents. But this is no trifling matter.

The documents were codeword secret, the most highly guarded secrets we have. One or more copies of a memo, an analysis of the Clinton administration's antiterror efforts around the millennium, are still missing.

In the highest levels of the Clinton administration, terrorism may have been a laughing matter. We know now it is not. This is a serious breach of security. This is the guy who served as a senior adviser to the Kerry campaign and wants a top spot in the Kerry administration.

We should question Senator KERRY's judgment for placing him in a key position in his campaign.

Fox News reported that he hid the documents in his socks "inadvertently."

Whether or not that is true, this whole thing stinks.

ADMINISTRATION NEEDS TO GET SERIOUS ABOUT HOMELAND SECURITY FUNDING

(Mrs. MALONEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, no one talks a better game than the Department of Homeland Security. But beyond the bluster, there is reason to feel deeply insecure about this administration's efforts to protect America.

Although we hear a great deal about the war on terror, no competent general in any war would leave his home defenses with so many holes. Every line of critical homeland defense is underfunded and unprepared for an attack on American soil, and we are going in the wrong direction.

Unbelievably, the administration essentially froze homeland security spending in 2003. The President's budget cut port security grant funding by 63 percent, cut first responder funding within the Department of Homeland Security by 15 percent, and provided no dedicated funding whatsoever for rail security or protecting chemical plants and nuclear power plants.

My question is, when is this administration going to get serious about funding homeland security.

HOUSE KILLS OPTIONS RULE SHIFT

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, yesterday the House voted to block a rule that would require companies to count stock options against their profits. Now, Federal Reserve Chairman Greenspan, a proponent of mandatory expensing and the Financial Accounting

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Standards Board proposal, told a Senate hearing yesterday that he would be most concerned if Congress intervened. Of the rule-making board, he said, I think they do a good job. It is a tough job. But the House yesterday intervened.

Advocates of mandatory expensing include Securities and Exchange Commissioner and Chairman William Donaldson, the billionaire investor, Warren Buffett and all four big accounting firms. The FASB proposal answered the call for accurate financial statements that came from a string of corporate scandals starting with Enron.

Mr. Speaker, who could be against that? Just allow stock options to be expensed. We could allow exceptions for start-up companies, especially in the high-tech area, but instead Congress, here in the House yesterday, blocked a rule to count stock options.

I hope the Senate will not pass this legislation.

ATTACK THE DEFICIT

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, Republican leadership still does not grasp the importance of reducing our Nation's deficits. Instead, they continue to focus on misplaced priorities.

Our Nation faces record deficits, and we ought to tackle the real problems that deficits pose. Deficits put a strain on the economy. They threaten Social Security and force families to bear the burden of our Nation's debt.

Over the next 6 years, Nevada families will pay on average more than $20,000 out of their own pockets to help cover the cost of the national debt. Instead of dealing with this, the Republican leaders have chosen this week to focus on legislation that would erode the separation of powers by removing Federal court jurisdictions to review challenges to the Defense of Marriage Act.

It is incomprehensible to me that Republican leaders have deemed this the pressing issue when millions of Americans have no health insurance, we still have not passed a transportation bill, and our deficits are skyrocketing out of control.

Let us focus on what is really important to American families, attack rising deficits with sensible approaches and let us let all of this extraneous nonsense go by the wayside where it belongs.

PRESCRIPTION DRUG CARD HELPING SENIORS

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to sing the praises of the Medicare-approved prescription drug card. Seniors are now saving up to 20 percent off brand-name prescriptions, 40 percent off generics and 60 percent off mail order prescriptions.

In addition, America's poorest seniors can sign up to receive an additional $1,200 credit for their prescriptions over the next year and a half. For those lower-income seniors, savings can be as high as 86 percent off what they are paying before the card.

Now that seniors are receiving these savings, Democrats have realized they cannot claim that the cards do not help. America's poorest seniors are getting cash subsidies for their medications, so now the Democrats have taken a new approach to their mediscare tactics.

Since they know the cards are beneficial, they are now saying that they are too confusing. Well, if seniors will call the 1–800–MEDICARE number and have their prescription bottles handy, give them your ZIP code, what prescriptions you are currently taking, the name of each drug, the dose, how often you take the drug, and the cost of the drug, you will be able to receive information that will immediately be of assistance.

RICH GET RICHER, POOR GET POORER

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, two headlines speak volumes about the economic conditions of the middle class in America today: Sunday's New York Times headline, "Hourly Pay is Not Keeping Pace With Price Rises"; yesterday's Wall Street Journal, "So Far, Economic Recovery Tilts to the Highest Income Americans." And for the middle class we have a wage and benefit recession.

These headlines show that there is two-track economy, one for the very wealthy who are doing well, and one for the middle class who are struggling to keep pace with their middle-class dreams and providing for their children.

What we have today is a $500 billion deficit all financed because we are trying to wage three wars with three tax cuts and showing it cannot be done.

Republicans have chosen to put off addressing America's health care crisis, rising tuition costs, stagnant wages, and the ever-elusive retirement security.

As corporate profits boom in America by 16 percent, America's middle class are feeling squeezed by stagnant wages and rising health care costs. While sales of BMWs and at Neiman-Marcus are rising, same store sales at Target and Wal-Mart are stagnant.

With a record like this, only this administration would wave the banner, "Mission Accomplished" above the economy. It is time to put that banner back where it came from.

NO HONEST MISTAKE

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, it is absolutely amazing that since the revelations about Sandy Berger, who was National Security Adviser for President Clinton and has been the Kerry Campaign's senior policy adviser, since these revelations that Sandy Berger had removed classified documents at the National Archives, that my colleagues on the other side of the aisle have been so dismissive of this gross violation of our national security.

I can only imagine the howls from the other side of the aisle if allegations were made against Condoleezza Rice, that she had stuffed documents, classified documents in her socks and removed them from the Archives and that some of the documents were still missing.

I am sure we would hear accusations of a cover-up, a vast conspiracy.

No, we are hearing none of that from my colleagues on the other side of the aisle. Instead, what do we hear? They say it was a mistake, an honest mistake, more innocent than it looks. We certainly do not hear any calls for investigations.

Well, I am both shocked and appalled by these reports, and I am calling for the appropriate House committee to investigate. The American people deserve to know.

FAILED REPUBLICAN ECONOMIC PLAN

(Mr. TANNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, it has been 1,168 days since President Bush and the Republican Party embarked on their economic plan for our country. During that time the national debt has increased by $1,636,400,551,909.99.

According to the Web site for the Bureau of the Public Debt at the U.S. Department of Treasury, yesterday the Nation's outstanding privately held debt was $4,228,487,022,143.12. Foreign holdings, debt held by foreign governments and others, not Americans, now total $1.5 trillion. This is an increase of $740 billion since January 2001 and is now 41 percent of all privately held debt.

□ 1015

PROGRESS IN IRAQ REPORTED IN THE NEW YORK TIMES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, yesterday's New York Times front page surprisingly detailed some of the progress being made daily in Iraq. The article described dozens of small-scale construction initiatives or microprojects that have been under way throughout Iraq. This includes digging wells to supply water to hundreds in small towns and helping to restore historic sites that are essential to the local culture.

This is only a grudging glimpse of the good news that has been taking place in Iraq since the American military and coalition forces liberated the nation from Saddam Hussein's tyrannical regime. I have seen firsthand the positive progress being made in Iraq to build a civil society which fights terrorist training to protect Iraqi and American families.

I am encouraged that media outlets, such as the New York Times that for too long ignored the good news in Iraq in favor of police-blotter journalism, are now showing limited signs of balanced reporting.

In conclusion, God bless our troops. We will never forget September 11.

HONORING STUDENTS AROUND NEW YORK CITY WHO PARTICIPATED IN CONSTITUTION EDUCATION AND ENGAGEMENT PROJECT

(Mr. WEINER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEINER. Mr. Speaker, I rise to pay tribute to the over 100 students from around New York City who participated this year in the Constitution Education Engagement Project. The CEEP program, of which Carl Bonomo is the founder and Dorothy McCloskey is the director, takes secondary school students from around New York City and asks them to have hearings, discussion and debates and arrive at a piece of legislation for this Congress to consider.

This year, the winner was from the Wadleigh Secondary School. Their piece of legislation, which addresses the inequities in education funding, I will be introducing in the RECORD following these remarks, as well as the list of students who participated to make this project such a success.

The legislation that they have come up with addresses problems that affect over 41 States in the United States, and that is the inequity between funding among different school districts. In New York State alone, $17,000 is spent per student in one district compared to $6,000 per student in others.

Since 1973, 45 different States have had to address the inequities in school funding. The students at the Wadleigh Secondary School are among our brightest and best. They are members of the CEEP program, which seeks to address the problems we have in our country through the legislative process.

I hope this House joins in paying tribute to their successes.

FEDERAL MARRIAGE AMENDMENT

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, I rise today to address the proposed Federal marriage amendment to the U.S. Constitution.

Marriage for thousands of years has been between one man and one woman. This body passed the Defense of Marriage Act, along with 38 State legislatures. Yet in recent years, courts and other government authorities have actually worked against these efforts to protect marriage.

Today, because of local government authorities, homosexual couples are able to be married in certain States and cities in our country. It will not be long until a couple will try to force another State to recognize this marriage; and sooner or later, they will find a Federal judge who will side with them.

Congress must take a stand now against these efforts to thwart the will of Congress, State legislatures, and the American people. Thus far, Federal law has not stopped courts from ruling in favor of these illegal unions. Organizations have challenged DOMA in arenas that further remove the decision-making process from the general public and their elected representatives, barring the majority of Americans from being heard during the process.

We should support efforts to block Federal judges from overriding DOMA, but only the Federal marriage amendment can protect the American people's will from being silenced once and for all.

OVERTIME PAY REGULATIONS

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, on August 23, President Bush's new overtime pay take-away rules will go into effect. These rules will slash wages for over 6 million Americans.

Since 2001, this administration has passively stood by while Americans lost their jobs and unemployment benefits; but here in Congress, we have a duty to fight for the safety and security of workers who need overtime wages to pay their bills and make ends meet.

If these rules go forward, the outcome will be disastrous for working families who depend on the income from overtime wages in order to live. Hardworking mothers and fathers in my hometown of Los Angeles will see their workplace more than their homes, their bosses more than their families as they are forced to work longer hours for less pay.

Mr. Speaker, it is outrageous for Congress to deny overtime pay to the nurses, policemen, secretaries and every other person who works for a living, while the administration rewards millionaires and big corporations with tax breaks. Slashing overtime wages is another example of this administration's disregard for the well-being of the middle class.

INVESTIGATION OF SANDY BERGER

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute.)

Mr. HOEKSTRA. Mr. Speaker, President Clinton's National Security Adviser, Sandy Berger, has admitted to removing highly classified terrorism documents from a secure room during preparations for the September 11 Commission hearings.

According to reports, Mr. Berger knowingly, and this is an arrogant, total disregard of the law, knowingly removed handwritten notes he had made while reading classified documents by sticking them in his jacket and pants. He also removed several classified documents. Some of these documents were discarded by Mr. Berger and are still missing.

The missing documents are highly classified reports on the Clinton administration's handling of al Qaeda terror threats during the December 1999 millennium celebrations. They included critical assessments of the U.S. response to terrorist threats, as well as identification of vulnerabilities at U.S. airports and seaports.

Removing highly classified anti-terrorism information from a secure area is extremely dangerous, and misplacing such information is absolutely inexcusable.

Mr. Berger has attributed his actions to sloppiness. A person in Mr. Berger's position does know better than to do something so irresponsible, and he should be well aware of the serious consequences.

The Justice Department is currently conducting a criminal investigation. We should render Mr. Berger the benefit of the doubt, but these admitted actions have the potential of undermining U.S. national security and damaging the integrity of the September 11 Commission.

BUSH ADMINISTRATION SMEAR CAMPAIGN

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, well, here we go again. Anytime the heat is on the Republicans, the Bush administration, they leak something out and try and smear somebody.

The 9/11 Commission report is coming out tomorrow, and just 3 days before it they bring up something that has been investigated for 9 months. They leak it out of the Justice Department.

Now, even conservative reporters like Norm Ornstein and David Gurgin have said they are enormously skeptical about this whole thing. David Gurgin said it is suspicious.

It is not suspicious. It is what they always do. Whenever there is something coming up, they find a way to leak out something like against Ms. Gorelick on the 9/11 Commission. They never wanted the commission, and now it is going to come out and say bad things about them. So they are going to smear all the people around it as quickly as possible.

That is a standard operating position for these people, and it is despicable. Why do they not let the Justice Department do the report? It was 9 long months ago it started. Let them bring it out when there is going to be an indictment.

We will do the same for the gentleman from Texas (Mr. DELAY), and we will do the same for all the Members on the Republican side who want to raise these kinds of issues. Why do we not wait until the people in the Justice Department make the decision?

FINAL OVERTIME RULES

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, on their policy of liquidating overtime pay as we know it, the Republican majority should end their covert sabotage and come out of the closet. The right to overtime pay is a fundamental right guaranteed for the past 66 years by the Fair Labor Standards Act. For 6 million or more American workers, however, that right will expire in exactly 1 month's time.

On August 23, a Bush administration rule will be implemented to strip hardworking Americans, including certain police officers, nurses, preschool teachers and many others, of rightfully earned overtime pay. Republicans must admit their war on overtime. Come out of the closet.

The House Republican leadership is now refusing to bring the fiscal year 2005 Labor-HHS appropriations to the floor. The Republicans fear the truth and power of a Democratic amendment to reverse this Bush rule and protect workers' rights to overtime pay. The Republicans are afraid to expose their unjust policy to the voters.

Under the Bush economic plan which favors the haves and have-mores, an increasing number of American workers have had to rely on overtime wages simply to pay their electricity bill or their monthly mortgage.

But overtime for working families is also an issue of fundamental fairness. In Iraq, 90 percent of the frontline soldiers are the children of these working families. Mandating that employees work extra hours without adequate pay is a betrayal of the trust of the families of our heroes.

Vote "yes" on overtime pay. Bring it to the floor today.

THE MAJORITY'S NEW STRATEGY

(Mr. ANDREWS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, 6 million Americans are about to lose their right to overtime protection, police officers, firefighters, preschool teachers; and I believe that a majority of this House is ready to vote against that proposal and is ready to restrain that proposal from becoming law.

I have, Mr. Speaker, to commend the majority because they have found a new way to subvert the will of the majority. On two occasions what the majority has done is permit a proposition to come to the floor, lose, as they did in the case of the Medicare vote, lose as they did in the case of protecting civil rights under an amendment to the PATRIOT Act, and then fix the result after they have lost.

This time they have come up with a new strategy. Because the majority knows it will lose this vote on overtime, they are prohibiting the vote from coming to the floor in the first place.

If the Labor-HHS appropriations bill were reported out of committee and brought to this floor, this House would get a chance to work its will and defeat this proposal that will deny 6 million Americans the right to overtime.

I say, Mr. Speaker, to the majority, bring it to the floor. Let the House work its will. Let the majority protect the rights of 6 million Americans.

THE CRISIS IN THE SUDAN

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Speaker, I come to the floor today with a sense of urgency to call on my colleagues to act now, before we adjourn, upon the crisis that is developing more and worsening every day in the Sudan.

Over 1 million Sudanese have been displaced and 30,000 have been killed so far in Darfur, and we understand that a minimum of 1,000 people a day are dying, being killed. Women and girls are being systematically raped and brutalized by thugs who have been reported to sing with glee as they inflict pain and humiliation beyond belief.

I stand here today not only as a Member of the United States House of Representatives but as a Jew, as part of a people who are still haunted by the killing of 6 million during World War II, while there were people in the world who knew what was happening, and as a grandmother who does not want to face my grandchildren who say to me, Grandma, you were in the Congress when people were killed in a genocide in the Sudan, what did you do. That is a question we all have to ask ourselves.

We should pass a resolution today before we leave this Congress that we will act, not just talk about it.

WHEN THE HEAT IS ON, BUSH TEAM USES NATIONAL SECURITY INFORMATION FOR POLITICAL COVER

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, just 3 days prior to the release of the 9/11 Commission report critical of the Bush administration's lack of attention on terrorism, a 7-month-old FBI investigation of former National Security Adviser Sandy Berger was leaked to the media. The timing of the leak is sort of curious.

Previously, the Bush team has used national security information and memos to disparage 9/11 Commission members who they did not like. Now, tomorrow, the 9/11 Commission is preparing to release their report, and we know it will be bad for the Bush administration. We know we were not as safe as we should have been on September 11, and we still mourn the thousands who died that day.

The Bush administration opposed the creation of the commission. They fought against giving the commission enough time to complete its work and tried to limit the documents the commission could see.

President Bush and Vice President CHENEY sought to limit any questions they received from the commission and National Security Adviser Condoleezza Rice tried to avoid testifying publicly at all.

Now, the commission's report is done and the questions it raises are, Are we as safe as we should be today? How much progress have we made in correcting homeland security deficiencies?

Unfortunately, the Bush administration has a lot of work left to be done.

□ 1030

PROVIDING FOR CONSIDERATION OF H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 732 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 732

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except: section 129. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. KIRK). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, last night the Committee on Rules met and granted an open rule for H.R. 4837, the Fiscal Year 2005 Military Construction Appropriations Act.

The United States military is clearly the best in the world, and the young men and women in our Army, Navy, Air Force, and Marines are thoroughly dedicated and patriotic professionals, the best our Nation has to offer.

And we are asking a lot of our military today. Our military personnel on active duty know that they may well be deployed overseas and perhaps on dangerous missions; so we want to provide a quality of life for themselves and their families that will allow them to serve, knowing that their families will be taken care of with good housing and good health care.

H.R. 4837 recognizes the dedication and commitment of our troops by providing for their most basic needs: improved military facilities, including housing and medical facilities.

Mr. Speaker, we must honor the most basic commitments we have made to the men and women of our Armed Forces. We must ensure a reasonable quality of life to recruit and retain the best and the brightest for America's fighting forces, and most importantly, we must do all in our power to ensure a strong, able, dedicated American military so this Nation will be ever vigilant, ever prepared.

H.R. 4837 provides nearly $1.1 billion for troop housing and $190 million for hospital and medical facilities for the troops and their families. Military families also have a tremendous need for quality child care, especially single parents and families in which one or both parents may face lengthy deployments. To help meet this need, the bill provides $26 million for child development centers.

This bill is more than just a signal to our soldiers, sailors, airmen, and Marines that this Nation recognizes their sacrifices. It is a means by which we meet our commitment to providing them decent quality of life, and this will sustain the commitment and professionalism of America's all-volunteer armed services and the families that support them. We owe them a great debt of gratitude.

While our men and women in uniform have swiftly engaged our enemies abroad, they face increasingly complex personal and professional challenges here at home. We must do more to take care of those who are putting their lives on the line to defend our freedom and for their families that support them. So I urge my colleagues to support this rule and to support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman for yielding me the customary 30 minutes.

Last night the Committee on Rules met to report a rule for the Military Construction Appropriations bill for 2005. The bill has wide bipartisan support. It provides sufficient funding for America's military construction needs and includes funding to improve facilities and family housing on reserve and active duty installations around the world. The bill also includes a provision that protects the most successful military housing project in history, the Military Housing Privatization Initiative.

Under this program, the Federal Government creates public-private partnerships to construct and renovate military family housing. The current state of military housing is a disgrace. It is often old and dilapidated. Under this program, quality homes for our troops and their families are constructed more affordably and more quickly. It is estimated that the government saves 10 to 15 percent over the life of the project, and military families receive improved homes in one-tenth of the time it will have taken using old methods of family housing construction.

When the program started in 1996, it was tied to a cap of $850 million in government investment. The Department of Defense will reach this cap in November. The Military Construction bill contains a provision to raise the cap and ensure that the most successful military housing program ever will be able to continue.

And herein lies the problem, Mr. Speaker. The rule that we are considering today puts this program in danger. It allows a point of order on the section of the bill raising the cap on the Privatization Initiative that would allow it to be completely stripped from the bill. If that happens, the program would be unable to continue past November of this year, and almost 50,000 military families would pay the price and continue to live in substandard housing.

I made a motion last night in the Committee on Rules to protect this section of the bill so that it could not be stripped out, but it was defeated on a party-line vote. I just do not understand that, Mr. Speaker, because perhaps more than anything else in this bill, this provision will help raise the quality of life for our troops and their families.

Perhaps worst of all is the fact that this is the only provision in the Military Construction bill that can be stripped out on a point of order. I think that shows real disregard and disrespect for our soldiers, and, quite frankly, Mr. Speaker, I find it disgraceful. We in this House are constantly talking about the need to support our troops, and yet when the time comes to actually vote on a substantive issue that could really help our fighting men and women and their families, some Members of this House are not following through.

I, for one, am proud to support our troops. As a Nation, we continue to ask more and more of them, especially in this time of war and uncertainty. Our brave soldiers and their families deserve to live in quality housing, not slums. It should be their right, not their privilege; and that is why today I will attempt to defeat the previous question. If the previous question is defeated, I will offer an amendment to protect the military housing cap in the bill from being stripped out on a point of order.

Mr. Speaker, the chairman of the Committee on Armed Services, the chairman of the Committee on Appropriations, countless military families and military organizations, and the President of the United States—let me repeat that, and the President of the United States, all support raising this cap. This House should too. America's troops and their families deserve to have our unconditional support as they continue to fight the war on terror. Vote "no" on the previous question and vote "no" on the rule.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 10 minutes to the gentleman from Iowa (Mr. NUSSLE), the chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in opposition to this rule, and I do so without disrespect at all to the gentlewoman. She is a very valuable Member of this Congress and a friend and someone who has worked hard to make sure that when we write budgets, when we determine spending priorities, that we adhere to them. And that is why I rise in opposition to this rule.

This bill breaches the spending limit made under the budget. There will be people who come to the floor today who will claim that the only issue today is military housing when, in fact, the issue today is an $800-plus billion budget from which we can find many puts and many takes in order to adjust priorities here and adjust priorities there in order to make sure all priorities fit within a budget.

How does this process work? The Committee on Appropriations, appropriately and in a way that we all appreciate, filed their bill meeting what is called the 302(b) number for military construction, meaning that it fit within the budget when the committee process began. But there were amendments that were made in order to increase the amount of spending over the budget and over the amount that was prioritized.

Why was that done? It was done for political purposes. It was done to make points because, as everyone knows, in the Department of Defense authorization bill, the cap that we will be talking about today for military housing was lifted. So it is being taken care of. It is being taken care of in the authorization process, which is the appropriate way to handle it, the appropriate direction to take, and a way that does not bust the budget and allows all of us to do this within a responsible process.

This Military Construction bill breaches the allocations that the Committee on Appropriations established for the Subcommittee on Military Construction by $1.2 billion as a result; that is 10 percent of the allocation. We are not just busting this by a couple of bucks here. We are not just saying it is okay to go over by a little. I mean, there have already been three bills that have left the House floor as appropriations that busted their allocations, three bills that we voted on on the floor here, that were sent to the other body, that busted the budget.

So it does happen. It does happen by a few hundred thousand here, hundred million there, but rarely have we ever seen the chutzpa of coming to the floor with a bill that busts it by over 10 percent of the allocation.

How does the Committee on Appropriations usually deal with this? Very typically, very routinely, the Committee on Appropriations comes to the floor and they make an adjustment to their 302(b) allocations. In fact, they can even make an adjustment to a bill that has already left, and they have done that in the past. And in fact, as I understand it today, they will make adjustments to their 302(b) allocations in order to make the three bills that left here, busting the budget, fit, something that they routinely do currently and totally within their jurisdiction and something that we, as fiscal hawks and people that want to make sure that we adhere to the budget, appreciate.

The chairman of the Committee on Appropriations has never brought a bill to this floor that busted the budget. Unfortunately, today this rule would allow that to happen. And that is why I rise in opposition, because we should not allow that to happen.

Military housing is an effective program, so important that I am disappointed that the Committee on Appropriations did not offset the additional cost with a spending reduction in other bills from lower-priority items, which is fully within their jurisdiction. Do they mean to tell me there is nothing else within any of the 13 appropriation bills that are lower priority than the military housing for our families who are fighting to defend our freedom? Nothing? Absolutely nothing? We cannot look for anything?

Just waive the rules, and not only waive the budget and the budget rules, but to do so almost 2 weeks after we had a debate on this floor saying the budget process is broken, we have got to come up with new rules. Why do we have to come up with new rules if we break the rules that we already have? Why do we adhere to the rules that we already have? Such as we write a budget, we allow the Committee on Appropriations to make their allocations within the discretionary accounts. They make that decision and bring bills to the floor to fit within that budget so that in final analysis we are able to stay within that budget overall and not increase the deficit and not borrow more money and not add to the national debt.

But we will continue to hear today that this is an important program and it needs our support. And it does need our support and it already has our support because it is moving through in the Department of Defense authorization.

The House should not be in a position of having to take up this bill. Under section 302(f) of the Congressional Budget Act, it is not in order for the House to even consider a measure that breaches the 302(b) allocation, Mr. Speaker. It is not even in order to consider this bill. And there are all sorts of mechanisms available to the Committee on Appropriations prior to bringing this bill to the floor, to make their adjustments to ensure that this bill meets its allocation.

The purpose of this rule is not to put a burden on enforcing the budget on the committee while it is moving the bill. Nevertheless, in a dramatic lapse of what I would call parliamentary responsibility and budget discipline, the rule waives this point of order. The rule shifts the burden for bringing the bill into compliance with the resolution away from the committee that is responsible, away from the Committee on Appropriations that we ask to make the tough decisions, to make the tough political decisions when they are political, like this one will have to be because people will make political points about this, about people not caring, about people not supporting, about people not wanting our military families to live in decent housing.

□ 1045

Well, there is not a Member of this body, not a Member of this body on either side, who should be accused of that or who would suggest that the men and women who serve in our military, who fight for freedom, should live in sub-quality housing. That is why we have the program. That is why the Department of Defense authorization lifts the cap and works to ensure that our men and women in the military have the ability to do just that.

Faced with the choice, and it is an unfortunate choice that I believe we are faced with today, of enforcing the budget resolution or supporting this rule, I believe it is my job as the chairman of the Committee on the Budget to enforce the budget; to listen to the men and women in the military who think their choice is more important than all sorts of choices that have been made and are going to be made in subsequent appropriation bills, number one, and also listen to the unbelievable amount, it should not be unbelievable, it is actually believable to me, but the growing chorus of people across this country that say you in Congress spend too much money. Set your priorities.

Determine what is important. Support our military families, and find something that is not quite as high a priority to cut out of the budget, to postpone until next year, to eliminate entirely.

The waste, fraud and abuse that is going on in this budget, that is going on in this government, that goes on as a result of what we continue to perpetuate without making those tough choices, is what we have to come through. Are the choices tough? Of course they are tough. But remember 2 weeks ago when we had that budget debate; when everybody said please, take away those tough choices for me. Come up with new rules that have commissions, outside commissions, to make these decisions. Or let us do something so that I do not have to make these tough choices, so I do not have to choose between military families and waste within other Departments of the government.

I know what my choice is. My choice is let us eliminate the waste. My choice is let us support those families, just like everybody else here on the floor would choose.

Instead, unfortunately, what happens today is we have a bill that comes to the floor that not only busts the overall budget, but busts its total allocation for this bill alone by 10 percent. That is irresponsible to our military families, and that is irresponsible to the fiscal integrity of this government.

We should not adopt this rule. If it is adopted, I will move to strike this provision. I ask for people to vote in opposition to this rule.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Will the chairman of the Committee on the Budget please remain for a question? Will the gentleman from Iowa (Mr. NUSSLE) please remain for a question? I do not think he meant to intentionally misstate a fact.

I would point out that the authorization bill lifts the cap for 2006. It does not lift it for 2005. In fact, the administration has asked for the $500 million.

I do not think the gentleman intentionally meant to misstate the fact, but he did make a misstatement of fact on the floor.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I think that the speech we just heard indeed does illustrate rather dramatically the difference in priorities between most of us on this side of the aisle and many others on that side of the aisle.

What is before us is this: we routinely see Members of both parties in this House talk about the need for shared sacrifice, and we routinely see Members of both political parties posing for political holy pictures because they both profess to be so concerned about the welfare of our soldiers who are fighting our wars on behalf of our national interest. But this rule walks away blatantly—it walks away from our obligation to those military families who are the backbone of our military efforts, whether in Iraq or other places around the world.

Now, the bill as it was reported by the Committee on Appropriations at the request of the gentleman from Texas (Mr. EDWARDS), who is the primary mover on this issue, included a provision which allowed the Military Housing Privatization Program to continue to operate. That is important, because 160,000 military families right now live in sub-standard housing, and the provision in this bill to raise the cap on that program would have helped 50,000 of those military families to wind up living in decent housing. This rule will allow a single Member of this House to knock out that provision.

So here we are in the middle of a war. We talk about shared sacrifice, but in the end, how does that shared sacrifice really apply? To some folks in the military, those folks are asked to do their duty not just once, but twice. Some of them have already done one tour in Iraq. Now they are being called upon to do it again. Meanwhile, the rest of us in the country can sit back and "sacrifice" by accepting our tax cuts.

Now, the gentleman who just spoke, the chairman of the Committee on the Budget, produced a budget resolution which sacrificed virtually every national priority to his preference that we provide supersized tax cuts to people who make $1 million a year. So the budget resolution which that gentleman brought to the floor guaranteed that we were going to be able to give $90,000 tax cuts to people who make $1 million a year.

Where did the money come from? By squeezing on military housing, by squeezing on aid to education, by squeezing on health research at NIH, by squeezing on law enforcement funding.

The gentleman has very frankly stated his priorities, and I congratulate him for his honesty. I do not think much of his judgment, however, because if we were to follow his judgment and if we vote for this rule, that gentleman will be allowed to strike this provision on military housing.

If we follow this rule, if we allow this rule to pass, we will be in a situation where one Member of the House can exercise his personal preferences and knock out the provision that the Committee on Appropriations, on a bipartisan basis, put in this bill, to try to provide some help to the people who are doing the most to support the national policies of this country, and that is military families. I think that the result of this rule would be shameful.

Now, frankly, I was surprised when I heard the gentleman from Iowa oppose the rule, because this rule is here because of his pressure on the Committee on Rules. But, Mr. Speaker, now as I think about it, I finally realize what the game is. The gentleman from Iowa wanted the Committee on Rules to do the dirty work. He wanted them to directly eliminate that provision, rather than having to take the personal heat by standing up and knocking out that provision on a point of order.

Well, I would suggest the way to correct this problem is to vote down this rule, to vote down the previous question so that we can bring to the House a bill which protects this provision. The rule provided waivers for all kinds of other provisions in the bill. Why did it exempt from that protection military families who need our help the most?

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I would announce to my colleagues, especially on the Committee on Appropriations, that I intend to vote for this rule. But there is one part of the rule that I do not like. I wish that the rule would have protected language relative to military housing.

I am really proud of the Committee on Appropriations and the Congress, because we have done an awful lot for the members of our military services, as we should; and there is a lot more that needs to be done. There are some 24,000 military families anxiously awaiting for this bill to pass so that they can get in line to receive one of those new housing projects.

Some of our military families live in great housing that has been produced through this public-private venture system and at a very low cost to the government, I might say. For every dollar it costs the government, there is $11 of private money invested, and these kids have great places to live. But there are at least 24,000 of our servicemen today who still do not have a decent place to live, and that is what this bill seeks to create and to fix housing for them.

The amendment that is in question does not appropriate any money. I do not see why the budget chairman is so exercised. We did not appropriate any additional money. The amendment that was offered by the gentleman from Michigan (Chairman KNOLLENBERG) and by the ranking member, the gentleman from Texas (Mr. EDWARDS), was strictly to raise the limit on the amount of money the government could enter into with the contractors. We did not appropriate a single additional dollar; and we did not need to, because of the great way this program works.

The chairman of the Committee on the Budget also said, why do this? It has already been done.

That is not true. It has not been done. The authorizing committee would like to do it, but they face the same budgetary constraints that we face—not dollars, not money being spent by the Federal Government, just to raise the limit on the amount of money that the Federal Government can enter into contracts with private contractors.

It was suggested that we should have made changes in the budget process, and I agree with that. Let me tell you what one of the changes ought to be: the Chairman of the Committee on the Budget is basing his position on scoring by CBO, the Congressional Budget Office. I would like to base mine on OMB, the Office of Management and Budget.

OMB likes this provision, and they say that it is not going to cost any more money. The Administration in their Statement of Administration Policy, and the President, strongly support the provision that we are talking about. They say OMB would not score any additional cost to this provision because it does not increase the amount of budget authority available to the Department of Defense.

So, yes, we need budget process reform. We need to have the people that are scoring our appropriations bills reading from the same page. You cannot have CBO scoring something one way and OMB scoring it another way. That is one of the process changes that we need to make and that we will offer at a later date.

Mr. Speaker, this is important to our kids that serve in the military. As I said, we have done a lot for them, and we sent them to war. Most of the people that are concerned about this budget situation voted to send them to war. And when you go to the hospitals, as I do on a regular basis, to visit the kids, they want to get better, they want to get back to the fight, but they also want to know, if someone is taking care of their family. Are they going to live in decent housing? Are they going to have enough money to buy food for the kids, and things like this.

We owe these kids decent places to live. If we are going to send them to war, we owe them a quality of life that is better than so many of them are living today.

So we have a lot of work to do. The Committee on Appropriations, I believe, has made a great step forward in this bill by adding this language to allow the Department of Defense to increase the amount of authority that they would give to the private-public venture that provides housing for our military families.

There is a lot more that we have to do for these kids. They are paying a lot. The sacrifice is great, the separation from family, the facing of an enemy that is not even known in most cases, the problems they are facing in trying to secure America and our interests against terrorism and the terrorists who would threaten our very way of life. We owe them a lot more than we are doing for them now.

MILITARY HOUSING PRIVATIZATION

The Military Housing Privatization Initiative was started in 1996. This program has successfully converted 62,000 units and I have seen most of them. The program is extremely popular with military families who are clamoring to get out of the rat traps and into new homes.

The program is extremely fiscally conservative. Every $1 of federal money leverages $11 of private investment.

The provision in the Military Construction bill enhances the privatization program. Without it, the Department of Defense will have to forgo the creation of 24,000 additional homes.

This provision simply raises the cap on the amount the Federal Government can contribute to the program. It does not appropriate one single additional dime for the program. The administration strongly supports this provision. Let me read from the Statement of Administration Policy on the bill. I quote, "The administration strongly supports the provision that would increase the military housing privatization cap from $850 million to $1.35 billion. This increase will improve the quality of life of our military families." OMB estimates that if this cap is not lifted the program will shut down in November of this year.

For 6 years CBO scored this provision the same as OMB. For some reason, this year they have changed their position. Their explanation is long and exceedingly complex. OMB disagrees totally with this interpretation. If there ever is a case to be made for directed scorekeeping, this is it.

I am extremely disappointed that this provision was not protected by the rule and will probably be struck by a point of order. It has been said we will fix it later—why wait—now is better than later.

FACT SHEET

Military Housing Privatization Initiative (MHPI) began in 1996. As of February 2004, DOD privatized over 55,000 units through 27 projects—the current plan is for 171,000 units, probably more.

DOD projects that it will privatize over 43,000 units in FY 2005. Of these, DOD estimates that 24,000 units are threatened by the cap.

Affected installations include Fort Drum (2,272 units), Fort Bliss (2,752 units), Eglin AFB (2,155 units), McGuire AFB/Fort Dix (2,592 units).

DOD estimates that about half of current housing inventory is still inadequate (too small, inferior to current design standards, etc.).

Secretary of Defense has established goal of eliminating inadequate housing inventory by 2007 (with exception of four Air Force installations by 2008 and Air Force overseas by 2009). This goal is impossible without MHPI.

Average ratio of private to Federal dollars is 11:1.

Privatization is undertaken only where housing market and life cycle analysis indicate that it is the best option. DOD will still rely primarily on existing housing market to meet service members' needs.

□ 1100

The least we can do is give our military servicemen a nice place to live, for them and their families.

Mr. FROST. Mr. Speaker, I yield 8 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, this rule is a slap in the face to America's military families. They have a right to be outraged, and they will be when they find out what happens on the House floor today.

This rule says to our military families, many of them who have loved ones serving in Iraq and Afghanistan, that the House Republican leadership has made tax cuts for Members of Congress this year a higher priority than better housing for military families.

With this rule, we put at risk the most important military housing program in American history, the public-private initiative. To do so any time would be wrong. To do so during a time of war is unconscionable.

The gentleman from Illinois (Mr. HASTERT) and the gentleman from Texas (Mr. DELAY) owe our military families and all who respect them an answer to one question: Why is it that you can support just 2 months ago on this House Floor a $69 billion tax break that benefits Members of Congress, but today, we cannot afford to continue our military housing program for 50,000 military families?

Perhaps the answer was given by the gentleman from Texas (Mr. DELAY) in his speech to bankers in March of 2003, just 1 week before the Iraqi war began, when he said this: "Nothing is more important in the face of war than cutting taxes." Nothing is more important in the face of war than cutting taxes.

I would like to invite the gentleman from Texas (Mr. DELAY) and the gentleman from Illinois (Mr. HASTERT) to Fort Hood in my district, which has sent nearly 40,000 Army soldiers to Iraq this year alone, to explain why they can bring to the House Floor 2 months ago a bill that cut taxes for Members of Congress making $157,000-plus a year, but they cannot find a way today to protect the most important military housing program ever for service men and women making $20,000 and $30,000 a year. Where is the fairness in that?

Is cutting taxes for Members of Congress while freezing military housing improvements for our troops the leadership's new definition of shared sacrifice during time of war? If so, it is a flawed definition.

Have our military families not sacrificed enough already? Why should 50,000 military families in 22 States now have to sacrifice their dream of better military housing so we can help pay for a self-serving tax cut for Members of Congress?

What is happening today on this floor is an insult to the incredible sacrifices made by our service men and women.

Oh, and how times have changed for the worst. Instead of President Franklin Roosevelt asking all Americans to sacrifice after Pearl Harbor, the House leadership, in the midst of our war on terrorism, is saying with its words and its deeds that nothing is more important in the face of war than cutting taxes.

We are going to hear a lot of excuses today. We are going to hear that technicalities prevent us from preventing a freeze on the most important military housing program ever. Baloney. The House Committee on Rules, with one phone call from the Speaker, could have done what it has done repeatedly in this Congress on 25 occasions: protect an important provision in this bill from a technical point of order. Unbelievably, unbelievably, that call was not made.

Unfortunately, the same House leadership that told the Committee on Rules to bring a tax cut, helping Members of Congress, to the floor 2 months ago, could not make that phone call to protect military families today. We will hear a lot of excuses about how, well, there are other ways to solve the military housing program crisis. Well, that is exactly what they are, excuses.

Those same Committee on the Budget members failed to solve this problem in the Committee on the Budget. Then they failed to work with the Committee on Armed Services to solve the problem for fiscal year 2005 in the Committee on Armed Services bill. That was two strikes. Now, when the Committee on Appropriations is trying to solve the problem in a bipartisan way and support our military families, these same folks want to prohibit us from doing so. Three strikes, and they are out.

Sadly, though, the people who will be left out in the cold are not Members of Congress who pretend to be fiscal hawks when it comes to funding military housing improvements, but turned into fiscal doves when it came to passing a $69 billion tax break that put money in our pockets. These same people will be leaving 50,000 military families in 22 States out in the cold.

We will hear excuses that military families will just have to wait for Members of Congress to have our 5-week vacation in July and August, and maybe the same House leaders we have who have ignored this housing crisis for the last 6 months will find a way to solve the problem, after campaign trips in August and beach vacations.

I would suggest that leaders in Congress who found the time to rename dozens of post offices this year and schedule tax cuts, votes on tax cuts for Members of Congress like me, maybe they should find the time to solve the military housing crisis now, before they go on vacation, before they make their dozens of campaign stops and fund-raising events in the month ahead. When it comes to solving a serious military housing crisis, the House Republican leadership has been AWOL.

Fortunately, there have been many Members such as the gentleman from Florida (Mr. YOUNG) and the gentleman from California (Mr. HUNTER) and others who have tried to come together to do the right thing.

Let me be clear. I am not asking the House Republican leadership, the gentleman from Illinois (Mr. HASTERT) and the gentleman from Texas (Mr. DELAY) to put themselves today in harm's way like so many of the soldiers from Fort Hood in my district are in Iraq today. However, in all due respect, I would hope the gentleman from Illinois (Mr. HASTERT) and the gentleman from Texas (Mr. DELAY) would support our troops by saying that, Do my colleagues know what? The military housing crisis should be solved before, not after, we take our 5-week August vacation.

Perhaps a little bit of shared sacrifice during a time of war is not too much to ask for our military families who have already made incredible sacrifices on behalf of the American family. After all, despite the statement of the gentleman from Texas (Mr. DELAY) that nothing is more important in the face of war than tax cuts, the vast majority of Americans would agree that there is something far more important than tax cuts, and especially tax cuts for Members of Congress during a time of war. It would be more important to support our troops and to support their loved ones, their families, to allow them to live in decent housing while they are giving up so much for our country.

Finally, Mr. Speaker, let me finish with this. There are moments when support for our military families ought to be more important than loyalty, blind loyalty to the House Speaker and the majority leader. I would suggest today is one of those times. During a time of war on terrorism, let us send a bipartisan vote and a message to our military families by saying, we are not going to go away on vacation in August until we solve the military housing crisis; and that, yes, the House leadership is not perfect, and today it is wrong to bring a rule to this floor that would help one person defeat the most important military housing program in American history.

The vote is what really counts, not our speeches today, and the vote will say this: What is more important, loyalty to the House Republican leadership or loyalty to the military men and women who are making such tremendous sacrifices on behalf of all Americans?

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

It is obviously political season, and when it is politically convenient, deficits are a huge problem on the other side of the aisle, but they are not willing to make any sacrifices in any other areas to be fiscally responsible to all of our citizens.

There is no one in this House who does not support our troops and wants to see more military housing. But I really feel that today, in this debate I am listening to, our troops are being used as a pawn, and that is very disturbing to me. Yes, this is an agenda of our President, but I would also like to remind the other side that tax cuts were also a priority of our President.

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), the chairman of the subcommittee.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in very reluctant support of this rule. I am eager to see this bill move forward. It is my bill. It is our committee's bill. But I am disappointed in one particular aspect of this rule.

The rule does not protect section 129 of the bill from a point of order. Section 129 raises the cap on the military family housing privatization program. This provision does not appropriate one dime in any new money; it merely increases the authorization level in order to allow fiscal year 2005 projects to proceed.

The chairman of the Committee on the Budget referenced the defense authorization bill. It does not even touch on 2005. It talks about 2006. This money, if the cap is not removed, is going to disappear by about November.

Unfortunately, CBO has decided that this provision should be scored. Its rationale for doing so is a little strange and thoroughly unconvincing. The crucial point is this: If the developer cannot service the debt on a project, the Federal Government is not on the hook. This has been stated over and over. There is no backing of any kind for the developer's private debt.

The bottom line is that this is a bookkeeping dispute with CBO, nothing more. But because of the decision of the CBO, this provision is vulnerable to a point of order, and I was hoping that this rule would waive that point of order.

By the way, CBO and OMB scored this the same way since 1996, but this year CBO decided to change it. Nothing in the program has changed, but CBO decided to change the scoring.

The housing privatization program is an enormously successful and popular program. I cannot think of a single person, including the chairman of the Committee on the Budget himself, who has expressed opposition to this program. The administration put out a statement on the bill that strongly, strongly supports the provision. They do not agree with CBO's scoring.

Earlier this year, my subcommittee heard from military spouses who testified to the positive difference that this program made in their lives. Let me just quote from one spouse, Mrs. Susan Sinclair of Fort Rucker, Alabama.

"Thank you for your efforts to improve our housing. The Residential Communities Initiative, RCI, has made many of our government neighborhoods look like civilian communities. My neighbor received a letter from her daughter stating that Camp Humphreys, Korea," we are talking about Korea now, "had the best housing in the Army. What a change. As many of you know from my testimony 3 years ago, when my husband and I were stationed in Camp Humphreys, we lived in a condemned Quonset hut."

By the way, that still exists around the world, around this country in many ways, too.

"This new housing is a testament to your committee's desire to improve the quality of life of our soldiers and their families. I want you to know how much we appreciate your efforts." By the way, we have many of those.

Mr. Speaker, we have heard positive comments like this all the way up to the Joint Chiefs level. I really want to identify, too, with the comments of the gentleman from Florida (Chairman YOUNG), because I think he had some very, very significant points.

I have personally seen this housing program and many members of this subcommittee have done so as well, and they have done some great work. Some new communities have been built, and this is a vast improvement.

So with that, Mr. Speaker, I again say that I will support this rule, but only with serious reservations.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Speaker, there is absolutely no way I can support this rule.

Last night, the Republican leadership of this House once again turned its back on military families trying to find a decent place to live. On bill after bill after bill, this Republican majority has chosen to waive all points of order, but on this bill, the Speaker and the majority leader refused to protect the Military Housing Privatization Initiative provision in the Military Construction bill from a point of order, despite the support of the President of the United States and the chairman of the Committee on Armed Services.

The leadership's decision dooms the important military housing provision, and it is wrong; and it is wrong particularly in a time of war.

The housing initiative is a public-private partnership that allows developers and property managers to build or renovate homes for use by military personnel. It is extremely successful. In fact, it has already provided decent housing to more than 60,000 military families, exceeding all expectations. If adequately funded, this initiative will enable the military to eliminate nearly all inadequate units within the U.S. by 2008.

Unfortunately, the law establishing the initiative limits total Federal spending on this program.

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This limit will be reached by this November, effectively sounding the death knell for the expectations of 50,000 military families at 27 military bases in 22 States who are desperately waiting for these homes over the next 2 years.

Now, faced with this housing catastrophe, the gentleman from Michigan (Chairman KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS), with the bipartisan support of their committee, increased the MHPI cap by $500 million, the amount needed this year to continue upgrading and building military housing under this program.

Mr. Speaker, it is the practice of the Republican leadership in the Committee on Rules to allow points of order to be raised if the chairman of the authorizing committee objects to the inclusion of any provision legislating on an appropriations bill. The chairman of the Committee on Rules consistently explains this whenever Democrats on the Committee on Rules ask why a rule does not protect a certain provision. Yet in this case, the chairman of the Committee on Armed Services, the authorizing committee, supports raising the MHPI cap in this bill.

Not only that, the President of the United States supports the raising of the cap in this bill; but the Republican leadership, despite all their rhetoric about supporting our troops, has once again turned their backs on our troops and their families.

Mr. Speaker, this is one of those defining moments. If Members of this House want to support our troops and their families, then they will reject this rule. If Members of this House want their actions to match their rhetoric, then they will reject this rule. Each year I have watched the gentleman from Michigan (Chairman KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) do their best for our military personnel and their families with one of the most inadequate allocations in the budget. This year they tackled the difficult challenge of providing decent housing for our military families around the country. They did the right thing in this bill and in return only ask for protection for this important provision, and what they got from the Republican leadership was a slap in the face.

I urge my colleagues to defeat the previous question, support our troops, and support the families of our troops.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Chairman HUNTER).

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Generally speaking, the authorizing committee, the Committee on Armed Services in this case, would be heavily attending this particular debate to object to the appropriators making policy on an appropriations bill. In this case, we are not doing that. We do strongly support raising this cap, and the reason we want to do that is because for over the last several years, we have played by the rules. We have done everything, I think, according to the rules. We have engaged with the Committee on the Budget, and the chairman of the Committee on the Budget is a very fine individual and has worked hard and diligently with us over the last many years to put together good defense budgets, as has the Republican leadership. We have got a very good package this year; but the one thing we have not been able to accomplish is to raise this cap, and at risk right now are some 24,000 units.

Now, I would just implore the Committee on the Budget and their very distinguished leader, the gentleman from Iowa (Mr. NUSSLE), to work with us on this one. Let us pull together on this one. This is one time when the authorizers are willing to not protect their turf, because things do not come wrapped in neat packages; and this is one of those times when we are going to have to make a package that is a little bit different from the standard package. That means doing everything with very vigilant protection of turf by authorizers during the appropriations process.

We support this, and in the end we have got lots of folks that are serving in theatre right now. Quality of life is still a major, major issue with our military families; and we have seized on this new method, this privatization of vastly increasing that quality of life. In the interest of doing that, we are willing to give up this piece of turf at this time and go forward with this fix on this very difficult problem so that we can get more military housing for our military families, and I would just implore the Committee on the Budget to hang with us on this one. Let us all pull together, let us get this thing through, and I would hope that no one objects when it gets to the appropriate point in the debate.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, about 2,500 military families at Fort Bliss, Texas, which is in my district, are planning, or were planning, to live in new, improved homes thanks to the military housing privatization plan that is scheduled, or was scheduled, to start this year.

However, because of this rule, this rule will prevent these families and thousands of others across the country from receiving the same improved housing they desperately need and they deserve. The Residential Communities Initiative, RCI, is a Military Housing Privatization Initiative that aims to eliminate inadequate housing on Army bases by 2007.

I want to thank my friend, the gentleman from Texas (Mr. EDWARDS), and the gentleman from Michigan (Chairman KNOLLENBERG) who have worked very hard to support our troops and to get a provision in the MILCON appropriations bill to increase the cap for the MHPI program.

But this irresponsible rule would effectively strip that provision from the bill. So today I want to ask and urge my colleagues to vote against this rule so that military families across the country can receive improved housing that they so desperately need and so much deserve. At a time when our men and women in uniform and their families are sacrificing so much for our Nation, this, I think, is the very least we can do.

And I want to remind all of you, all of you, my colleagues, that it is not enough to say that we support our troops. It is not enough to say that our troops are performing professionally. It is not enough to say that our troops are performing heroically and then turn around and shaft their families by eliminating this critically needed military housing initiative.

Our troops, their families, and America are watching what we do here today. If you vote for this rule, you are voting against our military families. Let us reject this rule and put our money where our mouths have been. Let us not just talk the talk time and time again on this floor, but it is time to walk the walk. Support our military families. They are watching what we do, and they will hold those responsible accountable, as they should.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, I rise in very reluctant support of this rule and with great concern about the provision that would permit an objection to be offered to the military housing provisions in the bill. Mr. Speaker, much has been said about this provision already, and I would just add this, that many of us, all Members of Congress, work to support the men and women who sign up on a volunteer basis to be members of the armed services. When they sign up, we spend millions and billions of dollars on training, recruitment, trying to make sure that the all-volunteer force remains a professional force, and that depends on retention. If we do not have the men and women who volunteer to join the service and who we spend billions of dollars to train, if they do not decide to stay in the military forces, then our all-volunteer force cannot work.

The quality-of-life issues become extremely important, and one of the most important quality of life issues is housing. Currently, we are behind in providing housing for our military families. If we increased our military construction budget by $1 billion a year for 20 years, we would catch up. Obviously, we cannot afford to increase our military construction budget by $1 billion a year for 20 years to do that catchup.

However, if DOD invests $500 million and leverages the balance of what we need to provide housing through this military construction program, we will be able to solve this problem in a relatively short period of time. The program is working. It has proven to be successful, and to remove the legislative cap in fiscal year 2005 is extremely important. We on the authorization committee have provided a provision to increase it in 2006, but to skip a year, which puts us that much further behind. And, therefore, I would urge the chairman of the Committee on the Budget, who has indicated that he is going to raise this objection, not to do so.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, this is not brain surgery. I for myself will vote against this rule, because to vote otherwise would be to vote against the wonderful troops and their families. I just cannot do that.

Let me explain. At the start of fiscal year 2004, the services reported that almost half of the military families' houses were inadequate. We know that they deserve better. The Military Housing Privatization Initiative has an innovative way to address the problem, and when we started the program we made sure it would work.

I am speaking for the troops and their families, and everybody ought to listen today as we speak. Nothing is more important than those young people, those young families that we are charged with raising and supporting. It is more than having a bumper sticker on your car that says, "Support the troops." Right here today by voting against this rule that does away with the opportunity for a clear shot at additional housing is most important.

So what we have to do is to allow this rule to be put back, that we have the opportunity to submit, as the committees intended to do but could not do for the year 2005, all because of the CBO scoring.

We need not go into the complexities of the rule. We need not go into how it was drafted or the point of order that many of us are fearful will be raised. It boils down to whether we support the troops, not just by a bumper sticker, but whether we support them with our votes, because they deserve it so much.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Speaker, I thank the gentlewoman for yielding me this time.

As the chairman of the Committee on Armed Services Subcommittee on Total Force, I just wanted to rise and associate myself, really, with the comments of all of us who have stood up and talked about the importance of our military housing program. It has been a money saver. I think, frankly, Mr. Speaker, the problem is less with the rule than any Member who may exercise the authority given under the rule. If, in fact, this bill goes forward and no one stands to rise in objection, this program that needs to go forward is a taxpayer savings; and most importantly, as everyone has said, placing our military family in much better and much more attractive housing is the right thing to do.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I have great respect for my colleague, the gentleman from Iowa (Mr. NUSSLE), and I understand the position he has taken; but let me suggest that this is a case where an exception should be made and to explain why, let me go quickly through the history of this program.

The Military Housing Privatization Program was established in 1996 and 1997. OMB established how the program should be scored, how it would reflect the cost to the government.

From 1997 until and through this year, OMB has stood by that methodology. If we follow that methodology, we would not be having this debate. In 1996, the committee established a cap of $850 million to make sure that the program worked as intended, and the program has worked as intended. It has exceeded the expectations.

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The cap, $850 million cap, was based on OMB's method of scoring. And, once again, if we used that method of scoring, we would have no problem today.

In 2002, we asked OMB and DOD to reaffirm the methodology, and OMB and DOD came back and reaffirmed the methodology. CBO only changed its notion of how these scorings should be done in this year, midstream.

November of this year, the cap we set several years ago will be reached. In the Committee on Armed Services we abided by this fact, and using the revised CBO scoring, we provided an offset of $6.5 billion. The problem is, that will not kick until 2006. Over 2005 and 2006, the DOD has planned to build 50,000 units. If we cannot do what the bill does today, or would do today, that will leave 24,000 military families out in the cold because of an arcane scoring difference between OMB and CBO.

Let me simply say in conclusion, we are not calling for free-lancing. We are not calling for some pull-it-out-of-the-sky number. We are simply saying we will stick with the scoring this program has used since its inception, still used by OMB, as opposed to having CBO's scoring. If we do that, we do not have a problem here.

There is no need for a point of order. The bill should be passed as is. But the rule, if it does not protect that provision, should be voted down.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, one very important part of this debate that we have not gotten to: Most Members of the House support this provision for family housing. The President of the United States supports this provision for family housing. The members of our military who are fighting in Iraq and Afghanistan and other places support this provision for family housing. But if we do not pass the rule, if we shoot the rule down, then nothing happens, including family housing.

If, in fact, the rule passes and we get to the bill, maybe we can prevail upon everyone not to raise that point of order so that they do not appear to be the Grinch that stole Christmas from our military families.

Mr. FROST. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. KIRK). The gentleman from Texas (Mr. FROST) has 4 minutes remaining. The gentlewoman from North Carolina (Mrs. MYRICK) has 3 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, this is a disgrace. I have served on the Subcommittee on Defense of the Committee on Appropriations for 26 years, the Subcommittee on Military Construction for 18 years.

The administration, the Department of Defense, the House Committee on Armed Services, the House Committee on Appropriations and the Subcommittee on Military Construction all support raising this provision. The Committee on the Budget is coming in here and prevailed on the House leadership.

Now, I have heard a lot of rhetoric in this Presidential Campaign about certain votes in the other body where people did not vote for a certain supplemental appropriation for our troops. I want to say it very clearly. The American people are going to judge the majority party here today. If they go out here and vote for this rule that allows this provision to be stricken, they are voting against the men and women in the military of our country. It is simply that clear.

I have always believed this House would always rise up in a bipartisan way and get the job done, when it counted, for our men and women in the field. This will be one of the few times in my 28 years in this House where that does not happen because of the Committee on the Budget and the CBO.

OMB supports this. DOD supports it. The President, the Secretary of Defense, the gentleman from California (Mr. HUNTER), the gentleman from Florida (Mr. YOUNG). Come on. Let us support this bill.

Let us override the Committee on the Budget.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I appreciate my Republican colleagues who genuinely supported improving military housing. But today the only vote that counts is a "no" vote against the rule, a rule that would allow one Member of this House to put on freeze during a time of war the most important military housing program in American history.

Let there be no surprise for anyone who votes for this rule that if our colleague, the gentleman from Iowa (Mr. NUSSLE), were to use his prerogative under this rule to kill this housing program, then, in effect, regardless of the good intentions, a "yes" vote for this rule is a "no" vote for better housing for tens of thousands of military families, even families who have loved ones serving in Iraq and Afghanistan.

Let us rise above loyalty to the House Speaker and to the majority leader. Let us once say together during time of war on a bipartisan basis, we are going to do what is right. And if that means voting against a dictate from the Speaker's office on how to vote for this rule so that we can join together to improve housing for military families, then that is the right thing to do.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

If I understand what is going on on the other side during the last 30 minutes, several Republican Members, the gentleman from California (Mr. HUNTER), the gentleman from New Jersey (Mr. SAXTON), basically urged the gentleman from Iowa (Mr. NUSSLE) not to shoot the wounded. They have basically urged him not to try and strike this provision by objecting to it as a violation of the Rules.

What we want to do, of course, is take the gun out of the gentleman from Iowa's (Mr. NUSSLE) hand by protecting this provision so that he will not be able to shoot the wounded.

Mr. Speaker, I will call for a "no" vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will protect the section of the bill that raises the cap on the Military Housing Privatization Program and ensures that more of our troops and their families will be able to live in good housing.

I offered this same amendment in the Committee on Rules last night, where it was defeated on a straight party-line vote.

Mr. Speaker, I have served in Congress for 26 years now. In all those years, I have thought that one thing that both sides of the aisle could agree on was our support for our troops and making sure that their needs will always be addressed. I guess what I thought was wrong.

Now we will be able to go forward. If we defeat the previous question, then we will be able to offer it. We will be able to protect this provision, and this bill will be able to be voted on. A vote against the previous question is the only way you protect our troops and the only way you protect the military housing provision in this bill.

If we succeed on the previous question, then there will be a vote on the rule with our protection of that provision, and this bill can be brought to the floor.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Texas.

Mr. EDWARDS. Could I ask the gentleman to make it clear now to all House Members?

What the gentleman from Texas (Mr. FROST) has said is that if we defeat the previous question, then we can bring back the Military Construction appropriations bill today and pass it out of this House today in a way that protects this vitally important military housing improvement program. Is that correct? We were not talking about a 1-week or 2-week delay.

Mr. FROST. That is correct.

Again, vote "no" on the previous question.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman's time has expired.

Mrs. MYRICK. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules, to close.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule.

It has been just a few weeks since we memorialized Ronald Reagan. His body was lying here in state in the Rotunda, and we had people on both sides of the aisle talk about the legacy of Ronald Reagan. And one of the things that Ronald Reagan succeeded in doing was getting both sides of the aisle to talk about deficit spending and fiscal responsibility.

I think it is very important for us to note that as we deal with this issue, everyone else, everyone else on both sides of the aisle, along with the leadership, supports the Ronald Reagan vision of ensuring that we have a defense capability that is second to none; ensuring that, as my friend, the gentleman from New Jersey (Mr. SAXTON) said earlier, we have the opportunity for an incentive for people to maintain their service in the military.

What does that mean? It means ensuring that we take care of families and provide that housing.

My friend, the gentleman from Washington (Mr. DICKS) is absolutely right that there is strong bipartisan consensus on that. But there is also a responsibility that we have here to live within our budget. It is wrong to make the claim that it is impossible to deal with the issue of family housing if we all of a sudden do not do exactly what my friend, the gentleman from Dallas, Texas (Mr. FROST) is arguing.

I believe that we are in a position now where we can be fiscally responsible. At the same time, we can comply with the rules of the House, and we can ensure that we deal with this very important issue of housing for our men and women in uniform.

Mr. Speaker, I believe that the appropriate thing for us to do is to move ahead, support the previous question; support this rule; allow us to, in a fiscally responsible way, deal with what obviously is a challenging situation.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 732: RULE FOR H.R. 4837, FY05 MILITARY CONSTRUCTION APPROPRIATIONS

In the resolution strike the following: "except: section 129"

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2004

Mr. LINCOLN DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 730 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 730

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 730 is a rule that provides for the consideration of the conference report for H.R. 2443, the Coast Guard and Maritime Transportation Act of 2004. This is a standard rule for a conference report providing for 1 hour of general debate, evenly divided and controlled by the chairman and ranking minority member of the Committee on Transportation and the Infrastructure.

The legislation before us authorizes over $8 billion for the Coast Guard, including a commitment to 45,500 active duty personnel in fiscal years 2004 and 2005. This is extremely important legislation to strengthen the Coast Guard in its ever-increasing role of defense of our homeland.

This bill makes a new commitment to the long-term effectiveness of the Coast Guard. The Department of Homeland Security has called on the Coast Guard to be the defender of American ports while at the same time sending needed resources, soldiers and vessels to the battles against terrorism far away.

I am pleased to highlight the Integrated Deepwater Acquisition Program. This program provides the needed capital to carry out effective acquisition of the cutters, computer equipment and other resources that the Coast Guard so desperately needs. The Deepwater System has not received the funding outlined in 1998, but this bill makes up for the delay. The conference report authorizes over $1 billion for the program, accelerating the Deepwater System 5 years ahead of the original 20-year completion time line.

The Coast Guard is particularly important to the community and constituents that I am honored to represent in south Florida. The Coast Guard Integrated Support Command in Miami is essential to the safety and security of residents. The Coast Guard in south Florida coordinates integrated plans aimed at hurricane safety, recreational boater safety and, obviously, protection of our coastline.

The conference report before us was signed by every member of the conference. It is a good bill, essential really to our continued commitment to the security and safety of all citizens and residents of the United States.

I would like to thank the gentleman from Florida (Mr. YOUNG), the gentleman from New Jersey (Mr. LOBIONDO), as well as the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from California (Mr. FILNER) for their important work.

I urge my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1145

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, and I thank my colleague, my friend from south Florida (Mr. LINCOLN DIAZ-BALART), for yielding me the time.

While the two of us, my colleague and I, may have ideological differences from time to time, we are united in our support for the Coast Guard and the sometimes thankless work that they do every day to protect the ports and shores in our home State of Florida, as well as throughout this Nation.

Mr. Speaker, I rise today in support of the conference report to the Coast Guard Reauthorization Act.

As my colleague from the majority previously mentioned, the conference report authorizes nearly $8.2 billion in fiscal year 2005 for the Coast Guard. This amount is $169 million more than originally approved by the House last October and more than $400 million above what was approved by the other body. These increases are clear indications of this body's commitment to the Coast Guard's pressing needs.

The conference report also includes $1.5 billion for the Coast Guard's acquisitions, construction and improvements account, a $550 million increase above what was requested. This increase is to be used by the Coast Guard to improve its Integrated Deepwater System, as well as assist the Coast Guard to reduce the list of unfunded shore facilities that has grown significantly over the past 5 years.

Furthermore, the conference report increases the number of commissioned officers and includes significant authorizations which will assist the Coast Guard to better meet our port and maritime security needs.

The Department of Homeland Security is also directed in the conference report to provide Congress with reports regarding joint operational centers for port security and port compliance with security standards.

I mention these two reports because of the great work that is being done in my home county, Broward County, at Port Everglades. There are few ports in the country as innovative as Port Everglades when it comes to security. The Port of Palm Beach, located in the district I represent, has also made significant security improvement as a direct result of the port security grant authorized by this conference report.

Mr. Speaker, the Coast Guard is responsible for patrolling the more than 12,400 miles of coastline in the United States. Nearly 2,000 of these miles are located in mine and my colleague's, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), home State of Florida where the Coast Guard plays an integral role in patrolling our shores and protecting our citizens. The increase in funding provided in the underlying legislation for this important grant of the United States Armed Forces serves as a statement about the role of the Coast Guard in our global war on terrorism.

Reports have shown that America's ports remain susceptible to attack and infiltration by America's enemies. In the last year alone, south Florida's three major ports handled more than 13.2 million tons of cargo. In all, well over 1.5 million shipping containers were processed by south Florida longshoremen during the last year.

Certainly, these statistics highlight the pressing need to increase the number of Customs agents working in America's ports, but they also suggest that the roles of the Coast Guard and Federal Maritime Commission in protecting our ports are greater than ever.

Mr. Speaker, when Congress created the Department of Homeland Security, it recommitted itself to the security of America. The conference report for the Coast Guard Authorization Act is an extension of that commitment.

I urge my colleagues to support the underlying conference report.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on this resolution that is very important and urge my colleagues to vote favorably on the underlying legislation as well.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KIRK). Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed. Votes will be taken in the following order:

Ordering the previous question on H. Res. 732, by the yeas and nays;

Adoption of H. Res. 732, if ordered;

H. Res. 723, by the yeas and nays; and

H.R. 4608, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. The pending business is the question of ordering the previous question on House Resolution 732 on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 217, nays 197, not voting 20, as follows:

[Roll No. 400]

YEAS—217

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—20

Bell
Carson (IN)
Collins
Deutsch
Ferguson
Frank (MA)
Gordon
Isakson
Istook
King (NY)
Lynch
Majette
Mollohan
Oxley
Pitts
Price (NC)
Quinn
Saxton
Souder
Strickland

☐ 1216

Mr. UDALL of New Mexico changed his vote from "yea" to "nay."

Mr. SHAYS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LaHood). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 212, noes 211, not voting 11, as follows:

[Roll No. 401]

AYES—212

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—211

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Frost
Garrett (NJ)
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hensarling
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—11

Carson (IN)
Collins
Deutsch
Ferguson
Isakson
Istook
King (NY)
Majette
Quinn
Saxton
Strickland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes to vote.

☐ 1232

Mr. PORTER changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING 35TH ANNIVERSARY OF APOLLO 11 LUNAR LANDING

The SPEAKER pro tempore (Mr. LaHood). The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 723.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Hall) that the House suspend the rules and agree to the resolution, H. Res. 723, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 17, as follows:

[Roll No. 402]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth

Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—17

Carson (IN)
Collins
Deutsch
Dingell
Ferguson
Isakson
Istook
Jones (NC)
King (NY)
Majette
Meeks (NY)
Quinn
Rangel
Ros-Lehtinen
Saxton
Strickland
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1241

So (two thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4608.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4608, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 26, as follows:

[Roll No. 403]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Coble
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—26

Carson (IN)
Clyburn
Cole
Collins
Culberson
DeLauro
Deutsch
Ferguson
Gilchrest
Isakson
Istook
Jones (NC)
King (NY)
Majette
McHugh
Meeks (NY)
Napolitano
Pickering

Quinn
Rangel
Ros-Lehtinen
Saxton
Strickland
Tauzin
Waters
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised there are 2 minutes to vote.

☐ 1248

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SAXTON. Mr. Speaker, today, I missed rollcall votes Nos. 400 through 403. The reason being that I had a prescheduled meeting with the Secretary of Defense at the same time the votes were taking place.

However, had I been present, I would have voted in the following fashion: Vote No. 400, "yea"; Vote No. 401, "yea"; Vote No. 402, "yea"; and Vote No. 403, "yea."

PERSONAL EXPLANATION

Ms. SOLIS. Mr. Speaker, on July 20, 2004, on rollcall No. 397 regarding H.R. 3574, I inadvertently voted "yea," but meant to vote "nay."

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4837, and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 732 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4837.

☐ 1247

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, with Mr. BEREUTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to present the fiscal year 2005 military construction appropriations bill, which was reported out of the full committee on appropriations on July 9 by voice vote.

Let me at the beginning thank all of the people who contributed to this bill, the subcommittee staff, and my ranking member, the gentleman from Texas (Mr. EDWARDS). I want to also call attention to some of the staff who did remarkable work to bring this bill forward: Carol Murphy, Walter Hearne, Eric Elsmo, Mary Arnold and, of course, Tom Forhan on the minority side.

The ultimate purpose of this bill is to support our service men and women by providing a quality of life commensurate with the sacrifices they are called upon to make. I want to thank each Member again of the subcommittee, because they did contribute greatly via, in some cases, CODELs to look at some of the housing, for example, around the country and around the world. I thank them for their hard work and support, and certainly I add to it again the gentleman from Texas (Mr. EDWARDS), who has been a strong and vocal supporter of our men and women in the service for years.

The bill totals $10 billion, which is $162 million above the fiscal year 2004 enacted level and $450 million above the President's request. The bill also contains a general provision related to housing privatization that CBO scores as additional budget authority. I will get to that shortly. But let me emphasize that $10.003 billion is what the bill appropriates, and not a penny more.

Mr. Chairman, we are at war. Many will argue that in such a time as this, when so many of our servicemembers and their families are making great sacrifices, that this bill does not provide enough. In one respect, they are right. There is no question we could do more if we had more. But I think this bill does a lot of good things and provides our active, Guard, and Reserve servicemembers with critically needed infrastructure to meet their mission goals, and it improves housing and community facilities for their families.

That being said, I want to draw some attention now to the highlights of this bill. Within the total amount of $10 billion, the bill provides $5.3 billion for military construction, including $1.1 billion for troop barracks; $833 million for the Guard and Reserve component and other facilities such as schools, fitness centers, and child development centers.

The bill also provides $1.6 billion for family housing construction, including funding for about 18 to 24 privatization projects, depending upon the cost of those projects; $2.5 billion for family housing operations and maintenance; $246 million for costs related to past BRAC rounds; and $166 million for the NATO Security Investment Program.

In addition, the bill fully funds overseas military construction; it fully funds the chemical demilitarization construction program; it provides the requested funds for projects associated with new weapons systems, including the Army Stryker vehicle, the F–22 Raptor fighter jet, and the C–17 Globemaster cargo plane; and provides much needed funding for the Navy to continue replacing inadequate pier infrastructure.

Now I want to say a word or two about the family housing privatization program.

Mr. Chairman, a limitation on budget authority was placed on the program when it was first authorized in 1996. This $850 million cap was put in as a safeguard for what was then a new and untested program, a pilot program, if you will. Eight years later, the program has become one of the most successful programs we have ever had for improving the quality of life and morale of our troops and families.

This cap will be reached before the end of this year; and if action is not taken to increase the limitation in fiscal year 2005, progress on replacing substandard homes will be seriously hampered. Unfortunately, we have run into a scoring issue with the CBO, which has complicated the solving of this problem.

To my colleagues who are concerned about the impact that the provision would have on our budget deficit, I want to say this, and I may have to repeat this: this provision does not appropriate any new money. None. All the money that is needed to support privatization is already contained within the bill. All this provision does is raise the authorization to allow the program to continue. Not a single dime more will be drawn from the Treasury as a result of this provision.

The committee, frankly, disagrees with the new approach that CBO has decided to take to score the program. It does not reflect the reality of the program. To me, since the provision spends no new money, scoring is like building a bridge where there is no water.

Mr. Chairman, this is truly a vital program. To endanger it because of some bookkeeping disagreement would be unwise. I personally have seen the homes being built because of the program, and I have talked to military spouses about how their lives have improved because of this program. You might be interested in knowing twice the percentage of families that are in the military service are married as compared to, say, during the Vietnam War. This is a good program, it is a bipartisan program, and it is a necessary program.

CBO's rationale for how it scores this program is complex, convoluted, and unfounded. Every Member of Congress that I have talked to strongly supports this program, and I mean every Member. Every witness that testified before the subcommittee supports this program, including the Joint Chiefs and the military spouses. The chairman of the Committee on Armed Services supports this program. Even the administration, the White House, and the Department of Defense strongly support the provision and submitted statements to the committee that it would not result in any, any additional cost to the Federal Government. I have not heard from one single person that does not support this program.

If the housing privatization cap is not raised, then 16 projects covering 23 installations spanning 13 States will be affected in fiscal year 2005. The affected projects include major installations in California, Florida, New Jersey, New York, North Carolina, South Carolina, Texas, and Virginia. A significant number of Members on both sides of the aisle will feel the impact on their military constituents.

Mr. Chairman, I ask my colleagues for their support of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first want to commend the gentleman from Michigan (Chairman KNOLLENBERG) for his dedication to improving the quality of life for our military families. His commitment is genuine, and his work on this bill has been thorough and fair, along with the work of his staff. At every step of the way, the gentleman from Michigan (Chairman KNOLLENBERG) has put the interests of our service men and women above all other interests. I commend him for that, and he deserves our thanks and respect for that.

Given what I believe is an inadequate allocation for this subcommittee, a 1.6 percent increase in military construction funds during a time of war, an allocation that is nearly a half a billion dollars below what we spent on military construction before the Iraqi war began 2 years ago, given all of that, the gentleman from Michigan (Mr. KNOLLENBERG), the subcommittee, and I have worked together to try to maximize the use of these inadequate tax dollars to benefit our troops, and that is why I intend to vote for this bill.

I am also pleased that we have been able to address, as long as no Member of the House objects to it, what could have been a terrible injustice to our military families. Eight years ago, we began a new approach to military housing. We combined Federal dollars with the strengths and resources of the private sector to create public-private partnerships to improve military housing.

This innovative program is saving taxpayers billions of dollars and dramatically improving housing for our military families. Housing that would have taken 50 years to build under the old system is now being done in one-tenth of that time, in 5 years. Through this public-private partnership, we are providing military families with housing that they can be proud of, and certainly they deserve no less.

Unfortunately, the Congressional Budget Office changed the scoring on this process. In my opinion, they erroneously are scoring dollars that businesses borrow to help build these new homes, even though the Federal Government is not responsible for those dollars. OMB disagrees with CBO's approach, and so do I.

Had we, in this committee, on a bipartisan basis under the leadership of the gentleman from Michigan (Chairman KNOLLENBERG) not raised the cap on the public-private military housing program, new housing projects would have come to a halt this November, just a few months away, shutting out over 24,000 military families from new houses in fiscal year 2005 and then delaying an additional 25,000 or so, for an impact on almost 50,000 military families in the next 2 years. That would have sent a terrible message to our military families during a time of war. It is also a good reason for no Member to object on a procedural basis, a technical point, against this amendment.

As a member of the Committee on the Budget, I would point out that I made an effort this spring to solve this problem. The Committee on the Budget refused to solve the problem. I then talked to members of the Committee on the Budget and urged them to meet and work with the Committee on Armed Services to address the problem. The Committee on Armed Services did address it for fiscal year 2006, but did not do it for 2005. Had we failed to act in this subcommittee on this bill, it would have been the third strike. Instead, this subcommittee took the responsibility on a bipartisan basis to address this housing crisis.

Mr. Chairman, I want to commend the gentleman from Michigan (Chairman KNOLLENBERG) once again for his strong efforts on this particular important issue. It also could not have been done without the strong leadership of the gentleman from Florida (Chairman YOUNG) and the Committee on Appropriations and its subcommittee staffs.

If any Member of this House who objects to the increase in the cap on military housing and the directed scoring allows that to happen, let me explain clearly, Mr. Chairman, what the impact will be. Tens of thousands of military families that are planning right now on having new housing built starting next year will have those promises broken, those promises dashed, even families who have loved ones fighting in Iraq and Afghanistan.

□ 1300

If we do that, it would be a grave injustice to men and women and families who are making incredible sacrifices on behalf of our children.

Considering the fact that the Committee on Rules allows protection against technical points of order every week in this Congress, on a regular basis, for unimportant issues as well as important issues, surely if there was ever a reason to put the interests of military families above the interests of technical points of order, today should be the day, and better housing for those families should be the reason.

Mr. Chairman, I would be remiss not to mention my disappointment concerning the overall funding level in this bill. Our Nation is at war. Our service men and women are risking their lives in Iraq, Afghanistan, and throughout the world. Military families are making great, great personal sacrifices for the American family. Yet, this bill spends $420 million less on military construction than we spent prior to the Iraqi war. So Congress, in effect, is asking for more from our troops and military families, while spending less on military construction. That does not make sense.

It does not pass the fairness test because it means we are shortchanging military housing, day care centers, training ranges, and military work facilities. That is not right.

If we can make significant new commitments to defense spending and highway spending and countless other programs, why can we not provide more than a 1.6 percent increase in military construction, which is so important to our troops' quality of life and their training and working conditions, especially during a time of war?

In March of last year, as American troops were making the final plans to commence the war in Iraq, the majority leader, the gentleman from Texas (Mr. DELAY) spoke to bankers and said this: "Nothing is more important in the face of war than cutting taxes." In all due respect to the gentleman from Texas (Mr. DELAY), that flawed ideology would be hard to explain to the nearly 400,000 Army soldiers I represent at Fort Hood, Texas, nearly 40,000 soldiers who have been asked to serve in Iraq just this year. It would be hard to explain to their spouses and children who have to worry every day whether their loved ones will ever return home.

I believe most Americans, as they did after Pearl Harbor would say, you know what? Supporting our troops and their families during a time of war is far more important than tax cuts, especially if some of those tax cuts benefit Members of Congress, like us. Unfortunately, the inadequate allocation in this bill reflects the ideology of the gentleman from Texas (Mr. DELAY) rather than the quintessential American value of shared sacrifice during a time of war.

By increasing defense construction spending by only 1.6 percent, not even enough to keep up with inflation, in effect, in that way, it is a real cut in military construction and quality-of-life programs. It spends $420 million, as I said, less than we spent 2 years ago before the Iraq war even began, and even $900 million less in this bill that the administration, the Bush administration, said was needed for military construction just 12 months ago.

If anyone thinks this allocation was not decided by the gentleman from Michigan (Mr. KNOLLENBERG) or me or this committee, but was decided by a higher pay grade in this House leadership, if anyone thinks this allocation we had to deal with is adequate, let me remind them of some of the facts provided by the Department of Defense: Number one, 39,000 Army families live in inadequate housing; number two, 34,000 Army barracks do not meet even basic Department of Defense standards; number three, 16,000 Navy and Marine Corps families live in inadequate housing; number four, 31,000 Air Force families live in inadequate housing; number five, 70 percent of Army facilities are C–3 or C–4, which means mission impaired; number six, 66 percent, two-thirds, of Air Force facilities are C–3 or C–4, again meaning that the mission of those facilities could be impaired.

Just a month ago, the House voted for a new $69 billion tax break that will not help our military families, but it will just happen to provide a $1,000 tax credit to Members of Congress such as myself for every child that we have. So I will receive a $2,000 tax credit as a result of that bill that the House voted for, over my objection, 2 months ago.

Now, how can we look today in the faces of our service men and women, look them in the eye and say, last month we could afford to pass a $69 billion child tax credit that applies to people making between $110,000 and $250,000 a year, but today, we cannot even afford 5 percent of that amount to provide a decent increase in military construction funding for military families making $20,000 and $30,000 a year. I just do not see the fairness in that.

Every one of us, Mr. Chairman, Democrat and Republican alike, genuinely respects the service and sacrifices of our troops and their families. No one, no one should doubt that. But I strongly believe that it is time that our budget priorities in Congress should better reflect that respect. Our service men and women deserve no less.

Despite the objections I have to the underfunding of this, despite my concern that perhaps a Member of Congress, for whatever reason, well-intentioned or not, might strike an amendment that would literally freeze the most important military housing program ever, because of the strong leadership of the gentleman from Michigan (Mr. KNOLLENBERG), because of the bipartisan way in which he worked this bill, because of his deep commitment and our committee's work to spend an inadequate amount of dollars as efficiently as we possibly could, I intend to vote for this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. KNOLLENBERG. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. GRANGER), who is also a member of the subcommittee.

Ms. GRANGER. Mr. Chairman, I rise in strong support of this important bill that provides for our military and their families. First, I want to commend the gentleman from Michigan (Chairman Knollenberg) for putting together a great bill, and I also want to commend the ranking member, the gentleman from Texas (Mr. EDWARDS) for his work on the bill.

The military construction bill for fiscal year 2005 provides just over $10 billion for construction at our military bases here at home and overseas, and also for important family housing projects and quality-of-life initiatives at our military installations. Among other things, the bill provides funding for new barracks, medical and dental facilities, and fitness centers and child development centers for our troops and their families. The bill also provides funding for construction projects that support major weapons programs like the F/A–22 Raptor and the Joint Strike Fighter.

I strongly support the inclusion of the provision in this bill to raise the cap on the Military Family Housing Privatization Initiative. If we do not raise this cap, this privatization initiative will come to a halt in November of this year and jeopardize projects to build or renovate 50,000 housing units for our military families. This program is simply the best way to improve housing for our troops and their families.

Additionally, the bill includes several important construction projects for Naval Air Station/joint Reserve Base, Fort Worth, in my district.

It is absolutely essential that we pass this bill to support our military men and women and their families during this time of war. Again, I thank the chairman for his great work on this bill.

Mr. EDWARDS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. FARR), a very effective and hard-working member of the Subcommittee on Military Construction.

Mr. FARR. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from Michigan (Chairman KNOLLENBERG) for his leadership on this bill.

We have just had a long debate on this military housing issue, and I think what is missing in it is a little bit of understanding of what it is all about.

Several years ago, Congress authorized that instead of designing military housing, instead of funding and building it, essentially putting up taxpayers' money and then going out to bid and building it to a military plan, we decided why not allow the private sector to build this housing, build it more like the housing that is in the communities, higher quality housing, and build it to the standards that are normally found in the private sector in housing; and this was called the RCI, Residential Community Initiative. It has been a very effective program because we do not have to put up taxpayer money to do it.

Through that, what we have found is that the private sector rushed in and put together these consortiums of developers and have done a job that is more attractive than anything we could have done under the old sort of public-military housing concept.

And the soldiers and the wives of the soldiers are very, very interested. In fact, they came to our committee and said of all of the issues affecting the military, of all of the issues affecting families in the military, the number one issue was adequate housing. Not surprisingly, it is probably the same question on the private side. And they applauded us for addressing the issue, but they asked us to make sure that we do not get stuck in these internal budget rules.

What we are talking about is an internal rule. It is our own rule, we can waive it if we want to, and that is the issue. We should be waiving it. Why should we be waiving it? Because we do not have to put up the money; the private sector does it. Why should we waive it? Because it is all about investment. It is the ounce of prevention that is worth a pound of cure. What is the investment in? It is in quality homes built to code standards in the community, the highest standards we have ever had in this country. It is built to the kind of quality that the housewives and soldiers, the men and women in uniform like.

And what does it do? It helps us, one, go out and recruit people, and we are in an all-voluntary military. We cannot force them to join. They want to join, and part of it is the benefit package that is offered to you while you are in the military, including the housing.

The second is, once you get in, if you are assigned to bases that have the inadequate housing that the gentleman from Texas (Mr. EDWARDS) talked about, and there is a lot of it out there, people living in Quonset huts, we should not allow that. If these were local homes, they would be shut down by the building inspectors, yet we allow military families to live in them when the private sector can build new homes. So we need to do that for retention.

Once we have these well-trained people in the military, we want them to stay. One of the biggest attractions of staying is you get to live in a quality community.

So this internal budget rule makes no sense, and I hope that nobody raises an objection.

Mr. KNOLLENBERG. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. CRENSHAW), who is a member of the subcommittee as well.

Mr. CRENSHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong support of this legislation for a lot of reasons. Most important, I think, is that of all of the bills that we pass that relate to defense, this is the only piece of legislation whose main theme is the betterment of the lives of the men and women who wear our uniform; and it does it primarily in the area of housing in terms of their quality of life.

For too long, we have put the priority in terms of the weapons systems, in terms of the tanks that they drove, and for the first time in modern history, we are now saying that quality of life, living conditions are very, very important to our men and women.

So in this bill we spend over $1 billion of new money to provide for that kind of housing, and we do it in creative, innovative ways, something like a Ship-to-Shore program.

Right now, our sailors, when they are at sea being deployed, they live in very cramped situations, and that is a real sacrifice that they make, and it is part of the sacrifice they make overall. But when they come back to their home port, it is inexcusable that they have to continue to live on these ships in these cramped conditions, and that is what the Ship-to-Shore program helps to solve. It gives them a place to live on their base, more living room, a better way to live; and that is important.

Then we have heard a lot of discussion about housing privatization. This is revolutionary, and it is crazy that somebody has decided that when the Federal Government spends no money whatsoever that somehow, that is counted against Federal spending. So we have this new program that is innovative, creative, where the private sector comes in, builds new housing, takes the kinds of risks that they ought to take because they know it is going to be a profitable situation. So we have that as well.

Most of all, this bill recognizes the most important asset we have are our men and women in uniform, and this goes a long way towards providing a better quality of life for all of them. I urge the adoption of this legislation.

Mr. EDWARDS. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, again, I applaud this subcommittee for addressing a very serious crisis in military housing that will occur just a few months from now if we do not include the language that was added in the amendment.

To be specific about it, let me just say to my colleagues, Mr. Chairman, some of the families and the numbers of families, the different locations of military installations that will be affected if a Member of the House were to raise a point of order against this housing measure that we added: In New York at Fort Drum, 2,272 families would have their new housing put on hold. I believe Fort Drum has played an important role in the Iraqi war.

□ 1315

In Pennsylvania, 316 families at the Carlisle Barracks would have their new housing put on hold. At Fort Bliss in Texas, 2,776 families would have their housing put on hold. At Eglin Air Force Base in Florida, 2,739 military families would see the promise of new housing for them broken. At Lackland Air Force Base in Texas, 914 families would lose the promise of new housing. At Langley in Virginia, the State of Virginia, 1,268 families would have their new housing denied them.

Sheppard Air Force Base, 1,288 families in Texas would lose that improved housing. New Jersey, 2,415 at McGuire Air Force Base in Fort Dix. Those are not numbers. That is 2,415 military families making sacrifices for our country who would see their housing dreams go down the tubes.

Let us look at Florida, Georgia and South Carolina, the Southeast and Eastern Navy projects: 6,076 families would have a "no" said to them in regard to new housing. How about Twentynine Palms in California, 1,382 families. Well, let us look at Camp Lejeune. Obviously they have made tremendous sacrifices, those machines, that installation as part of our war on terrorism; 3,516 of those families would be told no. Congress could afford to vote in the month of May for a $69 billion tax cut that gave Members of Congress a tax break, but we cannot afford to give you new housing this year during time of war; we have got to put a freeze on your new housing.

Well, let us go down to Georgia. People at Fort Benning have made tremendous sacrifices for our country. They would actually lose 4,055 new military housing under the freeze if any Member of this House objects to the amendment we put in the bill.

At Fort Benning, actually they would not lose it this year. They are planning on getting their new housing next year. They have been told they will not even get their new housing next year, because that will have to be pushed back a year because of the freeze that would occur on military housing this year. Fort Knox, Kentucky, would be in that similar situation. Their new housing for 3,380 military housing would be pushed back a year if any Member objects to what we did on a bipartisan basis in this committee.

Finally, Mr. Chairman, I want to just say the Military Officers Association of America, the Association of the United States Army, the Air Force Association, the National Military Family Association have all written letters asking this House on a bipartisan basis to protect the increase in the cap for military housing so we can show respect to our military families during time of war, not just with our words and our rhetoric but with our deeds and better housing.

Mr. KNOLLENBERG. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN), a member of the committee.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of this military construction appropriations bill and would like to commend the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) for their good work on this legislation.

I would also like to voice my specific support for those provisions of this bill which continue the critical ongoing renovation of military housing. In my district in northern New Jersey, the Army through its Residential Communities Initiative has selected a developer to privatize and revitalize military housing at Picatinny Arsenal. Looking at the larger RCI program, Picatinny's participation is relatively small. We have approximately 113 affected families, but the refurbishment of their houses and homes will have a deep impact on their quality of life. For them this debate and the chairman's leadership has indeed a very human face. These military families care about leaky roofs, substandard plumbing, and ancient electrical wiring.

Mr. Chairman, we in Congress can do several things to support our young fighting men and women who serve our country with such dedication, because literally we are a Nation at war. We can make sure they have adequate pay and benefits. In this regard, we have made significant progress in recent years. We can also ensure that their retirement benefits meet their needs when their service is over. Again, we continue to work to improve veterans programs, but we can and must work to improve the day-to-day quality of life that they have. In this regard, there are few things more important to military personnel than where they live and the quality of the roof over their heads.

This legislation contains important provisions which will allow the continued revitalization of military housing. I would urge the Committee on the Budget to allow this program to continue and to support the bill as it was drafted.

Mr. EDWARDS. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. DICKS), a tremendous leader in this Congress on defense issues and an important member of the Committee on Appropriations Subcommittee on Military Construction.

Mr. DICKS. Mr. Chairman, we did not have much time on the rule to discuss this issue on the cap on family housing, and I want to first of all congratulate the chairman (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) for working together in a very bipartisan basis in our committee. The chairman could not have done more to help bring this provision to the floor of the House. We all regret, and I think it was a mistake in judgment for the Committee on Rules, to make a decision to not protect this provision, and this provision which raised by $500 million the cap on family housing was sought by the administration.

Each of the services testified before our subcommittee. The Secretary of Defense and his people supported it. The White House supported it. OMB supported it. The chairman of the Committee on Armed Services supported it. Of course our distinguished chairman of the Committee on Appropriations Subcommittee on Military Construction and the chairman of the Committee on Appropriations also supported it. And we are going to make a decision based on an arcane rule coming out of CBO that is in conflict with OMB.

Now, my view in this situation, if I were in the majority party and the administration wanted this done, I would be trying to find a way to make it happen; and this is a big problem, because there are, I think, about a dozen projects.

Here are the projects that will not go forward this year if the gentleman from Iowa (Mr. NUSSLE) has his way: Fort Drum, New York; Dover Air Force Base, Delaware; Shaw Air Force Base, South Carolina; Cannon Air Force Base, New Mexico; Fort Monmouth/Picatinny Arsenal, New Jersey; Carlisle Barracks, Pennsylvania; Fort Bliss, Texas; White Sands Missile Range, New Mexico; Altus Air Force Base, Oklahoma; Eglin/Hurlburt Air Force Base, Florida; Lackland Air Force Base, Texas; Langley Air Force Base, Virginia; Sheppard Air Force Base, Texas; Tinker Air Force Base, Oklahoma; McGuire Air Force Base/Fort Dix, New Jersey; MCAGCC Twentynine Palms, California; MCSA Kansas City, Missouri; Camp Lejeune/MCB Cherry Point, North Carolina; Stewart Army Subpost.

Those projects will all be delayed because of this decision; and as has been suggested, we are in a time of war. We are in a war on terrorism, a war in Iraq, a war in Afghanistan. We have our troops deployed all over the world.

The one thing the people who are deploying say and their spouses say is one thing we really would like to see an improvement in, in the services, is military housing; and we have worked at Fort Lewis. I have a major project out there that is going forward. It is one of the greatest successes. We can get more housing, new housing and more restored housing faster under this public-private sector project; and usually the majority party is thrilled about public-private projects.

In this case, this decision will adversely affect the quality of life of men and women serving in the military and their families, and this is over an arcane budget rule. To me, the insistence on striking this out is one of the worst mistakes I think we have made around here in a long time.

One thing I have always been proud of, this House has always been able to rise above partisan or short-term considerations and work towards a bipartisan cooperation on defense. Let us not ruin that today.

Mr. KNOLLENBERG. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. GOODE), who is a member of the subcommittee.

Mr. GOODE. Mr. Chairman, I too want to salute our Chair, the gentleman from Michigan (Mr. KNOLLENBERG), and the ranking member, the gentleman from Texas (Mr. EDWARDS). I agree with them. I do not agree with CBO as other speakers have so indicated. I agree with OMB, I agree with the President, and I agree with our subcommittee on this issue of caps. I cannot understand how CBO scores it as it does.

Let me mention briefly the impact in Virginia. An additional 39 units are planned for privatization in fiscal year 2006 and 2007. This includes 22 projects in 16 different States. In Virginia at Langley Air Force Base, we are talking about 1,400 units. I can tell you the quality of life of those at Langley would be significantly enhanced if this could go forward.

One gentleman on the other side said we have got to find a way to make it happen. I believe the best thing to do is vote for this bill, send it forward. This is just part of the process through which Military Construction will go before it is finally adopted by both the House and the Senate and signed by the President.

So I would urge a "yes" vote, go forward with the process, and I think positive things will happen throughout that process.

Mr. EDWARDS. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in yielding me time.

I, too, was saddened by the decision of the House Republican leadership, so ably articulated by my friend, the gentleman from Texas (Mr. EDWARDS); and I appreciate the service you are doing for our servicemen and -women, training the spotlight on this.

But I would like to speak briefly, if I could, Mr. Chairman, to a specific area. Historically, I have come before this subcommittee talking about the problems of military cleanup. I did not this time, because I appreciated what the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS), the members of the committee, were faced with. And I think they have done a good job under difficult circumstances, trying to put a little bit of money into the BRAC cleanup; but I would like to serve notice that I am hopeful that this is the last time that we place this low degree of priority.

I appreciate the imperative that you are facing, but we have a long-term time bomb, literally, that is ticking. The presence of unexploded ordnance and other contaminants on transferred military property limits our use of hundreds of thousands of acres of closed military bases from prime real estate to scenic open space. That is one of the reasons why we have such great apprehension about the BRAC process that is working its way forward. People are afraid that they are going to be left with a toxic white elephant.

And, indeed, the BRAC situation is just the tip of the iceberg, because we have between 10 and 50 million polluted acres; and at the rate of the spending that we are embarked upon now under the MILCON and the Department of Defense, we are going to take in the neighborhood of 300 years or more to clean up this responsibility that will be skyrocketing in costs over time. And these things get worse as the explosives, as the military equipment deteriorates, polluting groundwater, migrating to the surface. This is a problem that we cannot continue to sweep under the rug.

The Federal Government should be leading by example, cleaning up after itself, making sure we are not leaving an expensive, toxic legacy for the future.

Last but not least, this subcommittee can help by providing more leadership with local communities to provide a framework to the cleanup. I have been impressed with what happened in the State of California, recognizing that long-term operation of military installations must involve a partnership between the State, the local, the Federal Government; in some areas, tribal authorities.

□ 1330

I would hope that we could work together in a cooperative fashion with these other entities to be able to have a framework that will promote the clean-up because, ultimately, not only will this improve the quality of life of our military families, it will hasten the day that we solve this problem, saving billions of long-term dollars.

Mr. KNOLLENBERG. Mr. Chairman, I yield 8 minutes to the gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding me time.

I thank the gentleman for having produced an excellent bill with limited funds available; and I appreciate the gentleman from Texas (Mr. EDWARDS), the ranking member, for his partnership in making this a very good bill. It is a good bill.

We are focusing on one part of the bill, and I think that is appropriate. We should focus on that one part of the bill, but all of the items included in this appropriations bill for military construction are needed. They are cost effective and they are very good projects. But the one that we are vitally concerned about today, the one that we fear might have a point of order raised against it, is the military family housing issue.

I have not found anybody, Mr. Chairman, that is opposed to doing what we want to do. We want to provide decent housing for the members of our military and their families. We do not want a soldier or a Marine to be in Iraq or Afghanistan and have in the back of his mind that his family is living in a rat-trap condition back home. That soldier, that Marine, has to be paying full attention to the mission and to accomplishing the mission, and also to providing some protection for himself or herself while they do this mission.

Congress needs to be totally supportive of the troops; and Congress has done a really good job. I am proud to say that we have identified, just during this year alone, many areas where the government is not taking proper care of military members and their families, and we are fixing them.

And, Mr. Chairman, we ought to do that. We need to fix these issues. We need to provide what our troops need and we need to protect them while they are doing it. And we need to have their families have a quality of life while they are out fighting that war. They do not need to be worried about what conditions the folks are living in back home.

The reason we need to do this is because this Congress voted to send them to the war. Now, maybe everybody did not vote for it, but most of us did, and we have an obligation to the men and women who protect this Nation and protect our national interests, wherever they might be, and who are on the front line in the war against terrorism and the threats of terrorists. A world that is controlled by terrorists or their threats of violence is not acceptable, and I do not know of anyone who would disagree with that except the terrorists.

This Congress has stepped up to the plate before, and we need to step up to the plate today. I am not exactly sure what the issue is on military family housing. Everybody is for it, but there are some who want to strike it from this bill and do it at a later time. What I cannot understand is, if we are going to do it at a later time, why not do it now?

There may be some other bills that could solve this same problem, but this bill is here and fixes it today. Some other bill that might solve this problem of family housing for the military, but it may not have to pass. This bill has to pass. Before this Congress can leave its business, this bill and all of the other appropriations bills have to pass.

That is an interesting point. A lot of folks do not understand that. Appropriations bills have to pass because if they do not, the government shuts down. Now, who wants to shut down the government? I do not know of anybody who wants to shut down the government. There may be some.

But this bill has to pass, and that is why we ought to solve the problem of military housing for families in this bill today, while we are here on the floor of the House of Representatives.

Now, there is a scoring issue. We have had many bills come to the floor where the Committee on the Budget could have raised points of order—issues like the farm bill that exceeded the budget resolution; like the Medicare reform bill, where costs far exceeded the estimate; and this afternoon we are going to consider a highway program that exceeds the authorizing committee allocation by $400 million. And I have heard nothing about raising points of order on those bills.

I have not heard anyone from the Committee on the Budget state a concern about those bills. No points of order were raised against the farm bill or against the Medicare reform bill. It is my understanding that none are going to be raised against the highway bill today. That may change now that we put a little pressure on the issue, but as of this morning that was not intended.

But, for years, OMB and CBO have scored the military housing program the same way, 6 years. But for some reason, all of a sudden, CBO decided to score it differently. I do not know why. Maybe there is some good reason, but if there is, I do not know what it is.

I want to take just a couple of minutes to read what the President of the United States thinks about this provision in the appropriations bill. He supports this very strongly, as do most of the Members of this House and the Senate, and the Joint Chiefs of Staff, and the chiefs of the services. They all support it. But you know who really supports it? The military troops who are defending our Nation support this because it gives their families some quality of life.

I am quoting now from the letter from the Administration. "The administration strongly supports the provision that would increase the military housing privatization cap from $850 million to $1.35 billion. This increase will help improve the quality of life of our military families. Furthermore, without this increase, the current limit would be reached by November of 2004 and the program would be over. OMB would not score any additional costs to this provision because it does not increase the amount of budget authority available to the Department of Defense." And it goes on for about five more sentences expressing strong support for this provision and, expressing no concern whatsoever for the scoring.

I just think that it is so important to those Americans serving in our military, doing whatever they are asked to do, going wherever they are asked to go, making whatever sacrifice they must make. If we cannot today, in this bill that must pass, take care of their concerns for the way their families have to live, shame on us. But I would tell you that of the 435 Members of this House, I will bet if this was put to an up or down vote, there probably would not be five votes against it.

It is just too bad that a procedural situation, that is not even consistent, can derail this extremely important issue.

Let us not shoot Santa Claus on the floor of the House today.

Mr. EDWARDS. Mr. Chairman, I thank the gentleman from Florida (Mr. YOUNG) for his eloquent comments.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ), a senior and respected member of the Committee on Armed Services.

Mr. ORTIZ. Mr. Chairman, I agree with the gentleman from Florida (Mr. YOUNG) that this bill has some good items in the bill, but I think that the heart of the bill was in housing. And I do not know whether we have thought about what are we going to do with reenlistments? How are we going to do with retainment?

The first time the young men and women enlist in the military they enlist on their own. Once they serve 2, 3 years in the military, then they marry. Then the second time they are going to reenlist, they reenlist their families. That is why this bill, the family housing portion of this military construction bill, was the very center of this bill.

The idea was born about private-public housing in my district in Kingsville because we saw the need to free loose some of the moneys for other purposes, and this is where this came about. In Kingsville, Texas, this idea was born, and we have been able to save millions and millions and millions of dollars.

I am concerned about whether we are going to be able to retain these young men and women if we do not provide adequate housing for their wives, for their children.

I have four military bases in my district. Thank God that we do not have a seriousness yet in housing. But right before 9/11, the gentleman from Pennsylvania (Mr. WELDON) and myself, we visited 25 bases in 4 days. I hope that some of the Members have been with us to see the deplorable conditions of the housing that we have throughout this Nation.

I think that we are beginning to see retention numbers coming down. We are going to be able to see within the next few months that reenlistment will come down.

Mr. KNOLLENBERG. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Michigan (Mr. KNOLLENBERG) has 8½ minutes remaining. The gentleman from Texas (Mr. EDWARDS) has 3½ minutes remaining.

Mr. KNOLLENBERG. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. WALSH), the chairman of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations, and a member of this subcommittee.

Mr. WALSH. Mr. Chairman, I would like to thank the gentleman from Michigan (Mr. KNOLLENBERG) for the remarkable work product that he has provided to us.

The subcommittee worked very hard to meet the needs of our military. This is our highest priority, and this bill comes in $450 million above the President's budget request. It supports our active duty forces. It supports our Guard and Reserve. It is building housing, hospitals, schools, public safety and, most importantly, our national security. It is improving our bases.

Personally, in my home, the district in central New York, the Air National Guard base, not 5 years ago, the commandant came through and said, This is one of the sorriest looking bases I have ever seen.

These are soldiers who fought in the Gulf War, who have flown air CAP in Iraq, both north and south, some of the most dangerous duty of any of our soldiers in the country. And what we have done through this bill, through the gentleman from Michigan's (Mr. KNOLLENBERG) leadership, is made that one of the finest looking bases in America to make sure that our troops have the very best facilities and equipment and quality of life that this Nation can afford.

I also rise in strong support of the gentleman from Michigan's (Mr. KNOLLENBERG) manager's amendment regarding raising the cap on privatization of military housing. This provision has outlived its usefulness. The provision was put in place to make sure this program worked. Well, the jury is in. The program works. It works so well that we now need to continue it. And this cap is no longer needed to provide insurance that the program works. It does work. It works better than most.

Our soldiers and their families are benefiting. They deserve good, quality housing and they need it. Let us raise the cap. Let us build more housing and let us support the bill.

Mr. KNOLLENBERG. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. HOBSON) who was previously the chairman of this committee for 4 years.

Mr. HOBSON. Mr. Chairman, I can think of no bill more important than this bill, especially at this time. And I want to thank the committee on both sides for doing great work on this.

The quality of life for our troops is very important. Their ability to come home and live in appropriate housing is of the highest need.

□ 1345

When I was the chairman of the Military Construction Appropriations Subcommittee, we began in earnest to do the privatization of housing on our bases because we realized that we did not have enough money to build housing under the old MILCON way.

I can tell my colleagues that as we go around and visit the bases today where we have gotten these programs going, people are thrilled at the quality of the housing that is now there.

I think CBO has done a very great disservice to this country in not understanding how these deals are put together. These deals are put together at no risk for the most part to the Federal Government. There is only a couple who have a BRAC guarantee. All the rest of them are a simple, lease-back proposition with no guarantee by the Federal Government.

So let us take a base that has been done. Let us go to Fort Hood, Texas. If we go to Fort Hood, Texas, we have a company that has built this housing, and they have agreed that they will provide this housing to the military; and the military has said we will rent it, we will rent it from you, but if it at some time Fort Hood does not need the housing, the government does not pay for it. The risk of the private financing on this is in the private sector, not to the Federal Government; and I do not think CBO understands that. We do not have to pay for it, if we do not need it.

That is the best deal for the taxpayer. That is the best deal for the troops. He is getting housing that he is entitled to, that is the same type of housing if he were in the private sector, and that is the kind of housing our troops are entitled to; and we are giving it to them.

I urge the support for this bill and to keep this provision in this bill.

Mr. EDWARDS. Mr. Chairman, I yield myself 2 minutes.

I would just like to go back to the issue of the military housing program that is being protected in this bill unless a Member of the House objects to it.

I want, Mr. Chairman, all Members and all those watching to understand what is going to happen if anyone objects. First of all, 24,000 servicemen and -women and their families will have a promise broken to them. A promise to provide them with new housing is a show of respect for the tremendous sacrifices they are making for our country and the American family.

Secondly, and this I do not think has been discussed, while the present bill provides a 1.6 percent increase over military construction spending compared to a year ago, not even enough to keep up with inflation, the fact is that many of those dollars being appropriated in this bill will be prohibited from being spent if one Member of this House stands up and objects to our having solved the military housing cap problem.

So, in effect, you are not only saying, no, you are not only going to break the promise to 24,000 military families across this country; you are actually saying that in a time of war it is okay with you if the effect of your action is to actually cut military construction funding this year compared to last year because literally millions and millions of dollars that look like they are being appropriated will be nothing but an illusion, nothing but a false promise to our servicemen and -women, 40,000 of whom live in my district, nearly 20,000 of whom are in Iraq today.

No, Mr. Chairman. When our troops are asked to go into combat, they do not have an option of saying I will take care of that later. That is called AWOL.

Well, today, let us as Members of Congress not go AWOL when we have an opportunity to step up to the plate, and right now, not a week from now, not a month from now, not some false promise, let us vote now to support our military men and women and the better housing they deserve.

Mr. KNOLLENBERG. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON), who is a member of the subcommittee.

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me time, and I appreciate the time and wanted to stand in support of the chairman's mark on this important bill.

We have been working in the Subcommittee on Military Construction for many years to get this housing privatization project going. To date, we have got about 60,000 houses that are under this program. It has been a huge success. Yet we have something like 160-odd thousand to go. That would be our goal. That would give us about 70 percent of the existing housing units. Big step.

It has been a very, very positive program from Fort Meade to Fort Stewart. Here is a quote that one of the soldiers in our area at Fort Stewart actually wrote us: "There is a maintenance manager here at Fort Stewart, who is undoubtedly the best I have seen in my 20 years in the military. He is responsible for Marne Homes. He is personable, kind, and most of all a man of his word. If he says he'll fix something, he will fix it and he will fix it fast. He'll fix the root of a problem and not just put a Band-Aid on it. I feel better" and perhaps this is the key sentence, "I feel better going to Iraq in a few months knowing he will be here to take care of my family."

That is a strong statement for our soldiers back home, and yet what is the problem here? We have two scoring agencies. One is the Congressional Budget Office. One is the Office of Management and Budget. And this year, for some reason, the CBO, the Congressional Budget Office, changed the way they want to score this.

In essence, what they did is they charged all the money up front. It is the equivalent of going to a soldier and saying, instead of your annual pay being scored on a 1-year basis, we are going to multiply it by the 20 years you are going to serve in the military and we are going to score your pay against you for the whole 20 years. That is what the Congressional Budget Office did. That does not make any sense, but the Office of Management and Budget did not change its scoring. The program has not changed, nor has the committee position changed.

So we should not change as Members of the House. We need to stand with our military. The manager's amendment has fixed this problem for right now. We have got good bipartisan support on it, and we need to move forward on this bill.

So, Mr. Chairman, there are a lot of things that already have been said, which I would like to repeat in my own words, but I am sure my fellow Members of Congress would not mind if I spoke for a little less period of time; but I just want to say that this is what we need to do for our soldiers.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to compliment the gentleman on his statement; and when he is right, he is really right. I thank him.

Mr. KINGSTON. I appreciate that. Thanks.

The CHAIRMAN. The Chair will advise that each side has 1½ minutes remaining.

Mr. EDWARDS. Mr. Chairman, I yield myself the remaining 1½ minutes.

This subcommittee worked on a genuine bipartisan basis to provide a better quality of life for military families. It worked on a bipartisan basis to address a looming crisis in military housing. Now the moment has come for us to decide if we want to support our troops, including troops in combat, with our rhetoric and with our hearts and with our deeds.

With all due respect to our hearts and our intentions and our goodwill, what matters to the 40,000 soldiers I have the privilege to represent at Fort Hood, Texas, is what Congress does with its deeds. Our responsibility today should be to say that in a time of war, it is of the utmost national priority and responsibility to take care of our military families who are sacrificing so much for all of us.

We need to pass this subcommittee bill as it was drafted and passed out of subcommittee, now out of full committee. We need to pass this bill on a bipartisan basis; and for that reason, I ask my colleagues not only to support this bill but to ask all of their colleagues not to be the one person in this House who stops the most important housing program ever for our military.

Finally, Mr. Chairman, I would ask one question to any Member who would have the gall to stand up and strike out this issue, and that is, 2 months ago, how did you vote on the $69 billion tax cut which included tax breaks for Members of Congress?

Mr. KNOLLENBERG. Mr. Chairman, I yield myself the remaining time.

I believe my colleagues can tell from the input that has been brought forward this afternoon and the contributions from everybody that everyone here feels very strongly about this issue, extremely strongly. In fact, I think about the work that this subcommittee has done. We have always striven to do things in a fashion that represents actually what ends up being a bipartisan effort, but we actually do not seek that necessarily. It is just that what we are doing is for the common good of our military, and it seems to be appropriate then that it all works out in our favor.

This, I believe, is a fair bill. It is a good bill. We worked with some monetary restrictions. That is something that has to happen over here. It happens all the time.

The other thing I would say, this is, as the chairman has mentioned, a must-pass bill. We cannot think about it and talk about it, but it has got to pass. It is one of the requirements of this committee.

So I would simply say that this, with input that we have got, with the feeling being 100 percent in terms of supporting this measure, that we are in a position to carry out what it is that the troops want. They deserve better housing. This bill promises better housing; and in fact, it does something about the inadequate housing, too, that has become a major problem because the goal of the military is to get those inadequate housing situations out of the picture by 2007. To crimp this, it would simply crimp what we are trying to do here.

So I would urge everybody to support this bill. It is a good bill, and I thank everybody.

Mr. BEREUTER. Mr. Chairman, this Member certainly is pleased that H.R. 4837 provides appropriations for a very important project in Nebraska's 1st Congressional District. The bill includes $614,000 for a national guard and reserve center headquarters building at Lincoln Airbase, Nebraska. This is the second year that this Member has requested this funding for this necessary project. This Member would like to thank the distinguished Chairman of the Appropriations Subcommittee on Military Construction (Mr. KNOLLENBERG) and the distinguished Ranking Member (Mr. EDWARDS) for their assistance in this important matter.

These funds will be used to complete the design process associated with the construction of a new headquarters and emergency operating center for the Nebraska Army National Guard. This existing headquarters facility must be relocated due to the new Antelope Valley highway/flood control infrastructure project in the city of Lincoln, Nebraska.

While this project was included in the Department of Defense's (DoD) FY2009 Future Year Defense Plan (FYDP), it needs to be accelerated due to the unanticipatedly expeditious progress on the Antelope Valley Freeway and Flood Control project, which will very soon necessitate the abandonment of the current headquarters. It appears that the National Guard Bureau agrees, since initial design funding was allocated last year from existing funds, even though it was not authorized or appropriated.

The new facility will house the Joint Forces Headquarters, the Army National Guard Emergency Operating Center, the 24th Medical Company, the 105th Personnel Service Detachment, the Nebraska State Patrol dispatch and communications systems and the Nebraska Emergency Management Agency. Building a multipurpose facility on an existing military installation increases security for all of the components. Furthermore, housing several Federal, State and local agencies in one facility allows the Department of Defense to save scarce military construction funds. Also, bringing those various components within close proximity will facilitate better coordination among the agencies on issues of national and homeland security. Indeed, it is critically important to enhance these relationships in the current post-September 11th environment. This appropriation will allow this important project to move forward.

In addition, this Member is pleased that $497,000 in design funds is appropriated in H.R. 4837 for a critically important runway repair at Offutt Air Force Base, which is immediately contiguous to the 1st Congressional District of Nebraska. This repair project has been championed by the distinguished gentleman from Nebraska (Mr. TERRY), who represents Offutt, with this Member, and the two U.S. Senators from Nebraska.

Mr. Chairman, in closing, this Member urges his colleagues to support H.R. 4837.

Mr. BISHOP of Georgia. Mr. Chairman, let me first take this opportunity to express my sincere appreciation for the leadership shown by my chairman, Mr. KNOLLENBERG, and my ranking member, Mr. EDWARDS, on the housing privatization issue. I would also like to commend the leadership shown by Chairman YOUNG, and Ranking Member OBEY on this important issue as well.

As a member of the House Appropriations Subcommittee on Military Construction, I know of no other issue which is more important to our military and their families than housing. There is no other issue which has more of an impact on the quality of life of the men and women serving in the military than housing. This year we heard witness after witness testify before our subcommittee—each describing the lack of adequate housing as "the" major quality of life issue facing the military.

Mr. Chairman, I am proud to have two major military facilities—Ft. Benning and the Marine Corps Logistics Base in Albany, Georgia, in my district. However, just as important, I represent thousands of other military personnel who work at Moody Air Force Base and Warner Robbins Air Force Base, both of which are now adjacent to my district.

Unfortunately, according to the Department of the Army's installation status report for fiscal year 2004, approximately 71 percent of the Army's residential quarters located in the United States require some level of improvement or replacement, in order to meet the department's own adequacy standards. If you read literally, this means that seven (7) out of every ten (10) housing units located at our Army installations here in the United States do not meet the current standards for adequacy.

I am particularly concerned about the housing situation at Ft. Benning. According to the most recent data available, it is my understanding that approximately ninety percent (90%) of the family housing at Fort Benning is classified as substandard. Fortunately, Ft. Benning is scheduled to be one of the first bases to participate in the upcoming round of privatization.

Ft. Benning is scheduled to construct 4,055 much-needed family housing units. An additional 872 units are planned in FY 05 for Ft. Gordon, in Georgia as well. Unfortunately, Mr. Chairman, if the point of order is sustained against the language in the bill extending the program and we do not raise the cap, the program could be in jeopardy of stalling after November of this year.

That means that the units planned for Ft. Benning and Ft. Gordon in Georgia could be in jeopardy of not moving forward but not just in Georgia. Other bases, including Ft. Riley and Leavenworth in Kansas, West Point in New York, Ft. Rucker in Alabama, Ft. Knox in Kentucky, Ft. Jackson in South Carolina—all are just a few of the facilities which would be in jeopardy for the upcoming round of privatization.

It is important that my colleagues have an appreciation of the practical effects of not acting to increase the cap. Thousands of our officers and enlisted personnel will continue to reside in inadequate family housing. Our national goal of privatizing military housing will not be accomplished. In addition, the existing inventory of housing facilities will continue to deteriorate, resulting in even billions of dollars of more costs for maintenance and operations. Finally, each of the services, particularly the Army, will be unable to meet its goal of eliminating all inadequate family housing by 2007.

Not meeting this goal will further adversely affect the health, safety and quality of life of the soldiers, sailors, airmen, marines and their families occupying these units. Privatization will provide new construction and revitalization of the existing inventory at a more rapid rate than current procedures and funding limits will permit. Privatization will also provide renovated or new quarters for our military and their families, which is comparable to housing of a similar size and quality as would be available in the local economy.

It is critical that our fighting men and women, and their families, have the best quality of life we can offer them. Their sacrifices are too great. This investment is such a small cost given what they are giving to us—putting their lives on the line—day in and day out. A decent place to live is small cost in return for their service to America. We owe them so much more.

Mr. Chairman, housing is at the core of providing a decent quality of life, and I urge the House to allow a lifting of the cap on housing privatization.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to express my severe disappointment of the military housing provisions in H.R. 4837 the Military Construction Appropriations for fiscal year 2005. While this legislation as a whole will support important military construction projects, it is absolutely shameful that Members of this body would seek to block lifting the cap on military housing privatization in this legislation. It is clear from the facts, which were agreed to by the Appropriations Committee, that if we do not take action now in regards to lifting the cap, then we will experience a crisis in military housing. I want to thank the ranking member from the subcommittee Representative CHET EDWARDS for all his work and dedication on the issue of military construction specifically his determination to do justice to our Nation's military families by lifting the cap on military housing privatization. It is because of his tremendous effort that the Appropriations Committee as a whole agreed that this cap must be lifted in this legislation. Again, I will say that it is shameful that we would try to undo this bipartisan effort in order to maintain a cap that can only hinder military families from finding affordable and quality housing.

By not lifting the cap on military housing privatization we will in effect stop developers and property managers from building and renovating homes that are used by military personnel. Not lifting the cap in this legislation will affect 50,000 military families. Since its establishment in 1996, the Military Housing Privatization Initiative has been the most successful military housing program ever. In less than 10 years it has already helped over 60,000 military families, and would help an additional 50,000 military families at 27 military installations in 22 States if the cap is lifted. Under the Military Housing Privatization Initiative, the Government creates public-private partnerships to construct, renovate, and maintain military family housing. Not only has the program provided better housing for military families more quickly, this innovative military housing program has actually saved billions of taxpayer dollars. The Government saves up to 10–15 percent over the life of the project and military families are receiving improved homes in one-tenth of the time it would take using old methods of family housing construction. I find it repulsive that at a time when we are asking so much from our military families that we would try to undermine such a necessary program. It is imperative that we keep our promises to provide better and more affordable housing for our soldiers and their families. If we do not lift the cap in this legislation then a great deal of military home construction will be put on hold and many of the hopes of our brave military families will be put on hold as well.

Many efforts have been made to lift the cap on military housing privatization, first in the Budget Committee and then in the House Defense Authorization bill, however it is vital that we lift this cap now because it is just plain wrong to compromise good and affordable housing for our military families. This provision was supported on a bipartisan basis when it came through the Appropriations Committee; it is also supported by the Bush administration and a large number of organizations including: the Military Officers Association of America, the Association of the U.S. Army, the Air Force Association, and the National Military Families Association. I believe it must be clear to the entire body the need to lift this harmful cap now. The true of the matter is that our men and women of the military have always been ready when called upon and their families have always stood by courageously. How can we now turn our backs on them by compromising a tremendously successful program?

I would also like to stress my dismay that funding for existing military family housing will be $231 million less than the current level. These funds are used for maintenance and repair, furnishings, management, services, utilities, leasing, interest, mortgage insurance, and miscellaneous expenses of already existing family housing units. In 2001, the Department of Defense estimated that 180,000, 60 percent, of the 300,000 housing units it operates were substandard. While I applaud the committee's commitment to the goal of eliminating inadequate housing by fiscal year 2007, we must take significant steps to address this problem now. Clearly, by cutting hundreds of millions of dollars from the funds used to maintain existing family units, this will only magnify the problem. Again, we turn our backs on our military families when we compromise funding that is used specifically to improve their living conditions.

Again, I want to thank Ranking Member EDWARDS for his valiant efforts on this legislation under difficult conditions. It is truly disgraceful that there are those in this body who seek to undo the ranking member's work to craft an effective and bipartisan piece of legislation. It is also truly unfortunate that this appropriation had to be stretched so tight because of the administration's insistence on large tax cuts for the wealthiest Americans. Once again, we see how these reckless policies have led us to restrict funding to groups of Americans who are in need of it. In this case it is our military families who will have to suffer because tax cuts for the rich apparently trump any other consideration. Even though I have always worked against these reckless tax policies I want to apologize to our military families because as Members of Congress we have failed them, even though they have never failed us. It is my sincere hope that by next year's Military Construction Appropriations we will be able to do real justice for the sacrifice made by our military families.

The CHAIRMAN. All time for general debate has expired.

Mr. KNOLLENBERG. Mr. Chairman, I move that the Committee do now rise.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. NUSSLE. Mr. Chairman, I object to the vote on the ground a quorum is not present and make the point of order a quorum is not present.

The CHAIRMAN. Does the gentleman ask for a recorded vote?

Mr. NUSSLE. Mr. Chairman, I demand a recorded vote, and I withdraw my point of order.

The CHAIRMAN. The Chair will count for a recorded vote.

Mr. NUSSLE. Mr. Chairman, well, then, I insist on my point of order.

The CHAIRMAN. A quorum is not required to adopt a motion for the Committee to rise. The Chair will advise it takes 25 to support the request for a recorded vote. An insufficient number having risen, the request is denied; and the motion is adopted by voice vote and the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. BEREUTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2004

Mr. YOUNG of Alaska. Mr. Speaker, pursuant to House Resolution 730, I call up the conference report on the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 730, the conference report is considered read.

(For conference report and statement, see proceedings of the House of July 20, 2004 at page H 6022.)

The SPEAKER pro tempore. The gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 30 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

□ 1400

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on H.R. 2443, the Coast Guard Authorization and Maritime Transportation Act of 2004.

This conference report is the result of a very bipartisan effort. I notice this is a word being used often today on this floor, but I want to compliment especially the committee I serve on. It was worked out with the subcommittee chairman, the gentleman from New Jersey (Mr. LOBIONDO), the ranking members from the full committee and the subcommittee, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from California (Mr. FILNER), and all of the conferees; and it deserves the support of all Members.

As this body's only licensed mariner and elected Member for all of Alaska, I am extremely interested in making sure the Coast Guard has the tools necessary to carry out its many varied missions. This bill gives the Coast Guard the resources and authorities necessary to protect the safety and security of lives and property on U.S. waters.

H.R. 2443 authorizes $8.2 billion to support activities of the Coast Guard for fiscal year 2005 and includes a number of provisions which will result in a safer, more effective system of maritime transportation.

My State of Alaska contains nearly one-third of the Nation's exclusive economic zone, the Nation's largest fishery, and significant cruise ship and oil tanker traffic. Therefore, I am concerned about the ability of the Coast Guard to carry out its traditional search, fisheries law enforcement, and vessel inspection missions.

Mr. Speaker, all of us recognize the exceptional work performed by the Coast Guard, often under dangerous conditions and circumstances. I urge all of my colleagues to support the conference report.

Mr. Speaker, I would like to recognize Mr. John Rayfield and Mr. Mark Zachares for their hard work, and thank the staff on both the Senate and House side. The staff has worked very hard to ensure this has been done correctly.

Again, may I stress, I hope we can do the same thing on the highway bill as we have done on this bill, and through a bipartisan effort, achieve our goal.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Minnesota (Mr. OBERSTAR).

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Alaska (Chairman YOUNG) for his remarks, and certainly the subcommittee chairman, the gentleman from New Jersey (Mr. LOBIONDO), and the ranking member from Minnesota (Mr. OBERSTAR). I would say to the gentleman from Alaska, maybe we should ask unanimous consent to substitute the highway bill for this conference report!

Mr. Speaker, I rise today with Chairman YOUNG to strongly support the conference report for H.R. 2443, the Coast Guard Authorization and Maritime Transportation Act of 2004.

This legislation is the culmination of our work in this Congress in examining the Coast Guard missions, with particular emphasis on the funding for the Maritime Transportation Security Act of 2002 and their new homeland security missions.

The bill authorizes over $8.2 billion for Coast Guard operations for fiscal year 2005. We believe this will be sufficient funding for the Coast Guard to carry out their many missions, including homeland security, search and rescue, marine safety, drug and migrant interdiction and law enforcement, which includes $5.4 billion for Coast Guard operating expenses, $1.5 billion for acquisition and construction projects, $24.2 million for research and development, and $19.65 million for alteration of bridges.

In particular, I am pleased that the conferees recommended that the Coast Guard should lease additional helicopters to establish a helicopter interdiction tactical squadron, HITRON, armored on the West Coast. Since their establishment in Jacksonville, Florida, the East Coast HITRON squadron has stopped over $4 billion in illegal drugs from entering the United States. Deployment of a HITRON squadron on the West Coast will help stem the flow of illegal narcotics through the eastern Pacific Ocean.

There is sufficient authorized funding in this bill for the Coast Guard to lease the helicopters required for this deployment. If one were to look at this using a cost-benefit analysis, the $39 million we spend to lease and deploy an armored HITRON squadron on the West Coast will stop drugs valued at more than 20 times that amount.

It is my strong view that the Coast Guard must increase existing airborne use of force assets for port security and drug interdiction. The lease option for these aircraft is already in place. The lease provides antiterrorist and antidrug coverage for the next 3 to 5 years while providing flexibility for the Coast Guard to engage in a competition to select a permanent multimission Cutter helicopter to meet the post-9/11 challenge. When these multimission helicopters are deployed, the HITRON helicopters can be returned to the manufacturer at the option of the Coast Guard.

We make a number of other substantive changes in the law, including providing critical skill training bonuses for enlisted members, providing legal authority to build new housing for Coast Guard and military personnel, extending the International Safety Management Code to all vessels operating in U.S. waters, and requiring electronic charts on ships to help prevent accidents such as the 1989 accident of the *Exxon Valdez* when they lost their way in Prince William Sound in Alaska. We also extend the oil spill response plans to cargo ships entering U.S. ports, not just tankers.

I thank the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG); the chairman of the subcommittee, the gentleman from New Jersey (Mr. LOBIONDO); and the ranking member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR) for their bipartisan effort to put the bill together.

Mr. Speaker, I strongly urge my colleagues to support the passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. LOBIONDO), the chairman of the subcommittee, who has done an outstanding job on this legislation.

Mr. LOBIONDO. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership of the full committee and this conference. I also want to thank the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from California (Mr. FILNER), as well as all of the conferees of the House and Senate.

Mr. Speaker, I too rise in strong support of the conference report on the Coast Guard Maritime Transportation Act. The conference report authorizes funding and personnel numbers for the Coast Guard and includes a number of other measures that will improve both the operational capability of the Coast Guard and the safety of our maritime transportation system.

This conference report also includes important provisions designed to build upon the work we did in the Maritime Transportation Security Act of 2001 to strengthen security at our ports.

H.R. 2443 includes language to clarify that members of the Coast Guard may make arrests for violations of Federal law while conducting security operations at our port facilities, to direct the Coast Guard to conduct vulnerability assessments of any waters adjacent to nuclear power plants to help ensure we are properly prepared for a waterborne threat to these facilities, and to authorize a new program to fund pilot projects that will test promising new technologies that could improve security at our ports.

I am particularly pleased that the other body has agreed with Members of the House regarding the need to accelerate Coast Guard's asset recapitalization program known as Operation Deepwater. This report authorizes a funding level of $1.1 billion for fiscal year 2005. This level of funding puts us on track to accelerate Deepwater's completion date to February 1, 2006, 5 years earlier than originally planned.

The effective accomplishment of the Coast Guard's national and homeland security missions, as well as its ability to sustain the level of performance of traditional missions, is predicated upon having a required funding level to replace its aging and rapidly failing assets sooner than the 20-year projected plan.

The need to accelerate is compelling. Over 20 110-foot patrol boats underwent emergency dry dock for breached hulls this past year, and the rest of the fleet is in immediate need of repair for structural corrosion. Over the past year, the HH-65 helicopters have suffered more than 125 in-flight main engine power losses, robbing the asset of its ability to hover and placing the lives of its crew, passengers and those below in grave danger.

These failures are increasing maintenance costs and are resulting in the direct loss of over 600 patrol days annually, severely affecting readiness and diminishing the service's ability to respond to terrorist threats and conduct its other vital missions.

I firmly believe that, as authorizers, it is our job to set goals and priorities for the service. The accelerated replacement of these assets is one of the Coast Guard's highest priorities. I commend my colleagues for their support of this critical issue and encourage our appropriators to work towards the goals we have established in this report.

We all praise the work of the men and women of the Coast Guard almost on a daily basis. We have seen the incredible footage of the videos of the rescues that they have made. We hear of their heroism on a day-in-and-day-out basis. While it is very nice to say thank you in words, we need to show it in deeds, so we are providing the men and women of the Coast Guard the assets that they so dramatically need to complete their mission.

Finally, I would like to thank the staff on both sides for their tremendous work, particularly John Rayfield, Eric Nagel, Marsha Canter from our subcommittee, as well as Liz Megginson from the full committee, and John Cullather from the staff of the gentleman from Minnesota (Mr. OBERSTAR) for their efforts. I urge all Members to support this legislation.

Mr. FILNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the gentleman from California (Mr. FILNER) for yielding me this time.

Mr. Speaker, I rise today in strong support of the conference report for H.R. 2443, the Coast Guard and Maritime Transportation Act of 2004. I would like to commend the members of the Subcommittee on Coast Guard and Maritime Transportation and all of the conferees for the great job they did on this bill.

My interest in this bill stems from the work I do on the Committee on Homeland Security and the strong need that we have to bolster the security at our Nation's ports. I am thankful that the conferees included the gentleman from California (Mr. COX) and the gentleman from California (Mr. THOMPSON) on that committee. The traditional and homeland security missions of the Coast Guard must both be supported, and I think this bill addresses both of those areas well.

One provision requires the Department of Homeland Security to develop a long-range vessel tracking system. A true global, satellite-based tracking system that will give the Coast Guard worldwide maritime domain awareness. When we have the ability to track ships on their entire ocean voyage, we will be able to target the ships that exhibit atypical or erratic behavior as well as to ensure their safety throughout the journey.

The technology and infrastructure needed for such a tracking system is already available and in place, and I hope to see it will be used within months of passage of this legislation. I had previously introduced legislation addressing that important issue, and I am glad to see it is included in this bill. Tracking vessels is an important part of overall maritime intelligence.

The bill also requires the Department of Homeland Security to report to Congress on the maritime intelligence plan required by the Maritime Transportation Security Act.

Container security is another key provision in the bill which requires DHS to update Congress on container security technology, empty container inspection, cargo targeting and the deployment of radiation portal monitors at seaports.

Finally, this bill gives the Department of Homeland Security continued authority to issue port security grants and accelerates the Deepwater program implementation.

This bill will make the Coast Guard stronger and our Nation's ports more secure. I urge my colleagues to vote to pass this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield 7 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to thank the gentleman from Alaska (Chairman YOUNG) for his support in including my provision in this bill that calls for the timely review and adjustment of pilotage rates by the United States Coast Guard; and of course, special thanks to the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for his continued efforts to advocate for the just treatments of our American maritime pilots.

Unfortunately for American maritime pilots, the review has been far from timely, and a permanent adjustment flat out has not happened. Last fall, during floor debate on this bill, I engaged in a colloquy with the gentleman from Minnesota (Mr. OBERSTAR) to raise the issue that no permanent rate adjustment for pilots had been made. At that time, I was vexed at how the Coast Guard, whose responsibility it is to set the rates that American pilots charge shipping companies for pilotage services, let the 2003 shipping season come and go without issuing a permanent rate adjustment.

The Great Lakes pilotage system performs critical safety and environmental functions for the Great Lakes. And not only that, it also requires by law that every vessel entering the Great Lakes has a maritime pilot on board. It does not make sense to underfund a pilotage system which is crucial to the largest freshwater body in the world, yet the Coast Guard failed to complete a permanent, full rate adjustment at all last year. At the end of last year, the Coast Guard finally did issue an interim rule which provided only a partial rate adjustment.

In a letter I received from the Commandant earlier this year, I was advised that a supplemental rule scheduled to be published in February was going to be delayed until May.

Mr. Speaker, Members, you might further understand my utter disbelief and complete frustration that a supplemental rule is still not out yet, and there are signs now it will not be out until October and maybe later.

□ 1415

Remember, the supplemental rule will not change the rate. It will just trigger another round of public comment.

Every day that goes by is another day that pilots are not getting the pay that they not only deserve but are entitled to. This is contrary to the Coast Guard's promise of last year to adjust the current pilot system funded at 1997 levels. This is particularly disturbing because the Coast Guard regulations require rates to be reviewed and adjusted on an annual basis. Setting rates to 1997 levels will inevitably result in the fraying of the Great Lakes pilotage system.

Foreign shipping companies and their agents in the United States have urged the Coast Guard to delay and reduce the proposed rate increase. This is not surprising because foreign shipping companies have an economic interest in reducing these rates, which they pay. However, it is the Coast Guard that by law bears the responsibility for ensuring that rate reviews and adjustments are completed in a timely manner and reflect the formula set out in detail in the agency's own regulations. It is simply not acceptable for the Coast Guard to have repeatedly missed its own deadlines of a rate adjustment. Such delays will only continue to subject the Coast Guard to the charge that it is placing the economic interests of foreign shipping companies ahead of the environmental protection and marine safety of the Great Lakes.

It is unbelievable to me that it is actually possible that another shipping season will come and go without a permanent adjustment. After having written five letters in the last year requesting a prompt establishment of a permanent Great Lakes maritime pilotage rate, that is five times we have written, enough is enough; and I believe we need to call on GAO to investigate this issue.

Again, I exhort the Coast Guard to follow its own rules and implement a full pilotage rate adjustment on the Great Lakes now. The pilots in my congressional district bordering Lakes Michigan, Superior, and Huron as well as pilots throughout the Great Lakes have waited long enough for the Coast Guard's empty promise to come to fruition.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I greatly appreciate the gentleman's statement which has laid out very clearly the problem that we face on the Great Lakes. This is really a Great Lakes issue. It does not affect the rest of the Nation. The saltwater ports all have different regimes for pilotage. But this is not a new problem that the gentleman has laid out and detailed in a very clear manner. This goes back to the 1960s when we had a pilotage administration that was separate from the Coast Guard. It was run by a private sector, that is, a nonmilitary, non-Coast Guard, entity. And that was a failure. They did not manage the three pilotage districts, either in effectiveness in getting pilots when and where they were needed or in managing the pay.

Then the pilotage administration was absorbed from the Department of Transportation into the Coast Guard. For a while that worked, but the Coast Guard had a retired captain running the program, and he would on weekends be off at his farm in Virginia when they needed pilots to be assigned out of the reserves to guide ocean-going vessels into Great Lakes ports. That was unacceptable. We thought we had that fixed for a while. It was taken out of the Coast Guard, and now it is back in the Coast Guard again.

This is not acceptable for ocean shipping that enters the Great Lakes at a cost of as much as $15,000 a day when there are delays, when there is an inadequate reserve of pilots to guide the vessels. The gentleman has put his finger on it. The language that the gentleman offered on the floor which the chairman agreed to accept, which I accepted and which is in this bill, will hopefully prod the process along. But that is not good enough. We need to scrub this whole process from top to bottom, have an independent review of it, and find a better way to deal with pilotage. It is unacceptable that the Coast Guard has not resolved it, the Department of Transportation has not resolved it, and that the Department of Homeland Security got their hands in this mess when they have nothing to do with it and the whole pilotage rule was sent over to Homeland Security.

I see the chairman nodding his amusement over this mess which we knew was going to happen when the Coast Guard was taken out of the DOT and put over in Homeland Security. This is one of the fallouts of that whole mess. We have got to have this thing straightened out.

I pledge to the gentleman, with the support of our chairman who is a riverboat captain himself and knows how important it is to have good pilots, we will get this thing done and we will work with the gentleman from New Jersey (Mr. LOBIONDO). We will get this straightened out because it has to be done.

Mr. STUPAK. I thank the ranking member, and I think the chairman for his help and support.

Mr. FILNER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, continuing along with the concerns that the gentleman from Minnesota expressed, I have another matter to bring to the Members' attention that perhaps both the Chair and our ranking member with their experience can be of assistance. I am here to ask for help in remedying a situation on the Great Lakes that I have just been made aware of.

I received a letter today, as a matter of fact, from the Port of Cleveland raising serious concerns with a marine pilotage shortage that is causing shipping delays on the Great Lakes. Federal law and Coast Guard regulations require all ocean-going commercial ships to employ a marine pilot on board when navigating the Great Lakes. For reasons unknown, one of the pilotage associations has had trouble fulfilling its mission. This is beginning to create shipping delays. Since the beginning of this year, according to a study that has been provided to me, there have been over 582 hours of shipping delays according to the American Great Lakes Port Association and the St. Lawrence Seaway Development Corporation. A French cruise ship company has already ceased operations in the Great Lakes and other shipping companies are rumored to be wary of continued operations in the Great Lakes.

While I fully realize the Coast Guard must place a priority on safety and lifesaving, the Coast Guard can stop these delays. Since the Coast Guard regulates the pilot associations, I believe the Coast Guard must ensure that shipping delays are avoided when reasonably possible.

I ask the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from California (Mr. FILNER) to work with me to explore this issue and to make sure that the Coast Guard is taking all necessary steps to avoid unnecessary shipping delays without impacting safety. To make this easier, I have provided both the chairman and the ranking member a list of delays and several letters of correspondence between the interested parties.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for bringing this to our attention. I was unaware of this problem. I do appreciate his suggestions. We will look into it.

Concerning the previous conversation, in this legislation there is a provision in the bill to tell the Coast Guard to get off their you-know-what and get busy and finish that problem that the gentleman from Michigan was talking about, and we are going to take care of that.

With respect to the gentleman from Ohio's issue, I now will be contacting the pilots association to find out what is the problem. I was reading with dismay the amount of delays that did occur because there were no pilots available. I cannot quite understand that myself because these are fine-paying jobs; and very honestly, the revenue is quite attractive. I am anticipating my career, and I am really shocked. Maybe there is a place for me, after all, if I get out of this position. I will be working with the gentleman very closely to see if we can do it.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Alaska for his observations. The gentleman's point and information is accurate, but the reason they are having difficulty getting pilots is for 2 years, pilots have been paid at the rate of a mate. The chairman of the committee knows very well what that means. A pilot ought to be paid better than the pay for a mate, and that pay has stayed there for 2 years and the Coast Guard has failed to act. And so the pilots are saying, We are out of here. They are quitting. You cannot bring a seasoned pilot on board with one season's experience. You are going to run that ship aground.

Because the Coast Guard has failed to act, because the pay has not been adjusted and the pilots are feeling abused, they are walking. What is happening is it is costing more for every piece of goods that comes into the Great Lakes. Every item that comes in on those vessels is taking longer, costing more than it would otherwise cost to be delivered to customers, and that means that our Great Lakes St. Lawrence system is less efficient and less competitive. That is not right. That is not fair. The Coast Guard needs to get this thing done and done quickly and fairly and equitably. If they are not going to do it, then we need to find another way to run this operation.

Mr. KUCINICH. I want to thank the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Alaska (Mr. YOUNG), the gentleman from New Jersey (Mr. LOBIONDO), and the gentleman from California (Mr. FILNER) for their attention to this. The Port of Cleveland is essential to the economy of our region in northeastern Ohio. Their knowledge and cooperation is much appreciated here.

Mr. FILNER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, Americans have always counted on the Coast Guard to enforce maritime law, to secure our waterways and ports, to rescue those in distress, and to intercept illegal drugs. In this new century, however, we are going to need to count on them even more. In the Iraqi theater, the Coast Guard is protecting key ports and oil platforms and helping speed the delivery of relief supplies to those in need.

This year, Petty Officer Third Class Nathan Bruckenthal became the first member of the Coast Guard to die in battle since Vietnam. His bravery and sacrifice shines a light on the often overlooked sacrifices made by our Coast Guard. When I spoke to Nathan's father, he said simply, "My son served his country." Mr. Speaker, he did serve, and sacrifice.

We have to keep Nathan and his family in our prayers, in our budgets, and keep the Coast Guard the very best in the world. The Coast Guard is always ready to defend our Nation and rescue those in trouble. Now it is our turn. I urge my colleagues to support this conference report and to give the Coast Guard the funds that it needs to meet the national security challenges of the 21st century in honor of the Bruckenthal family which served and sacrificed.

Mr. YOUNG of Alaska. Mr. Speaker, I yield the balance of my debate time to the gentleman from New Jersey (Mr. LOBIONDO) and, pending that, I ask unanimous consent that the gentleman be permitted to control the time.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. LoBIONDO. Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland (Mr. RUPPERSBERGER).

Mr. RUPPERSBERGER. Mr. Speaker, I thank the gentleman from California (Mr. FILNER) for yielding me this time to speak on this legislation. I rise today to support America's Coast Guard, and that is why I intend to support the conference report for H.R. 2443, the Coast Guard Authorization Act.

I represent Maryland's Second Congressional District, which includes both the Port of Baltimore and the Coast Guard Yard. So while I applaud attempts to provide adequate funding for the Coast Guard and its mission to protect America's shorelines, I am disappointed that this conference report does not provide any language to protect the critical role and mission that the Baltimore Coast Guard Yard serves.

The Baltimore Coast Guard Yard is a unique and indispensable asset to this Nation and the Coast Guard itself. For over a century it has served as the service's sole ship construction and major repair facility. It is an essential part of the Coast Guard's core of industrial support base and supplier of depot-level services.

In the wake of the September 11 attack on America and the intensity of the national Coast Guard homeland security response, the yard capabilities and skill allowed the Coast Guard to sustain critical readiness for the fleet and our Nation. The yard plays a unique and indispensable role in both our homeland security and homeland defense priorities.

For example, it supported efforts in Iraq and Afghanistan through a joint Department of Defense and Coast Guard project. Engineers and tradesmen designed, tested, and constructed the custom shipping cradles needed to transport the 110 patrol boats needed in Iraq. The yard also answered an urgent request from the U.S. Army and Marine Corps to quickly repair over a dozen old-style bridge erection boats. These boats were refurbished and shipped to Iraq, allowing bridges to be built over the inland rivers permitting the transportation of personnel and supplies.

It is my understanding that the core logistics of the yard are being threatened, and I am deeply troubled by the absence of language in the conference report to protect the Coast Guard Yard's mission. This is an incredibly important issue to the security of our country. Protecting the yard and its shipbuilding and repair facilities is critical to all Americans.

I urge my colleagues to consider the tradition of excellent service the Baltimore Coast Guard Yard has provided in the defense of the Nation for over a century. The dedicated and skilled craftsmen working at the yard today are among this country's greatest assets protecting our way of life.

□ 1430

Mr. FILNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in support of the Coast Guard and Maritime Transportation Act.

It has been almost 3 years since the September 11 terrorist attacks, and we still do not have sufficiently detailed information about what enters our ports. We know that approximately 6 million shipping containers enter the United States each year, but we do not know what all these containers contain nor do we know what it would cost to inspect all of these containers.

We also know that approximately 6- to 7,000 ships enter the United States each year, but that figure refers mainly to deep-draft vessels. How many smaller ships, or break bulk vessels, enter our ports? We do not really know.

When this bill was considered in the Committee on Transportation and Infrastructure last year, I offered an amendment that was accepted by committee, asking the Coast Guard to do a study. I wanted to know a complete breakdown of the number and types of containers and ships that enter the United States each year. I also wanted to know the cost that would be incurred if we were to inspect adequately all of these containers and ships.

Once we understand the different elements of what enters our ports, we can establish a better baseline on what we are currently spending on port security. More importantly, we will have a better understanding of how we can improve port security and the cost that will be entailed with each type of improvement.

I am pleased that this port security study provision has been included in the final conference report that is before us today, along with additional reporting requirements regarding container security inserted by the Senate.

This is a good bill that will authorize appropriations for the Coast Guard. It has good provisions that will enable us to get a better handle on proper security in our ports, and I urge my colleagues to support its adoption.

Mr. FILNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time and for his splendid management of the bill on our side.

I compliment the gentleman from New Jersey (Mr. LoBIONDO) for his steadfast dedication to the purposes of the Coast Guard and his distinguished leadership of the subcommittee on this matter and other Coast Guard-related matters, and the gentleman from Alaska (Mr. YOUNG) for the steadfast support that we had in adhering to the principles of the committee as expressed by the House and passage of our version of the Coast Guard reauthorization.

This is a very happy day for the committee and for the Coast Guard. It is the first time in 2 years, in fact a little bit more than that, that actually we are on the point of passing a Coast Guard reauthorization bill in the normal legislative course of business. It had to be done in the appropriations process last year, Mr. Speaker, because although the House did its work, passed the bill, the other body could not come to a resolution on the matter, and we never even got to conference.

But this year, congratulations on both sides. The Coast Guard will have its charter spelled out legislatively as we need to do.

We make a number of improvements, a significant increase in personnel for the Coast Guard. The former Merchant Marine and Fisheries Committee was one of my first two committee assignments along with, then, Public Works when I was elected in 1974; and the personnel allocated to the Coast Guard in 1975 was listed at 39,000. It remained at that level for the next 30 years, and only recently have we begun to raise the number of personnel for the Coast Guard, while all along adding new responsibilities to the Coast Guard.

Congress so loved the Coast Guard and so admired the work it could do that it laid on 27 new authorities and responsibilities for the Coast Guard to carry out without adding the personnel to do the job, and only in the last 8 years, 9 years have we begun the Blue Water program and the program of adding extended endurance helicopters and fixed-wing aircraft and surface vessels and high-endurance, high-speed vessels to combat the illegal drug trade and immigration trade in the Caribbean and on the coastal waterways of the United States.

This legislation takes us significantly forward. We authorize Coast Guard to set hours of service limits for personnel working on towing vessels to avoid the kind of tragedies that occurred at South Padre Island. We require all commercial vessels to have electronic charts beginning in 2007.

We authorize establishment of a National Maritime Enhancement Institute on the Great Lakes to study maritime transportation needs on the Great Lakes, and full safety inspection of towing vessels.

We require the Coast Guard to set standards for adequate amounts of potable water on commercial vessels. After many years of studying this issue, we are finally going to deal with it.

And we extend the authority of ships operating on the Great Lakes to dispose of dry bulk cargo residue in accordance with standards already set by the Coast Guard for at least a decade.

The only disappointment I have with this legislation, and it is a major one, is that we did not come to a resolution of security issues along the lines that the committee agreed upon, the House voted on, and the motion to instruct conferees was passed with an overwhelming vote in this body, and that was to deal with security plans for foreign-flag vessels entering U.S. ports.

We passed the affectionately known Port Security Act, known properly as the Maritime Transportation Security Act of 2002. The gentleman from Alaska (Chairman YOUNG) and I were at the White House for the signing of this bill, along with Members of the other body. We all patted each other on the back. There was not enough money in that bill on the one hand to carry out the intentions of the legislation, but there was very good and very strong language in that legislation to protect U.S. ports.

"An owner or operator of a vessel . . . shall prepare and submit to the Secretary a security plan for the vessel . . . for deterring a transportation security incident to the maximum extent practicable."

It goes on to say, "A vessel or facility for which a plan is required to be submitted to the Secretary under this subsection may not operate after July 1, 2004 unless, A, the plan has been approved by the Secretary; and, B, the vessel or facility is operating in compliance with the plan."

Well, that seems, on the face of it, very clear language, a very clear directive to the Coast Guard, but hardly was the ink dry when they went to the International Maritime Association and negotiated something quite different and issued regulations saying that instead of reviewing foreign vessel security plans, the Coast Guard will simply accept the security certificates issued by the flag state or by a security organization approved by the flag state under which that vessel operates.

Many ships coming into U.S. harbors operate from a flag state country that we know as "flag states of convenience" or "flags of convenience," those great seafaring nations of Panama, Malta, Cyprus. Cyprus may have been a seafaring nation B.C., but not in recent times. And under the Coast Guard regulations, the agency would have to accept approvals from these countries or their security organizations. Those countries do not inspire a great deal of security confidence in me or other observers of the security scene.

So we came back with the House bill to strengthen that language, make it clear what we intended; and the other body had a little different version. We tried mightily to come to an agreement. When we could not, the conferees agreed to delete language in both bills and leave current law standing.

That outcome and this conference report, Mr. Speaker, should not be construed as endorsing the Coast Guard's regulations. They are inconsistent with current law. Current law states very clearly that foreign vessels must have their security plans approved by the Secretary of the department in which the Coast Guard is operating. And those regulations are not in compliance, and they should be revised, not only not in compliance but not providing adequate security.

Under these regulations, this is what can and will and is happening. A foreign vessel enters U.S. waters. Under Coast Guard regulations, the Coast Guard will not examine the vessel's security plan unless there is clear evidence that the crew has insufficient knowledge of the security plans and procedures. And even if the Coast Guard finds that the crew does not have sufficient knowledge about security, regulations do not allow the Coast Guard to look at these areas of the security plan for that vessel, identifying restricted areas on the vessel and measures to prevent unauthorized access to those areas, procedures for responding to security threats or breaches of security, procedures for responding to security instructions of the flag state under which that vessel is operating.

Duties of shipboard personnel assigned security responsibilities and of other shipboard personnel on security aspects of their duties.

Procedures to ensure the inspection, testing, calibration, and maintenance of any security equipment on board the vessel.

Identification of the location where the ship's security alter activation point is located.

Procedures, instructions, and guidance on the use of the ship security alert system.

And yet, the Administration wants us to believe that under this system ships would be secure. This is not the type of security that we need. This is not what the law currently requires. The Coast Guard's regulations must be revised to comply with the law.

Apart from this difficult security issue, H.R. 2443 makes many substantive improvements to maritime safety and the quality of life for the men and women who serve in the Coast Guard.

I thank Chairman YOUNG, Subcommittee Chairman LOBIONDO, and Subcommittee Ranking Member FILNER for the cooperation and teamwork in successfully concluding this Conference.

Mr. Speaker, I urge my colleagues to support adoption of this conference report.

Mr. LOBIONDO. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from California (Mr. FILNER), the gentleman from Alaska (Mr. YOUNG), and everyone aforementioned for their support in bringing this conference report to the floor.

I would like just to put a human face on it for a minute, that this is really about the men and women of the Coast Guard who are out there every day doing such a heroic job both here and abroad.

For those who think that the Coast Guard is only here on our shores, recently there was a Coast Guard helicopter crew that was in theater in Iraq. One of those engine failures that I talked about earlier was experienced. The captain of the helicopter really had a tremendous challenge on his hands when he had an engine failure and had to decide whether to set the helicopter down in Syria or do a hard landing on the deck.

We can just let our minds wonder a little bit about what it would have been like to have one of our Coast Guard helicopters having to set down in Syria and the implications of that. We can all see that that is not a good scenario.

He very heroically put the helicopter down without any injuries to himself, the crew, or damage to the helicopter. But it is symptomatic of why we have to make sure that they have the resources necessary. This authorization bill will be a critical, but first step in getting us to that point.

So I would urge all my colleagues to continue to understand the tremendous mission that the Coast Guard has undertaken, the tremendous job that they do day in and day out. I ask everyone to please support this legislation.

Mr. ENGEL. Mr. Speaker, I rise in strong support of H.R. 2443. I want to thank the chairmen and ranking members for all their hard work. The Coast Guard is an integral part of our Nation's homeland security efforts.

I want to mention that I am a strong supporter of the Deepwater program that is replacing a number of aging vessels with new, high tech ships that I have no doubt will serve the Coast Guard and the American people very well.

Most of all, I want to thank my colleagues on the Transportation Committee for retaining and broadening language regarding security assessments at nuclear facilities. When the House debated its version of this bill, I offered and the chairs and ranking members generously accepted, an amendment to study the vulnerability of the Indian Point Nuclear power plant in Westchester County New York.

I am very pleased that during negotiations with the Senate on the final bill, this version was expanded to include all nuclear facilities that are adjacent to navigable waters.

We have a responsibility to ensure that our Nation is safe. We know that Al Qaeda has plans for our nuclear facilities. This assessment will help us in Congress and the Administration to better plan for protecting and preventing an attack that may be attempted.

I urge all my colleagues to vote "yes" on this important legislation.

Mr. SIMMONS. Mr. Speaker, I rise today to strongly support the conference report on H.R. 2443, the Coast Guard and Maritime Transportation Act, a bill to reauthorize Coast Guard operations for fiscal year 2005.

I thank Chairman DON YOUNG and FRANK LOBIONDO, and Ranking Member JIM OBERSTAR for their hard work and leadership on behalf of our Coast Guard men and women. And I thank my colleagues and fellow conferees for working with me to authorize the establishment of a National Coast Guard Museum in New London, Connecticut—where the Service first came ashore and established the Coast Guard Academy.

In 2001, I became one of the founding members of the National Coast Guard Museum Association. Our goal was to fund and construct the museum in New London. The seven-member board included our chairman, James Coleman, Jr., Connecticut State Senator Cathy Cook, Rear Adm. Richard Larrabee, USCG (ret.), Cmdr. Don Chapman, USCG (ret.), Richard Grahn and John Johnson. These civic-minded individuals dedicated their time and talent to make this project work.

Connecticut's two Senators CHRISTOPHER DODD and JOSEPH LIEBERMAN, also supported this project and I thank them for their input and support. I am proud to have been part of the effort, which we anticipate will be completed with full support of the community.

The bill appropriately directs the Coast Guard Commandant to establish the museum in New London at, or in close proximity to, the Academy. This will ensure that future cadets, commissioned officers, warrants and petty officers attending the leadership school at the Coast Guard Academy will benefit from the collection and programs of the new museum.

The people of Connecticut and the New London area are proud of their Coast Guard and maritime heritage, and eager to support the new museum. I am confident that local leaders will support this effort and be diligent in securing a suitable location for the museum.

The Coast Guard is our major force in maritime safety and law enforcement, an integral part of our national defense, and an important member of our New London community. It is right to honor the service and sacrifice of the men and women in the Coast Guard by establishing this museum, and it is fitting to locate the facility in New London.

A National Coast Guard Museum will be a place to honor, preserve and share the story of our beloved "Coasties." It is the proud story of brave men and women who live and serve by their motto—Semper Paratus. Always Ready.

Mr. Speaker, today this body is ready to say thank you. More than 70 museums across the country celebrate our military services, and H.R. 2443 pays a long overdue tribute to the Coast Guard in establishing the first museum dedicated to this Service. I am gratified to have the support of my colleagues in passing this bill.

Mr. LoBIONDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the conference.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FILNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. LoBIONDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report for H.R. 2443.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

☐ 1445

TAX SIMPLIFICATION FOR AMERICA'S JOB CREATORS ACT OF 2004

Mr. PORTMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4840) to amend the Internal Revenue Code of 1986 to simplify the taxation of businesses.

The Clerk read as follows:

H.R. 4840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Simplification for America's Job Creators Act of 2004".

SEC. 2. 2-YEAR EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Subsections (b), (c), and (d) of section 179 of the Internal Revenue Code of 1986 are each amended by striking "2006" each place it appears and inserting "2008".

SEC. 3. INDEXING OF GROSS RECEIPTS TEST FOR CASH METHOD OF ACCOUNTING.

(a) In General.—Section 448(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(4) Inflation adjustment of gross receipts test.—In the case of any taxable year beginning in a calendar year after 2003, the $5,000,000 dollar amount in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.".

(b) Conforming Amendments.—

(1) Section 448(b)(3) of such Code is amended by striking "$5,000,000" both places it appears in the heading and text.

(2) Section 448(c) of such Code is amended by striking "$5,000,000" in the heading and the first place it appears in paragraph (1) thereof.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 4. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

(a) In General.—

(1) General business credits.—Subsection (d) of section 38 of the Internal Revenue Code of 1986 is amended by striking paragraph (3).

(2) Carryback and carryforward of unused credits.—Subsection (d) of section 39 of such Code is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.

(3) Adjustments based on adjusted current earnings.—Clause (ii) of section 56(g)(4)(F) of such Code is amended by striking "In the case of any taxable year beginning after December 31, 1992, clause" and inserting "Clause".

(4) Items of tax preference; depletion.—Paragraph (1) of section 57(a) of such Code is amended by striking "Effective with respect to taxable years beginning after December 31, 1992, this" and inserting "This".

(5) Intangible drilling costs.—

(A) Clause (i) of section 57(a)(2)(E) of such Code is amended by striking "In the case of any taxable year beginning after December 31, 1992, this" and inserting "This".

(B) Clause (ii) of section 57(a)(2)(E) of such Code is amended by striking "(30 percent in the case of taxable years beginning in 1993)".

(6) Great plains conservation program.—Section 126(a) of such Code is amended by striking paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

(7) Treble damage payments under the antitrust law.—Section 162(g) of such Code is amended by striking the last sentence.

(8) Charitable, etc., contributions and gifts.—Section 170 of such Code is amended by striking subsection (k).

(9) Net operating loss carrybacks and carryovers.—

(A) Section 172 of such Code is amended—

(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F), and (G), respectively,

(ii) by striking "ending after August 2, 1989" in subsection (b)(1)(D)(i)(II) (as redesignated by clause (i)),

(iii) by striking "subparagraph (F)" in subsection (b)(1)(G) (as redesignated by clause (i)) and inserting "subparagraph (E)",

(iv) by striking subsection (g), and

(v) by striking subparagraph (F) of subsection (h)(2).

(B) Section 172(h)(4) of such Code is amended by striking "subsection (b)(1)(E)" each place it appears and inserting "subsection (b)(1)(D)".

(C) Section 172(i)(3) of such Code is amended by striking "subsection (b)(1)(G)" each place it appears and inserting "subsection (b)(1)(F)".

(D) Section 172(j) of such Code is amended by striking "subsection (b)(1)(H)" each place it appears and inserting "subsection (b)(1)(G)".

(E) Section 172 of such Code, as amended by subparagraphs (A) through (D) of this paragraph, is amended—

(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,

(ii) by striking "subsection (h)" each place it appears and inserting "subsection (g)", and

(iii) by striking "subsection (i)" each place it appears and inserting "subsection (h)".

(10) Research and experimental expenditures.—Subparagraph (A) of section 174(a)(2) of such Code is amended to read as follows:

"(A) Without consent.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.".

(11) Amortization of certain research and experimental expenditures.—Paragraph (2) of section 174(b) of such Code is amended by striking "beginning after December 31, 1953".

(12) Soil and water conservation expenditures.—Paragraph (1) of section 175(d) of such Code is amended to read as follows:

"(1) Without consent.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for the taxpayer's first taxable year for which expenditures described in subsection (a) are paid or incurred.".

(13) Activities not engaged in for profit.—Section 183(e)(1) of such Code is amended by striking the last sentence.

(14) Dividends received on certain preferred stock; and dividends paid on certain preferred stock of public utilities.—

(A) Sections 244 and 247 of such Code are hereby repealed, and the table of sections for part VIII of subchapter B of chapter 1 of such Code is amended by striking the items relating to sections 244 and 247.

(B) Paragraph (5) of section 172(d) of such Code is amended to read as follows:

"(5) Computation of deduction for dividends received.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).''.

(C) Paragraph (1) of section 243(c) of such Code is amended to read as follows:

''(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.''.

(D) Section 243(d) of such Code is amended by striking paragraph (4).

(E) Section 246 of such Code is amended—

(i) by striking '', 244,'' in subsection (a)(1),

(ii) in subsection (b)(1)—

(I) by striking ''sections 243(a)(1), and 244(a),'' the first place it appears and inserting ''section 243(a)(1)'',

(II) by striking ''244(a),'' the second place it appears, and

(III) by striking ''subsection (a) or (b) of section 245, and 247,'' and inserting ''and subsection (a) or (b) of section 245,'', and

(iii) by striking '', 244,'' in subsection (c)(1).

(F) Section 246A of such Code is amended by striking '', 244,'' both places it appears in subsections (a) and (e).

(G) . Sections 263(g)(2)(B)(iii), 277(a), 301(e)(2), 469(e)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii), 832(b)(5), 833(b)(3)(E), and 1059(b)(2)(B) of such Code are each amended by striking '', 244,'' each place it appears.

(H) Section 1244(c)(2)(C) of such Code is amended by striking ''244,''.

(I) Section 805(a)(4)(B) of such Code is amended by striking '', 244(a),'' each place it appears.

(J) Section 810(c)(2)(B) of such Code is amended by striking ''244 (relating to dividends on certain preferred stock of public utilities),''.

(15) ORGANIZATION EXPENSES.—Section 248(c) of such Code is amended by striking ''beginning after December 31, 1953,'' and by striking the last sentence.

(16) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) of such Code is amended by striking ''(or by reason of section 24(b) of the Internal Revenue Code of 1939)'' in paragraph (1), by striking ''after December 31, 1953,'' in paragraph (2), by striking the second sentence, and by striking ''or by reason of section 118 of the Internal Revenue Code of 1939'' in the last sentence.

(17) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) of such Code are each amended by striking ''or acquired on or after October 8, 1940,''.

(18) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 of such Code is amended—

(A) by striking ''after December 31, 1967,'' in subsection (a)(2),

(B) by striking ''after October 9, 1969,'' in subsection (b), and

(C) by striking ''after October 9, 1969, and'' in subsection (d)(5).

(19) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) of such Code is amended by striking ''In the case of taxable years beginning after December 31, 1984, section'' and inserting ''Section''.

(20) TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS.—Section 409 of such Code is amended by striking subsection (q).

(21) FUNDING STANDARDS.—Section 412(m)(4) of such Code is amended—

(A) by striking ''the applicable percentage'' in subparagraph (A) and inserting ''25 percent'', and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(22) RETIREE HEALTH ACCOUNTS.—Section 420 of such Code is amended—

(A) by striking paragraph (4) of subsection (b) and by redesignating paragraph (5) as paragraph (4), and

(B) by amending paragraph (2) of subsection (c) to read as follows:

''(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).''.

(23) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) of such Code is amended by striking ''after December 31, 1963,''.

(24) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—

(A) Section 464 of such Code is amended by striking ''any farming syndicate (as defined in subsection (c))'' both places it appears in subsections (a) and (b) and inserting ''any taxpayer to whom subsection (d) applies''.

(B)(i) Subsection (c) of section 464 of such Code is hereby moved to the end of section 461 and redesignated as subsection (j).

(ii) Such subsection (j) of such Code is amended—

(I) by striking ''For purposes of this section'' in paragraph (1) and inserting ''For purposes of subsection (i)(4)'', and

(II) by adding at the end the following new paragraphs:

''(3) FARMING.—For purposes of this subsection, the term 'farming' has the meaning given to such term by section 464(e).

''(4) LIMITED ENTREPRENEUR.—For purposes of this subsection, the term 'limited entrepreneur' means a person who—

''(A) has an interest in an enterprise other than as a limited partner, and

''(B) does not actively participate in the management of such enterprise.''

(iii) Paragraph (4) of section 461(i) of such Code is amended by striking ''section 464(c)'' and inserting ''subsection (j)''.

(C) Section 464 of such Code is amended—

(i) by striking subsections (e) and (g) and redesignating subsections (d) and (f) as subsections (c) and (d), respectively, and

(ii) by adding at the end the following new subsection:

''(e) FARMING.—For purposes of this section, the term 'farming' means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity.''

(D) Subsection (d) of section 464 of such Code, as redesignated by subparagraph (C), is amended—

(i) by striking paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively, and

(ii) by striking ''SUBSECTIONS (a) AND (b) TO APPLY TO'' in the subsection heading.

(E) Subparagraph (A) of section 58(a)(2) of such Code is amended by striking ''section 464(c)'' and inserting ''section 461(j)''.

(25) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—Paragraph (3) of section 465(c) of such Code is amended by striking ''In the case of taxable years beginning after December 31, 1978, this'' and inserting ''This''.

(26) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) of such Code is amended—

(A) by striking ''at the rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''at the rate of 20 percent'', and

(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(27) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—

(A) Section 469 of such Code is amended by striking subsection (m).

(B) Subsection (b) of section 58 of such Code is amended by adding ''and'' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(28) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) of such Code is amended by striking subparagraph (C).

(29) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 of such Code is amended by striking subsection (q).

(30) REQUIREMENTS FOR EXEMPTION.—

(A) Section 503(a)(1) of such Code is amended to read as follows:

''(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(c) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.''.

(B) Paragraph (2) of section 503(a) of such Code is amended by striking ''described in section 501(c)(17) or (18) or paragraph (a)(1)(B)'' and inserting ''described in paragraph (1)''.

(C) Subsection (c) of section 503 of such Code is amended by striking ''described in section 501(c)(17) or (18) or subsection (a)(1)(B)'' and inserting ''described in subsection (a)(1)''.

(31) INSURANCE COMPANY TAXABLE INCOME.—

(A) Section 832(e) of such Code is amended by striking ''of taxable years beginning after December 31, 1966,''.

(B) Section 832(e)(6) of such Code is amended by striking ''In the case of any taxable year beginning after December 31, 1970, the'' and inserting ''The''.

(32) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 of such Code is amended by striking the last sentence.

(33) INVOLUNTARY CONVERSION.—Section 1033 of such Code is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

(34) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 of such Code is hereby repealed, and the table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1051.

(35) HOLDING PERIOD OF PROPERTY.—

(A) Paragraph (5) of section 1223 of such Code is amended by striking ''(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)''.

(B) Paragraph (7) of section 1223 of such Code is amended by striking the last sentence.

(C) Paragraph (9) of section 1223 of such Code is repealed.

(36) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) of such Code is amended by striking ''beginning after December 31, 1981''.

(37) SALE OR EXCHANGE OF PATENTS.—Section 1235 of such Code is amended—

(A) by striking subsection (c) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively, and

(B) by striking "subsection (d)" in subsection (b) and inserting "subsection (c)".

(38) DEALERS IN SECURITIES.—Subsection (b) of section 1236 of such Code is amended by striking "after November 19, 1951,".

(39) SALE OF PATENTS.—Subsection (a) of section 1249 of such Code is amended by striking "after December 31, 1962,".

(40) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) of such Code is amended by striking "after December 31, 1969," both places it appears.

(41) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 of such Code is amended to read as follows:

"(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

"(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

"(A) an amount equal to the original issue discount, or

"(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

"(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

"(3) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.".

(42) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(43) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) of such Code is amended by striking "unless" and all that follows and inserting "unless the corporation was an S corporation for such taxable year.".

(44) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) of such Code is amended by striking "for a taxable year which includes any period after December 31, 1984" in clause (i) and by striking "in a taxable year beginning after December 31, 1984" in clause (ii).

(45) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—

(A) Subsection (a) of section 1551 of such Code is amended—

(i) by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(ii) by striking "after June 12, 1963," each place it appears.

(B) Section 1551(b) of such Code is amended—

(i) by striking "or (2)" in paragraph (1), and

(ii) by striking "(a)(3)" in paragraph (2) and inserting "(a)(2)".

(46) DEFINITION OF WAGES.—

(A) Section 3121(b) of such Code is amended by striking paragraph (17).

(B) Section 210(a) of the Social Security Act is amended by striking paragraph (17).

(47) CREDITS AGAINST TAX.—

(A) Paragraph (4) of section 3302(f) of such Code is amended—

(i) by striking "subsection—" and all that follows through "(A) IN GENERAL.—The" and inserting "subsection, the,

(ii) by striking subparagraph (B),

(iii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and

(iv) by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.

(B) Paragraph (5) of section 3302(f) of such Code is amended by striking subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(48) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) of such Code is amended by striking paragraph (4).

(49). TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) of such Code is amended to read as follows:

"(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.".

(50) TRANSPORTATION BY AIR.—Section 4261(e) of such Code is amended—

(A) in paragraph (1) by striking subparagraph (C), and

(B) by striking paragraph (5).

(51) TAXES ON FAILURE TO DISTRIBUTE INCOME.—

(A) Paragraph (2) of section 4942(f) of such Code is amended by striking the semicolon at the end of subparagraph (B) and inserting ", and", by striking "; and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(B) Subsection (g) of section 4942 of such Code is amended—

(i) by striking "For all taxable years beginning on or after January 1, 1975, subject" in paragraph (2)(A) and inserting "Subject", and

(ii) by striking paragraph (4).

(C) Section 4942(i)(2) of such Code is amended by striking "beginning after December 31, 1969, and".

(52) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) of such Code is amended by striking "(excluding therefrom any preceding taxable year which begins before January 1, 1970)".

(53) RETURNS.—Subsection (a) of section 6039D of such Code is amended by striking "beginning after December 31, 1984,".

(54) INFORMATION RETURNS.—Subsection (c) of section 6060 of such Code is amended by striking "year" and all that follows and inserting "year.".

(55) CANAL ZONE.—Subparagraph (A) of section 6103(b)(5) of such Code is amended by striking "the Canal Zone,".

(56) ABATEMENTS.—Section 6404(f) of such Code is amended by striking paragraph (3).

(57) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) of such Code is amended by striking "(or the corresponding provisions of prior law)".

(58) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) of such Code is amended by striking "any nonqualified withdrawal" and all that follows through "shall be determined" and inserting "any nonqualified withdrawal shall be determined".

(59) VALUATION TABLES.—

(A) Subsection (c) of section 7520 of such Code is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Paragraph (2) of section 7520(c) of such Code, as so redesignated, is amended—

(i) by striking "Not later than December 31, 1989, the" and inserting "The", and

(ii) by striking "thereafter" in the last sentence thereof.

(60) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(61) DEFINITION OF EMPLOYEE.—Section 7701(a)(20) of such Code is amended by striking "chapter 21" and all that follows and inserting "chapter 21.".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SAVINGS PROVISION.—If—

(A) any provision amended or repealed by subsection (a) applied to—

(i) any transaction occurring before the date of the enactment of this Act,

(ii) any property acquired before such date of enactment, or

(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment,

nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Texas (Mr. SANDLIN) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Americans are frustrated. They are frustrated with their current Tax Code, and they should be. The mountains of documents that they face are complicated, confusing, and sometimes contradictory. The effects of this complex code, by the way, are more than just frustration for those of us who are taxpayers. They include decreased levels of voluntary compliance, people cannot figure out the code and they are less likely to comply with it; increased costs, of course, for the entire taxpayer system; reduced perception of fairness in the Federal tax system; and, of course, increased difficulties at the Internal Revenue Service as they try to administer this unwieldy code. Clearly, we need to make our Tax Code more user friendly, and we should take every opportunity to do so.

Over the last few years, we have done that in some cases, for instance, the expansion of the 10 percent tax bracket, and taking literally millions of taxpayers off the Internal Revenue Code altogether.

But today, Mr. Speaker, I would like to commend my colleague, the gentleman from Illinois (Mr. CRANE), for legislation that he has brought to the floor showing his commitment to tax simplification, and particularly focusing on the needs of our small businesses.

H.R. 4840, which is before the House today, the Tax Simplification For America's Job Creators Act, provides provisions that will provide tax relief and simplification for small businesses and small business owners as they plan for the economy, which is now growing.

First, the bill will extend the $100,000 expensing amount provided under what is called section 179 of the Internal Revenue Code. This is an extremely important incentive which was included in the President's 2003 tax relief bill, the Jobs Growth and Tax Relief Reconciliation Act.

It allows small businesses to deduct up to $100,000 immediately, to write that off, not depreciate it over time, as compared to $25,000, which was in law before the 2003 tax relief act. This is for new equipment up to 2006. Therefore, we want to expand that, we want to extend the legislation into 2006 and 2007, and the legislation offered by the gentleman from Illinois (Mr. CRANE) does that.

It also expands the definition of who qualifies. Before 2003, those companies who qualified were those that had $200,000 or less of capital purchases per year. We doubled that to $400,000 of capital purchases per year, making this provision something that is more usable for more small businesses.

Expensing, of course, allows small businesses to recover the cost of their investment immediately rather than writing it off over time and rather than requiring them to keep extensive records and track those deductions over several years. This helps reduce the cost of capital, which helps to expand plant and equipment. It also makes it simpler and less costly, less complicated for our small businesses to be able to comply with our Tax Code.

Again, today's bill will provide yet another vehicle that we can use to try to enact this important small business priority that has already passed the House in some other forms, and I commend the gentleman from Illinois (Chairman CRANE) for it.

Second, his bill also begins adjusting an important standard which affects small businesses' ability to use the cash accounting system. The cash accounting method is simpler, and it provides under this legislation to convert from the current $5 million threshold to $10 million. So we are expanding the amount that can be indexed for inflation, so that more and more small businesses are not forced into using the accrual method each year.

It is important to understand that forcing businesses into the accrual accounting method has real consequences for smaller companies. Not only must they begin calculating taxes using a different accounting method; they must actually pay tax on the difference in income as measured by the accrual and the cash methods. The bill before us rectifies this situation by indexing the limit so inflation will not force more and more small businesses into the accrual method.

This does not change the $5 million threshold. Mr. Speaker, I correct myself. Rather, it indexes that going forward to inflation to be able to increase that amount. This change will provide $120 million in tax relief to smaller businesses during the coming decade.

Finally, the bill eliminates a number of outdated references in the code. These are so-called "deadwood provisions." This is also very important both because these deadwood provisions that have been identified by the Joint Tax Committee, by the Treasury Department, by others in their reports are important to get out of the code because they do not need to be in it, do not make any sense; but it also creates confusion at the IRS and confusion among taxpayers and has created downstream problems that are difficult to address.

H.R. 4840, in the end, Mr. Speaker, will cut taxes by approximately $1.2 billion for our small businesses, and that figure is over the next decade.

The bill is well within our House-passed budget, and I believe it is very worthy of our support as an important simplification method. I urge my colleagues to support this legislation to help our small businesses, our job creators, our risk takers, who are out there ensuring that this economic recovery continues, and continues strongly.

Mr. Speaker, I reserve the balance of my time.

Mr. SANDLIN. Mr. Speaker, I yield myself as much time as I may consume.

I thank my friend from Ohio for his work on this bill. Mr. Speaker, I rise today in support of tax simplification. There can be little doubt that taxpaying individuals and American businesses, particularly small businesses, spend far too much time, not just preparing their tax returns and paying their taxes, but in even figuring out just how to file or which forms to fill out, what tax preferences they qualify for, what they can deduct, and what elections they should make to best serve the interests of the business, its employees, and themselves.

On top of that is the anxiety that many small business owners experience when confronting the daunting complexity of the Tax Code and trying to make sound business and tax planning decisions with the prospect of taking a wrong turn in a numbing maze that makes tax lawyers and accountants shudder. Such complexity is both unnecessary and unhealthy, Mr. Speaker, for small business and our Nation's economy.

So, Mr. Speaker, I wholeheartedly support meaningful efforts to reform our tax system and to reduce an extreme burden on our small businesses and individuals and to ensure efficiency.

Moreover, I am pleased to rise in support of the legislation introduced by the gentleman from Illinois (Mr. CRANE). I am pleased to be a cosponsor of the legislation that somewhat eases the burden borne by America's small businesses, truly the engine that drives our economy.

Mr. Speaker, at a very modest cost, H.R. 4840 provides two valuable benefits to our Nation's small businesses.

First, the bill extends enhanced section 179 expensing for small businesses for 2 years. Last year Congress passed and President Bush signed into law legislation that increased the amount of equipment that small businesses may expense from $25,000 annually to $100,000 annually. The 2003 law also increased the phase-out range from $200,000 of capital expenditures to $400,000, significantly expanding the number of small businesses that qualify for section 179 expensing. Both amounts are indexed for inflation.

The bill the House considers today extends these improvements to section 179 for 2 additional years through 2007, thereby providing much-needed relief as our economy continues to recover and to grow.

Second, H.R. 4840 eases the accounting burden on small businesses by preserving the cash accounting method for more small businesses. Generally, under current law, businesses with $5 million or more in gross receipts must switch from the cash method of accounting to the accrual method. The bill offered by the gentleman from Illinois (Mr. CRANE) preserves the value of the $5 million limit by indexing it for inflation so that more small businesses will not be forced to use the more complicated accrual method.

Finally, but less directly beneficial, H.R. 4840 cleans up the Tax Code by eliminating outdated, rarely used and unnecessary provisions of the code. Repealing these deadwood provisions certainly has the effect of reducing clutter in our code, but its practical effects and benefits to small business are somewhat limited.

Mr. Speaker, H.R. 4840 is a fine bill. It is a good first step, and I am proud to support it. However, this Congress needs to do more to relieve the burden borne by America's small businessmen and -women and individuals.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTMAN. Mr. Speaker, I appreciate the comments of my colleague from Texas. I agree with them.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE), the author of this legislation on tax simplification.

Mr. CRANE. Mr. Speaker, I thank my distinguished colleague from the Committee on Ways and Means, the gentleman from Ohio (Mr. PORTMAN), for yielding this time to me and for helping me in getting this bill explained and passed.

Mr. Speaker, I rise in strong support of H.R. 4840, the legislation I have introduced that will simplify the Tax Code for small businesses.

Nearly seven in 10 new jobs are created by small businesses, which are the backbone of our economy. The Tax Simplification For America's Job Creators Act helps small businesses in three ways:

First, it extends section 179, small business expensing, for 2 years, through 2007. This provision allows small businesses to immediately deduct the cost of up to $100,000 in expenditures for new equipment. Failure to extend this provision will result in an effective tax increase of about $1 billion on small businesses seeking to make critical investments that expand their businesses and create jobs.

Second, my legislation will allow small businesses to take advantage of the cash method of accounting. Under current law, subchapter C corporations cannot use cash accounting, which allows them to deduct expenses in the year paid and report income in the year received, if their gross receipts exceed $5 million. H.R. 4840 indexes the $5 million threshold for inflation, which ensures that more small businesses are not forced to use the more complex, costly, and time-consuming accrual method of accounting. This provision saves business taxpayers roughly $120 million.

Third, H.R. 4840 eliminates from the Tax Code a number of dead-letter provisions, which serve no purpose other than to clutter an already overly complex set of laws.

My constituents tell me that passage of this legislation will mean more jobs and increased economic growth in the Chicagoland area. I am also pleased that some of the Nation's leading small business associations, including the National Federation of Independent Businesses, the NFIB, the U.S. Chamber of Commerce, and the Associated Builders and Contractors, strongly support the bill.

Mr. Speaker, my legislation is not a panacea for small business. The government can only do so much. As always, it is the hard work and ingenuity of the American people that lead to expanded growth, job creation, and prosperity. However, taxpayers with business income pay about 55 percent of all income taxes. This bipartisan legislation will not only simplify the Tax Code; but by returning over $1 billion to business taxpayers, it will also let our job creators know that Congress means business when it comes to lowering their tax burden. It is the least we can do.

While I am extraordinarily pleased that we are acting today on much-needed simplification for small business, I want to take a moment to mention the need for greater simplification in the tax laws. I, for one, intend to be dogged in my pursuit of this goal.

To give one example, I have long championed an effort for many years to address a complex and unfair provision in the consolidated return rules. These rules were enacted so that corporate groups could pay tax on the net income of all their affiliated companies. Generally, the rules accomplish this goal, unless one of the affiliated corporations in the group is a life insurance company.

Twenty Members of the Committee on Ways and Means have cosponsored legislation I have introduced, H.R. 2228, that reforms the consolidated returns to address this inequity. Similar legislation passed both the House and Senate in 1999 as part of a larger tax bill that, unfortunately, was vetoed by President Clinton. I would expect that with the appropriate amount of effort, this legislation, as well as other meritorious simplification, can and will be enacted in the near future.

Finally, Mr. Speaker, to continue on the theme of tax simplification, in 2002, the IRS issued Revenue Procedure 2002–28 to allow subchapter S corporations to use cash accounting if their gross receipts do not exceed $10 million. That ruling provided useful clarification for taxpayers. I believe the service should go one step further and make this guidance a formal regulation so that in the future America's small business owners can rely on a simple method of accounting.

Mr. Speaker, I include for the RECORD a copy of the NFIB's petition to the IRS asking for a final rule to address this issue.

NFIB LEGAL FOUNDATION,
Washington, DC, July 20, 2004.

PETITION FOR RULEMAKING BEFORE THE INTERNAL REVENUE SERVICE

Hon. MARK W. EVERSON,
Commissioner, Internal Revenue Service,
Washington, DC.

DEAR MR. COMMISSIONER: The National Federation of Independent Business Legal Foundation ("NFIB Legal Foundation") submits this petition to the Internal Revenue Service (IRS) pursuant to 5 U.S.C. §553(e) of the Administrative Procedure Act, 5 U.S.C. §§551 et seq. Petitioners request a rulemaking to incorporate Revenue Procedure 2002–28, with three requested modifications, into a formal regulation. Pursuant to 5 U.S.C. §555(e), petitioners request prompt consideration and response to this petition.

The NFIB Legal Foundation, a 501(c)(3) public interest law firm, is the legal arm of the National Federation of Independent Business (NFIB), which is the nation's oldest and largest organization dedicated to representing the interests of small-business owners throughout all 50 states. The approximately 600,000 members of NFIB own a wide variety of America's independent businesses from restaurants to hardware stores to bowling alleys.

REVENUE PROCEDURE 2002–28

Revenue Procedure 2002–28 allows qualifying small business taxpayers with gross receipts of less than $10 million to use the cash receipts and disbursements method of accounting. This relieves qualifying small businesses from the more complex inventory and accrual method of accounting. Revenue Procedure 2002–28 also provides for qualifying businesses to obtain automatic consent to change from accrual accounting to cash accounting.

THE PROPOSED REGULATION—INCORPORATION OF REVENUE PROCEDURE 2002–28 INTO A FINAL RULE.

Petitioner requests that the IRS convert Revenue Procedure 2002–28 into a formal regulation. A formal rule would provide stability and prevent long-term confusion and wide-ranging interpretations of the current revenue procedure. While there are numerous revenue procedures that have been in effect for many years, nothing prevents a subsequent administration from modifying or withdrawing a revenue procedure. Incorporation into a formal regulation would make the components and intent of Revenue Procedure 2002–28 a more permanent fixture of the tax law thereby maintaining a predictable environment in which small businesses may operate.

FURTHER CHANGES ARE NEEDED IN A FINAL RULE

Petitioner applauds the IRS Small Business/Self-Employed Division's outreach to small business owners on this matter. In doing so, Revenue Procedure 2002–28 addressed many small business owners' concerns and provided much needed tax simplification for many taxpayers. Nevertheless, there are some outstanding issues that Petitioner would like to see incorporated into a final rule.

1. Provide one-year grace period to adjust income ratio or change accounting method

Section 4(.01) of Revenue Procedure 2002–28 allows a qualifying small business taxpayer to use a cash method of accounting for all of its trade or business if "the taxpayer reasonably determines that its principal business activity is the provision of services, including the provision of property incident to those services." A taxpayer may determine its principal business activity using either (1) the gross receipts for its prior taxable year, or (2) the average annual gross receipts for its three most recent prior taxable years.

We support the inclusion of the three-year average test in Revenue Procedure 2002–28 for determining if a small business qualifies for use of cash accounting methods. By using a three-year average, qualifying businesses can maintain their customary cash accounting methods if, in one year, their service-to-produce income ratio changes to 55/45 rather than 60/40. Revenue Procedure 2002–28 addresses this issue in Example 6 by showing that a business with 57% of its income from services still qualifies for the cash accounting method. This practice is both practical and fair, and petitioner requests that the procedure and examples used in Revenue Procedure 2002–28 are incorporated into a regulation.

In addition, however, we request that a business should not be forced to immediately switch from cash accounting to accrual accounting when the business' principal business activity income ratio falls below the 60/40 threshold percentage provided in the Revenue Procedure examples. Instead, businesses should be provided a one-year grace period to either adjust their income ratios or to change accounting methods. Allowing such a grace period would enhance stability and certainty for small business taxpayers by providing them with an opportunity to avoid having to switch from cash to accrual accounting from one year to the next.

2. Provide notice of changes to NAICS

Revenue Procedure 2002–28 applies to qualifying taxpayers who fit within the $1 million to $10 million gross receipts threshold. Businesses qualify if they derived their largest percentage of gross receipts in the prior tax year from an activity other than one in the following North American Industry Classification System (NAICS) codes: mining activities within NAICS codes 211 and 212, including oil and gas extraction; manufacturing within NAICS codes 31–33; wholesale trades within NAICS code 42; retail trade within NAICS codes 44 and 45; and information industries within NAICS codes 5111 and 5122, including newspaper, periodical, book, and database publishers and sound recording. The cash accounting method does not apply to farming businesses or those prohibited from using cash accounting by IRC Sec. 448.

Changes made to NAICS codes could obviously impact the ability of a business to qualify for the cash accounting method under Revenue Procedure 2002–28. The IRS should provide some form of notification to affected businesses when NAICS codes are changed, to ensure that business taxpayers remain aware of the impact on their accounting procedures.

3. Provide one-year grace period to businesses affected by changes to NAICS

Petitioner also requests that the IRS provide businesses affected by changes to the NAICS codes a one-year grace period to switch their accounting systems from cash accounting to accrual accounting. A grace period would provide business taxpayers time to adjust their business practices and change their accounting procedures.

AUTHORITY OF THE COMMISSIONER

The enhanced sense of permanence associated with a formal regulation as described above would provide certainty and stability for thousands of small businesses nationwide, allowing the business owners to do what they do best—run the businesses that are the backbone of our economy. Federal law provides ample authority to grant this petition and issue the requested final rule.

Respectfully submitted this 20th day of July 2004,

KAREN R. HARNED, Esq.,
Executive Director.

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Mr. SANDLIN. Mr. Speaker, I yield myself such time as I may consume.

We appreciate the efforts of the gentleman from Illinois (Mr. CRANE) and clearly, there is a need for tax simplification. Today, the IRS now prints more than 1,000 publications, forms, and instruction booklets, and while the Tax Code was a mere 500 pages in 1913, financial publisher CCH says its Standard Federal Tax Reporter, which is the guidance for tax preparers, has grown to more than 60,000 pages today. The cost to individuals and business in America of the complexity of our code are staggering.

More than $100 billion a year in accounting fees and the value of taxpayers' time to complete their returns, according to Joel Slemrod of the University of Michigan, are used up each year. This is roughly equivalent to what our Nation spends to operate the Departments of Education, Homeland Security, and the Department of State each year. According to the IRS, small business owners are required to devote 60 hours, almost 8 full work days each year, to prepare their taxes.

While the bill we debate today is a good piece of legislation, it will not do enough to reduce this burden, and we must do more, working together.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. McDERMOTT.)

Mr. McDERMOTT. Mr. Speaker, we are getting close to election again. The gentleman from Texas (Mr. DELAY) Congress says it is time for simplifying the Tax Code. But, Mr. Speaker, my colleagues know that "tax simplification" is just the term the Republicans use to start talking about the need for a flat tax or a sales tax. Every year at this time it comes up.

The Committee on Ways and Means had a host of hearings about this same issue in the mid-1990s under Chairman Archer. At one point during the hearings in 1995, the chairman said he was convinced that the Tax Code needed to go to a flat tax. He even said he was going to introduce legislation to do it. But, after all the hearings and all of the rhetoric, he never even introduced a bill.

Mr. Speaker, we can do two things with money: We can save it or we can spend it. Now, rich people have more to save than do poor people. If all that we do is impose taxes when people spend money, then poor people are going to spend the larger share of their paycheck on taxes than rich people are. I mean, anybody knows that. Poor people spend every dime of every paycheck; rich people spend some and then they put a whole bunch in the bank or in the stock market or in something else. A system based on consumption taxes hardly is fair at all.

Legislation has been introduced in the past to convert our tax regime to one that relies solely on consumption taxes. The gentleman from Georgia (Mr. LINDER) has introduced legislation to abolish the IRS, abolish it, and force the Federal Government to rely on a national sales tax, a proposal that the majority leader supports. This proposal would be a boon to the wealthy elite. His proposal would tax all purchases on goods and services in our economy, including food, health care, home rents, and new home purchases.

The Joint Committee on Taxation did an analysis of the Linder proposal. The study indicated that in order for the bill to be revenue neutral over 10 years, the estimated national sales tax rate would be between 36 and 57 percent. In other words, the price of blood transfusions, prescription drugs, and a pair of sneakers would increase between 37 and 57 percent. Does that sound fair to my colleagues?

How do we sell this proposal to simplify tax structure to the baby boomers of this country who are about to go onto a fixed income? We have this big bulge of people who are just about, in 2008, going to start going onto Social Security. You cannot, and that is why they call it tax simplification. It sounds like a good idea.

The Health Insurance Association of America states that one of the consequences of a flat tax bill is likely to be a rapid increase in the number of people without private health insurance coverage. One economist estimated that there would be 8 million more people without health benefits if a flat tax proposal were enacted.

James Poterba, an economist at MIT, estimated that eliminating the current tax law benefits for purchasing homes could result in a 17 percent decline in the value of the U.S. housing market.

Now, what about the payroll taxes? A flat tax proposal may eliminate the deduction that employers pay for their payroll taxes, amounting to a massive tax increase on businesses of all sizes.

The American public is not naive, Mr. Speaker. They know that when it is election time and the Republicans start talking about tax simplification, it really means they want a flat tax. If you just give us one more chance, we did not simplify it over the last 10 years that we have been in control. Give us another chance and we will get our flat tax in.

Now, when are they going to be honest about these goals for the people? When are they going to be honest and tell the American people that the Tax Code has only become more complex since they controlled the Congress and its tax-writing committees. They have 105 more days to run this charade, but it is coming. There is going to be a change, and not in the Tax Code, but in who runs this House.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I appreciate my friend from Washington's discussion on general tax relief. I suppose at the end he would say he supports this legislation before us because it is not a flat tax, it is not a sales tax, it is not even a fundamental reform. Rather, it is simplification and good, common-sense simplification at that, this one focused on small businesses. The next piece of legislation we will take up focuses more on individuals.

But it is hard to defend the current code. Again, my friend from Texas talked earlier about the compliance costs and referenced Professor Joel Slemrod's reports from the University of Michigan. I think the number is somewhere between 50 and 100 billion now. That is the consensus number; 85 seems to be the one most people are using. Mr. Speaker, $85 billion a year in compliance costs, and over 3 billion compliance hours.

Another interesting statistic is that every year now, tax compliance accounts for about 80 percent of the paperwork burden of the Federal Government. So we do need to do something.

Today is not the silver bullet, but it is a start. It is going into the current code and changing some unfair aspects of the code; in the case of section 179, helping businesses to be able to not just write off their purchases more quickly for equipment, but also to be able to reduce their compliance costs, because they do not have to keep those depreciation schedules over time.

It also takes out some deadwood provisions which come from the Joint Committee on Taxation recommendations, as well as Treasury Department recommendations, which say that these provisions of the code that have not been removed over time, and it must be done by statute by the way, not only cause confusion and complexity, but actually cause some taxpayers to make mistakes that then cause tremendous cost to the tax system over time.

This legislation also again helps some smaller businesses to be able to take advantage of cash accounting rather than the accrual method, which is a complexity. Therefore, this is a simplification as well.

So I appreciate the gentleman's comments, and what I would say is what we are doing today is, we are taking a very responsible step towards simplification. We are not providing again for the silver bullet. We need to continue to work on that, as we will every year, and I know as we are going forward in this Congress, should we be here on this congressional floor next year talking about these issues, hopefully we will have a more fundamental reform that we can agree on on a bipartisan basis, as we will agree today, I believe, on a bipartisan basis, on these simplifications.

Mr. Speaker, I reserve the balance of my time.

Mr. SANDLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I want to thank the gentleman for yielding me a couple more minutes. After listening to the gentleman from Ohio (Mr. PORTMAN), I always can think of things to say.

The gentleman tells us that this bill, that I am probably for it; the gentleman is right. This is nothing. This bill does not do anything except do what the gentleman told us he was not going to do. The gentleman said he was going to make the expensing for a while and then stop it. Now my Republican colleagues are making it permanent. It is just one more of those things.

But the real point here is, you say this is a start. It is not much. It is a start on the way to what?

I yield to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I appreciate the gentleman yielding.

I certainly never heard anybody say that section 179 expensing was temporary. What we said was that the bonus depreciation provision was temporary. Section 179, on our side, we have always intended to be permanent and we would certainly hope that it will be made permanent.

What we are doing today is, we are extending it for 2 more years, in 2006 and 2007, that is as compared to bonus depreciation, which was meant as a stimulus, just to correct the gentleman on those two depreciation provisions.

Mr. McDERMOTT. Mr. Speaker, reclaiming my time, does the gentleman realize he just put everybody to sleep, who is watching this, with that stuff? You guys come out here to pass a bill because you cannot get through the military construction bill, and this is nonsense.

Every time we have had, since 1994 we have Archer talk about simplification, we had the majority leader, Mr. Armey, who campaigned against the tax system and said he was going to rip it out by the roots and have a flat tax. I mean, we have been hearing this stuff, and today we have this little bitty thing, and it does not do any harm, really; it does not do any good, really.

I mean, surely everybody would like to have their taxes cut, whoever they are, but the real issue is the working people of this country. They are paying payroll taxes, and nobody is talking about them. Nobody is talking about the fact that we took the tax structure and gave the bulk of the benefits to people above $1 million, or above $100,000, for that matter. Nobody is talking about that. Why do my Republican colleagues not talk about what you are doing for people on the bottom?

In India they ran a campaign and they said that "India is shining." That was the theme of the campaign in India. And the Congress Party ran one with a symbol that said, "The hand of Congress is with the common man." And, lo and behold, in spite of an 8.2 percent growth rate in India, they threw out the "India is shining" because it was not shining on the people at the bottom.

And you people have got to understand that. You can keep doing this kind of stuff and telling people, we are going to simplify, we are going to simplify. They do not believe you. They do not believe you. They have watched what you did for 10 years. So you can say it as many times as you want, but they have to figure out their taxes, and they know that it is not simplification.

So I know it is election time, and I appreciate that you have control of the Committee on Rules and can bring this kind of stuff out, but it is not making it any better for the common man in this country.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume just to respond to my friend from Washington.

For him to say, this does not matter and does not help anybody, I hope he will talk to the small business people in the State of Washington as well as in the State of Ohio that I represent. This does help them.

I was with one of those small business people today talking about section 179 expensing and the importance of being able to plan. And he was absolutely delighted that this Congress is going to pass, once again, legislation to be sure that he can plan for being able to immediately write off not $25,000 a year, but $100,000 a year of new purchases in equipment. This is extremely important.

If the gentleman chooses to vote "no," that is his right, but for him to say it does not affect anybody, I think is inaccurate. That is not to mention the other provisions the gentleman from Illinois (Mr. CRANE) talked about, which are also important to small businesses.

To say that this is a bill that does not matter and that it is just something that we do around election time, I think, is not consistent with the fact that in 2003, this same legislation was passed by this Congress. We could not do it for as long a period of time as we wanted to, frankly, because of our friends on the other side of the aisle who did not believe that this legislation should be made permanent.

We would like to make it permanent. It is extremely important to our small business community. It is extremely important to the risk-takers, to the entrepreneurs, who, after all, are creating most of the jobs out there right now. And I would hope that on a bipartisan basis we could at least agree to these simplifications.

We can have the debate later as to whether the gentleman would like to defend the current code and continue to have, again, 3 billion hours a year in compliance costs, $85 billion a year in expenses related to compliance; or whether we do want to look at more fundamental reforms. That would be more controversial and they will need, again, the same kind of bipartisan work that has gone into this legislation here.

But at a minimum, let us at least go into the current code and make some responsible changes to make it simpler for small businesses, which is this legislation before us.

Mr. Speaker, I reserve the balance of my time.

Mr. SANDLIN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank the gentleman for yielding me this time.

It is interesting, to my colleague, the gentleman from Ohio, in the last 3½ years, while they have been in control, they have had 326 changes to the Tax Code, adding 10,000 pages to the Tax Code. So in his effort today at simplification, let us have a rendezvous with the record: 10,000 new pages to the Tax Code and addendums.

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That has been your record; and if you are in the business of being a tax lawyer, a tax accountant, there is a treasure chest out here in George Bush and the Republican majority's Tax Code. For middle-class families, it has become more complicated, burdensome, and unfair; and the complexity of this Tax Code directly relates to the inequities in this Tax Code. And that is what has happened to our middle-class families as we have shifted more and more of the tax burden onto work and people who work for a living rather than people who open up dividend checks for a living.

Let us see what has happened in the last couple of years to typical families. It now takes since 1994, since you have been in the majority, 7½ hours longer to fill out the tax form. Thanks for the contribution to simplification.

The child tax credits now on the code have five different breaks for families and children, each with a different definition. Now, I have three kids, and I will tell them there is only one definition for a child. We do not need five definitions for what a child is, but their Tax Code has done wonders in complicating the code.

Education tax credits, with a child in college, parents have to choose between two nonrefundable tax credits, the Hope or the Lifetime Learning, all the while in complicated forms that are long and duplicative. But guess what? If you are a corporation and you are filling out the Export-Import Bank loan, a page and a half. A kid filling out the FAFSA form trying to get a Pell grant, 108 questions. Now, what makes a corporation more important to America's future than that child? That corporation on average gets $200 million. That child gets $2,500. That child is as important to America's future, and it should be easier to get a college loan than it is to get an Export-Import loan agreement.

Increased tax preparation costs: as middle-class families struggle with the wage and benefit recession, costs for gasoline and food are going up. The last thing they need to deal with is tax preparation costs. Since 1995, 15 more million Americans have needed to hire a professional tax preparer to deal with the Tax Code and its increased complexity. The average cost is between $100 and $150. It can be a full day's pay for millions of Americans. If someone is an attorney or an accountant in the tax business, the Bush Tax Code is like Christmas every year. The abusive tax shelters used by corporations and the wealthy have increased exponentially in the last few years as the burden on middle-class families have grown increasingly.

The tax gap that is underreported by corporations and wealthy individuals is nearly $311 billion. Underreporting accounted for $249 billion. And that is the majority's refusal to work on this and crack down on this. Even their Treasury Department has asked for new enhancements in the laws.

Tax shelters have a corrosive effect, stacking the deck against ordinary taxpayers. While the special interests win shelters, loopholes, middle-class families have to play by the rules and are buried under a crushing burden by the IRS. The public's distaste for the current Tax Code is a direct result of the inequity.

And now they want towards election time this holy picture by passing this legislation. I will vote for it. It is their first step after adding 10,000 pages to the code and 326 changes to trying to do something for simplification.

I have offered my own piece of legislation to simplify family credit that condenses the child tax credit, the earned income tax credit and the dependent care into a single credit. It takes 200 pages down to 12 questions. It puts the Tax Code on behalf of work, on behalf of middle-class families trying to raise their children, and gives the same energy to those families that you have given to the wealthy and special interest in this country; and that is where we should put the Tax Code on behalf of the working families of our country.

Tax reform is more than a fiscal issue. It is also about our priorities. Our tax system should respect the values and the interests of the middle-class families.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I would remind my colleague from Illinois that some of the very issues that he raises are currently under consideration by the Congress, including the definition of a child. As he may know, I have introduced legislation to consolidate those definitions into one definition that is currently in the child tax credit conference between the House and the Senate. I fully expect he will have the opportunity to vote on that legislation in this Republican-controlled Chamber, if not this week, then in September; and that will be a major simplification.

I would also remind the gentleman that this complication of the Tax Code, which I agree with him on, is not just the province of one administration. I can remember when he was in the Clinton administration working on the Hope credit, working on the Lifetime Learning credit, working on many other ways to use the Tax Code to achieve social purposes which further complicated the code dramatically; and I would remind him that one of the pillars of the Bush administration tax relief was not just lowering rates for everybody, which is a simplification, not just lowering rates on capital gains which is a simplification, lowering rates on dividend which is a simplification, but also extending this 10 percent tax bracket.

That has focused exactly on the taxpayers that my colleagues are talking about. Lower-income taxpayers they say have got no benefit. Their benefit is total simplification, because 3 or 4 million Americans who are lower-income Americans now are no longer on the tax roles at all. They do not have to look over their shoulder at the IRS because they are off the Federal tax rolls. They pay no income tax at all, and that is simplification that George Bush put through this House and that most of us voted for on this side of the aisle.

With regard to EITC, I would remind my friend that we have actually, in the 2001 bill, streamlined the EITC, not as much as I would like, as we know, because we have talked about that; but their income tax credit has actually in this administration under this Congress been simplified.

So just to put a little bit of clarity around it and some perspective, today we are talking about section 179. We are talking about the expensing, the need to simplify that. I would remind him that the bonus depreciation provision that his colleague from Washington talked about as being temporary, that was also a simplification and simplification not just for small businesses but for all businesses.

So we have done our part in terms of making the code more complicated, both parties over the years; but if he looks back at the record over this Congress and over this administration, there are a number of items which have been very positive in terms of simplification, the most important of which is to take people off the rolls altogether, not having to worry about income taxes and the legislation before us today, again, bringing us back to where we are, taking us from the abstract to the practical.

We have an opportunity on a bipartisan basis to make some sensible changes to our Tax Code, to make it simpler for small businesses to comply with taxes. These are the risks takers. These are the people we want to help, and I commend my colleague from Illinois for bringing this legislation to the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. SANDLIN. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I do want to acknowledge one thing. The gentleman is right. We use the Tax Code to let middle-class families afford college education and lifetime learning so they can go back to community colleges, and the gentleman has used the Tax Code to ensure that people who want to buy Hummers get a tax deduction. The gentleman has used the Tax Code to ensure that a corporate executive gets only $300 for using a plane; and, yet, his corporation writes $30,000 off for using a corporate jet. Which is it, $30,000 that the taxpayers have to pick up, or $300 that the CEO gets to deduct from their taxes?

The gentleman is right. We have had our differences in how we have used the Tax Code, one for higher education and access to college education, and another for corporate executives who want to discount their corporate jet use. So when it comes to complexity, I am glad that the gentleman is still working on simplification; but since 1995, they have been in control, and they have had many opportunities to reduce and simplify the code; and they have made it more complicated, more difficult for middle-class families, while they have alleviated the burden for the wealthy and the special interests in this town.

Mr. SANDLIN. Mr. Speaker, I yield myself as much time as I consume.

In 1996, then-Speaker Newt Gingrich stated the Tax Code over the years has become increasingly politicized and is seen less as a simple tool for raising revenues than as an instrument for social and economic engineering, exponentially increasing the complexity of the code.

The current system is indefensible. Clearly, the small business community in America has been subject to more tax law complexity year after year. For example, the Small Business Job Protection Act of 1996 makes 657 Tax Code changes which expanded the Tax Code by more than 50 pages. The Jobs and Growth Tax Relief Act of 2003 made 51 Tax Code changes and expanded the Tax Code by 12 pages. The IRS estimates that the average taxpayer with self-employed status has the greatest compliance burden in terms of preparation, 59 hours. And this is about 10 hours longer than in 1994.

Even the House-passed version of the FSC/ETI bill from this year has 109 tax changes. This will encompass at least 200 additional Tax Code lines and at least 50 new pages of statutory language and footnotes.

Mr. Speaker, America's small businesses are the engine powering the largest, most robust and most innovative economy in the world. They deserve a more meaningful effort by this Congress to ensure that valuable time and resources are better invested in the success of their business and not wasted in preparation of returns and to make sure that our business people, entrepreneurs, are not raked over the coals by a Tax Code that requires a lawyer, a CPA and a computer programmer to understand it. We can and must do better by our small business men and women and individuals in this country.

Mr. Speaker, again, I am proud to support and cosponsor this fabulous piece of legislation. I urge my colleagues to join with me in casting a vote for small business owners and their employees across this Nation. At the same time, however, I am hopeful that this legislation is the beginning of meaningful reform and not the end of the line.

Mr. Speaker, I yield back the balance of my time.

Mr. PORTMAN. Mr. Speaker, I think this has been a helpful debate to talk about the need for simplification. I am glad to see some of my colleagues on the other side of the aisle are agreeing with us with regard to this underlying legislation with regard to small businesses but also with the need to simplify our code. We have taken steps to simplify, and we need to continue to do that.

It is on the heels of major tax relief in 2001, 2002, and 2003 this administration inherited a failing economy, moving into recession. Then the tragedy of 9/11, the shock of the corporate scandals, the stock market boom busting, a lot of challenges to our economy. And our first focus was economic recovery; and, therefore, the stimulus and the economic recovery tax legislation provided needed tax relief to small businesses, to families, and to individuals around this country.

Now we are focused on that, as well as simplification; and it is very important given the fact that we do have an increasingly complex Tax Code and that the burden of compliance with that code is greater and greater, that we on a bipartisan basis focus on this compliance cost and, therefore, on simplifying the code.

Before us today we have a great piece of legislation. It is not the silver bullet, does not do it all; but it helps and it tells small businesses that if they want to go out there and buy new equipment to be able to expand their plant, to hire new people, to keep this economy moving, we are adding jobs, we have economic growth that is the best we have had in 20 years in this country, that we will enable them to write off $100,000 worth of new purchases rather than $25,000 worth of new purchases.

We are telling them that businesses that are a little bit smaller than the very smallest businesses would be able to take advantage of this as well by being sure that the definition of what businesses can qualify is expanded.

Now, this is good legislation. We are also telling small businesses they can use the cash accounting method, which saves them money, which saves them complexity in not having to hire accountants and additional professionals, rather than going to the accrual method. So we are saying we are going to index that to inflation to help small businesses. And, finally, we are saying that our Tax Code has too many provisions that are no longer relevant, deadwood provisions that cause complexity and confusion. We are going to get rid of those provisions in the code, particularly as they affect small businesses.

So, again, I commend my colleague from Illinois for bringing this legislation before us today. This is the first step in a long march towards simplifying our Tax Code, and I would hope that we will have support across the board on a bipartisan basis for this legislation.

Mr. BARRETT of South Carolina. Mr. Speaker, I rise in strong support of H.R. 4840 which encourages investment and simplifies bookkeeping and tax reporting requirements for small business owners. This legislation will not only allow small businesses to continue to expense $100,000 instead of dropping back down to $25,000, but will also allow more small businesses to be eligible.

We should be encouraging small businesses to buy technology, machinery, and other equipment so they can expand their businesses and in turn create more jobs. H.R. 4840 removes some of the redtape that increases the cost of doing business.

Mr. Speaker, it is the private sector, the small businesses throughout the Nation that create jobs, wealth and innovation. In fact, small businesses are responsible for creating two out of every three net new jobs.

Low taxes and sensible regulations are essential to helping the 25 million small businesses in America; that's why I urge my colleagues to vote in favor of H.R. 4840.

Mr. PORTMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Ohio (Mr. PORTMAN) that the House suspend the rules and pass the bill, H.R. 4840.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SANDLIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

TAX SIMPLIFICATION FOR AMERICANS ACT OF 2004

Mr. PORTMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4841) to amend the Internal Revenue Code of 1986 to simplify certain tax rules for individuals, as amended.

The Clerk read as follows:

H.R. 4841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Simplification for Americans Act of 2004".

SEC. 2. HEAD OF HOUSEHOLD FILING STATUS CHANGED TO SINGLE HEAD OF HOUSEHOLD.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking "head of a household" each place it appears and inserting "single head of household":

(1) Subsection (b) of section 1.

(2) Paragraphs (1) and (3) of section 2(b).

(3) The table in section 25B(b).

(4) Clause (iii) of section 151(c)(6)(B).

(5) Clauses (ii) and (iii) of section 151(d)(3)(C).

(6) Subparagraph (A) of section 6012(a)(1).

(b) OTHER CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 63(c)(2) of such Code is amended by striking "head of household" and inserting "single head of household".

(2) Section 1 of such Code is amended—

(A) in the heading for subsection (b) by inserting "SINGLE" before "HEADS" ,

(B) in subsection (c) by inserting "single" before "head", and

(C) in the heading of subsection (c) by inserting "SINGLE" before "HEADS".

(3) The heading for section 2(b) of such Code is amended to read as follows: "DEFINITION OF SINGLE HEAD OF HOUSEHOLD".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 3. EXPANDED AVAILABILITY OF 1040EZ AND 1040A.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7529. DOLLAR THRESHOLD FOR THE USE OF FORMS 1040EZ AND 1040A.

"(a) IN GENERAL.—An individual shall not be ineligible to use Form 1040EZ and Form 1040A for filing individual income tax returns on the basis of—

"(1) the amount of the taxpayer's taxable interest income, or

"(2) the amount of the taxpayer's taxable income,

so long as the taxpayer's taxable income does not exceed $100,000.

"(b) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2004, the $100,000 dollar amount in subsection (a) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7529. Dollar threshold for the use of forms 1040EZ and 1040A.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 4. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

(a) IN GENERAL.—

(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) of the Internal Revenue Code of 1986 is amended to read as follows:

"(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting '1993' for '1992'.".

(2) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) of such Code is amended—

(A) by striking subparagraphs (B) and (C), and

(B) in subparagraph (A) by striking "(A) IN GENERAL.—In the case of taxable years beginning after 1995" and moving the table 2 ems to the left.

(3) ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 of such Code is amended—

(A) in subsection (c)(4) by striking "; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954", and

(B) in subsection (g)(3) by striking "January 1, 1954, or" and ", whichever is later".

(4) ACCIDENT AND HEALTH PLANS.—Section 105(f) of such Code is amended by striking "or (d)".

(5) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) of such Code is amended by striking "Effective on and after January 1, 1997, gross" and inserting "Gross".

(6) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 of such Code is amended—

(A) by striking "(after June 24, 1950)" in paragraph (2), and

(B) striking "such zone;" and all that follows in paragraph (3) and inserting "such zone.".

(7) PRINCIPAL RESIDENCE.—Section 121(b)(3) of such Code is amended—

(A) by striking subparagraph (B), and

(B) in subparagraph (A) by striking "(A) IN GENERAL.—" and moving the text 2 ems to the left.

(8) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) of such Code is amended by striking "after December 31, 1965,".

(9) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) of such Code is amended by striking paragraph (11).

(10) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) of such Code is amended by striking "For taxable years beginning after December 31, 1980, this" and inserting "This".

(11) HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Paragraph (1) of section 162(l) of such Code is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.".

(12) INTEREST.—

(A) Section 163 of such Code is amended—

(i) by striking paragraph (6) of subsection (d), and

(ii) by striking paragraph (5) of subsection (h).

(B) Section 56(b)(1)(C) of such Code is amended by striking clause (ii) and by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.

(13) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) of such Code is amended by striking "after December 31, 1953, and".

(14) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) of such Code is amended by striking "after June 24, 1950".

(15) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) of such Code is amended to read as follows:

"(B) gains described in subsection (b) or (c) of section 631,".

(16) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 of such Code is amended by striking "the following percent" and all that follows and inserting "12.4 percent of the amount of the self-employment income for such taxable year.".

(17) HOSPITAL INSURANCE.—Subsection (b) of section 1401 of such Code is amended by striking "the following percent" and all that follows and inserting "2.9 percent of the amount of the self-employment income for such taxable year.".

(18) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) of such Code is amended by striking "whichever of the following dates is later: (A)" and by striking "; or (B)" and all that follows and inserting a period.

(19) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 of such Code and the first sentence of paragraph (5) of section 1441(c) of such Code are each amended by striking "gains subject to tax" and all that follows through "October 4, 1966" and inserting "and gains subject to tax under section 871(a)(1)(D)".

(20) RETIREMENT.—Section 7447(i)(3)(B)(ii) of such Code is amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter", and inserting "at 3 percent per annum".

(21) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—

(A) Paragraph (2) of section 7448(a) of such Code is amended by striking "or under section 1106 of the Internal Revenue Code of 1939" and by striking "or pursuant to section 1106(d) of the Internal Revenue Code of 1939".

(B) Subsection (g) of section 7448 of such Code is amended by striking "or other than pursuant to section 1106 of the Internal Revenue Code of 1939".

(C) Subsections (g), (j)(1), and (j)(2) of section 7448 of such Code are each amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter" and inserting "at 3 percent per annum".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SAVINGS PROVISION.—If—

(A) any provision amended or repealed by subsection (a) applied to—

(i) any transaction occurring before the date of the enactment of this Act,

(ii) any property acquired before such date of enactment, or

(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment,

nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Texas (Mr. SANDLIN) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the legislation. This is introduced by my friend and our colleague, the gentleman from Georgia (Mr. BURNS). This legislation clears up a number of issues that affect the Tax Code and its complexity as it relates to individuals as compared to small businesses. So it is a natural companion piece of legislation to the legislation that we had before us a moment ago on this floor.

Studies have shown that individual taxpayers now spend over 3 billion hours per year complying with our Tax Code, filling out tax returns, keeping records and so on, and that cost of compliance, as we talked about in the earlier debate, is now exceeding $85 billion a year.

☐ 1530

This bill is not the sales tax bill. It is not the flat tax bill. It is not the panacea. It is not the silver bullet, but it is an important and very valuable contribution to the effort of simplifying the Tax Code for individuals.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Speaker, I thank the gentleman from Ohio (Mr. PORTMAN) for yielding me time. I thank the committee for allowing me to bring this legislation to the floor today.

This is common-sense legislation. It does something positive for America's working families. H.R. 4841, the Tax Simplification for Americans Act will clear up a number of confusing issues that ordinary people, people like you and people like me, struggle with as they prepare their tax forms and begin to pay their taxes.

H.R. 4841 does several things for the taxpayer. It widens access to the time-saving forms of 1040A and 1040EZ. It clarifies confusing issues in the Tax Code, and it eliminates a number of outdated and unnecessary provisions.

My bill will benefit working families. It will save them both time and money.

Mr. Speaker, the Joint Committee on Taxation concluded that this bill will have only negligible effects on revenues. H.R. 4841 permits more taxpayers the opportunity to use the simpler 1040A and 1040EZ for their filing. Taxpayers with up to $100,000 of taxable income will be able to use these time-saving forms. The previous cap, Mr. Speaker, was $50,000 set in 1982, 2 decades ago, over 2 decades ago with no adjustments for inflation.

Over time the old Tax Code has forced nearly 2 million taxpayers, 2 million taxpayers out of being able to use this simplified, time-saving short form. The new limit that this bill provides is for $100,000 and will be indexed for inflation so this body will not have to again address the issue of a 1040EZ or a 1040A. We are going to allow more taxpayers to use these time-saving forms.

Another provision of the bill will allow the taxpayer who has interest income of more than $1,500 to also use the 1040EZ subject to certain IRS requirements to report the services on those interest incomes.

The IRS has concluded that it takes 28 hours of taxpayer time to prepare a 1040, 28 hours, as compared to 4 hours for a 1040EZ. So the challenge we face is, let us simplify the Tax Code; let us allow more Americans to use the 1040A and the 1040EZ. The changes will allow over 1.6 million taxpayers to file these simple forms.

The other thing this bill does is it provides for elimination of some deadwood provisions, those provisions that are needlessly complicating our Tax Code, and they are obscuring the true meaning of the tax laws. So we need to take the opportunity, while we are increasing the limit on the use of the 1040EZ, to eliminate some of these deadwood provisions.

The tax burdens on Americans is great, and it is as much about how we pay taxes as the amount of taxes we pay. This bill makes it a little easier and a little simpler for Americans to pay their taxes. It is common-sense legislation. It restores reason to the taxable income limits for 1040A and the 1040EZ use. It clarifies confusion in the Tax Code, and it removes deadwood.

Mr. Speaker, I cannot imagine anyone opposing common-sense tax simplification, and I want to urge all of my colleagues to support this bill today.

Mr. SANDLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I want to restate my commitment to reform our Tax Code in ways that meaningfully benefit America's working families. While I support this bill, I am afraid that we missed an opportunity. H.R. 4841 offers little meaningful benefit. It is, as we say in Texas, all sizzle and no steak.

In effect, the bill before the House does three things, only one of which provides any real benefit to the American taxpayer; and even that particular change does not require any legislative action by this body. The IRS could accomplish that same result by regulation.

First, under the current law there is special filing status for heads of households. The bill before us does not change the criteria for qualifying for that filing status, but simply inserts the term "single" before "head of household."

This decision or provision does not change or simplify anything. Indeed, it may create some confusion because some individuals who are legally married under State law, but otherwise considered unmarried qualify for head-of-household status. For example, a spouse living apart with children can qualify for head-of-household status even though that spouse is married.

Second, the bill would make the form 1040EZ and form 1040A short forms available for individuals with incomes up to $100,000; currently, the limit is $50,000. Also, the bill allows the filer to have more than $1,500 in interest income. There is no question but that this change is useful, particularly as individual incomes rise in concert with inflation. Nevertheless, this change does not require an act of Congress. The IRS is fully empowered to make tax form revisions without additional legislation.

Finally, the bill purports to repeal some deadwood language on the Tax Code on the grounds that the language has no legal effect. However, the majority apparently is uncertain that all of the provisions no longer have effect. Therefore, the bill includes a savings clause. The savings clause in effect reenacts the repeal provisions if it turns out that anyone would benefit from the provisions in the future. Once again, it is all sizzle and no steak.

Mr. Speaker, we need real reform. We need real simplification. The bill may be entitled and named "The Tax Simplification for Americans Act of 2004," but adding one modifier to the head of household's filing status provision has no effect and may, in fact, be contrary to the stated purpose and introduce confusion rather than clarity. Moreover, changing legislatively what can be accomplished through agency action does not serve meaningfully to simplify an onerously complex Tax Code.

Mr. Speaker, the legislation before the House today is simplification in name only. We can and must do better in this House.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate my colleague from Texas indicating that he is not supportive of these simplifications. But I would say that if we use the argument that we do not need to legislate because it can be done administratively, then we will have a lot of problems in our tax administration system because all that the IRS has the power to do, a lot of the things that we have done in this Chamber, including many of the reforms we did in 1996 when we totally restructured the IRS, we would be waiting forever sometimes.

The gentleman from New York (Mr. HOUGHTON) is retiring from this Congress. We want to get this done before he leaves. The IRS has had since 1982 to make these changes on the 1040EZ and the 1040A, and they have certainly had over the last decade as it has been increasingly evident that they have not adjusted the level for inflation, and we want taxpayers to be able to use this simpler form if they can.

So the argument that they can do it administratively at the IRS and, therefore, we should not touch it seems to me to be an unusual one when there is, as in this case, such an urgent need to make the change.

So I do think the legislation before us is important. I also think that the 6 million Americans, estimated by the IRS by the way, who make a mistake on their filing status because they think that "head of household" is folks who are exclusively married, "head of household" is the change that we make in this legislation, to say that that is not a change that is meaningful, I think is inaccurate because those 6 million people by indicating the wrong filing status get in trouble with the IRS.

Some of them get audited because of that. That causes enormous problems for those taxpayers, particularly low-income taxpayers who do not have the professional help to be able to deal with these audits. It also causes tremendous downstream costs to the IRS as they try to untangle the mess that sometimes occurs when somebody chooses the wrong filing status.

So I think this legislation is important. I think it is good legislation. Again, it is not everything. It is not meant to be everything. But I do not think it should be legislation that is not supported by the other side of the aisle.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. HOUGHTON), the chairman of the Subcommittee on Oversight. He has devoted himself to simplification. It is his legislation in terms of international tax simplification that has really been at the forefront on a bipartisan basis over the last several years.

Mr. HOUGHTON. Mr. Speaker, I particularly want to thank the gentleman from Georgia (Mr. BURNS) for this legislation. I really think it is important.

We can argue whether it is enough or not. Simplification is an ongoing process. It is never over; it just goes on and on and on. And this is not perfect, but it is one element that I think is important and we ought to pass it.

This bill contains an exception to the rule of tax simplification not being simple. It is one simple change that would benefit 19 million individual taxpayers. So let me try to explain.

Over a million taxpayers call the IRS's toll free help line each year with questions about the filing status of dependents. One of the first questions they ask is, Does "head of household" mean what it means? What is the filing status and do I qualify? So certainly if you are married, the answer is no. But it is no wonder taxpayers are confused because if you are married, generally the filing is of a joint return.

So here is an example of a phrase commonly misunderstood, meaning head of one's household. And that has been appropriate for years in the Tax Code. And it would be fine if the popular meaning of the phrase it was attached to had the same meaning, but sadly, they are different.

In fact, taxpayers are so likely to be confused, as the gentleman from Ohio (Mr. PORTMAN) said, 6 million choose this filing status in error each year.

Now, I do not want to get into a word game, but changing the name "head of household" to "single head of household" is going to provide some clarification. The change will alert filers that the favorable rate structure is for single taxpayers or those considered single under the special rules for married taxpayers who are separated.

It will also make clear to single and long-term separated taxpayers that they might qualify if they maintain a home for a dependent child or a retired parent.

I am pleased to say that this builds on legislation that I introduced in April to rename the Head of Household filing status, the Filing Status Simplification Act.

This proposal is strongly supported by the National Taxpayer Advocate who writes that the proposal inserting the word "single" before the "head of household" is going to clarify the law for many married taxpayers who do not really understand this term.

I urge my colleagues to support this common-sense change that will help millions of taxpayers each year.

Mr. SANDLIN. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I think everybody in this institution knows the high personal regard in which we hold the gentleman from New York (Mr. HOUGHTON), and we certainly regret that he is moving on to other things.

That applause there was singular.

Mr. Speaker, there is another issue that draws us to this floor today, and I have heard the gentleman from Ohio (Mr. PORTMAN) is a good enough guy. He said a couple of times today, he said, Well, this is not a silver bullet.

Well, when I was a kid, if my father was witnessing something that he thought was particularly outrageous or he was looking at some sort of a question that he thought lacked proper definition, he would say, Well, at least Jesse James had the honor to wear a mask. And when I hear these folks on the other side come to the floor today and talk about simplification, it is outrageous.

Let me remind Members of this body that in 1994 the chairman of the Committee on Ways and Means said emphatically he was going to "pull the Tax Code up by its roots." Then, of course, the charade was perpetrated on the rest of the committee when others said, Well, not to be outdone, we are going to drive a stake through the heart of the Tax Code. And then another one said, Well, we are going to have a long funeral procession for the Tax Code.

Well, to those of you who filled out your own tax forms in the last round, that Tax Code is more complicated than ever. There has been no effort to simplify that Tax Code, but we know there is an election that is going to take place 15 weeks from yesterday, so we are going to be on the side of tax simplification.

I would submit to you today that this is the easiest thing in this body that could be done with Democrats and Republicans to simplify the Tax Code. But the rhetoric does not fit public policy, because we have got to get people psyched up and convince them in this short span that we are going to simplify the Tax Code. We will be back next year, and we will not simplify the Tax Code because once again it is inconsistent with the rhetoric, as opposed to the policy that is necessary.

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Let me talk today about something we could do to really simplify the Tax Code.

While I am disappointed with the context of the bill, simply because I think it could have been expanded in an effort to achieve simplification, we examine the four provisions that are put to us today. So we are going to clarify how to classify people who were born on January 1.

Then the second section is going to replace the phrase "head of household" with a phrase that says "single head of household" throughout the Tax Code.

The third provision is going to instruct the IRS to make the EZ available to more people; but my colleagues know what, the IRS already has the authority to do that. That could be done short of what we are undertaking at this moment.

The final provision deletes some parts of the Tax Code that no longer has any legal effect. My goodness, I can feel the heartland of America today, boy, the satisfaction they must feel that we are taking up this major piece of legislation that, in the end, really does very little for them.

It is easy to talk about tax simplification, and we all know it is very difficult to accomplish; but for the last three Congresses, I have offered a tax simplification bill that would include a paid-for repeal of alternative minimum tax. If this body is serious about making it easier for Americans to file their taxes, there is no better place to start.

The alternative minimum tax was designed to prevent the very wealthiest Americans from overusing certain tax benefits to avoid most of their tax burden. Today, we all know it does not accomplish that goal any longer. Today, it ensnares millions of ordinary middle-class taxpayers, and I spoke to the American Manufacturing Association last night, and they were enraged by what has happened, and by the way, they generally support the other party.

By the end of this decade, the AMT will apply to over 30 million taxpayers, including more than three-quarters of taxpayers with incomes between $75,000 and $100,000. In fact, unless we change the tax laws, in 2005, married couples with four children will be subject to the alternative minimum tax as soon as their incomes reach $58,500. What used to be a class tax has now become a mass tax.

Now, I understand the reasons for the original imposition of AMT, but it no longer makes any sense. It no longer solves the problem that it was supposed to correct. It, in fact, creates a new problem. It doubles the amount of work that millions of Americans have to do to determine how much they owe.

Because of the AMT, these taxpayers have to fill out two tax forms. The process has become so complex that it now takes an average middle-class family 19 hours to fill out their tax forms. That is 7½ hours longer than it took in 1994 when they were going to pull the Tax Code up by its roots or drive a stake through the heart of the Tax Code.

The American people could be hardly more clear on the message they are sending to all of us. They need help navigating this process. It has become much too complicated. Sixty percent of the individuals hire a professional today to prepare their taxes, an increase of 50 percent from 1994 when they were going to drive a stake through the heart of the Tax Code, when they were going to have a long funeral procession for the Tax Code, when they were going to pull the Tax Code up by its roots.

If my colleagues really want to do something in this institution, we do not have to talk about tax increases or tax cuts. What we could do is talk about tax simplification. Work with me on this AMT proposal that I have had. It could be done in a bipartisan manner. I wish the gentleman from New York (Mr. HOUGHTON) was staying because we have had success working on bills in a bipartisan manner, the two of us; and I regret his departure precisely because of that, and I believe that we could still do a tax simplification in the next session of this Congress without a great deal of difficulty.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I would tell my colleague from Massachusetts who had expressed concerns about the so-called birthday rule, we actually took it out of the legislation because of concerns expressed by the gentleman's side of the aisle.

With regard to AMT, I commend the gentleman for his work on that over the years. As the gentleman knows, in 2001 and 2003, we put in place increases in the threshold for the first time in many, many years which has saved millions of taxpayers from having to go into the AMT. We also have an extender bill that passed this House to extend that into the future.

Mr. NEAL of Massachusetts. Mr. Speaker, will the gentleman yield for a friendly observation?

Mr. PORTMAN. I yield to the gentleman from Massachusetts.

Mr. NEAL of Massachusetts. Mr. Speaker, I have been here for 16 years, and I have never been involved in an issue where people congratulated me more for bringing it forward and did less about it than the alternative minimum tax issue.

Mr. PORTMAN. Reclaiming my time, I will tell the gentleman that I actually have had legislation in to repeal the AMT for many years. So I go even further than the gentleman goes in terms of AMT relief. So the gentleman is not the only one who is interested in it; but he has brought focus to it and we appreciate that, as has the gentleman from New York (Mr. HOUGHTON).

I would also say, though, that this Congress has made some progress. It is a tough issue. Because we did not index it, therefore AMT goes to more and more taxpayers every year. By not indexing the threshold, more and more middle-income taxpayers, particularly those with children, get caught in it.

Mr. Speaker, we now have with us the chairman of Committee on Ways and Means, who has worked hard on these tax simplification bills before us, including this individual tax simplification bill that was authored by the gentleman from Georgia (Mr. BURNS).

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me time, and I have been listening to some of the discussion; and, sadly, it tends to revolve around the same themes, and what I would like to do is suggest that instead of a semantic war, i.e., you are concerned because this particular legislation was called tax simplification, we would be open to some terms that would suit you, such as Tax Code rationalization, Tax Code clarification.

If you are hung up on the fact that this is not the end-all and the be-all in terms of simplification, I can suggest to you that if you want to look at the recent record of voting on measures, the ultimate simplification of the Tax Code would be to zero out a tax responsibility for someone. That was done. In terms of the low-income who fall into the tax-paying category, if you have dividend income or you have capital gains returns, we provided a Tax Code modification which would produce a zero tax rate. Now, that is ultimate simplification, and the fact of the matter is you voted against that.

So when you take a look at areas that the administration should have changed, I do hope that you take a step back from yourself and look at yourself as others do. You are standing here on the floor of the House criticizing legislation because it does not do enough, and you point out that there are provisions in this legislation that could be done administratively, but they have not; and at some point, either you continue to state that it could be done administratively and it is not done, or you agree it is relatively modest and minor and you wonder why it has not been done, and you go ahead and say you should do it. Now, that is at least a step forward.

So when I find you criticizing, what you do is you criticize if it is too grand, you criticize if it is too minimal, you criticize if it were requiring the administrator to do something they have the administrative power to do, but they do not exercise it. In fact, all you do is criticize.

When you listen to your arguments, it really boils down to one point. You simply cannot stand the fact that you are no longer in the majority, and I understand that. I was in the minority for 16 years, and I watched what you folks did to the Tax Code when you were in the majority, and I will return briefly and then end on the theme of the alternative minimum tax.

The problem we are in today is based upon a tax measure passed by the Congress of the United States, originating in the House of Representatives, controlled by my friends on the other side of the aisle, with not one Republican voting for it, which created the nonindexed provisions which you all lament have driven people into the alternative minimum tax structure.

I will tell you, when I was in the minority on the committee, I could not understand the logic in which you wanted to impose an alternative minimum tax in the first place. Because when we began discussing the fact that there were some people who did not pay taxes and because of the various deductions in the code, it allowed them not to pay taxes, the question I asked you was why do we not modify the deductions so everybody pays taxes. That is a fundamental, direct change.

Oh, no, we are not going to do that; we are going to create a whole alternate world, akin to physics in terms of matter versus anti-matter. We are going to have a structure which has a minimum tax, then we are going to create a structure which has an alternative minimum tax, and it only works in your bipolar world if the indexing in terms of the objects you do allow to be counted against a modification of the alternative minimum tax are adjusted the way those same items are in the regular tax structure.

What you wound up doing in that piece of legislation was freezing those deductions in the alternative world which has created this march into lower and lower brackets. It is wholly something that you are responsible for.

Now, since we are now in the majority, we obviously need to address a number of areas that you either failed to address or complicated significantly when you were in the majority; but it seems to me if you want to be a constructive minority, you join with us when we have these modest changes that make sense, instead of opposing absolutely anything, whether large, small, simple, or clarification.

Someone once said the role of the opposition party is to oppose. You folks are driving it to the absolute supreme example. What you really ought to do is begin to talk about where it makes sense and we join together, we join together. You start in the small areas, and we can move to the larger areas.

You folks proved absolutely conclusively that when you ran the place you could really mess up the large areas. What you are doing now is indicating that you are more than willing to be the opposition and the obstructionists even in the small.

Mr. SANDLIN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from Texas for yielding me this time.

Mr. Speaker, I have heard my distinguished chairman make his argument many times about the fact that we did this problem as Democrats when we were in the majority. I would think that after 10 years, the statute of limitations should have run on that argument. The Republicans have had 10 years in which to act.

I guess one of the problems that I have, Mr. Speaker, is that this bill did not go through a markup in the Committee on Ways and Means. We did not have an opportunity to offer amendments.

The chairman complains about the fact that we do not like the title of this bill, Tax Simplification for Americans Act. If we had had it in committee, maybe I would have had a chance to offer an amendment to clarify exactly what this bill does, which is very little. It does not carry out a commitment that was made by the Republicans to simplify our Tax Code.

We bring that up because, as my colleagues have already pointed out, there were statements made 10 years ago when the Republicans took control of this body that tax simplification was going to be their top priority, and they simply have not delivered on that. We have not had any bold proposals. Instead, what does the record show?

Well, we have seen that the number of pages of the Internal Revenue Code and Regulation now equals 54,846 pages. That is a 35 percent increase from what it was in 1995. That is hardly tax simplification.

We have talked about the alternative minimum tax, and why do we mention this? My good friend from Ohio indicates that we are making progress in dealing with the alternative minimum tax. Mr. Speaker, I would say to my colleagues that we are not making progress in dealing with the alternative minimum tax because, under current tax law, the number of taxpayers who are going to be subject to the alternative minimum tax by the year 2010 will be 33 million taxpayers, up from 1 million taxpayers in 1999. That is not making progress. One out of every three taxpayers will be subject to the alternative minimum tax. Six million taxpayers will face the alternative minimum tax in 2010 just because they have children, and we talk about marriage penalties here. A person is 20 times more likely to be subject to the alternative minimum tax if they are married.

These are issues that we would like to address in the committee that I have the honor of serving on; but instead, we get bills that are brought directly to the floor; that we do not have a chance to offer amendments on; that are brought up under suspension where all we can do is vote the bill up or down. Obviously, it might make some progress but very little, and it does not deal with the underlying issue of complexity in our Tax Code and, therefore, should not be called the Tax Simplification for Americans Act.

□ 1600

Mr. Speaker, let me just say in conclusion, we are doing all this and still adding billions and billions of dollars to the national debt in the tax policies that we are bringing forward. That is hardly serving the interests of the people we represent.

Mr. PORTMAN. Mr. Speaker, I reserve the balance of my time.

Mr. SANDLIN. Mr. Speaker, I yield 3½ minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, as I sat and listened to this debate, I thought of a very famous quote from Groucho Marx. He said if you are going to go into politics, the first thing you have to learn to do is learn to keep a straight face and act sincere.

Now this bill taxes anybody's ability to do that. It is election time. We have a man from a southern State who is running for election. He spent a million dollars in the primary, and yesterday he did not do that well. But he now has this bill the next day to take home and say, "I have brought tax simplification to Georgia." That is what we have here today.

I understand it is election time, and the gentleman from Texas (Mr. DELAY) certainly has interest in tax simplification, but the other side of the aisle simply has no credibility on this issue.

They have been talking about this for 10 years. My colleague from Maryland pointed out the other side has passed 42 new laws since 1994, and they have added 3,533 changes to the law covered in more than 10,000 additional pages.

Now, not one single committee had a hearing on this. This is such a political bill, they did not even bother to run it through committee. They said, What does this guy from Georgia need? Let us give him a bill and pass it so he can run home with it and put out his press release.

Mr. Speaker, I guarantee there will be a press release this afternoon that will hit the Atlanta Constitution and whatever else is in Georgia. It is done for that reason. Otherwise it would have gone through committee and had a hearing, and we would actually talk about it. But when it has no purpose legislatively, there is no sense running it through the legislative process; just jam it through so we can get it into the campaign.

Now, we cannot find time in this Congress to deal with the alternative minimum tax. Everybody is out here saying bad things about it. The reason AMT was put in in 1986 was very simple, and that is, there are rich people in this country. It may come as a surprise to some Members who do not think of themselves as rich, but there are some really rich people, and they were manipulating the Tax Code so effectively that they could have $10 billion and not pay any taxes at all.

The average working Joe or Jill who carries a lunch bucket to work or to the restaurant where she works or as a maid in a hotel, they pay taxes. And then you have got these really rich people out there who are not paying anything.

So the decision of the Congress was, and it was another Congress, not a Republican Congress, it would never have passed if you guys had been in charge, I understand that, because you think if you can figure a way out of paying taxes, you should not pay any. You do not owe anything to the country. You should not pay any part of what is going on in Iraq.

You should not pay anything for what is going on in Iraq, you should not pay anything for what is going on in homeland security, that should be paid by Joe Lunch Bucket and Jill Lunch Bucket. You do not want an alternative minimum tax, and what you are doing, we all know, is letting more and more people get sucked into it. They have to do their taxes twice, so you can get rid of it to help the people at the top. It is real clear what the other side is up to.

Mr. Speaker, this silly bill the other side of the aisle has out here today, I do not think anybody is going to vote against a title like "tax simplification." The first section you dropped; the other ones do not do anything.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's defense of the alternative minimum tax. We just fundamentally disagree. We do not think there ought to be an alternative minimum tax. We think we ought to change the code. If Members think people should not get preferences in the code, change the preferences. Let us be honest about it.

But I am glad the gentleman is honest about it and saying he supports it, and it was done in a Democrat Congress and he would like it to continue. I would also say that the gentleman's attempt to imitate a southern accent, and my colleague from southern Texas can confirm this, is as bad as his analysis of the underlying legislation before us. This is not everything, but it is a good bill.

Let us talk about the facts. We have had a lot of interesting conversation about what it does and does not do, but let us get to the facts. Number one, it clarifies a misleading part of the code which has to do with a filing status title. It will help about 6 million Americans who file the wrong way because it is misleading.

It is going to help with regard to letting people use the short 1040EZ and 1040A tax forms, which will help save millions of dollars and also millions of hours of taxpayer work in terms of putting their taxes together.

Finally, it eliminates a bunch of deadwood. The "head of household" filing status, which is the first thing it does, is generally for single taxpayers with dependents, we changed it to say that, "single head of household." That makes it clear to the vast majority of married taxpayers that they are not eligible.

Again, about 6 million of them a year inappropriately choose that filing status when they should not, and it causes great problems to them and to the IRS. In fact, the IRS gets over a million calls a year just about filing status. At any given time, there are 18 million people who might be subject to audit because they choose the wrong filing status. Being subject to audit, especially to lower-income taxpayers, is devastating, and so we are trying to help those people.

It also expands the 1040EZ and the 1040A by allowing taxpayers with up to $100,000 in taxable income, rather than $50,000, and who have interest payments, to be able to use these shorter forms.

What is the difference? The normal tax forms takes on average 28.5 hours to fill out. The 1040EZ, 3.5 hours. That is a huge time savings for Americans who do not have enough time to do the things that they want to do, to take that time away from filling out taxes. Again, it is a tremendous savings of money and time.

Yes, the IRS may be looking at this, but they have not done it, and it is the right thing to do, so let us do it. It has not been adjusted since 1982.

Finally, getting rid of some of these deadwood provisions is extremely important, cleaning up the code for individuals because people make mistakes based on these inaccurate provisions in the code. We have gone through it using the Joint Committee on Taxation, professional analysis, to determine what is appropriate and what is not.

This is good government legislation. I urge my colleagues on both sides of the aisle to strongly support this.

Mr. SANDLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our honorable chairman mentioned maybe we should rename the act because we had been criticizing it, and maybe call it the "Taxpayer Rationalization Act." Well, I had already proposed calling it the "All Sizzle and No Steak Taxpayer Act," and certainly we would accept that moniker.

The honorable chairman indicated that we are unfairly criticizing the bill, but I might mention, we are only criticizing it because it is wrong. Adding "single" to the "head of household" is just simply incorrect. If it was so simple, we would not have to be debating and talking about it so much.

In fact, the Tax Code contains 1.4 million words, 10,000 of which have been added since the gentleman from California (Chairman THOMAS) got into the majority, and now we can make that 10,001 words, as we add the word "single," although it certainly is incorrect.

I feel that in looking at this we have to clarify what the bill does and does not do by asking ourselves certain questions and asking the author certain questions about the intent of the bill.

The questions would be: Does the bill deny the tax benefits of head of household status to a married woman whose husband has abandoned her and the kids? And the answer to that would be "no."

Does the bill deny tax benefits of head of household status to a married man who is legally separated under the laws of a State of this Nation, who has custody of the children? And again the answer would be "no."

So if the provision does not apply only to single taxpayers, what does the provision do other than add confusion by using the word "single," which is inapplicable.

Finally, I am curious about the other provision of the bill, which would require the IRS to change the short forms to allow taxpayers with higher incomes, up to $100,000, to use the forms. My questions are: Does the code need to be amended, added to, to change how tax forms are printed and formatted? And the answer would be "no," they have authority to do that under the current law.

And do the experts at the IRS and the Treasury think that these forms that we currently have should be changed? And I think obviously not or that would have been done.

Now, possibly some of these issues could have been addressed if we had gone through the regular order and process of the House, as was mentioned by the gentleman from Maryland (Mr. CARDIN). The rules are there for a purpose. Possibly if we had gone through the Committee on Ways and Means to consider this bill, these issues could have been addressed. We could have renamed the bill the "All Sizzle and No Steak Act." We could have made sure that the word "single" was inserted if it was accurate, and not inserted if it was not.

But again, the rules are there for a purpose. We did not follow the rules, and we find ourselves here today in this confusion. So again this legislation may be marginally helpful, but why miss an opportunity for real tax simplification?

Since 1994, the majority has enacted 42 new public laws with 3,533 changes to the Tax Code contained in those more than 10,000 additional pages of complex public laws. That averages 360 changes a year with no serious efforts made to provide simplification. The Tax Code currently contains about 1.4 million words. The Tax Code has more than 4,700 pages. The Tax Code content has grown by at least 15 percent since the majority took over in 1994. It has grown 15 percent. The Master Federal Standard Tax Reporter used by accountants and lawyers is more than 60,000 pages. Since 1994, that manual has increased by 2,000 pages.

Today it takes average, middle American families 7.5 hours longer to fill out their tax return than it did in 1994, an increase from 11.5 hours in 1994 to 19 hours today. That is a full day's work for most Americans. And what do we do to simplify? We add the word "single."

Mr. PORTMAN. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Minnesota (Mr. RAMSTAD).

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the Tax Simplification for Americans Act.

Mr. Speaker, I rise in strong support of the Tax Simplification for Americans Act.

As American taxpayers know too well, the tax code is incredibly complex and compliance is all to expensive. Americans spend 3 billion hours per year filling out tax forms and keeping tax records. The cost of complying with the code is a whopping $85 billion per year. That's 3 billion hours and $85 billion that could be put to much productive uses in America.

This bill will offer taxpayers some meaningful relief from complexity. about 1.6 million people will be able to fill out simpler tax forms—1040A and 1040EZ—rather than filling out the 1040 form with all its schedules, which takes about 28.5 hours to complete.

The bill would also end the confusing use of definitions regarding a taxpayer's age. It also clarifies the "head of household" definition, which will help taxpayers prevent errors in filing status. In addition, the bill gets rid of a number of outdated and unnecessary provisions in the tax code.

Mr. Speaker, we have a lot of work to do in the area of simplification, but this bill is an excellent start. It will mean real help to real people.

I urge my colleagues to support this important bill.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Ohio (Mr. PORTMAN) that the House suspend the rules and pass the bill, H.R. 4841, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MILITARY HOUSING IMPROVEMENT ACT OF 2004

Mr. HUNTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4879) to increase the military housing private investment cap.

The Clerk read as follows:

H.R. 4879

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Military Housing Improvement Act of 2004."

SECTION 2. INCREASE IN MILITARY HOUSING PRIVATE INVESTMENT CAP

Section 2883(g)(1) of title 10, United States Code, is amended by striking "$850,000,000" and inserting "$1,350,000,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4879, the Military Housing Improvement Act of 2004. We have spent the last several hours debating points of order and budgetary implications of a provision in the Military Construction Appropriations Act to address the housing privatization program. H.R. 4879, I am pleased to say, goes straight to the heart of the matter by raising the cap on the housing privatization program by $500 million, enough to permit DOD to continue the program through fiscal year 2005.

As Member after Member has pointed out today, the Military Housing Privatization Program has been an unqualified success. By leveraging the interest of private sector developers and property managers, housing privatization improves and manages military family housing better, more quickly, and at lower cost than our traditional military construction model.

To date, the housing privatization program has leveraged a government cash contribution of only $500 million to build approximately $5.6 billion in housing construction. Furthermore, privatized housing is a tremendous improvement over existing DOD housing facilities.

□ 1615

Privatized homes are often equipped with new appliances, built to modern standards, well-maintained, and are parts of communities. This is in stark contrast to the patchwork of poorly maintained housing for which DOD is known.

Despite the success of the housing privatization program, a legislative cap will soon bring a halt to the program by preventing DOD from entering into new privatization contracts after November 2004. The FY 2005 National Defense Authorization Act contains a partial fix to this problem. It eliminates the cap in fiscal year 2006. However, it leaves a gap between November 2004 and October 2005 during which DOD would be unable to sign any privatization contracts that would count against the cap. As a result, most projects DOD plans to begin in fiscal year 2005 would be delayed until October 2005. This would affect approximately 24,000 family housing units at at least 16 installations nationwide.

H.R. 4879 addresses this problem by increasing the cap on the program by $500 million, enough to allow DOD to proceed with its privatization program through FY 2005. The program is a success. I urge my colleagues to join with me in ensuring that it continues by supporting this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume. My fellow Missourian, Mark Twain, once said, "The more you explain it to me, the more I don't understand it."

I have no idea why we are considering this bill, because all the majority had to do was not raise a point of order on the appropriations bill. I do not want to say this is a cynical gesture, but it is. We are considering this bill because the majority is not serious about taking care of the troops and their families. 24,000 families will do without because the other bill will have a point of order raised on it. All they had to do on the other bill, the appropriations bill, was not to raise a point of order and 24,000 military families would have their housing in 2005.

I appreciate the fact that our friends in the majority are taking the issue seriously, but it appears to me that this is going around Robin Hood's barn to do what could be simply done by not raising a point of order.

While this stand-alone bill is fine on its merits, it is going to die in the Senate. It will go nowhere. What we wanted to do was raise the privatized housing cap in the Military Construction Appropriations Act. That is legislation that the Senate cannot ignore. And all we had to do was just not raise the point of order and those young families would have their housing.

I cannot argue against the words of this measure, but we should not be deceived. This is a ruse to avoid dealing with the privatized cap on an issue in a must-do piece of legislation. The details of the cap issue have been discussed at length by others, and I raised the issue during the rule on the other appropriations bill. Let me just say that because the Committee on the Budget refused to accommodate bipartisan requests on both sides of the aisle by the Committee on Armed Services, the Defense authorization bill bowed to CBO scoring. As a result, we could not fix the problem until 2006. Consequently, 24,000 military families do without.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I want to extend a very warm thanks to the gentleman from California for bringing this bill to the floor. He is a devoted patriot and devoted to the men and women who serve in our military, and he has proved that so many times. What he does today by expediting the consideration of this bill, the military folks I think will appreciate him and express that appreciation in many ways. The gentleman from Missouri again is absolutely correct. This is a total bipartisan effort not only on the part of the committees but the House, the administration, the President, the Department of Defense. Everybody. It is really a shame that we have to ask the gentleman from California to bring this bill up basically out of order. But since there is the threat of not allowing the appropriations bill to include this issue on military family housing, this is the only other way to get to it.

But here is the problem. This bill will pass today with a big vote, but that is the end of it. It is never going to pass. It is never going to become law. We are never going to see it anywhere. The appropriate way to do this is on that appropriations bill that we were talking about all morning and that we will come back to later this afternoon. That is the right way to do it and get it done.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentleman for agreeing with me.

Mr. YOUNG of Florida. The appropriations bill is a must-pass bill. It will pass eventually. I cannot say when. We are going to pass it. I cannot say when it might get final passage, considering the other body has to deal with it; but the appropriations bill has to pass as all appropriations bills have to pass, or the government shuts down. We have not let that happen for a long time, and we are not going to let it happen now; but it is a shame that we have to use, as the gentleman from Missouri said, the round robin way to get to this when we could have had it done and over with and on the way to the Senate if we would have just passed this bill the way that the committee wrote it with the bipartisan support of everybody involved, except the Committee on the Budget.

Mr. SKELTON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. I thank the gentleman for yielding me this time.

Mr. Speaker, we are not legislating here today. We are engaging in a giant game of charades. Let me explain. The gentleman who just spoke, the gentleman from Florida, is the senior Republican on the Committee on Appropriations. I am the senior Democrat on the Committee on Appropriations. We are absolutely as one on this issue. I totally agree with everything the gentleman just said. What I would like to do is to repeat what he said in a slightly different way to drive home the point that he was making.

What has happened, Mr. Speaker, is that the Committee on Appropriations brought to this floor earlier today the military construction bill which contained a provision which enabled us to improve military housing for thousands of young military families who are sacrificing more than anybody else in this country because of the Iraq war. When we did that, the chairman of the Committee on the Budget made known his unhappiness with that action because it technically breached the previous budget resolution which the Committee on the Budget had pushed through this House on an earlier date. So the chairman of the Committee on the Budget made known his intent to eliminate that provision by making a point of order against it when it was before the House. That meant that that action would effectively deny that improved military housing to somewhere between 23,000 and 50,000 additional military families.

So now what is happening is this. Because evidently some people are uncomfortable with their being politically exposed on that issue, we now have seen the authorizing committee ask to bring this bill to the floor which purports to accomplish the very same thing that was accomplished by the appropriations committee. The only reason that this is allowable under House rules and the appropriations bill was not is because the gentleman's ability to make a point of order lies only on a bill which has been reported from a committee. This provision that is before us was never considered by the committee and so, therefore, it is exempt. So it is a procedural loophole which is being used by the Committee on the Budget in order to force this House to go through this outrageous charade, and the net result is what?

The result will be that the bill now before us will not pass. We have absolutely no guarantee whatsoever that it will be passed in the Senate. So this is probably on a short track to nowhere. Meanwhile, the one bill that we know will pass, the military appropriations bill, will now fall victim to a point of order that will be lodged by the gentleman from Iowa. The result is the only vehicle which is guaranteed to pass will no longer contain the provision helping military families. A vehicle which is not going to go anywhere will contain that provision that does not help anyone.

The bill that is before us today is not a substantive fix. It is a political fix. It takes care of a few people's political problems, but it does not solve the problem of the military families. This is an outrageous charade. I welcome the action of the gentleman from California and the gentleman from Missouri in at least trying to do what they can to help these military families get the housing assistance they need, but we would not have had to go through this if we had simply allowed the Committee on Appropriations to proceed with its bill; and even though we are allowing this committee to take this action today, there is no guarantee whatsoever that this action will produce one additional decent house for a military person in this country. The only guarantee is to vote for the military construction bill with that provision.

Right now this entire issue is in the hands of the gentleman from Iowa. If he wants to effectively deny military families that decent housing, he will proceed to object to the provision in the military construction bill. I do not think we are going to fool anybody with the charade that is being participated in by bringing this bill to the floor.

Mr. HUNTER. Mr. Speaker, on that optimistic note, I yield myself such time as I may consume. Let me just address my friend who just spoke and all Members. This bill does have meaning because every time the full House manifests its will and gives a good majority vote, a good solid vote, that is a very important boost to the process. I would just tell the gentleman that we are going to make sure that by the time the smoke clears and the dust clears in this process, we are going to have these 24,000 units released for construction. It is important to everyone. I might say, also, and I appreciate my friend from Florida and all the great work he has done on this, and all the members of the Committee on Armed Services, that we do have this problem fixed from 2006 on. It is this gap, this bridge this year that we need to fix.

I might mention to my colleagues that the gentleman from Iowa is the author of this provision. I think that bespeaks of his good intentions to get this problem taken care of.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Iowa (Mr. NUSSLE), chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, I thank the very distinguished chairman of the Committee on Armed Services for yielding me this time. There is no one in this body who has worked any harder than he has in making this issue resolved, getting it to resolution. I appreciate his willingness to expedite this bill that I introduced today in order to help deal with the problem.

To those who are suggesting that this bill goes nowhere after it passes unanimously today, I just ask them, why? I see them shaking their heads, but why is it that the other body would stop military families from receiving this benefit? And why is it that the other body would oppose the Department of Defense authorization, as we hear is occurring? Why are they stopping everything? For our defense needs, our intelligence needs, our military families, everything is stopped. They have not even been willing to vote on a budget.

I ask the Members, is that a problem? Of course it is. Do we break our rules? Do we bust our budget in order to do that, in order to fix it? I would suggest no. You have the right to overrule that. You have the right to vote differently. I would suggest you do that if that is how you feel. But then do not come to the floor and lecture the Committee on the Budget about how the budget process is broken. Do not come to the floor and lecture the American people about deficits and national debts and tell me time and time again during the budget debate itself how when you are in a hole, you stop digging. I believe if I had a nickel for every time that speech was made, we could probably resolve the national debt and the deficit, because when you are in a hole, you stop digging.

How could you do that? Today the Committee on Appropriations brought to the floor a bill that busts the budget by $1.2 billion instead of looking throughout the rest of their budget, the rest of their appropriations allocation of $821 billion, to find enough money in order to meet the needs of our military families.

□ 1630

So they came to the floor and for the very first time since Republicans took the majority, violated a rule, bringing to the floor an appropriation bill that busted their allocation called 302(b), which I understand most people watching do not pay any attention to.

Yes, these are arcane rules, but the reason that we have these rules is so that we can try to get a handle on spending. And, no, it is not just for military families. I ask Members to look through that $821 billion and they will find many places that are less important than our military families. That is why this bill needs to be supported. We need to pass it, and we need to put pressure on the other body that stands in the way of all progress for our military, passing the Department of Defense authorization, passing appropriation bills.

We are not even going to pass the Military Construction appropriation bill before the election. I will bet my colleagues on that one. Will we do what is called a CR? Probably. But do my colleagues think we are going to pass that before this election? Do my colleagues think we are not going to have CR and CR and CR? If it is such an important priority, where are these people rushing to get this done?

So I want to commend the gentleman who is the very distinguished chairman of the Committee on Armed Services who has jurisdiction over this issue, who has been working on this, who is bringing this bill today to the floor and deserves the ability to continue to work on this and not put it in an appropriation bill when it does not belong there, and it busts the budget.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding me this time.

I would simply ask the gentleman, does he mean that even though his party controls both Houses of the Congress that they are not going to be able to pass a Military Construction appropriation bill, one of the 13 bills that must pass this Congress before we adjourn; and yet he believes that the Senate somehow will miraculously pass this bill which has nothing else going for it?

Give me a break. I do not mind if the gentleman wants to fool himself, but do not think he is fooling me with this action.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, the gentleman from Wisconsin has been a Member of the House Committee on Appropriations longer than anyone else on that committee. Help me out. If the provision in the appropriations bill busts the budget and this bill that we talk about today has the identical effect and it does not bust the budget, can the gentleman explain to me how that works?

Mr. OBEY. Mr. Speaker, the only way the gentleman from Iowa can get away from this is that the rule he is citing applies only to a bill that is reported from committee. This action is not reported from committee, so he gets around the very rule he professes to be supporting.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that we have obviously a difference of opinion as to how we get this particular measure forward, how we move it forward. We have got people of goodwill on both sides.

I have recommended today, even though we are the authorizing committee, that we give up some of our turf today and let this thing pass on the appropriations bill. There is obviously a problem with that occurring.

We have got this measure up, which is authored, in fact, by the gentleman from Iowa (Mr. NUSSLE), chairman of the Committee on the Budget, as evidence of the fact that he wants to get this thing to move forward; and I think if we pass this with an overwhelming vote, manifesting that will of the House is going to help this process.

We have got a long way to go before the dust settles on the spending bills this year. We are going to make sure that this problem is solved this year. The exact parliamentary road for that obviously has not been determined, as is, I think, evidenced by the debate that has taken place.

But I would just ask Members from all positions, from all points, who have one piece of common ground, and that is to get this very important housing measure passed, to work together on this thing and move forward.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I think the chairman is operating in totally good faith, but the way to move forward is to support the Military Construction appropriations bill, which came to this floor on a bipartisan basis.

The subcommittee wanted this problem solved. We solved it in the full committee with the help of the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS). This thing was worked out.

The reason we are doing this is because of this Congressional Budget Office rule, and OMB, the administration, the Defense Department all want us to do this. Why can we not figure out a way to do this today? Why do we have to wait for months when we could get this thing done?

He makes all kinds of excuses, but we might be able to put this into another bill and maybe it will go into the CR if it passes the House.

Mr. HUNTER. Mr. Speaker, reclaiming my time from my very good colleague, and I just remind him that no objection has been heard yet on the MILCON bill, and I would just would ask the gentleman, the chairman of the Budget Committee, to look at this as a very extraordinary situation, because it is an extraordinary situation in that we have a very unusual scoring application by CBO that is not endorsed by OMB and not, obviously, endorsed by us and does not make good sense. That is that the entire economic implication of this 24,000 units is being scored at one time, and that is a very unusual thing; and secondly, that we have a very unusual circumstance with this being the centerpiece of quality of life for our military folks.

So let me just suggest to my friend that we all have a job in this House and that the Committee on the Budget has undertaken to follow their duty, their obligation, in the manner they best see fit; and I would suggest to the gentleman that talking with them and working with them on this may be the way to get this thing done, and I would hope that the gentleman would talk with the Committee on the Budget.

Mr. DICKS. Mr. Speaker, if the gentleman would continue to yield, I would hope that the gentleman from California would talk to his leadership, too, because his leadership has got to play a role here in giving some guidance to senior Members, because they are in charge of the House, because they are the majority party.

Mr. HUNTER. Mr. Speaker, let me remind the gentleman that neither of us belongs to organized political parties. We are Republicans and Democrats. But I just want to remind the gentleman, too, that we are stretched between two cross-strains which are very familiar to this House. One is the strain and the discipline that is required for fiscal discipline. And we all know that, and I think we have to give some credence to the Committee on the Budget chairman's statement, because the chairman of the Committee on the Budget does stand here and he does take fusillades from both sides about spending money and about not having rules. On the other hand, we then have these extraordinary circumstances in which we beat up on the Committee on the Budget chairman for sticking with those rules.

And I told the gentleman that my position is, even though we own the turf on this as the authorizing committee, we think it is so extraordinary and so compelling we are willing to give up that turf and pass it in this particular bill.

But I would recommend to the gentleman that he talk with the members of the Committee on the Budget and remember that they have an obligation, too, and try to work through that obligation.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, this is a good program, too. That is the point we want to make. This is working, and it is not costing the taxpayers money. We are using the payments to work with the private sector. This meets all the tests of a great program.

The other thing is, this is not mandatory. I mean, in other words, we can get out of this program. If the military does not need the housing, then the private sector will take the project over and operate it. That is why I am wondering why this big scoring rule when, in fact, we are not putting real money into this, we are just giving a guarantee, and that way we get the housing done and it is much more effective than military construction.

Mr. HUNTER. Mr. Speaker, reclaiming my time, let me respond to the gentleman because I think all of us were disappointed when we saw what I think is a very unusual ruling, that this is all to be costed up front, and that was a highly unusual ruling which I think is erroneous.

On the other hand, it has put us where we are. And what we have got to do is work through it, and I think we are going to work through it.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

My recollection, during the earlier debate on the rule on the appropriation bill, was that my friend and my colleague and chairman of the Committee on Armed Services, during his very eloquent speech at that time, urged the gentleman from Iowa not to raise the point of order.

So I ask this question, Mr. Speaker: In order for us to have 24,000 more family units under the privatization program, the only thing that has to happen under the appropriation bill would be for the gentleman from Iowa, the chairman of the Committee on the Budget, not to raise a point of order.

So I ask the gentleman from Iowa, will he insist on raising the point of order on the appropriation bill?

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Iowa.

Mr. NUSSLE. Yes, Mr. Speaker, I will insist on that.

Mr. SKELTON. Mr. Speaker, he will insist on raising the point of order.

Mr. Speaker, we just saw 24,000 military families getting their just housing delayed for a long time.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Speaker, I would say to the gentleman from Missouri, I have even been told today I was shooting at Santa Claus. Somebody came to the floor and said I shot Santa Claus today. My goodness, I have been accused of a lot of things, but shooting Santa Claus and personally, individually, one Member stopping 24,000 families from getting that housing, let us review the record.

If this was so important, would my colleagues not think that the Committee on Appropriations, in their base bill as it was reported to the subcommittee, do my colleagues not think that in that base bill they would have written this procedure in? It was not done. It was not done. In fact, it was done as an amendment at the committee.

So I understand that this is now a pretty important priority for a number of reasons. Some of it is politics. Some of it is expediency. Some of it is probably due to the fact that we have a body across the Rotunda that does not appear to be getting much accomplished. There is a lot of that that probably makes it very difficult. But that does not mean that we bend our rules, we break our rules here in the House in order to proceed.

There is not one family today that loses their housing as a result of a point of order on the House floor. My goodness, if that was the case, there would probably be a lot more Members down here doing a lot of points of order on a lot more issues.

What needs to be done is, priorities need to be made. We need to within the bills determine what is important, and I would stack up military housing to just about anything else in most of these bills that come to the floor called appropriation bills.

People want to talk about priorities? These are the priorities, and the gentleman from Missouri is as strong as the gentleman from California in understanding that. But I am, too, and every Member of this body is, too. And I appreciate the leadership that that gentleman from Missouri makes every day for our men and women. But we have many leaders who make that same sacrifice, and I do not count myself in the back seat to any one of them.

Mr. SKELTON. Mr. Speaker, I yield 30 seconds to the gentleman from Washington (Mr. DICKS).

□ 1645

Mr. DICKS. Mr. Speaker, I want to point out to the distinguished chairman that it was because the chairman of our subcommittee, who has worked so hard on this, asked us to do this in full committee. We did not raise it in subcommittee. We had a long discussion about it. The gentleman from Michigan (Mr. KNOLLENBERG) asked us to hold up and do it in full committee. So the committee on a bipartisan basis agreed to that strategy.

This was not because it was not a big priority. It has been a big priority all year. So the gentleman from Iowa, the chairman of the Committee on the Budget, is misinformed on this subject.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, in my 14 years in the House, the introduction of this bill this afternoon is the most cynical charade I have ever seen. This bill, they did not even know what bill number to put on this. They had to mark out one bill number and put another. They had to hand write part of this. What a sorry way to deal with the needs of 24,000 military families, the need to get better housing.

I think it is interesting that the gentleman from Iowa, the very person who within the next couple of hours is going to kill our opportunity to solve a military housing crisis, is at the moment trying to get us to pass a bill that a few hours ago had not even been introduced.

It is also interesting that the same gentleman who introduced this bill, that says this is the solution to our military housing problem, then spoke on the floor just a minute ago saying the other body cannot pass anything.

What reason do we have to believe that this is going to go anywhere? It is probably to go in a trash bin of fig leafs. And that is exactly what this is, and that is what bothers me more than anything. When the House Republican leadership this morning could have stood up for our military families, who deserve better housing, especially during a time of war, they were not only AWOL, they broke arms on the floor of this House for 25 minutes to see that Members voted for a rule that would get us into exactly the quagmire we are in at this moment. Shame on them for doing that.

Now the House leadership, when the issue is no longer providing new housing for military families, the issue is far more important than that, a much higher priority than that. It is how do we pass a fig leaf today so that Members of Congress are not embarrassed, 212 of them who voted to get us into the position we are in today? One Republican Member could have added to that vote saying to the Speaker, I am going to put military families' interests today above my loyalty to you, and we would not be here.

We can solve this problem. We do not have to pass this fig leaf that is going nowhere. We ought to simply bring back up the military construction appropriations bill and pass it by unanimous consent, a bill that was put together on a bipartisan basis.

But, unfortunately, the same leadership that turned its back this morning on the Air Force Association, on the Association of the U.S. Army, on the Military Officers Association of America, and on the National Military Families Association, the same leadership that turned their back on these groups that wanted to really help military families to better housing, that leadership is now saying, gee, we could not do that this morning, but we can pass a fig leaf bill.

Why can they pass a political fig leaf for Members of Congress, but cannot do something over the last 6 months that we have been asking to help military families get better housing?

This is a sad day for all the servicemen and -women in our country who sacrifice for our Nation. I am proud to represent 40,000 of those great servicemen and -women at Fort Hood in my district. What we ought to do is pass a military construction bill. Let us put military families first, not fig leafs for politicians first.

Mr. HUNTER. Mr. Speaker, I yield myself 1 minute to remind my friend that the same Republican leadership that he has criticized so heavily is the Republican leadership that passed concurrent receipt, where retirees can receive their checks and disability checks; has urged and has passed the survivor benefit program, which laid in state for years; has increased the equipment supply from an average of about $45 billion a year under the Clinton administration to an average of about $70 billion a year for new equipment for our troops in the field; and supplied the ammunition, force protection and, surveillance they have been so sorely lacking the last 15 years.

I would remind my friend, this should not be a blame day; this should be a day in which we all work and move forward. I think that every vote that one takes on an issue, one can call this a fig leaf vote if one wants, but I would remind my friend that every vote that we take on an issue is an important vote.

I would just tell my friend from Texas, at the end of this year when the dust clears on this process, which is obviously affected by the political season, we are going to have legislative vehicles come down the track and get across the finish line. This problem is going to be fixed.

If my friend wants to ask me to take the floor with him at the end of this session and we will prove up, I will be happy to tell him now, I will give him my word, this problem is going to be fixed.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Again, Mr. Speaker, I thank the gentleman from California (Chairman HUNTER) for the good work that he does and the strong support he is giving us on this issue.

Mr. Speaker, I want to correct one thing said earlier on, that nothing is getting done, that the national defense bill is not working and this is not happening and that is not happening on national defense. The national defense appropriations bill has been passed by the House, has been passed by the Senate, has gone to conference; and, as a matter of fact, it has been filed and we would be considering it right this minute if it had not been for the fact we are having to deal with this issue.

As we deal with this issue, we are spending a lot of time; and that is okay, because the issue is extremely important. But I have to keep asking myself over and over again, and I can usually come up with the answer: What is the difference in doing it on the appropriations bill or doing it on a freestanding bill? The effect is the same.

The chairman who is going to raise the point of order on the appropriations bill is the author of this bill, so I have a hard time understanding what the problem is. I do not know if there is a good answer to that. But no matter how we do it, it is going to have the same effect.

If we do not do it, we are going to have many people who are looking forward to having decent housing for their military families that are not going to get it any time soon. That is the big issue.

Now, when it was suggested that someone was shooting Santa Claus, I said that earlier in debate. I said, let us not have these kids in Iraq and Afghanistan who are planning to have their families in decent housing, let us not let them think Santa Claus is going to be shot today. Let us not be the Grinch that stole Christmas.

Let us do what we have to do; let us do what is right. If we are going to do it later, why not do it now, while the vehicle is before us? There are a lot of questions that I really cannot get answers to in my own mind.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I simply would like to say there is no financial difference whatsoever between these two approaches. The only real difference is the one being proposed by the gentleman from Iowa probably will not become law, and the other one will.

Mr. YOUNG of Florida. Mr. Speaker, reclaiming my time, the gentleman is exactly right.

The SPEAKER pro tempore (Mr. SIMPSON). The time of the gentleman from California (Mr. HUNTER) has expired. The gentleman from Missouri (Mr. SKELTON) has 6½ minutes remaining.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is a sad day today. I do not know if anybody else is as ashamed as I am that we are going through this kind of a process. When I think back at the times I have visited Iraq, five times that I have visited in Iraq, and I sit across the table, whether it is for breakfast, for lunch or for dinner, with the soldiers, they look at us and they have a trust that we are going to do the right thing. They look at us, and they know that we are going to represent their best interests.

In my district at Fort Bliss, Texas, there are about 2,500 military families that have been looking forward to getting a benefit from this program that we are talking about here. We were looking forward to it.

It is clear to me that what we are doing here today is a lot of political CYA and nothing substantial apparently is going to come from it. Shame on us for not having the guts to stand up and do what is right for our military families, and shame on us for passing emergency legislation, supplemental bills, that give $20 billion, $21 billion, whatever that figure is, to reconstruct neighborhoods, give garbage trucks and all of these other things in Iraq, when we cannot even do the basic thing for our military families.

So here we are in this situation here, where we are talking about what a great job our military is doing, how proud we are of them and how we consider them heroes; and at the same time, we cannot find a process to give their families who are sacrificing beyond what most of us can imagine, who are sacrificing, we cannot give them decent housing.

Shame on us. We call this the people's House? We ought to be ashamed of each and every one of these machinations that we put ourselves through.

So it is a sad day for me. It should be a sad day for all of us. But, most of all, as I look at my watch and it is sometime after midnight in Iraq, those soldiers are putting their lives on the line for us for everything that we hold dear. We ought to have enough guts to do whatever it takes to find the money, to ensure that the money is there.

I will tell you very honestly, I do not have the knowledge of the intricacies of the budget and all of these other things that my honorable colleagues have, but I do know one thing: do not run a sham on our military families. That is all they care about. All they want to know from us is, as they look in our eyes, that they can trust us, that we are going to deliver for them like they deliver for us every day. Shame on us.

Mr. Speaker, at Fort Bliss in my district, nearly half of the NCOs attending the Sergeant Major's Academy live in beautiful recently built homes. The other half live in what is affectionately referred to as "Bedrock." While there is something nice about returning home to a neighborhood where your neighbors are Barney and Fred, it's not the neighbors that make this area of family housing on Fort Bliss resemble Bedrock—it's the fact that despite noble efforts by the folks at Fort Bliss, the houses are in poor shape and look like they were built in the Stone Age.

About 2,500 military families at Fort Bliss were looking forward to living in new or improved homes, thanks to the Military Housing Privatization Initiative (MHPI) that is scheduled to start this year. The Army's arm of this program, the Residential Communities Initiative (RCI), aims to eliminate inadequate housing on Army bases by 2007 through the construction of new homes, the improvement of current structures and the incorporation of community features such as recreation centers into military posts. At Fort Bliss, this means that "Bedrock" will be a thing of the past.

MHPI is an extremely cost-effective measure because contractors pay the up-front costs and recover their investment through rental payment. MHPI also stimulates local economies by providing job opportunities in the construction and maintenance of homes and facilities. Unfortunately for the 2,500 military families at Fort Bliss and for thousands of other families across the country, MHPI is threatened by a funding cap which will be reached in November of this year.

Mr. Speaker, earlier today, I stood on the floor of this House to urge my colleagues to vote against the rule for the FY05 MilCon appropriations. The rule would have stripped a provision from the bill to ensure that the MHPI program would continue. The passage of that rule almost ensures that this important provision will be eliminated from the appropriations bill. The bill now before us, H.R. 4879, contains language that is nearly identified to the military housing privatization provision in the MilCon appropriations bill. This bill is basically a face saving measure by the Republicans. This suspension bill that increases the housing cap does not keep out faith with our men and women in uniform. If the provision is in the MilCon appropriation bill, it will be committed to Conference and the Senate must deal with it. If, on the other hand, it is passed as a Suspension, the Senate is under no obligation whatsoever to consider the measure, and we have no idea if it will ever see the light of day—in short, the odds that it will become law are dramatically decreased. Mr. Speaker, this bill is a cynical gesture and a slap in the face of our brave men and women of the armed services. Our men and women in uniform and their families deserve the very best—and adequate housing is the least that we can provide for them. Unfortunately, this bill falls far short of ensuring that they will get the housing they so need and deserve.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Speaker, when we look at the issue today, it is very simple. It is so simple. Private industry is putting a lot of money out so that our soldiers and their families can have adequate housing.

But let me look at the other side. When the pilots that we train, when the helicopter pilots leave, when the tank drivers leave, do you know how much it costs to train them? Private industry, my friends, they do not put one penny into that. It comes strictly from the taxpayers.

We know that a lot of the more senior members of the military are coming out, because the terrorist environment is blooming and they are getting out of the military so that they can get better paying jobs, and we are forcing them to leave the military because their families do not have adequate housing.

I have talked to helicopter pilots, and they tell me that they get calls in Iraq about the plumbing in their homes not working, about the electricity having been shut off because of the wiring.

Mr. Speaker, let us do something that we need to do now and support our soldiers. It will take millions and millions of dollars when those senior members of the military get out, because their families do not want them to stay in the military because they do not have adequate housing.

Mr. Speaker, I promised the soldiers that we were going to correct that. Now I feel kind of embarrassed that we could not deliver to them what they need. I feel like my colleague. I am ashamed that we were not able to help our soldiers, those who are being wounded, those in the different hospitals.

Mr. SKELTON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we pride ourselves in this body, I know my chairman and I pride ourselves, in working for and supporting the troops. But supporting the troops is more than a bumper sticker. We are the one body in the United States of America that can speak, and speak with authority, and make good things happen for those families and those soldiers, sailors, airmen and Marines.

I hate to turn the news on in the morning, because I hear so many Americans have either been wounded or killed or both in the far reaches of Afghanistan and Iraq.

□ 1700

Those St. Louis families, we are not going to take care of them. We are going to do it by insisting on a technical point of order on the appropriations bill. That is not right. So let us vote for this. I will support this suspension measure. I, of course, do so with reluctance because we could solve the problem so easily on the appropriations bill by just doing nothing.

Mr. RODRIGUEZ. Mr. Speaker, I rise today to express my strong support for the bill under consideration here today. But I am disappointed that we could not address this issue in the military construction appropriations bill.

The military construction bill includes not just funding for the construction of much needed facilities but also funds dedicated to constructing housing for our troops and their families. These funds are needed to construct new housing to replace existing housing that is in poor condition—where failing electrical systems and leaky roofs risk the safety of our military families. These funds are needed to build new houses on military bases where there are not enough homes to meet the demand of our military families—where the waiting time for a home can be over a year, where young enlisted families must live far from the support the base community provides. And these funds are needed to remodel and refurbish homes that are in disrepair—where families live without proper air conditioning in the summer or with poor heating in the winter.

In order to meet these pressing needs in the best and quickest way possible, we have worked with private industry to speed relief to military families. But today some here in Congress want to put a halt to the very successful military housing privatization program—not because they want to harm military families, but because they want to argue about the legislative process.

I believe that there is a time and a place for a debate about budget process to occur—that time is not now. Not when we have military families living in substandard housing. And not when we have hundreds of thousands of fathers and mothers serving in hostile environments around the world.

Mr. Speaker, I urge my colleagues to vote to support our military families by supporting the privatized housing program that has been so successful in bringing needed relief to these hardworking families.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and pass the bill, H.R. 4879.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HUNTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMITTING 5-MINUTE VOTES AFTER FIRST VOTE IN NEXT SERIES NOTWITHSTANDING INTERVENING PROCEEDINGS

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent that during the next series of postponed votes, ensuing votes after the first vote may be 5-minute votes notwithstanding intervening proceedings attending the swearing in of the new Member-elect from North Carolina.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

Conference report to accompany H.R. 2443, by the yeas and nays; and

on the motions to suspend the rules and pass

H.R. 4840, by the yeas and nays; and

H.R. 4879, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

CONFERENCE REPORT ON H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 2443, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

The vote was taken by electronic device, and there were—yeas 425, nays 1, not voting 7, as follows:

[Roll No. 404]

YEAS—425

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—7

Brown (OH)
Carson (IN)
Collins
Deutsch
Ferguson
Majette
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1727

Mr. SANDERS changes his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives.

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 21, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Mr. Gray O. Bartlett, Executive Director, North Carolina State Board of Elections, State of North Carolina, indicating that, according to the unofficial returns of the Special Election held July 20, 2004, the Honorable G.K. Butterfield was elected Representative in Congress for the First Congressional District, State of North Carolina.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk.

Attachment.

STATE BOARD OF ELECTIONS,
Raleigh, NC, July 21, 2004.

Mr. JEFF TRANDAHL,
Office of the Clerk, House of Representatives,
Washington, DC.

DEAR MR. TRANDAHL: The unofficial results of the special election to fill the unexpired term in the First Congressional District of North Carolina are as follows:

G.K. Butterfield (Dem), 42,450 71%;
Greg Dority (Rep), 16,470, 27%;
Thomas I. Eisenmenger (Lib), 994, 2%.

All the counties in the First District have transmitted their unofficial totals to our SEIMS database as of 12:25 p.m., this morning. The above figures above represent the unofficial totals with all counties reporting into our SEIMS database at this time.

Sincerely,
GARY O. BARTLETT,
Executive Director.

PROVIDING FOR SWEARING IN OF MR. G.K. BUTTERFIELD, OF NORTH CAROLINA, AS A MEMBER OF THE HOUSE

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that the gentleman from North Carolina (Mr. BUTTERFIELD) be permitted to take the oath of office.

His certificate of election has not arrived, but there is no contest; and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentlewoman from California?

There was no objection.

SWEARING IN OF THE HONORABLE G.K. BUTTERFIELD, OF NORTH CAROLINA, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Member-elect from North Carolina (Mr. BUTTERFIELD) kindly step into the well of the House, along with the members of the North Carolina delegation, and take the oath of office.

Mr. BUTTERFIELD appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now a Member of the House of Representatives.

ELECTION OF G.K. BUTTERFIELD

(Mr. COBLE asked and was given permission to address the House for 1 minute.)

Mr. COBLE. Mr. Speaker, I thank my colleagues who joined me yesterday, Mr. Speaker, in North Carolina's First Congressional District. A special election, as well as a primary election, were conducted. The special election was conducted for the purpose of electing a candidate to fill the unexpired term of our friend, the gentleman from North Carolina (Mr. Ballance), who previously resigned.

□ 1730

G.K. BUTTERFIELD, a long-time politico, well known in North Carolina, was elected to that post yesterday. Mr. BUTTERFIELD served with distinction as a member, Mr. Speaker, of the Superior Court in North Carolina; and finally, with 2 years as a sitting member, as a jurist on the North Carolina Supreme Court.

Mr. Speaker, I know I join you and my colleagues in extending a warm welcome to G.K. BUTTERFIELD to the people's House.

Mr. Speaker, I yield to the gentleman from North Carolina (Mr. PRICE) from North Carolina's Fourth Congressional District.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is with tremendous pride that we welcome our newest Member, G.K. BUTTERFIELD.

GEORGE KENNETH BUTTERFIELD's roots run deep in eastern North Carolina. He is the product of the Wilson County Public Schools. He interrupted his college career at North Carolina Central University to serve in the United States Army. He returned a few years later, went on to law school.

His career in private law practice spanned 15 years before he was elected to the Superior Court in 1988. Governor Easley appointed Justice BUTTERFIELD, widely respected by lawyers, judges, jurors and citizens, to the Supreme Court of North Carolina in 2001.

In the course of his distinguished judicial career, Mr. BUTTERFIELD has served as vice president of the North Carolina Bar and president of the Association of Black Lawyers.

He is deeply involved in his home community of Wilson, North Carolina, from his Baptist church to local job training programs and child care.

The next phase of Justice BUTTERFIELD's career will combine his commitment to public service with his expertise in the law. He knows the issues that matter to eastern North Carolinians. I know that his contributions as a Member of Congress will be significant, and we look forward to working with him.

Congratulations to G.K. BUTTERFIELD.

Mr. COBLE. Reclaiming my time, Mr. Speaker, I am pleased to present to my colleagues in the House the newly elected Member from North Carolina's First Congressional District, the Honorable G.K. BUTTERFIELD.

EXPRESSING GRATITUDE AND THANKS FOR THE OPPORTUNITY TO SERVE AS REPRESENTATIVE FOR THE FIRST CONGRESSIONAL DISTRICT OF NORTH CAROLINA

(Mr. BUTTERFIELD asked and was given permission to address the House for 1 minute.)

Mr. BUTTERFIELD. Mr. Speaker, I thank the gentleman from North Carolina (Mr. COBLE), the gentleman from North Carolina (Mr. PRICE) and to the other Members of this august body. It is my honor to join the 108th Congress to represent the citizens of the First District of North Carolina.

It has been a long night. Yesterday was election day in the First District, and I have the privilege of winning both the special election and the Democratic primary. I have traveling with me today many members of my family, friends and supporters. They are seated in the gallery. I would like to take this rare privilege to be able to point to them and to say to them, Thank you, thank you, thank you.

Mr. Speaker, North Carolina's First District is located in the northeastern part of our State. It is a largely rural community that once thrived upon tobacco as its main product. Tobacco farmers in North Carolina are facing a crisis that this Congress is now addressing.

The people of the First District are no different from your constituents. They want our government to work to enable all people to experience the American dream. Therefore, I look forward, Mr. Speaker, and my colleagues, to working with each of you as we serve our respective districts and as we serve America.

Thank you, thank you, thank you.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(c) of rule XX, the Chair announces to the House that, in light of the administration of the oath to the gentleman from North Carolina (Mr. BUTTERFIELD), the whole number of the House is adjusted to 435.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). Under the previous order of the House, 5-minute voting will resume.

TAX SIMPLIFICATION FOR AMERICA'S JOB CREATORS ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4840.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. PORT-

MAN) that the House suspend the rules and pass the bill, H.R. 4840, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 405]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Brown (OH)
Carson (IN)
Collins
Deutsch
Ferguson
Lewis (GA)
Majette
Ney
Quinn
Reynolds

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1747

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MILITARY HOUSING IMPROVEMENT ACT OF 2004

The SPEAKER pro tempore (Mr. OSE). The pending business is the question of suspending the rules and passing the bill, H.R. 4879.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and pass the bill, H.R. 4879, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 11, as follows:

[Roll No. 406]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)

McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Brown (OH)
Carson (IN)
Collins
Deutsch
Ferguson
Kennedy (RI)
Majette
Ney
Quinn
Reynolds
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1755

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NEY. Mr. Speaker, on July 21, 2004, I was unable to be present for rollcall vote No. 405, on final passage of H.R. 4840, the Tax Simplification for America's Job Creators Act of 2004; and rollcall vote No. 406, on final passage of H.R. 4879, the Military Housing Improvement Act. Had I been present I would have voted "yes" on rollcall vote No. 405 and "yes" on rollcall vote No. 406.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on additional motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

Furthermore, the following votes postponed yesterday will be taken tomorrow:

H.R. 4175, by the yeas and nays;

H. Res. 728, by the yeas and nays; and

Motion to instruct on H.R. 1308.

SUPPORTING GOALS OF NATIONAL MARINA DAY

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 647) supporting the goals of National Marina Day and urging marinas to continue providing environmentally friendly gateways to boating.

The Clerk read as follows:

H. RES. 647

Whereas the people of the United States highly value their recreational time and their ability to access the waterways of the United States, one of the Nation's greatest natural resources;

Whereas in 1928, the National Association of Engine and Boat Manufacturers first used the word "marina" to describe a recreational boating facility;

Whereas the United States is home to more than 12,000 marinas that contribute substantially to local communities by providing safe and reliable gateways to boating;

Whereas the marinas of the United States serve as stewards of the environment and actively seek to protect the waterways that surround them for the enjoyment of this generation and generations to come;

Whereas the marinas of the United States provide communities and visitors with a place where friends and families, united by a passion for the water, can come together for recreation, rest, and relaxation; and

Whereas the Marina Operators Association of America has designated August 14, 2004 as "National Marina Day" to increase awareness among citizens, policymakers, and elected officials about the many contributions that marinas make to communities: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals of National Marina Day; and

(2) urges that the marinas of the United States continue to provide environmentally friendly gateways to boating for the people of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from California (Mr. FILNER) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, H. Res. 647, which was introduced by our colleague, the gentleman from Georgia (Mr. DEAL), proclaims the House of Representatives' support for the goals and ideals of National Marina Day and urges marina owners and operators to continue their strong stewardship of the marine environment so that this Nation's waters may be enjoyed by recreational boaters for generations to come.

August 14 is National Marina Day, and this is a perfect resolution to be considering in the week prior to the August recess. Throughout the country, Americans of every economic class are using their summer vacations to enjoy their own recreational boats or to charter time on professionally operated vessels.

The vast majority of boat owners do not have their own docks, and many boaters hire vessels rather than owning their own vessels. Therefore, without the Nation's 12,000 marinas and the services they provide, many of these boaters would be unable to maintain, operate, and enjoy their recreational boating. In turn, by providing dock space and services to the Nation's boat owners and operators, marinas provide 140,000 jobs and generate significant tax revenue.

As the resolution states, marinas are places where friends and families, united by a passion for the water, can come together for recreation, rest, and relaxation. Certainly in this summer season, we should support the goals and ideals of such places.

I want to commend our colleague, the gentleman from Georgia (Mr. DEAL), for introducing this resolution. I urge our colleagues to cast an "aye" vote to support the goals and ideals of National Marina Day.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

I, too, rise in support of H. Res. 647, designating August 14 as National Marina Day. Like many Members of this House, I have a marina in my district. I am joined with all those who, over the United States, have 12,000 of them.

These marinas, of course, provide a home to millions of boats and provide millions of Americans with access to the ocean, bays, rivers, and lakes in the United States; and as we heard, they also provide jobs for over 140,000 of us.

When we are in our districts next month, we will likely see our constituents relaxing on the water because they have access to that water through the marina.

These marinas will be celebrating National Marina Day with boating safety demonstrations, environmental demonstrations, fishing rodeos, and marina open houses. What is a fishing rodeo? I wrote it, but I just do not know what I mean.

In a time of heightened security, marina owners across the Nation are working with the Coast Guard to help improve security on our waterways by keeping an eye out for aggressive tactics and unusual activities on the water. They are on the water everyday and know when something appears unusual, and they will call the Coast Guard.

So, Mr. Speaker, it is entirely fitting and appropriate for the U.S. House of Representatives to recognize the contributions that marinas make to maritime safety, our national economy, our national enjoyment.

I urge my colleagues to support H. Res. 647, designating August 14 as National Marina Day.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, the gentleman was inquiring about a fishing rodeo. That is catch-and-release fishery. You cast out and catch fish and weigh them.

Mr. FILNER. It is not riding them?

Mr. OBERSTAR. Then you throw them back into the water, not throw them but you put them gently back into the water. You kiss the fish when you put it back in.

Mr. FILNER. I thank the gentleman. I am glad I yielded to him.

Mr. OBERSTAR. The gentleman from Ohio understands what is kissing the fish and putting it back in, especially in Lake Erie.

Mr. LATOURETTE. Mr. Speaker, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from Ohio.

Mr. LATOURETTE. Mr. Speaker, in Ohio we always had trouble finding the little saddles necessary to accommodate the fish rodeos. They are very popular in Ohio as well.

Mr. FILNER. Do I have to wear stirrups or whatever?

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from Georgia (Mr. DEAL), the author of this resolution.

□ 1800

Mr. DEAL of Georgia. Mr. Speaker, I would say, if the gentleman would come to Lake Lanier in north Georgia, we have some fish big enough to ride in Lake Lanier. We will provide the saddles. Fishing rodeos are big business, and they attract a lot of people to the sport of fishing.

On August 14, we will celebrate the third annual National Marina Day. This annual celebration promotes the United States' 12,000 marinas and strives to educate all of us, politicians, civic leaders and the public, about the important roles that marinas play in the waterfront communities across America.

During the first year, 80 marinas in 23 States participated in National Marina Day. Last year, the celebration spread to 150 marinas in 25 States. This year again marks another significant opportunity to recognize marina operators and their industry's role and contributions to America's water recreation.

National Marina Day offers local marina operators the opportunity to host events to bring tens of thousands of people to our country's marinas. These marinas are gateways to boating and help maintain the natural environments that we enjoy.

In my district, Lake Lanier is home to 10 marinas, and I am proud to recognize Kirby Cay Scheimann of the Aqualand Marina in Flowery Branch, Georgia, as the National Marina Day chairman. The marinas in my district, like other marinas throughout the country, provide an economic investment in the lake, boat storage, boat events, and a wealth of local knowledge for visitors to the lake. These marinas serve in our State as the area's gateway to Georgia's Great Lake.

This resolution supports the goals of National Marina Day and recognizes the value marinas play as gateways to boating and as stewards of the environment. This resolution commends marinas as places where Americans can visit with family and friends and come together for recreation, rest, and relaxation.

Congress and all of us as Members of Congress are in a unique position to support these goals. When the National Association of Engine and Boat Manufacturers first used the word "marina" in 1928, it was defined simply as a recreational boating facility. Today, however, marinas are much more. They have become an integral part not only of American recreation, but also of American life. They are strong, vibrant communities of families and friends united by a shared passion for the water.

I urge adoption of the resolution.

Mr. OBERSTAR. Mr. Speaker, the resolution before us recognizes National Marina Day on August 14, 2004.

There are more than 12,000 marinas in the United States providing safe harbor for millions of recreational vessels that operate on the lakes and navigable waters of the United States. These marinas include boatyards, yacht clubs, and public and private mooring basins across the United States. Marinas in the United States provide employment for more than 140,000 Americans.

Perhaps most importantly, marinas provide a means for millions of Americans to relax and enjoy themselves boating.

National Marina Day is a time to celebrate the history of marinas and boating and to look to the future of this vibrant industry. National Marina Day activities across the United States will include environmental demonstrations, youth center events, fishing rodeos, boating safety demonstrations, and marina open houses.

National Marina Day is going to be celebrated from Maine to Florida; from Maryland to Los Angeles, CA. Marinas participating in the celebration include marinas from the Marriott Marina in San Diego to the Constitution Marina in Boston.

Marina owners are working closely with the United States Coast Guard to step up vigilance at their facilities to improve security on U.S. waterways. These efforts include looking out for aggressive activities, attempts to gain access to vessels without proper identification, fixtures attached to structures, unusual diving operations, and vehicles and vessels in unusual locations.

Mr. Speaker, it is fitting for the U.S. House of Representatives to recognize the ongoing contribution of marina operators in the United States to our economy, our security, our environment, and most of all, for providing us with a way of enjoying a day on the beautiful waterways of the United States.

I urge my colleagues to support the Resolution.

Mr. FILNER. Mr. Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I urge passage of the resolution, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and agree to the resolution, H. Res. 647.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3313, MARRIAGE PROTECTION ACT OF 2004

Mrs. MYRICK (during consideration of H. Res. 647), from the Committee on Rules, submitted a privileged report (Rept. No. 108–623) on the resolution (H. Res. 734) providing for consideration of the bill (H.R. 3313) to amend title 28, United States Code, to limit Federal Court jurisdiction over questions under the Defense of Marriage Act, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4613, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005

Mrs. MYRICK (during consideration of H. Res. 647), from the Committee on

Rules, submitted a privileged report (Rept. No. 108–624) on the resolution (H. Res. 735) waiving points of order against the conference report to accompany the bill (H.R. 4613) making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HIPOLITO F. GARCIA FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3884) to designate the Federal building and United States courthouse located at 615 East Houston Street in San Antonio, Texas, as the "Hipolito F. Garcia Federal Building and United States Courthouse".

The Clerk read as follows:

H.R. 3884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 615 East Houston Street in San Antonio, Texas, shall be known and designated as the "Hipolito F. Garcia Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Hipolito F. Garcia Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3884, introduced by the gentleman from Texas (Mr. GONZALEZ), designates the Federal Building and United States Courthouse located at 615 East Houston Street, San Antonio, Texas, as the Hipolito F. Garcia Federal Building and United States Courthouse.

Judge Garcia was born in San Antonio, Texas, on December 4, 1925, and grew up in a neighborhood a few blocks from the very courthouse that will now bear his name. After serving his country in the Army from 1943 to 1945, Judge Garcia attended St. Mary's University School of Law. He graduated in 1951 and began working for Bexar County, Texas, as the Assistant Criminal Attorney, a position he held until 1963.

After a short time practicing law privately, Judge Garcia served as Judge to the county court in 1964 and State district court until 1974. Judge Garcia's career culminated in 1981 when President Carter appointed him to the United States District Court for the Western District of Texas. He sadly passed away on January 16, 2002.

Judge Garcia is remembered as a man who treated everyone with respect and remained humble despite his high position. He served his country in arms and in justice, and he was the first Mexican American to serve as a United States District Judge in the Western District of Texas.

This is a fitting tribute to a dedicated public servant. I support this legislation and urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3884 is a bill to designate the Federal Building and United States Courthouse located at 615 East Houston Street, San Antonio, Texas, as the Hipolito F. Garcia Federal Building and United States Courthouse.

The bill was introduced by the gentleman from Texas (Mr. GONZALEZ). Judge Garcia was born on December 14, 1925, in San Antonio. He recently died in January, 2002. He was educated at public schools, and in 1951 received his law degree from St. Mary's University School of Law. During World War II, he served in the United States Army.

His professional career included being Deputy District Clerk for Bexar County, Assistant Criminal Attorney, and Judge for the County-Court-at-Law. In 1979, President Carter nominated him for the Federal bench, and he was confirmed by the Senate in 1980.

Judge Garcia was an inspiration and role model. He broke barriers and earned a place in history as the first Mexican American to serve as a United States District Court Judge in the Western District of Texas. Despite his status, he remained humble and was known for treating everyone with dignity and respect.

He was an outstanding public servant who mentored young lawyers, providing sage advice and counsel. Judge Garcia was an exemplary public servant, and this dedication honors his contributions to the citizens of San Antonio and Texas.

I support H.R. 3884 and strongly urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ), the author of the bill.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman from Alaska (Chairman YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Ohio (Mr. LATOURETTE), and the gentlewoman from the District of Columbia (Ms. NORTON) for bringing this bill to the floor.

I could go over all of Hippo's accomplishments, and I say "Hippo" with the greatest affection and respect. Few people ever referred to him by formal title because he would not have it. And if he were alive and we were honoring him in this fashion today, he would probably be a little humbled and embarrassed.

Mr. Speaker, I will keep my remarks brief, but a man of the caliber and decency of Hippo Garcia deserves a couple of minutes to recognize his true contribution. Members have heard of his professional accomplishments, his sacrifices and contributions to the legal profession, to the city and the State and to this country, but I would like to bring out the human side of Hippo, that he was probably one of the most decent human beings one could ever meet.

He was a mentor and second father to many young San Antonio lawyers. I had the privilege of practicing before him when he was a county court law judge, a State district court judge, and then he moved to the Federal level. Many of us sought counsel with Hippo, a brave and wise man. We all had our first trials in Hippo's court. My first nonjury trial, which I lost, my first jury trial, which I also lost, come to think of it; but somehow it was a learning experience for everyone.

In the era of determinative sentences, mandatory guidelines, Hippo was an individual that still had a great deal of compassion and understanding and exercised that kind of discretion in such a responsible manner to make all of us proud.

Many people say the last thing we want is a liberal activist judge. I am here to tell Members that Hippo Garcia was a liberal activist judge. And what I mean by that is, his rulings always exhibited a liberal dose of humanity and decency and compassion. He was an activist, no doubt, and that activism was in the pursuit of justice.

Mr. Speaker, I wish to thank everyone who made this possible. Of course, the building we are naming is right across from the Alamo, which is a fitting location, so that everyone that passes by there will always remember the great sacrifices of the defenders of the Alamo, and look up and see Hippo's name on the Federal Building and remember the great contributions of a great man by the name of Hipolito Garcia.

Ms. NORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise today in support of H.R. 3884 which would name the San Antonio Federal Courthouse after the Honorable

Hipolito F. Garcia, better known to San Antonians as Hippo Garcia.

He was a native of San Antonio, and entered high school unable to speak English. Through hard work and determination, he became the first Mexican American to be named a Federal judge for the Western District. After graduating from high school, he served in the Army and on his return to civilian life, he earned a law degree.

With his diploma in hand, he launched his career as assistant district attorney. Years later, Judge Garcia was recognized by President Carter who nominated him to the Federal bench in 1980. Following his confirmation by the United States Senate, he served as a U.S. District Judge for the Western District.

Judge Garcia, better known as Hippo Garcia, dedicated more than 50 years of his life pursuing the cause of justice and inspired many people along his path. Over the course of his extraordinary life, Judge Garcia blazed new trails for Americans of Hispanic descent and brought incomparable integrity, fairness and intelligence to his courtroom. He is a highly respected jurist who has earned this permanent honor.

I encourage my colleagues to support this legislation as we commemorate his achievements, Judge Hippo Garcia.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 3884, a bill to designate the federal building and United States Courthouse located at 615 East Houston St., San Antonio Texas as the Hipolito F. Garcia Federal Building and United States Courthouse.

Hipolito Garcia was a native Texan, born in San Antonio in 1925. Judge Garcia received his law degree from St. Mary's University School of Law in 1951. He was nominated by President Carter to the federal bench in 1979 and was confirmed by the U.S. Senate in 1980. Judge Garcia was the first Hispanic judge for the Western District of Texas where he served with distinction for over two decades.

Hipolito Garcia was renowned for his fairness, professionalism, and his commitment to public service. He was part of the "Greatest Generation", serving in the Army during World War II. Prior to his appointment to the federal bench, Judge Garcia worked as an assistant district attorney and as a county court-at-law judge. Throughout his accomplished career, he remained humble and proud of his San Antonio roots.

I thank Congressman GONZALEZ for introducing this legislation. It is a fitting tribute to an outstanding jurist and public servant. I support the bill and urge its passage.

Mr. SMITH of Texas. Mr. Speaker, I am happy to cosponsor with Representative GONZALEZ legislation that designates the Federal building and courthouse located in downtown San Antonio, Texas, as the "Hipolito F. Garcia Federal Building and United States Courthouse".

Judge Hipolito Garcia—known to his friends as "Hippo"—led an amazing life and career. He was born to immigrant parents in downtown San Antonio, just two blocks from the United States Courthouse where he served as a United States District Judge for over 20 years.

Despite the challenges of learning English, and of being one of the few Hispanic students at his high school, he excelled and graduated as the most popular member of his class.

Judge Garcia served our nation in the U.S. Army in World War II. He went on to receive a law degree from St. Mary's University and then became a respected member of the San Antonio legal community.

After serving as a County Court-at-Law judge, and then as a State District Court judge in Bexar County, Judge Garcia was appointed a federal judge in the Western District of Texas. He served on that bench more than twenty years.

In addition to his professional accomplishments, Hippo Garcia was a light in our community. He befriended many young attorneys, sharing his time, his knowledge, and his innumerable stories.

Judge Garcia loved the law and our hometown of San Antonio. It is fitting that we should name the federal courthouse in his honor.

I hope my colleagues will join me in support of this legislation.

If my colleagues or constituents want to know more about this remarkable man, I've made a part of the record a eulogy given by a good friend, James R. Nowlin, a federal judge now on senior status. It does strike me that while Judge Nowlin was in good company with Judge Garcia, the reverse was true as well.

[January 19, 2002]

MEMORIAL, JUDGE H.F. "HIPPO" GARCIA, FIFTH CIRCUIT JUDICIAL CONFERENCE, 2002

(By James R. Nowlin)

From the time I was a 24-year-old guy in San Antonio, Texas, until recent years, whenever I would be driving Judge Garcia to a restaurant, to a meeting, to the courthouse—whenever we crossed a street or walked a slippery sidewalk, his favorite expression was always: "Careful what you do." I know that he is looking over my shoulder now with that same direction. Hippo, I will be careful, but I will not hide the bright light you brought to this world. As you often said to me after a fine meal and a few glasses of wine:

"My candle burns at both ends;
It will not last the night;
But ah, my foes, and oh, my friends—
It gives such a lovely light"

I will not burden you with many of the biographical details we can all find in Justices and Judges of the United States Courts. Let me rather attempt to briefly share with you some of that lovely light.

A 17th century French writer proclaimed: "As uncommon a thing as true love is, it is yet easier to find than true friendship." For more than 35 years I was blessed with that uncommon thing—a true friendship with the kindest, most generous, most humorous, most gentle, most practically intelligent person I have ever met. His name: Hipolito Frank Garcia, short in stature, respectable in girth, but with a heart larger than the earth itself. Common as the surname "Garcia" is in San Antonio and South Texas, this "Garcia" was no ordinary man. He was one of a kind.

Hippo was born on December 4, 1925, of immigrant parents in a small home just two blocks from the United States Courthouse where he served as an active United States District Judge for just short of 22 years. He spoke little English prior to entering a high school in San Antonio where he was about the only Hispanic student. His low key drive to compete, excel, and make friends endeared him to his fellow students who, unable to pronounce his given name "Hipolito" simply called him "Hippo." The young, bashful, non-English speaking student who entered Brackenridge High School in 1939 graduated as the most popular member of his class, served with distinction with the Third Armored Division, United States Army in Germany during World War II, and received a law degree from St. Mary's University School of Law. His college and law school career was thanks to the GI Bill and his work as a janitor at the law school after hours. In addition to his love of and respect for the law, he loved to read Shakespeare, became a recognized scholar of the American Civil War and read every biography of Abraham Lincoln ever written. Not bad for a once skinny, non-English speaking kid from San Antonio, Texas.

Hippo was continually fascinated with the English language and in our hundreds of lunches and dinners over the past 35 years regaled me with stories of San Antonio's social and political past. As a young, green lawyer I was not only enthralled with his stories and his jokes but I found it amazing that a county judge would spend time with me. There were over the year's dozens of young men and women who had the same experiences with "The Judge" and felt equally honored.

He told me of his ancestors and their fight for independence in Mexico; of his relatives who were associated with Pancho Villa; of what it was like to grow up in San Antonio as a Mexican-American child not speaking English; of landmarks in the City of San Antonio that I had not noticed or simply forgotten; of being beaten up by a group of thugs when he was working a polling place for Henry B. Gonzalez, in his early efforts as the first Hispanic political leader in San Antonio to win important elective public office; and of his Spanish speaking mother's reaction when he tried to explain to her that he had just become a county court-at-law judge: "How many times have I told you, I don't want you to be no policeman!"

For some reason, I distinctly recall a story about a small theater in downtown San Antonio where Hippo, as a child would go on Saturdays not only for entertainment but to try and learn English—I think it was known as the State Theater. That was only when he had the dime required for the ticket. He told me about a stage show at that theater that occurred every Saturday. He watched in awe as several dancers did a vaudeville routine with brooms and sang "sweep, sweep, sweep the cobwebs off the moon." Those musical English words intrigued him and stayed with him the rest of his life and occasionally, after a glass or two of his favorite wine, he would sing those lyrics to the surprise of his dinner companions.

I and many other more important people were beneficiaries of his constant effort to help young lawyers begin the practice of law. He was the founding father of the "Hippos Baseball Team" whose benched players include judges (including our own Ed Prado and John Primomo), congressmen and successful businessmen. His patience, his fairness, his teaching by example, his unmatched generosity was not limited to lawyers. Over the years I witnessed first-hand his financial gifts (which he fictionally called "loans") to young men and women who needed help to pay tuition or to provide the necessities of life in order to go to school or stay in school. He would seldom speak about these things but would rather joke that, human nature being what it is, some of those beneficiaries of his generosity would probably run against him some day. It never happened.

If there is a good restaurant in San Antonio that Hippo did not frequent I am not aware of it. The measure of a good restaurant: superior food and plentiful white wine. As one restaurant owner told me: "Hippo loves to eat more than anyone I've ever known." Menus at the Judge's favorite restaurants are replete with dishes named after him. From "Hippo's Meat Loaf" to Tex-Mex dishes to lavish desserts, he left his mark on the bills of fare. Perhaps the place of greatest enjoyment for him was a restaurant at which a well-known local jazz band played. "Hippo's Song," the jazz rendition of his favorite hymn, "Just A Closer Walk With Thee," was announced and played at least once each night. As requested by Judge Hippo, a member of that jazz band played a solo rendition of the hymn at his funeral.

Hippo's secret weapon for most all of his success and scores of friendships I concluded was his unique ability to listen, to sympathize and associate himself with another's problems and challenges. Then he would tell a funny story. From what I know, he would not have succeeded in the priesthood but he would have been one Hell of a bartender!

In the early hours of the morning of January16, 2002, Hippo Garcia, a fine judge but more importantly, a great human being, without any doubt joined the Saint for whom he was named and all the saints in Heaven. His favorite restaurants and the wineries of the world will now need their own economic stimulus package. For his immediate family, his dozens of godchildren, his legions of fiends, and those many who, but for Hippo, might have stumbled and failed in life, there is a tremendous sense of loss and a painful void. I feel it every day.

Never fear—in the words of "Hippo's Song" he has been "gently, safely guided to Thy kingdom shore" and is "ever walking close to Thee." There is a table set in Heaven with several empty chairs, plates of meatloaf, mashed potatoes with real butter, and full glasses of Chablis. He's saving a place for us: but when you pull out the chair and prepare to sit, remember "careful what you do." In the meantime, I look up and I think I can almost see a great judge, the funniest man on earth, my best friend "sweep, sweep, sweeping the cobwebs off the moon."

In June 1996, in recognition of his leadership and "invaluable public service to his state and nation" then Governor George W. Bush signed a Proclamation allowing Judge Garcia to be buried in the Texas State Cemetery at Austin, Texas. He lies thirty feet from Stephen F. Austin at the top of Republic Hill, the first Mexican-American to be buried in this historic section of the Cemetery.

"Green be the turf above thee,
Friend of my better days!
None knew thee but to love thee,
Nor named thee but in praise."

May he rest in peace.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3884.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JUDGE WILLIAM B. BRYANT ANNEX TO THE E. BARRETT PRETTYMAN FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4294) to designate the annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Ave. Northwest in Washington, District of Columbia, as the "Judge William B. Bryant Annex to the E. Barrett Prettyman Federal Building and United States Courthouse," as amended.

The Clerk read as follows:

H.R. 4294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia shall be known and designated as the "William B. Bryant Annex".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in section 1 shall be deemed to be a reference to the "William B. Bryant Annex".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4294, introduced by the gentlewoman from the District of Columbia (Ms. NORTON) designates the annex to the E. Barrett Prettyman Federal Building and United States Courthouse as the William B. Bryant Annex to the E. Barrett Prettyman Federal Building and United States Courthouse.

Judge Bryant was born in Alabama, but raised in Washington, D.C. He attended public schools here in the District, and graduated from Dunbar High School. He received both his bachelor and law degrees from Howard University.

In 1943, like many of his generation, he entered the United States Army receiving a commission as a first lieutenant. He was honorably discharged in 1947, having attained the rank of lieutenant colonel.

After 18 years in private practice, marked by a brief period with the Department of Justice, William Bryant was appointed to the United States District Court for the District of Columbia in 1965.

In 1977, Judge Bryant became the first African American to serve as the Chief Judge for the D.C. District Court. Judge Bryant took senior status in 1982 although he continued to hear cases long after many others would have retired.

I would like to commend the gentlewoman from the District of Columbia (Ms. NORTON) for being persistent in bringing this bill to the floor to honor a distinguished jurist.

This is a fitting tribute to a respected judge. I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

☐ 1815

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume. I should begin by thanking the leadership of the House and my own leadership for the way they have accommodated me in bringing this bill forward quickly. I especially thank the chairman of our subcommittee, the gentleman from Ohio (Mr. LATOURETTE), for so readily agreeing to manage this bill and bring it forward, because it comes forward under rather special and unusual circumstances.

The judge for whom this courthouse is to be named would by any standard be regarded as a historic figure in the Federal judiciary and in the judiciary of this city. H.R. 4294, a bill to name the annex of the E. Barrett Prettyman Federal Building, which houses the United States District Court for the District of Columbia for William B. Bryant, is what is before us. Judge Bryant is a former chief judge of the District Court, the first African American to hold the post, a longtime D.C. resident and graduate of the D.C. public schools with a distinguished legal career, who currently serves as a senior judge. The annex is under construction at Constitution and Pennsylvania Avenues Northwest and when completed early next year will provide much-needed state-of-the-art courtrooms and judges' chambers.

H.R. 4294 has an unusual origin. The chief judge of the United States District Court for the District of Columbia, for himself and the members of the trial court, visited my office to request that the annex under construction for the E. Barrett Prettyman Federal Building be named for senior U.S. District Court judge William B. Bryant. Judge Bryant was unaware of the desires and actions of his colleagues who unanimously agreed to request that the annex be named for the judge.

It is rare that Congress names a courthouse or an annex for a judge who has served in that court and even more rare for a judge who is still sitting. Judge Bryant's colleagues, who know his work and his temperament best, have found a particularly appropriate way for our city and our country to celebrate the life and accomplishments of a great judge who has had an historic impact on the law and on his court. I know Judge Bryant personally. I know his reputation in this city and in the law. And I know that the request to name the annex for Judge Bryant reflects deep respect for his unusually distinguished life at the bar.

Judge Bryant began his career in private practice in the segregated Washington of the 1940s and 1950s when African American lawyers were barred from membership in the District of Columbia Bar Association and from using the bar law library. He established his legal reputation as a partner in the legendary African American law firm of Houston, Bryant & Gardner and taught at Howard University law school.

His reputation as an extraordinary trial lawyer led to his appointment as the first African American assistant U.S. Attorney for the District of Columbia. He rose to become the first African American to serve as chief judge of the U.S. District Court whose members now ask that the annex be named for Judge Bryant.

For his representation of criminal defendants in private practice, Judge Bryant was admired as one of the city's best and most respected litigators. Among his many notable cases is the landmark Mallory v. United States where the Supreme Court ruled that an arrested person must be promptly brought before a judicial officer.

Judge Bryant graduated from the D.C. public schools, Howard University, and the Howard University School of Law where he was first in his class. After graduation, Judge Bryant served as chief research assistant to Dr. Ralph Bunche when Dr. Bunche worked with Gunnar Myrdal, the famous Swedish economist, in his studies of American racial issues. Judge Bryant served in the United States Army during World War II and was honorably discharged as a lieutenant colonel in 1947.

Judge Bryant, who is 92, took senior status in 1982. He raised a family, but as Chief Judge Thomas Hogan wrote, "lost his beloved wife, Astaire, and now lives alone, with this court and the law as the center of his life."

I am grateful to our judges of the United States District Court here for the thoughtful proposal that the annex to their court be named for Judge William B. Bryant. The residents of this city that Judge Bryant has served so well, the judges of the United States District Court for the District of Columbia, and the members of the bar here would be particularly pleased. I am delighted that Senator Patrick Leahy, ranking member of the Senate Judiciary Committee, has sponsored the bill in the Senate; and I urge quick approval to give honor to one of the great judges of our court.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 4294, a bill to designate the annex to the Prettyman Courthouse in Washington, D.C., as the Judge William B. Bryant Annex. I thank Chairmen YOUNG and LATOURETTE for their graciousness and support in moving this bill to the Floor in such an expeditious manner.

Judge Bryant, who is 92 years old, is an icon in District legal circles. He practiced law in the 1940s and 1950s when the city was segregated. He could not join the D.C. Bar Association or use its facilities. Yet, he has achieved great stature as a trial lawyer and enjoys an enviable reputation.

Judge Bryant is a lifelong D.C. resident who attended public schools and Howard Law School, where he graduated first in his class. He began his legal career in private practice in the District with the legendary African American law firm of Houston, Bryant, and Gardner. In 1965, he was nominated by President Johnson to the Federal bench and was confirmed by the U.S. Senate in August of that year. Judge Bryant is the first African American to hold the post of Chief Judge.

During his long, productive legal career Judge Bryant also served as the first African American Assistant U.S. Attorney for the District, and has taught at Howard Law School. He is also a World War II veteran, serving in the Army from 1943 until 1947.

The judges of the U.S. District Court in the District of Columbia unanimously agreed to name the annex in honor of Judge Bryant and approached Congresswoman NORTON for her help.

Judge Bryant's civil career is extraordinary. He is a role model, a mentor, a loyal friend and advisor. It is fitting and just that Judge William Bryant be honored with this designation.

I support H.R. 4294 and urge its passage.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 4294, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia as the 'William B. Bryant Annex'".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H. Res. 647, H.R. 3884 and H.R. 4294, the matters that we have just been discussing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMERCIAL AVIATION MANPADS DEFENSE ACT OF 2004

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4056) to encourage the establishment of both long-term and short-term programs to address the threat of man-portable air defense systems (MANPADSs) to commercial aviation, as amended.

The Clerk read as follows:

H.R. 4056

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Aviation MANPADS Defense Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) MANPADSs constitute a threat to military and civilian aircraft.

(2) The threat posed by MANPADSs requires the development of both short-term and long-term plans.

(3) The threat posed by MANPADSs requires an international as well as domestic response.

(4) There should be an international effort to address the issues of MANPADSs proliferation and defense.

(5) The Government is pursuing and should continue to pursue diplomatic efforts to prevent the proliferation of MANPADSs.

SEC. 3. UNITED STATES POLICY ON NONPROLIFERATION AND EXPORT CONTROL.

(a) TO LIMIT AVAILABILITY AND TRANSFER OF MANPADS.—The President shall pursue, on an urgent basis, further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to limit the availability, transfer, and proliferation of MANPADSs worldwide.

(b) TO LIMIT THE PROLIFERATION OF MANPADS.—The President is encouraged to seek to enter into agreements with the governments of foreign countries that, at a minimum, would—

(1) prohibit the entry into force of a MANPADS manufacturing license agreement and MANPADS co-production agreement, other than the entry into force of a manufacturing license or co-production agreement with a country that is party to such an agreement;

(2) prohibit, except pursuant to transfers between governments, the export of a MANPADS, including any component, part, accessory, or attachment thereof, without an individual validated license; and

(3) prohibit the re-export or retransfer of a MANPADS, including any component, part, accessory, or attachment thereof, to a third

person, organization, or government unless the written consent of the government that approved the original export or transfer is first obtained.

(c) To Achieve Destruction of MANPADS.—The President should continue to pursue further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to assure the destruction of excess, obsolete, and illicit stocks of MANPADSs worldwide.

(d) Reporting and Briefing Requirement.—

(1) President's report.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of diplomatic efforts under subsections (a), (b), and (c) and of efforts by the appropriate United States agencies to comply with the recommendations of the General Accounting Office set forth in its report GAO-04-519, entitled "Nonproliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems".

(2) Annual briefings.—Annually after the date of submission of the report under paragraph (1) and until completion of the diplomatic and compliance efforts referred to in paragraph (1), the Secretary of State shall brief the appropriate congressional committees on the status of such efforts.

SEC. 4. FAA AIRWORTHINESS CERTIFICATION OF MISSILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.

(a) In General.—As soon as practicable, but not later than, the date of completion of Phase II of the Department of Homeland Security's counter-man-portable air defense system (MANPADS) development and demonstration program, the Administrator of the Federal Aviation Administration shall establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft certified as effective and functional by the Department of Homeland Security. The process shall require a certification by the Administrator that such systems can be safely integrated into aircraft systems and ensure airworthiness and aircraft system integrity.

(b) Certification Acceptance.—Under the process, the Administrator shall accept the certification of the Department of Homeland Security that a missile defense system is effective and functional to defend commercial aircraft against MANPADSs.

(c) Expeditious Certification.—Under the process, the Administrator shall expedite the airworthiness and safety certification of missile defense systems for commercial aircraft certified by the Department of Homeland Security.

(d) Reports.—Not later than 90 days after the first airworthiness and safety certification for a missile defense system for commercial aircraft is issued by the Administrator, and annually thereafter until December 31, 2008, the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains a detailed description of each airworthiness and safety certification issued for a missile defense system for commercial aircraft.

SEC. 5. PROGRAMS TO REDUCE MANPADS.

(a) In General.—The President is encouraged to pursue strong programs to reduce the number of MANPADSs worldwide so that fewer MANPADSs will be available for trade, proliferation, and sale.

(b) Reporting and Briefing Requirements.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of the programs being pursued under subsection (a). Annually thereafter until the programs are no longer needed, the Secretary of State shall brief the appropriate congressional committees on the status of programs.

(c) Funding.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. MANPADS VULNERABILITY ASSESSMENTS REPORT.

(a) In General.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Department of Homeland Security's plans to secure airports and the aircraft arriving and departing from airports against MANPADSs attacks.

(b) Matters to Be Addressed.—The Secretary's report shall address, at a minimum, the following:

(1) The status of the Department's efforts to conduct MANPADSs vulnerability assessments at United States airports at which the Department is conducting assessments.

(2) How intelligence is shared between the United States intelligence agencies and Federal, State, and local law enforcement to address the MANPADS threat and potential ways to improve such intelligence sharing.

(3) Contingency plans that the Department has developed in the event that it receives intelligence indicating a high threat of a MANPADS attack on aircraft at or near United States airports.

(4) The feasibility and effectiveness of implementing public education and neighborhood watch programs in areas surrounding United States airports in cases in which intelligence reports indicate there is a high risk of MANPADS attacks on aircraft.

(5) Any other issues that the Secretary deems relevant.

(c) Format.—The report required by this section may be submitted in a classified format.

SEC. 7. DEFINITIONS.

In this Act, the following definitions apply:

(1) Appropriate congressional committees.—The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on International Relations, and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) MANPADS.—The term "MANPADS" means—

(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. Mica) and the gentleman from Oregon (Mr. DeFazio) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Mica).

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4056, which is entitled the Commercial Aviation MANPADS Defense Act. Again, MANPADS stands for man-portable air defense systems. It is also an acronym for shoulder-launched missiles.

There are two significant threats to commercial aviation today: first of all, there is the threat of explosives carried on board a civil aviation aircraft; and then there is the second significant threat which is shoulder-fired missiles. The legislation before us tonight addresses one of those issues, the growing terrorist MANPADS threat. It addresses four different problems that we face with this threat.

First of all, most of the Members may be aware that the administration has launched, with Congress' urging, an extensive research and development program, and that program has been expedited to develop a shoulder-launched missile defensive system to put on our commercial aircraft.

But the number one problem that we face even if we finish the research and development of that system today, the defensive system, is putting that system on an aircraft and getting it certified. So the first front and first problem that this bill addresses is an expedited FAA certification of an anti-missile system that is currently being developed. The second part of this comprehensive piece of legislation deals with increasing multinational treaties and agreements to stem MANPADS and shoulder-launched missile proliferation.

We know and we have been told even with the conflict in the Middle East that there are a great number of MANPADS available on the world market. We must do everything possible to stop the proliferation of them, and this encourages multinational treaties and agreements.

And, third, encouraging MANPADS market acquisition. This is a buy-back program. This legislation also requests the administration and those involved in buy-back programs to continue and expand those programs. And then the fourth part about this is that we know that these defensive systems that we can put on aircraft are a good step forward, we know that multilateral agreements and cooperation will bring MANPADS out of the market and we know that the buy-back program will work, but we still are at risk and we know that these systems even when fully developed do not cover us for all types of attack and the fourth part of this legislation promotes ground-based systems. So we look at another protective layer in the threat that we face.

While it may be difficult to attack domestic aviation in light of the current security measures that we have put in place, the availability of MANPADS weapons of terror is still a great cause for concern. This has been demonstrated repeatedly, most recently by the November 2002 attack in Kenya, by the 2003 attack on the DHL plane in Baghdad, and also most recently in August of 2003 by the arrest in New York City of three men accused in a plot to smuggle shoulder-fired missiles into the United States.

Last year at the direction of Congress, DHS began an aggressive research and development program to assess the viability of an antimissile technology for use in commercial aviation passenger aircraft. The administration's current $100 million research and development program and efforts to work through issues unique to our commercial aviation system and our commercial aircraft, I am pleased, are making very significant progress. We expect to have a recommendation on the viability, feasibility, and costs associated with these systems sometime next year. After that, these systems will need to be expeditiously FAA-certified for installation on our commercial aircraft.

It is also necessary, I have said, that we keep these destructive weapons out of the hands of terrorists. Other alternatives to protect our airlines and our airports must also be explored. That is why I, along with the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from New York (Mr. ISRAEL), introduced H.R. 4056. This bill now is an interim solution and an interim measure addressing, again, problems that we face with this threat. It encourages continued actions to reduce the number of these weapons that are available to those who would do us harm.

We have worked closely with the Committee on International Relations and the gentleman from Illinois (Chairman HYDE) to strengthen and clarify the provisions in the legislation dealing with international cooperative efforts. This bill makes clear that the administration must take additional steps to reduce the security risks created by shoulder-launched missile systems. It also encourages strong international diplomatic and cooperative efforts to limit the proliferation of these MANPADS as well as the continuation of our programs, as I have said, that would help us reduce the number of shoulder-launched missiles worldwide. The bill also requires the FAA to expedite their airworthiness certification of the missile defense systems for our commercial aircraft.

Finally, H.R. 4056 requires the Department of Homeland Security to report back to Congress within a year on the vulnerability assessment reports they are conducting at our airports throughout the United States and on how they are responding to the General Accounting Office's recommendations to prevent the proliferation of MANPADS.

I want to take this opportunity to thank the gentleman from Oregon (Mr. DEFAZIO) and also the gentleman from New York (Mr. ISRAEL) for their hard work on this bill. I also want to thank Transportation and Infrastructure Chairman DON YOUNG and International Relations Chairman HENRY HYDE for their cooperation and work.

This measure takes several important steps in dealing with the MANPADS terrorist threat. It is a good bill, it is a bipartisan bill; and therefore I urge passage and adoption of H.R. 4056, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Florida for his leadership on this issue. He has raised this issue persistently, both in closed and open settings, with any and all officials who might be able to help us begin to deal more effectively with this growing threat.

□ 1830

I also want to thank the gentleman from New York, whom we will hear from in just a few moments, for his leadership and persistence on this issue.

Many Americans are not particularly aware of this threat. We are talking about a threat that can be transported in something not much bigger than a golf bag, and in fact, some of the earlier versions of this weapon are available on the black market for not much more than a cheap set of golf clubs, not even a stand-up set of Calloways, but much less expensive clubs. So the proliferation, the availability, the portability, the concealability of these weapons is a major threat.

We go on from there to the fact that they have been utilized more times than many would know. Over the last 25 years, it is estimated there have been, as mentioned, as many as 35 attempts to shoot down civilian aircraft resulting in the loss of 24 aircraft and 500 deaths, something again little known to most Americans and members of the flying public worldwide.

Last November, a DHL Airbus A300 was severely damaged over Baghdad, actually losing hydraulics and flight controls after being hit by a missile. Having visited Iraq, where I was flown in on a propeller plane because they have less of a heat signature than a jet and having done the spiral-down over Baghdad, and that is an experience that all of our troops who have not come in by land have had in being deployed to Baghdad, one realizes the magnitude of this threat.

The war has unleashed hundreds more of these missiles onto the black market in Iraq and the Middle East. Our friends, the Chinese, are counterfeiting some of the most effective and efficient versions of this missile produced by the Russians and the United States of America. As they are so good at counterfeiting, the Chinese have counterfeited them, and as usual, they are proliferating them into very uncontrolled and potentially problematic markets to clients who might use these in ways that are inimical to commercial aviation worldwide.

So there is a real and growing threat. There is no simple solution. The technology that is being utilized by the military can be quite effective. It is not technology that is immediately transferrable to civilian aircraft, and the chairman has tried to deal with that in two different ways: one, with the development and testing of defensive systems; the other with the mandate that when systems do become available and viable that the FAA not take its usual 3 to 5 years to certify them, but in fact, that these be expedited on a basis far quicker than most technologies are certified by the FAA so they could become available to commercial aviation.

The chairman has already raised the issue of buy-backs, particularly for the older versions of these missiles, not the new Chinese counterfeits, but the others. They could be bought for very little on the market, and that would be a wise way to begin to deal with the proliferation.

International agreements, like other agreements, land mines, which unfortunately neither the Clinton administration nor the Bush administration has been willing to sign onto, but modeled on other international agreements, we could begin to rein in the proliferation of these weapons and their availability. Perhaps we could even get the attention of the Chinese for once, so that they would not be proliferating them.

The other issue, as I said earlier, is that we need to continue to research new measures. This is not the only threat to civilian aviation, which both the chairman and I recognize. We are very worried about the threat of explosives that are carried or smuggled on board airplanes, and there is much more that needs to be done there, which we have covered in a number of hearings and it is not appropriate to go into at this point in time. But this is yet another part of the threat which cannot be ignored.

I, again, appreciate the chairman's leadership on this issue.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. ISRAEL), who has been a leader on this issue; and it was his efforts, in good part, that have led us here this evening.

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding me this time.

And let me thank both the chairman and the ranking member for their extraordinary bipartisan leadership on this issue. It was an honor to work with both of them as an original cosponsor of this vital homeland security and national security measure. I am very proud to stand with them tonight in support of this legislation to protect America's flying public from the very real threat of shoulder-fired missiles.

Mr. Speaker, I have said in the past that the proliferation of shoulder-fired missiles is so great and the risk is so high that we have to go on offense and defense at the same time. And that is exactly what this measure does.

Intelligence officials have published estimates that there are roughly 500,000 portable shoulder-fired missiles available worldwide in the hands of 27 separate terrorist organizations, including al Qaeda. And as we have heard before, shoulder-fired missiles have already been used to shoot down commercial aircraft outside of the United States. Reports from the CIA, the State Department, and other government agencies indicate that shoulder-fired missiles have hit at least dozens of civilian aircraft since the 1970s and killed hundreds of people.

I have heard on other occasions that it is better to attack terrorists there than here. And if we agree with that argument on the global war on terror, then certainly it should apply to how we approach the tools of terror, shoulder-fired missiles. In fact, when it comes to shoulder-fired missiles, we have to reduce the threat in both places and reduce that threat expeditiously.

Here, it is essential that we accelerate our efforts to equip our planes with antimissile countermeasures, and that is why this bill includes provisions asking the FAA to accelerate the process for certifying defensive systems to protect against the terrorists of shoulder-fired missiles.

And elsewhere in the world, we have to aggressively pursue the implementation of international treaties to control the proliferation of shoulder-fired missiles. Ultimately, this is a supply-and-demand issue, and American travelers will not be safe until we control both the supply and the demand.

Just recently, the GAO reported that the United States needs to do more work within multilateral forums to establish mechanisms for assessing foreign governments' implementation of their commitments to reduce the proliferation of shoulder-fired missiles. According to that report, the State Department has led U.S. efforts to obtain commitments from member countries, the Group of Eight, the Asian Pacific Economic Cooperation summit, and others to strengthen export controls and security of MANPADS, but compliance with those commitments is entirely voluntary, and the forums lack mechanisms to verify that members implement those very commitments.

This legislation requires the President to report on efforts to comply with recommendations contained in the GAO report on nonproliferation. It also encourages the President to pursue strong international diplomatic and cooperative efforts, including multilateral and bilateral treaties, to limit the availability, transfer, and proliferation of shoulder-fired missiles, to seek the destruction of excess, obsolete, and illicit shoulder-fired missiles; and it also expedites that FAA certification process for our planes here at home.

Mr. Speaker, we cannot afford to wait until the day after a catastrophe to begin to act, and that is why passage of this bill tonight is so welcomed and so important.

Once again, I want to applaud the efforts of the gentleman from Florida (Chairman MICA) and the gentleman from Oregon (Mr. DEFAZIO), the ranking member, for their leadership on this issue. I want to thank them for including me in this issue. I want to thank the House Committee on International Relations for their work, and I urge all of our colleagues to support this vitally important homeland security measure.

Mr. MICA. Mr. Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Speaker, I urge the House to adopt this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

To close here, Mr. Speaker, first of all, I want to thank both the gentleman from New York (Mr. ISRAEL) and the gentleman from Oregon (Mr. DEFAZIO) for their work. This is not a partisan issue. This is an issue in the best interest of this Nation.

We have done things to make the traveling public who use aviation, which is so important to the economy of this Nation, safe. We have secured cockpit doors. We have air marshals on board. We have trained pilots to arm and defend their aircraft.

So we have taken measures, and I think even passengers who fly would never knowingly allow an aircraft to be overtaken. So the threat is not that type of threat that we faced September 11, and we know terrorists are always looking one step ahead to do damage to us. So this is an important complement to what the administration has done.

We have a $160 million research and development program to expedite producing defensive systems that can be used on commercial aircraft, and that is important. It gives us one more means of defense against a great terrorist threat.

Will we be able to put these on every aircraft? No. Are we able to put an air marshal on every aircraft? No. Does this cost us money? Yes, it is going to cost us money. But stop to think of the cost of one commercial airline being blown out of the sky by a shoulder-launched missile.

Eleven percent of our gross domestic product, the entire economy of this country, is really directly related and indirectly related to our aviation industry, jobs by the millions. And since September 11, we hear 3 million jobs. I guarantee that we could find 1½ to 2 million jobs that were lost just in aviation by the loss of four commercial aircraft.

So we have lessons to learn, and I have brought to the floor, in closing, the Kenya missile attack in November of 2002 in Mombasa. Not one, but two shoulder-launched missiles were launched on that date against an Israeli commercial charter aircraft; and this was also timed with a ground attack where people were killed, but hundreds would have perished had they been successful here. This is in Kenya on another continent.

However, even more recently, this is a DHL commercial airliner that left Baghdad in November, 2003, and was hit. So far, we have been lucky. So far, we have been fortunate. This aircraft also survived this terrorist attack. But we know there are more of these shoulder-launched missiles available on the open market than ever before.

So the provision of the gentleman from New York (Mr. ISRAEL) helps in getting international cooperation.

And again I thank the gentleman from Oregon (Mr. DEFAZIO) for putting a broad-based measure together that will fill in the gaps to provide us one more layer of protection against a potential terrorist attack.

Mr. Speaker, I insert in the RECORD at this point an exchange of letters between the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure, and the gentleman from Illinois (Chairman HYDE) regarding H.R. 4056.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, June 21, 2004.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I have reviewed the text of H.R. 4056, the "Commercial Aviation MANPADS Defense Act of 2004," as ordered reported from the Committee on Transportation and Infrastructure on May 12, 2004. The Committee on International Relations has jurisdiction under Rule X over certain provisions of this bill contained in Section 3, International Cooperative Efforts and Section 5, Programs to Reduce MANPADS.

Recognizing your wish that the House of Representatives consider this critical bill as soon as possible, and noting the continued strong spirit of cooperation between our Committees, I will forego seeking a sequential referral of H.R. 4056 for the Committee on International Relations. However, waiving the Committee on International Relations' right to a referral in this case does not waive the Committee's jurisdiction over any provision in H.R. 4056 or similar provisions in other bills. In addition, I ask that you support my request to have the Committee on International Relations represented on the conference on this bill, if a conference is necessary. Finally, I ask that you include this letter in the Congressional Record during the debate on this bill.

I appreciate your leadership and cooperation on this bill, and I look forward to working with you to ensure that H.R. 4056 is enacted into law soon.

HENRY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 23, 2004.

Hon. HENRY HYDE,
Chairman, Committee on International Relations; Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of June 21, 2004, regarding H.R. 4056, the "Commercial Aviation MANPADS Defense Act of 2004", and for your willingness to waive consideration of the provisions in the bill that fall within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of these provisions of H.R. 4056 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 4056 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the Record when the bill is considered in the House.

Thank you for your cooperation in moving this important legislation to the House Floor.

Sincerely,

DON YOUNG,
Chairman.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 4056, the Commercial Aviation MANPADs Defense Act (CAMDA).

Shoulder-fired missiles pose a serious threat to commercial aviation. Al Qaeda, through its actions, has clearly expressed the desire to strike at commercial aircraft with man-portable air defense systems, or MANPADs, and has trained its members to use them. Moreover, there is some evidence suggesting possible Al Qaeda links to two recent incidents involving MANPADs:

In May 2002, a Saudi security patrol found a spent SA–7 tube inside a security fence at Prince Sultan Airbase;

In November 2002, two shoulder-fired missiles were launched against a chartered Israeli Boeing 757–300 departing Kenya.

MANPADs have proliferated into the hands of terrorists and insurgents. In fact, the number of MANPADs that cannot be accounted for—has greatly increased over the last year due largely to our war with Iraq.

We also know that commercial aircraft are vulnerable. It has been estimated that over the last 25 years there have been as many as 35 attempts to shoot down civilian aircraft, resulting in the loss of 24 aircraft and 500 deaths. There is evidence to suggest that, in at least a few instances, multengine jets have been destroyed by MANPADs. And just last November, a DHL Airbus A–300 was severely damaged over Baghdad—actually losing hydraulics and flight controls—after being hit by a shoulder-fired missile.

The bill now before us was introduced by Aviation Subcommittee Chairman MICA, Ranking Member DEFAZIO and Mr. ISRAEL.

The bill would require the President to pursue strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, that would limit the transfer and proliferation as well as encourage the destruction of MANPADs. This provision was inspired largely by our colleague from New York, Mr. ISRAEL. Based on suggestions by our colleagues on the International Relations Committee, the bill has been amended to provide greater detail on the types of international cooperative and diplomatic measures the President should pursue.

The Department of Homeland Security (DHS) is currently involved in a $120 million research effort to develop airborne antimissile defense countermeasures for commercial aircraft. CAMDA will expedite the Federal Aviation Administration (FAA) airworthiness and safety certification process for these cuontermeasure systems.

CAMDA also encourages the President to pursue programs to reduce the number of MANPADs worldwide.

Additionally, CAMDA requires the DHS to report to the House Transportation and Infrastructure Committee and the Senate Commerce Committee on the status of MANPAD vulnerability assessments that it is conducting at U.S. airports. The DHS will also report on any contingency plans that have been developed in the event that we receive indications that there is a high threat of a MANPAD attack.

I thank Chairman MICA, Ranking Member DEFAZIO, and Mr. ISRAEL for their strong leadership on this issue, and I urge my colleagues to support this legislation.

Mr. BURGESS. Mr. Speaker, I rise today in strong support of H.R. 4065, The Man-Portable Surface-to-Air Missiles Defense Act.

In response to the September 11, 2001, attacks, Congress passed the Aviation and Transportation Security Act (ATSA) to ensure the safety of airline passengers.

This legislation expanded the federal air marshal program, required that all cockpit doors be strengthened, armed pilots, increased screening of passengers and required increased screening of passenger baggage using explosive detection systems.

Congressional efforts have, in large part, focused on in-flight safety and airport security, but an important vulnerability still exists. Commercial airliners are vulnerable to attacks from man-portable surface-to-air missiles during each takeoff and landing.

Man-portable surface-to-air missiles are unfortunately accessible and relatively inexpensive; on the black market, the systems can be purchased for less than $100,000. Thousands of man-portable surface-to-air missiles exist around the world, many in the hands of guerrilla and terrorist groups. These groups have already demonstrated their intent to use man-portable surface-to-air missiles on civilian aircraft on more than one occasion.

The Dallas-Fort Worth Airport, which is the sixth largest airport in the country, is located in my congressional district. Millions of airline passengers travel through DFW airport each year, and I am concerned about this vulnerability.

That is why I am a proud cosponsor of Chairman MICA's Commercial Aviation Man Portable Surface-to-Air Missiles Defense Act of 2004.

This legislation will help to protect airline passengers and crew from the man-portable surface-to-air missiles threat. H.R. 4065 requires the FAA to expedite airworthiness certification of the missile defense systems for commercial aircraft.

Additionally, it requires that the Department of Homeland Security report to Congress about the vulnerability assessment reports they are conducting at U.S. airports. DHS is also directed to report any recommendations that are issued regarding ground-based defense policies or procedures.

The Man-Portable Surface-to-Air Missiles Defense Act urges the President to continue working with our international diplomatic partners to reduce or eliminate the availability of man-portable surface-to-air missiles worldwide.

Again, I would like to reiterate my support for the Man-Portable Surface-to-Air Missiles Defense Act and urge my colleagues to support this important legislation.

Mr. CRANE. Mr. Speaker, I rise today in strong support of H.R. 4056, which urges the President, the Federal Aviation Administration, and the Department of Homeland Security to move forward with the protection of commercial aircraft from MANPADS attacks. I want to commend my colleague from Florida for introducing this critical legislation that not only protects commercial aircraft here in the United States but also takes an aggressive step to encourage the rest of the world to increase their own safety measures concerning air travel.

It is imperative that we in Congress realize that heat-seeking infrared surface-to-air missiles currently held by terrorist organizations pose an imminent threat to commercial aircraft. The terrorist use of MANPADS has resulted in the deaths of more than 350 innocent people. When in possession of those intending to inflict harm, MANPADS are extremely effective and extremely dangerous. An estimated 27 terrorist organizations are known to have heat-seeking missiles, and over 500,000 produced worldwide can easily be purchased on the black market for $25,000 to $50,000.

Last year, I worked with the Appropriations Subcommittee on Homeland Security to secure funds for this crucial program to be applied on commercial aircraft. Chairman ROGERS generously provided $60 million for fiscal year 2004 and has added funds again in this year's Homeland Security appropriations bill. There are MANPADS defense systems in development right now across the country including a facility in Rolling Meadows, IL, which is in my district. This system is already being used and has been proven to be effective on our C–17 military aircraft. In order to protect our larger military aircraft, the Department of Defense has already spent close to $1 billion developing and deploying systems that defeat this threat on numerous large body aircraft.

The Commercial Aviation MANPADS Defense Act of 2004 takes the next step in the process of ensuring that every commercial aircraft is equipped with these antimissile devices. The bill readies our airports for the implementation of these defense systems and goes even further in the defense against MANPADS attacks by establishing programs to reduce the number of MANPADS worldwide so that fewer of these missiles will be available for trade and sale.

Once again I would like to commend Representative MICA for introducing this legislation and urge my colleagues to vote in favor of the bill.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 4056, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MICA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4056.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

☐ 1845

NORTH KOREAN HUMAN RIGHTS ACT OF 2004

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4011) to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "North Korean Human Rights Act of 2004".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Definitions.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

Sec. 101. Sense of Congress regarding negotiations with North Korea.
Sec. 102. Support for human rights and democracy programs.
Sec. 103. Radio broadcasting to North Korea.
Sec. 104. Actions to promote freedom of information.
Sec. 105. United Nations Commission on Human Rights.

TITLE II—ASSISTING NORTH KOREANS IN NEED

Sec. 201. Report on United States humanitarian assistance.
Sec. 202. Assistance provided inside North Korea.
Sec. 203. Assistance provided outside of North Korea.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

Sec. 301. United States policy toward refugees and defectors.
Sec. 302. Eligibility for refugee or asylum consideration.
Sec. 303. Facilitating submission of applications for admission as a refugee.
Sec. 304. United Nations High Commissioner for Refugees.
Sec. 305. Annual reports.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is "a dictatorship under the absolute rule of Kim Jong Il" that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, "[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter".

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, "[g]enuine religious freedom does not exist in North Korea" and, according to the United States Commission on International Religious Freedom, "[t]he North Korean state severely represses public and private religious activities" with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees China routinely classifies North Koreans seeking asylum in China as mere "economic migrants" and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees, including the Reverend Choi Bong Il, in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number small in comparison with the total number of North Korean escapees, but far greater than the number legally admitted by any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHINA.—The term "China" means the People's Republic of China.

(3) HUMANITARIAN ASSISTANCE.—The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) NORTH KOREA.—The term "North Korea" means the Democratic People's Republic of Korea.

(5) NORTH KOREANS.—The term "North Koreans" means persons who are citizens or nationals of North Korea.

(6) SOUTH KOREA.—The term "South Korea" means the Republic of Korea.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS WITH NORTH KOREA.

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.

(a) SUPPORT.—The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 103. RADIO BROADCASTING TO NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.

(a) ACTIONS.—The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of receiving broadcasting from outside North Korea.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

SEC. 105. UNITED NATIONS COMMISSION ON HUMAN RIGHTS.

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

TITLE II—ASSISTING NORTH KOREANS IN NEED

SEC. 201. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in paragraphs (1) through (4) of section 202(b); and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) FORM.—The information required by subsection (a)(1) may be provided in classified form if necessary.

SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.

(a) HUMANITARIAN ASSISTANCE THROUGH NONGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS.—It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to

do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) HUMANITARIAN ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.—No department, agency, or entity of the United States Government may provide humanitarian assistance to any department, agency, or entity of the Government of North Korea unless such United States Government department, agency, or entity certifies in writing to the appropriate congressional committees that the Government of North Korea has taken steps to ensure that—

(1) such assistance is delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(2) such assistance is provided on a needs basis, and is not used as a political reward or tool of coercion;

(3) such assistance reaches the intended beneficiaries, who are informed of the source of the assistance; and

(4) humanitarian access to all vulnerable groups in North Korea is allowed, no matter where in the country they may be located.

(c) NONHUMANITARIAN ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.—No department, agency, or entity of the United States Government may provide nonhumanitarian assistance to any department, agency, or entity of the Government of North Korea unless such United States Government department, agency, or entity certifies in writing to the appropriate congressional committees that the Government of North Korea has made substantial progress toward—

(1) respecting and protecting basic human rights, including freedom of religion, of the people of North Korea;

(2) providing for significant family reunification between North Koreans and their descendants and relatives in the United States;

(3) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(4) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(5) significantly reforming its prison and labor camp system, and subjecting such reforms to independent international monitoring; and

(6) decriminalizing political expression and activity.

(d) WAIVER.—The President may waive the prohibition contained in subsection (b) or (c) if the President determines that it is in the national security interest of the United States to do so. Prior to exercising the waiver authority contained in the preceding sentence, the President shall transmit to the appropriate congressional committees a report that contains the determination of the President pursuant to the preceding sentence and a description of the assistance to be provided.

SEC. 203. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.

(a) ASSISTANCE.—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) TYPES OF ASSISTANCE.—Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 103(14) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(14)), or are in danger of being trafficked.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President $20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND DEFECTORS.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) CONTENTS.—The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past five years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 303.

(c) FORM.—The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSIDERATION.

(a) PURPOSE.—The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) TREATMENT OF NATIONALS OF NORTH KOREA.—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS FOR ADMISSION AS A REFUGEE.

The Secretary of State shall undertake to facilitate the submission of applications under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) by citizens of North Korea seeking protection as refugees (as defined in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42)).

SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) ACTIONS IN CHINA.—It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the "UNHCR Mission Agreement");

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective "first asylum" policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) ARBITRATION PROCEEDINGS.—It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant

abdication by the UNHCR of one of its core responsibilities.

SEC. 305. ANNUAL REPORTS.

(a) IMMIGRATION INFORMATION.—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(b) COUNTRIES OF PARTICULAR CONCERN.—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)), information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

The SPEAKER pro tempore (Mr. OSE). Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4011, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the past 2½ years, the Subcommittee on Asia and the Pacific has received testimony from a number of North Koreans who have survived some of the greatest rigors of the human condition. Their accounts buttress the growing awareness that the people of North Korea have endured some of the most acute humanitarian traumas of our time.

Inside North Korea, they suffer at the hands of a totalitarian dynasty that permits no dissent and strictly curtails freedoms of speech, press, religion, and assembly. The regime maintains a brutal system of prison camps that house an estimated 200,000 political inmates who are subjected to slave labor, torture, and even lethal chemical experimentation. Since the collapse of the centralized agricultural system in the 1990s, more than 2 million North Koreans are estimated to have died of starvation.

North Koreans outside of North Korea are also uniquely vulnerable. Many thousands are hiding inside China, which currently refuses the U.N. High Commissioner for Refugees to evaluate and identify genuine refugees among the North Korean migrant population. China forcibly returns North Koreans to North Korea, where they routinely face imprisonment and torture and sometimes execution. Inside China, North Korean women and girls are particularly vulnerable to trafficking in sexual exploitation.

Provoked by these crises, this broadly bipartisan legislation aims to promote international cooperation on human rights and refugee protection, and increased transparency in the provision of humanitarian assistance to the people of North Korea.

On the human rights front, this bill underscores the importance of human rights issues in future negotiations with North Korea. It authorizes funds for programs to promote human rights, democracy, rule of law, a market economy, and freedom of information. It also urges additional North Korea-specific attention by appropriate U.N. human rights authorities.

On the humanitarian front, the bill authorizes increased funding for assistance to North Koreans outside of North Korea, including refugees, orphans, and trafficking victims. It endorses, but also seeks, greater transparency, for the delivery of U.S. humanitarian aid inside North Korea. Finally, it would condition direct assistance to the North Korean government on human rights and transparency benchmarks, but allows the President to waive those restrictions for national security purposes.

In terms of refugee protection, the bill requires a formal clarification of U.S. policy and affirms the eligibility of North Koreans to seek protection as refugees under U.S. law. It also urges the U.N. High Commissioner For Refugees to use all available means to gain access to North Koreans in China. Although the principal responsibility for North Korean refugee resettlement naturally falls to the government of South Korea, the United States should play a leadership role in focusing international attention on the plight of those refugees in formulating international solutions to their profound humanitarian dilemma.

I want to remove any danger that overseas audiences may misunderstand the intent or content of this bill. Allow me to state unequivocally, this legislation is a purely humanitarian endeavor. There are no hidden agendas. Indeed, the committee of jurisdiction is deeply indebted to the concerns expressed by thousands of American citizens of Korean descent who are convinced that for too long the international community has largely ignored the plight of their brethren in the North.

As explained in the report of the Committee on International Relations: "H.R. 4011 is motivated by a genuine desire for improvements in human rights, refugee protection, and humanitarian transparency. It is not a pretext for a hidden strategy to provoke regime collapse or to seek collateral advantage in ongoing strategic negotiations. While the legislation highlights numerous egregious abuses, the Congress remains willing to recognize progress in the future and hopes for such an opportunity."

Similarly, with regard to China, this bill is not solely critical; it is also aspirational. It makes clear that the United States and the international community stand ready to provide more assistance to help defray the costs associated with the North Korean migrant presence when China begins fulfilling its obligations as a party to the 1951 U.N. Refugee Convention. We genuinely hope for that opportunity to arise.

I would like to thank my colleagues for their strong bipartisan endorsement of this bill. In particular, I would like to express my gratitude to the staff of the Committee on International Relations and Committee on the Judiciary, particularly Doug Anderson, for their expert consideration, and to the House leadership for promptly scheduling this important legislation.

Our distinguished ranking member, the gentleman from California (Mr. LANTOS); the distinguished ranking member of the subcommittee, the gentleman from American Samoa (Mr. FALEOMAVAEGA); the gentleman from New York (Mr. ACKERMAN); and the gentleman from California (Mr. BERMAN) of the minority are much appreciated, as is the leadership of the gentleman from New Jersey (Mr. SMITH), the gentleman from California (Mr. COX); and the gentleman from California (Mr. ROYCE) on the majority side.

Finally I would like to thank Senator BROWNBACK, whose leadership in the other body has both informed and helped inspire House action on these issues.

H.R. 4011 is a responsible, creative approach to an ongoing human tragedy and deserves our unanimous support.

Mr. Speaker, I include for the RECORD an exchange of letters between the gentleman from Illinois (Chairman

HYDE) and the gentleman from Wisconsin (Chairman SENSENBRENNER) on the bill under discussion.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, DC, July 16, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter regarding H.R. 4011, the "North Korean Human Rights Act of 2004," which was primarily referred to the Committee on International Relations and additionally to the Committee on the Judiciary. This Committee ordered the bill reported favorably on March 31, 2004, and filed its report (H. Rept. No. 108-478, Part I) on May 4, 2004.

I concur that the Committee on the Judiciary has jurisdiction over the immigration provisions contained in Title III of the bill. I am grateful for the cooperation of the Committee on the Judiciary in crafting a mutually agreeable compromise text. Based on these discussions, the manager's amendment which the Committee will call up under suspension of the rules will be the text attached to your letter.

I appreciate your willingness to waive further consideration of the bill in the Committee on the Judiciary. I concur that in taking this action your Committee's jurisdiction over the bill is in no way diminished or altered. I will, as you request, include this exchange of letters in the Congressional Record during consideration of the legislation on the House floor.

I appreciate your cooperation in this matter.

Sincerely,
HENRY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 15, 2004.

Hon. HENRY HYDE,
Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR CHAIRMAN HYDE: I am writing regarding H.R. 4011, the "North Korean Human Rights Act of 2004" which was referred primarily to the Committee on International Relations and additionally to the Committee on the Judiciary. The Committee on International Relations reported the bill favorably on May 4, 2004. H. Rept. No. 108-478, Part I. The Committee on the Judiciary's secondary referral is currently scheduled to expire on July 16, 2004.

I had significant concerns about the immigration provisions contained in Title III on the bill as introduced which fall within the Rule X jurisdiction of the Committee on the Judiciary. My staff has had discussions with yours, and they have reached a mutually agreeable compromise to resolve these concerns. A copy of the compromise language is attached. I understand that through staff discussions you have indicated your willingness to take the bill to the floor under suspension of the rules and use the attached compromise language as the manager's amendment when you do so.

Based on your agreement to follow this course, I agree to waive further consideration of the bill in the Committee on the Judiciary so that the bill may proceed to the floor. The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over the bill is in no way diminished or altered. I would appreciate your including this letter and your response in the Congressional Record during consideration of the legislation on the House floor.

I appreciate your cooperation in this matter.

Sincerely,
F. JAMES SENSENBRENNER, JR.,
Chairman.

H.R. 4011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "North Korean Human Rights Act of 2004".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Definitions.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

Sec. 101. Sense of Congress regarding negotiations with North Korea.
Sec. 102. Support for human rights and democracy programs.
Sec. 103. Radio broadcasting to North Korea.
Sec. 104. Actions to promote freedom of information.
Sec. 105. United Nations Commission on Human Rights.

TITLE II—ASSISTING NORTH KOREANS IN NEED

Sec. 201. Report on United States humanitarian assistance.
Sec. 202. Assistance provided inside North Korea.
Sec. 203. Assistance provided outside of North Korea.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

Sec. 301. United States policy toward refugees and defectors.
Sec. 302. Eligibility for refugee or asylum consideration.
Sec. 303. Facilitating submission of applications for admission as a refugee.
Sec. 304. United Nations High Commissioner for Refugees.
Sec. 305. Annual reports.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is "a dictatorship under the absolute rule of Kim Jong Il" that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, "[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter".

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, "[g]enuine religious freedom does not exist in North Korea" and, according to the United States Commission on International Religious Freedom, "[t]he North Korean state severely represses public and private religious activities" with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and

sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees China routinely classifies North Koreans seeking asylum in China as mere "economic migrants" and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees, including the Reverend Choi Bong Il, in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number small in comparison with the total number of North Korean escapees, but far greater than the number legally admitted by any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHINA.—The term "China" means the People's Republic of China.

(3) HUMANITARIAN ASSISTANCE.—The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) NORTH KOREA.—The term "North Korea" means the Democratic People's Republic of Korea.

(5) NORTH KOREANS.—The term "North Koreans" means persons who are citizens or nationals of North Korea.

(6) SOUTH KOREA.—The term "South Korea" means the Republic of Korea.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS WITH NORTH KOREA.

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.

(a) SUPPORT.—The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 103. RADIO BROADCASTING TO NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.

(a) ACTIONS.—The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of receiving broadcasting from outside North Korea.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

SEC. 105. UNITED NATIONS COMMISSION ON HUMAN RIGHTS.

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

TITLE II—ASSISTING NORTH KOREANS IN NEED

SEC. 201. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in paragraphs (1) through (4) of section 202(b); and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) FORM.—The information required by subsection (a)(1) may be provided in classified form if necessary.

SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.

(a) HUMANITARIAN ASSISTANCE THROUGH NONGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS.—It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) HUMANITARIAN ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.—No department, agency, or entity of the United States Government may provide humanitarian assistance to any department, agency, or entity of the Government of North Korea unless such United States Government department, agency, or entity certifies in writing to the appropriate congressional committees that the Government of North Korea has taken steps to ensure that—

(1) such assistance is delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(2) such assistance is provided on a needs basis, and is not used as a political reward or tool of coercion;

(3) such assistance reaches the intended beneficiaries, who are informed of the source of the assistance; and

(4) humanitarian access to all vulnerable groups in North Korea is allowed, no matter where in the country they may be located.

(c) NONHUMANITARIAN ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.—No department, agency, or entity of the United States Government may provide nonhumanitarian assistance to any department, agency, or entity of the Government of North Korea unless such United States Government department, agency, or entity certifies in writing to the appropriate congressional committees that the Government of North Korea has made substantial progress toward—

(1) respecting and protecting basic human rights, including freedom of religion, of the people of North Korea;

(2) providing for significant family reunification between North Koreans and their descendants and relatives in the United States;

(3) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(4) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(5) significantly reforming its prison and labor camp system, and subjecting such reforms to independent international monitoring; and

(6) decriminalizing political expression and activity.

(d) WAIVER.—The President may waive the prohibition contained in subsection (b) or (c) if the President determines that it is in the national security interest of the United States to do so. Prior to exercising the waiver authority contained in the preceding sentence, the President shall transmit to the appropriate congressional committees a report that contains the determination of the President pursuant to the preceding sentence and a description of the assistance to be provided.

SEC. 203. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.

(a) ASSISTANCE.—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) TYPES OF ASSISTANCE.—Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 103(14) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(14)), or are in danger of being trafficked.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President $20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND DEFECTORS.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) CONTENTS.—The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past five years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 303.

(c) FORM.—The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSIDERATION.

(a) PURPOSE.—The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) TREATMENT OF NATIONALS OF NORTH KOREA.—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS FOR ADMISSION AS A REFUGEE.

The Secretary of State shall undertake to facilitate the submission of applications under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) by citizens of North Korea seeking protection as refugees (as defined in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42)).

SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) ACTIONS IN CHINA.—It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the "UNHCR Mission Agreement");

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective "first asylum" policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward

North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) ARBITRATION PROCEEDINGS.—It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

SEC. 305. ANNUAL REPORTS.

(a) IMMIGRATION INFORMATION.—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(b) COUNTRIES OF PARTICULAR CONCERN.—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)), information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this legislation. I urge all of my colleagues to do so as well.

I would first like to commend my dear friend and distinguished colleague, the gentleman from Iowa (Mr. LEACH), for his introduction of the North Korean Human Rights Act; and I want to thank my good friend, the gentleman from American Samoa (Mr. FALEOMAVAEGA), for his hard work on this bill as well.

Mr. Speaker, United States policy towards North Korea has been an important item on the foreign policy agenda for over a decade, stretching through both the Clinton and the Bush administrations. Given the threat to the United States and to our key allies posed by North Korea's pursuit of weapons of mass destruction, the focus of our diplomatic resources has correctly been on ending the destabilizing nuclear and missile programs of North Korea.

While it is inevitable that security matters will remain at the heart of our dialogue regarding North Korea, I am very much concerned that the United States has paid insufficient attention to the human rights situation in the North and the humanitarian consequences of the horrendous misrule by North Korea's leadership.

Mr. Speaker, the legislation before the House is designed to correct this imbalance. The North Korean Human Rights Act will ensure that the United States does not fail to tackle North Korea's appalling human rights record as we attempt to resolve our differences with the North.

As we know all too well, the human rights situation in North Korea is one of the world's worst. Over a decade, a vast number of North Korean citizens starved to death because of their government's gross incompetence, while the North Korean leadership dined on sushi flown in fresh from Japan. Hundreds of thousands of citizens languish in brutal North Korean gulags with no hope of release.

The political system itself is Stalinist to the core. No elections. No freedom of the press. No freedom of assembly. No words of dissent. No criticism of the government or of North Korean leader Kim Jong Il.

In short, Mr. Speaker, the North Korean people have no hope of changing their government unless the international community stands up for human rights and democracy in the North and continues to push the North aggressively for change.

The misrule in the North has also created a significant refugee situation in Northeastern China. Hundreds of thousands of North Koreans have fled to China in hopes of gaining their freedom. The Chinese Government has refused to treat these North Koreans as refugees, and many have been pushed back over the border to a most uncertain fate.

It is critically important that the U.N. High Commissioner for Refugees have access to this floating population, and that North Korean refugees be treated appropriately.

Mr. Speaker, the legislation before us tackles all of these important subjects. It will direct that human rights remain on the negotiating table with the North. It demands better accountability for international food aid to North Korea. It encourages a solution on the North Korean refugee issue in China. And it attempts to increase American broadcasting into North Korea.

This bill is exceptionally well researched and well-crafted, and I strongly support its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, briefly, in conclusion, let me just stress that the circumstances in North Korea have provoked one of the great humanitarian tragedies of our time. It is understandable that there are so many refugees, understandable that so many people have voted with their feet to seek greater opportunity in neighboring countries like China, like Mongolia.

But this Congress is simply trying, in a humanitarian way, to deal with that circumstance. We are not trying to express any geopolitical strategy, other than to help people that need our assistance.

Beyond that, I would say that there is strong bipartisan support, I think I can say that, for the administration trying to work as carefully as possible on the geostrategic issues in the six-party context, but this bill is about humanitarian issues and nothing else.

Mr. Speaker, I urge this Congress to take a unanimous vote on this subject.

Mr. ROYCE. Mr. Speaker, I rise in support of H.R. 4011, the North Korea Human Rights Act, of which I am an original cosponsor.

The human rights conditions in North Korea are abysmal. As we know, the North Korean regime apportions and withholds resources based on perceived citizen loyalty to the regime. From 1994 to 1998 at least two million North Koreans perished from starvation and related diseases, while nearly 50 percent of all North Korean children are malnourished to the point that it threatens their physical and mental health.

This dire situation has forced many North Koreans to risk life and limb to flee into China. As many as 300,000 North Korean refugees are hiding in the Chinese countryside. Chinese authorities continue an agreessive crackdown—actively hunting down North Korean refugees and forcibly repatriating them to North Korea. Once returned to North Korea, they fact torture, imprisonment, and even execution.

The International Relations Subcommittee on Asia has held hearings on North Korea's human rights abuses, where we have heard testimony from North Korean defectors. Ms. Lee, a former North Korean party official, described life in a North Korean gulag. She said, "A prisoner has no right to talk, laugh, sing or look in a mirror. Prisoners must kneel down on the ground and keep their heads down deeply whenever called by a guard. They can say nothing except to answer questions when asked. Prisoners have to work as slaves for up to 18 hours a day. Repeated failure to meet the work quotas means a week's time in a punishment cell. A prisoner must give up their human worth." She also told us, with the help of simple—yet shocking—illustrations, about chemical weapons tests and other atrocities that she witnessed which were performed on prisoners.

Unfortunately, this grim reality has been glossed over. This bill is an important statement as to how the United States Congress views the situation in North Korea. It is also the moral policy given the horrendous human rights condition north of the border.

In order to ensure his survival, Kim Jong Il tries to keep an iron grip on all information in North Korea. Control of information is absolutely crucial—because the system is based on lies. The propaganda is so great, that defectors actually report that they believed that their impoverished country was wealthier than South Korea. U.S. backed Radio Free Asia is countering this propaganda, bringing objective news to the North Korean people. Surveys indicate that North Korean defectors are listening to RFA's broadcasts.

That is why this bill calls for the increase of radio broadcasts into North Korea to twelve hours per day. And because of the problem of access to suitable radios in North Korea, the legislation requests a report detailing the steps the U.S. government is taking to increase the availability of information inside North Korea—including the provision of radios—to maximize North Koreans access to foreign broadcasts like Radio Free Asia.

Whatever one's views on how to handle the North Korea challenge, I believe that there is a strong consensus to bring about change in North Korea. Mr. Speaker, as you know, the concept here is to do as we did with Eastern Europe—flooding repressed people with broadcasts from Radio Free Europe. When we talk with Lech Walesa and Vaclav Havel, they tell us that the biggest factor in changing attitudes behind the Iron Curtain was the ability to listen to Radio Free Europe's broadcasts.

This legislation is a responsible initiative to promote human rights, refugee protection, and increased transparency in the delivery of humanitarian aid to the North Korean people. It deserves our support.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 4011, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

URGING GOVERNMENT OF BELARUS TO ENSURE DEMOCRATIC, TRANSPARENT, AND FAIR ELECTION PROCESS

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 652) urging the Government of the Republic of Belarus to ensure a democratic, transparent, and fair election process for its parliamentary elections in the fall of 2004.

The Clerk read as follows:

H. RES. 652

Whereas the establishment of a democratic, transparent, and fair election process for the 2004 parliamentary elections in the Republic of Belarus and of a genuinely democratic political system are prerequisites for that country's integration into the Western community of nations;

Whereas the Government of Belarus has accepted numerous specific commitments governing the conduct of elections as a participating State of the Organization for Security and Cooperation in Europe (OSCE), including provisions of the Copenhagen Document;

Whereas the election in the fall of 2004 of Belarus's next parliament will provide an unambiguous test of the extent of the Belarusian authorities' commitment to implement these standards and build a democratic society based on free elections and the rule of law;

Whereas previous parliamentary elections in Belarus have not fully met international standards;

Whereas it is the duty of government and public authorities at all levels to act in a manner consistent with all laws and regulations governing election procedures and to ensure free and fair elections throughout the entire country, including preventing activities aimed at undermining the free exercise of political rights;

Whereas a genuinely free and fair election requires a period of political campaigning conducted in an environment in which neither administrative action nor violence, intimidation, or detention hinder the parties, political associations, and the candidates from presenting their views and qualifications to the citizenry, including organizing supporters, conducting public meetings and events throughout the country, and enjoying unimpeded access to television, radio, print, and Internet media on a non-discriminatory basis;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and effective opportunity to exercise their civil and political rights, including the right to vote free from intimidation, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires the full transparency of laws and regulations governing elections, multiparty representation on election commissions, and unobstructed access by candidates, political parties, and domestic and international observers to all election procedures, including voting and vote-counting in all areas of the country;

Whereas control and manipulation of the media by national and local officials and others acting at their behest could raise grave concerns regarding the commitment of the Belarusian authorities to free and fair elections;

Whereas efforts by national and local officials and others acting at their behest to impose obstacles to free assembly, free speech, and a free and fair political campaign could call into question the fairness of the upcoming elections; and

Whereas the arrest or intimidation of opposition political parties and candidates such as the leader of the United Civic Party and others involved with the opposition including those associated with the Coalition Five Plus represents a deliberate assault on the democratic process: Now, therefore, be it

Resolved, That the House of Representatives—

(1) looks forward to the development of cordial relations between the United States and the Republic of Belarus;

(2) emphasizes that a precondition for the integration of Belarus into the Western community of nations is its establishment of a genuinely democratic political system;

(3) expresses its strong and continuing support for the efforts of the Belarusian people to establish a full democracy, the rule of law, and respect for human rights in Belarus;

(4) urges the Government of Belarus to guarantee freedom of association and assembly, including the right of candidates, members of political parties, and others to freely assemble, to organize and conduct public events, and to exercise these and other rights free from intimidation or harassment by local or national officials or others acting at their behest;

(5) urges the Government of Belarus to meet its Organization for Security and Cooperation in Europe (OSCE) commitments on democratic elections;

(6) urges the Belarusian authorities to ensure—

(A) the full transparency of election procedures before, during, and after the 2004 parliamentary elections;

(B) free access for Belarusian and international election observers;

(C) multiparty representation on all election commissions;

(D) unimpeded access by all parties and candidates to print, radio, television, and Internet media on a non-discriminatory basis;

(E) freedom of candidates, members of opposition parties, and independent media organizations from intimidation or harassment by government officials at all levels via selective tax audits and other regulatory procedures, and in the case of media, license revocations and libel suits, among other measures;

(F) a transparent process for complaint and appeals through electoral commissions and within the court system that provides timely and effective remedies; and

(G) vigorous prosecution of any individual or organization responsible for violations of election laws or regulations, including the application of appropriate administrative or criminal penalties;

(7) further calls upon the Government of Belarus to guarantee election monitors from the Office of Democratic Institutions and Human Rights (ODIHR), other participating States of the OSCE, Belarusian political parties, candidates' representatives, nongovernmental organizations, and other private institutions and organizations, both foreign and domestic, unobstructed access to all aspects of the election process, including unimpeded access to public campaign events, candidates, news media, voting, and post-election tabulation of results and processing of election challenges and complaints;

(8) encourages the international community, including the Council of Europe, the OSCE, and the OSCE Parliamentary Assembly, to continue their efforts to support democracy in Belarus and urges countries such as Lithuania and other Baltic countries and Nordic countries to continue to provide assistance to nongovernmental organizations and other Belarusian organizations involved in promoting democracy and fair elections in Belarus; and

(9) pledges its support to the Belarusian people, their commitment to a fully free and open democratic system, their creation of a prosperous free market economy, and their country's assumption of its rightful place as a full and equal member of the Western community of democracies.

The SPEAKER pro tempore (Mr. HENSARLING). Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 652.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 652, which calls on the Government of Belarus to ensure that parliamentary elections which will take place in October of this year are democratic, transparent, and fair.

Thirteen years after the fall of Communism, Belarus remains one of the few nations in Europe where the transition to democracy has not taken sufficient root. The current political leadership continues to rule in an authoritarian manner and its government continues to track down those individuals and organizations who are trying to help build support for democracy and democratic institutions.

Unlike the situation in Ukraine, the government in Belarus has thus far not given any clear indication that it is committed to free and fair elections. However, in a recent meeting with the ambassador from Belarus, the gentleman from Nebraska (Mr. BEREUTER) of the Subcommittee on Europe was led to believe that the government's positions on the elections could be positive. The ambassador gave assurances that the government would enforce the elections codes and would allow all political parties to have representatives on the electoral commissions which oversee implementation of the elections. He also indicated that Belarus would cooperate with the OSCE and would allow international observers.

At a hearing the Subcommittee on Europe held in March on Belarus, the gentleman from Nebraska (Chairman BEREUTER) pointed out that the gentleman from Illinois (Speaker HASTERT) and several Members met with the leaders of the Belarus opposition, collectively known as the Coalition Five-Plus, to discuss the elections and their visions for a democratic future for Belarus.

This group of political parties is united in a common platform in an attempt to bring democracy and respectability back to the Belarus Parliament.

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Unfortunately, members of the opposition political parties and participants in political demonstrations continue to be subjected to harassment, surveillance by government agents, arrests and physical abuse. For these reasons, it is important that the United States Government, including this Congress, continue to emphatically express our strong support for free, fair, and transparent elections.

In Europe, the situation in Belarus understandably seems to be of equal concern. The OSCE, the OSCE Parliamentary Assembly, and the Parliamentary Assembly of the Council of Europe have all expressed deep concerns over Belarus and its forthcoming elections. In fact, members have been informed that the Chair of the Belarus Working Group of the OSCE Parliamentary Working Assembly recently visited Minsk for additional discussions on the elections.

Mr. Speaker, H. Res. 652 emphasizes that if Belarus is ever to become more integrated into the community of democratic nations, it must work toward the establishment of a genuinely democratic political system in which the freedom of association and assembly are guaranteed. It also must be a fact that political candidates from the opposition should be free from political harassment and intimidation as they campaign for office, and in which the media is free to act independently, free from government control or intimidation.

Finally, there must be a system in which elections and the electoral process are open, transparent, and fair if Belarus wishes to be included in the community of democratic nations.

The parliamentary elections this fall will be a litmus test for President Lukashenko's commitment to democracy and the direction he intends to take Belarus in the future.

In closing, Mr. Speaker, H. Res. 652 rather precisely explains the concerns and recommendations of the United States House of Representatives. It has been crafted by the gentleman from Nebraska (Mr. BEREUTER), and the Congress is in his debt for emphasizing the importance of this issue to the people of Belarus, as well as Europe and the United States.

I also would like to thank the distinguished ranking member of the committee, the gentleman from California (Mr. LANTOS), for his leadership on so many issues, particularly those that relate to the historical transitions taking place in Eastern Europe.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this resolution and urge all of my colleagues to do so as well.

Over the past 2 decades, totalitarian government after totalitarian government has fallen to the forces of democracy in one of the greatest achievements of the modern era. Tin-pot dictators and brutal military thugs have been tossed out of their ruling palaces, replaced by leaders chosen in fair elections, leaders willing to govern in an open and transparent manner.

Sadly, Mr. Speaker, some dictatorial regimes continue to cling to power, using brutal force, intimidation, and torture to resist the worldwide trend towards democracy. Without a doubt, Alexander Lukashenko Belarus is a rising star in the world's list of rogue dictators.

In 1996, Lukashenko amended the constitution in a flawed referendum and in 2001 extended his term in office through an election that was neither free nor fair. He stole local elections in March and in November of 2003.

Mr. Speaker, the list of Lukashenko's violations of internationally recognized human rights does not end with fraudulent elections. Political opponents are intimidated, arrested, or disappear without a trace. Independent media outlets have been closed, and journalists are prevented from writing the truth.

Nongovernmental organizations have been closed. United States nongovernmental organizations attempting to promote political party development have been kicked out of Belarus. Trade union leaders have been repressed, and religious freedom has been eroded. In short, Mr. Speaker, the human rights and democracy situation in Belarus is on a steady downwards path.

Belarus is now preparing for parliamentary elections in October. Our resolution calls upon the Government of Belarus to ensure that these important elections are conducted in a free and fair manner.

The United States and the European Union have been working jointly to encourage the government to conduct these elections in an open manner under the watchful eye of the Organization for Security and Cooperation in Europe. I have no confidence, however, that Lukashenko has any intention of listening to the voices of his own citizens or those of the international community who are demanding political change.

Yet, the Government of Belarus must understand that we will never forget the cause of human rights and the cause of democracy in Belarus, and that the United States and Belarus will never have fully normal relations until Belarus moves assertively and convincingly towards a democratic form of government.

I strongly support passage of this resolution, and I urge all of my colleagues to do so as well.

Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, it is great to be down here on the floor with my friends and colleagues who want to continue to push for freedom and democracy. I dabble in this as not a professional on the committee, but I cannot think of a better way to spend one's additional free time than to work with the colleagues and friends that I have on the Committee on International Relations in promoting freedom and democracy. If the United States is not about freedom and democracy for ourselves and for other countries, then what are we for?

The great words of the gentleman from Iowa (Mr. LEACH) and, of course, the gentleman from California (Mr. LANTOS), I cannot really add to them. I just want to add my voice to the chorus of many, as Chair of the Baltic Caucus and concerned about that region of Europe, and, really, the last dictator in Europe and his oppression of the democratic movement, that he needs to be placed on notice.

They have upcoming elections. They are not being conducted fairly and freely, and there is harassment, there is intimidation, there are beatings. Even by their own rules, they are not allowing fair coverage by the state-run television media. It is important for us here to let them know publicly, through this debate and through passage of this resolution, that we are watching and that we are not going to go away; and we are going to join with our friends in the international community. We are going to join with our friends in Western and Eastern Europe and the NATO countries, and we are going to continue to say, for the sake of your own people, for the sake of freedom and democracy and economic growth and vitality, join the Western free countries. Tear down your borders, open up your system, allow your people to choose.

There are very credible organizations and groups of committed citizens of Belarus joined in the Party of Five, very disparate elements, different ideologies. They so much want freedom and democracy that they have put aside the ideological debate on how to run a government, to say, let us have democracy. Let us first get to the basic, fundamental principles of democracy and freedom, and then let us, in a peaceful setting, sometimes probably as rancorous as we have on the floor of the House, let us then, in open debate, decide how we are going to do that.

I have met with them. They are patriots, and they are again from the far right and the far left, and they only want one thing. They want access to the political system and the democratic process.

We are watching. This resolution continues to put Mr. Lukashenko on notice that we are not going to go away. The international community is here, we are behind not only the people of Belarus, not only the people of the region, but the whole international community in calling for free, fair, and honorable elections this October.

I thank the members of the Committee on International Relations, especially the chairman and the ranking member, for making sure that this is put on record and that we have a chance to speak on it on the floor tonight. I look forward to working with my colleagues in the future.

Mr. LEACH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the resolution, H. Res. 652.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMENDING THE MILLENNIUM CHALLENGE ACT OF 2003 TO EXTEND THE AUTHORITY TO PROVIDE ASSISTANCE TO COUNTRIES SEEKING TO BECOME ELIGIBLE COUNTRIES FOR PURPOSES OF THAT ACT

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 4660) to amend the Millennium Challenge Act of 2003 to extend the authority to provide assistance to countries seeking to become eligible countries for purposes of that Act, as amended.

The Clerk read as follows:

H.R. 4660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) On March 14, 2002, the President stated: "America supports the international development goals in the U.N. Millennium Declaration, and believes that these goals are a shared responsibility of developed and developing countries.".

(2) Section 201(b)(4) of H.R. 1950, as passed by the House of Representatives on July 16, 2003, states that it is the policy of the United States to support compacts of the Millennium Challenge Account which, among other things, aim "to reduce poverty by significantly increasing the economic growth trajectory of beneficiary countries through investing in the productive potential of the people of such countries".

(3) On May 10, 2004, the President recognized the link between global poverty and the national security of the United States by stating: "In many nations, poverty remains chronic and desperate. Half the world's people still live on less than $2 a day. This divide between wealth and poverty, between opportunity and misery, is far more than a challenge to our compassion. Persistent poverty and oppression can spread despair across an entire nation, and they can turn nations of great potential into the recruiting grounds of terrorists.".

(4) Section 602 of the Millennium Challenge Act of 2003 (22 U.S.C. 7701) states that a purpose of that Act is "the elimination of extreme poverty".

(5) The Report of the Committee on International Relations to accompany H.R. 2441 of the 108th Congress (H. Rept. 108–205) states that "[f]or the Millennium Challenge Account to be successful as an incentive for future reform as well as a reward for past reform, it must offer opportunities for those low-income countries whose institutions do not yet meet all the eligibility criteria but who are demonstrating partial success in meeting the eligibility criteria".

(6) The purpose of section 616 of the Millennium Challenge Act of 2003 (22 U.S.C. 7715), and the "threshold program" established pursuant to such section by the Millennium Challenge Corporation, in consultation with the United States Agency for International Development, is to provide assistance to the low-income countries described in paragraph (5) in order to assist such countries to become eligible countries under the Act.

(b) PURPOSE.—The purpose of this Act is to amend the Millennium Challenge Act of 2003 to authorize funding of the "threshold program" under section 616 of such Act for the same duration as the authorization of funding for the overall Millennium Challenge Act of 2003.

SEC. 2. EXTENSION OF AUTHORIZATION OF ASSISTANCE TO CERTAIN CANDIDATE COUNTRIES.

Section 616(d) of the Millennium Challenge Act of 2003 (22 U.S.C. 7715(d)) is amended by striking "for fiscal year 2004" and inserting "for a fiscal year".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4660 is an amendment to the Millennium Challenge Account, or MCA, of 2003 to extend the authority to provide assistance to countries seeking to become eligible countries for purposes of that act.

Last session, Congress authorized the Millennium Challenge Account to provide substantial development assistance to high-performing, low-income countries through fiscal year 2005. Recently, the Board of Directors of the

Millennium Challenge Corporation selected 16 countries that are eligible to receive MCA assistance.

At issue with this resolution is the problem of how to deal with countries that just missed passing the eligibility bar.

The Millennium Challenge Account authorized the MCC to provide limited assistance through a threshold program to these countries for the purpose of improving in the areas where they fell short. This was done partly in recognition of the fact that many threshold countries have limited resources to invest in the well-being of their people.

This amendment will authorize funding of the threshold program and match the duration of the threshold program to that of the MCA. This will allow us to continue to support the preparation of worthy threshold countries for their full participation in the Millennium Challenge Account.

Mr. Speaker, I believe this bill will improve the Millennium Challenge Account program and advance the interests of the United States. I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume and I rise in strong support of this legislation.

Mr. Speaker, half of the world's population still lives on less than $2 a day. What this means is that approximately 3 billion men, women, and children, or a population 10 times the size of ours, awake each morning to little food, dirty water, inadequate shelter, and no health care.

□ 1915

Alleviating this crushing poverty around the globe is a moral imperative, but it is also related to our national interests.

Persistent poverty has made generations of men, women, and children vulnerable to infectious diseases such as tuberculosis and HIV/AIDS. It has also bolstered the appeal of extremist ideologies which preach hate and intolerance. Mr. Speaker, the Millennium Challenge Account has already begun to mitigate the effects of global poverty and to provide poor citizens around the world with the tools for their advancement.

But for the MCA to succeed fully and to maintain solid congressional support, the Millennium Challenge Corporation must undertake serious efforts to expand the number of countries that will benefit from the millennium initiative.

The lucky 16 countries that are currently eligible to receive MCA assistance represent only about 3 percent of the world's poor. The most effective way to expand the number of poor countries that can receive MCA funds is through a program for threshold countries that just miss clearing the eligibility bar. Unfortunately, the threshold program is only authorized through the current fiscal year. My legislation helps ensure that the millennium initiative continues to be available to as many poor people as possible by reauthorizing the threshold program for as long as the MCA operates.

Mr. Speaker, in order for the MCA to achieve its stated goal of reducing poverty, the CEO of the Millennium Challenge Corporation must focus his attention on more than just stimulating economic growth in eligible countries. Our experience in our own country has made it painfully clear that trickle-down economics tends to push the working poor further into misery rather than provide them with better economic opportunities.

Effective poverty reduction requires investments in education, health, and other sectors which directly contribute to building the human capacity of these countries. It demands policies that close the gap between the rich and the poor in developing nations by providing equal access to assets such as land, and real poverty reduction requires that special attention be paid to poor farmers and to women who bare a disproportionate burden under poverty.

Mr. Speaker, Congress granted the executive branch unprecedented flexibility in how the MCA funds were to be expended, because the executive branch promised us that it would make it easier to achieve the program's objectives. Poverty reduction is one of the primary goals of the MCA. Early signs indicate that the administration may be squandering its opportunity to meet this goal. It may erode bipartisan congressional support for the program. I hope that this is not the case and that Presidential support for my legislation will allay these concerns. I urge my colleagues to support H.R. 4660.

Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 4660, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CELEBRATING 10 YEARS OF MAJORITY RULE IN REPUBLIC OF SOUTH AFRICA

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 436) celebrating 10 years of majority rule in the Republic of South Africa and recognizing the momentous social and economic achievements of South Africa since the institution of democracy in that country, as amended.

The Clerk read as follows:

H. CON. RES. 436

Whereas the Republic of South Africa peacefully and successfully held democratic elections and transitioned to a democratic, nonracial form of government in 1994;

Whereas South Africa helped initiate and frame the New Partnership for Africa's Development as a new partnership between Africa and the rest of the world in order to place the continent of Africa on the path to sustainable development and to further the values of democracy and economic reform throughout Africa;

Whereas South Africa actively supports the South African Development Community, which promotes regional economic cooperation and higher standards of living in Southern Africa;

Whereas South Africa has made significant advances in housing by constructing 1,600,000 houses for the poor of South Africa;

Whereas, since 1994, 9,000,000 people in South Africa have gained access to clean water;

Whereas, before 1994, 22,000,000 people in South Africa did not have access to adequate sanitation, but 63 percent of households in South Africa now have access to adequate sanitation;

Whereas, before 1994, 60 percent of people in South Africa did not have electricity, but more than 70 percent of households in South Africa now have electricity;

Whereas, from 1994 to 2004, secondary school enrollment in South Africa increased from 70 percent to 85 percent, and students in South Africa now learn in a racially integrated school system;

Whereas the Government of South Africa has established nutritional and educational programs to benefit the youngest and poorest people in South Africa;

Whereas South Africa is experiencing the longest period of consistent positive growth, as measured by its gross domestic product (GDP), since growth in GDP was properly recorded in the 1940s;

Whereas F.W. de Klerk and Nelson Mandela share a Nobel Peace Prize for their work in ending apartheid in South Africa and establishing a representative government;

Whereas Desmond Tutu led the Truth and Reconciliation Commission to repair injustices among South Africans and improve race relations in the country, and was awarded a Nobel Peace Prize for his efforts;

Whereas South Africa has contributed troops to peacekeeping efforts in Burundi, Liberia, the Democratic Republic of the Congo, Ethiopia, and Eritrea;

Whereas South Africa President Thabo Mbeki has forged a relationship with President George W. Bush, making three state visits to the United States and hosting President Bush during his visit to Pretoria, South Africa;

Whereas South Africa has served as an inspiration for other African nations striving for democracy and the peaceful cooperation of many ethnic groups;

Whereas, after being isolated for many years because of the odious system of apartheid, South Africa has since 1994 become a premier location for large international conferences, a leading tourist destination, and the locale for numerous films; and

Whereas, in 1993, the Government of South Africa voluntarily halted its biological, chemical, and nuclear weapons programs and, in 1994, hosted the first conference in Africa on the implementation of the Convention on the Prohibition on the Development, Production, Stockpiling, and Use of Chemical Weapons and On Their Destruction, with annexes. done at Paris January 13, 1993, and entered into force April 29, 1997: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) applauds the Republic of South Africa for the remarkable transition to a democratic government and the tremendous progress achieved during 10 years of majority rule;

(2) looks forward to a continued partnership with South Africa focused on a sustained commitment to the health of South Africans; and

(3) anticipates continued social development and economic growth in South Africa.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 436.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from New Jersey (Mr. PAYNE) for bringing before us this resolution, celebrating 10 years of majority rule in the Republic of South Africa and recognizing the momentous social and economic achievements of South Africa since the institution of democracy in that country.

In April 1994, nearly 19 million South Africans went to the polls to elect South Africa's first democratic government. The African National Congress, or ANC, which had led the struggle against white majority rule in the apartheid system of state-enforced racial segregation, won control of the national assembly and elected Nelson Mandela, who had been in prison for 27 years for the crime of advocating democracy, president.

President Mandela was succeeded by Deputy President Thabo Mbeki in June 1999, and Mr. Mbeki was re-elected in April 2004.

Since the end of apartheid, South African leaders have faced the daunting task of meeting the great expectations of the black electorate while fulfilling the economic potential of the country. Half a century of apartheid and years of sanctions have decimated the economy and left most black South Africans poor and undereducated. High rates of unemployment and crime, as well as the specter of HIV/AIDS, continue to pose significant challenges. Still, South Africa's transition has been remarkable and serves as an example to all nations striving for democracy, reconciliation, and development.

This is a bipartisan resolution which has been given full consideration during a hearing and a markup by the Committee on International Relations, and I urge the support of this body.

But, again, before yielding to the gentleman from California (Mr. LANTOS), let me thank the gentleman from New Jersey (Mr. PAYNE) for his prominent leadership on this and so many other issues; and I would also like to recognize a former Member, Mr. Ron Dellums, for his leadership in Congress on antiapartheid efforts. And there are few Members in my career that I have been prouder to stand behind on an issue of such fundamental human rights significance.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

I strongly support this resolution, and I urge all of my colleagues to do so as well.

When I first came to the Congress in 1981, the nation of South Africa suffered under the yoke of the brutal apartheid system. Few things in modern history were as palpably evil as apartheid, an appalling system of racial discrimination. Under apartheid policies, 3.5 million African people, let me repeat this, Mr. Speaker, 3.5 million African people were removed forcibly from their land and from their homes between 1960 and 1983. Under one removal program called the Black Spot Removal Policy, 475,000 blacks living on their own farms in rural communities were robbed of their land, forcibly relocated, and reconstituted as a vast cheap labor pool for commercial farms.

Mr. Speaker, what a difference 10 years make. Today, South Africa has made a truly historic transition from the hateful and racist apartheid regime to a multiracial and peaceful democracy. In South Africa today, citizens of all races, all cultures, and all religions live and work together in peace.

In 1994, thanks to decades of internal resistance and comprehensive sanctions by the responsible segments of the international community, the apartheid regime ended; and it was replaced by a vibrant and peaceful democracy. We in Congress fought for 2 decades to turn our government's policies away from supporting segregation in South Africa towards democracy and freedom.

Throughout the 1980s, many Members of this Congress introduced legislation denouncing apartheid and offering sanctuary to both its black victims and to white citizens of conscience who refused to serve in the military and security forces of an apartheid regime.

In 1986, Congress passed the apartheid sanctions bill and overrode the administration's veto of that critically important legislation. With this historic congressional override, we put our Nation on the side of freedom and justice for all the people of South Africa.

I am proud to have been a cosponsor of that legislation and many other bills that kept Congress focused on the travesty of racial discrimination.

Mr. Speaker, with the passage of our resolution, we recognize the difficult path to freedom taken by South Africa's people. Unlike today where terrorists seek to change political regimes and social order with barbaric attacks on civilians, South Africa's liberation movements condemn violence directed at civilians.

The African National Congress led by their imprisoned leader Nelson Mandela, Walter Sisulu, Helen Joseph, and others understood that a future of peace could not be built on a foundation of terror, hatred, and fear. Instead, they fought through the pain of apartheid, embraced the ideals and values of democracy, and in the end shook hands with the enemy whose founding ideology defined them as less than human beings.

Mr. Speaker, South Africa stands today as a strong democratic ally of the United States and is strategically important to Africa's political and economic future.

We must do all we can to solidify further relations between our two nations and to continue our joint quest to bring justice, prosperity, and freedom to all of Africa.

On a personal note, Mr. Speaker, my wife, Annette, and I had the privilege of visiting South Africa during the crucial weeks when the apartheid regime collapsed, and it was a joy to meet and work with and see the leaders on both sides who were ready to build a new, peaceful multiracial society.

I urge all of my colleagues to support this resolution. I want to congratulate my friend and colleague, the gentleman from New Jersey (Mr. PAYNE), for his leadership on this matter and our former colleague Ron Dellums, my neighbor in California, for his leadership on this issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. PAYNE), the leader of this legislation and this whole concept, and my good friend.

(Mr. PAYNE asked and was given permission to revise and extend his remarks.)

□ 1930

Mr. PAYNE. Mr. Speaker, I thank the gentleman from California (Mr.

LANTOS) for the outstanding work he has done as the ranking member of the Committee on International Relations. I stand very proudly today to urge my colleagues to support H. Con. Res. 436, commending a decade of democracy and majority rule in the Republic of South Africa.

I did not believe when I visited South Africa in the 1970s that we would see a transformation of that apartheid-run racist government transformed by peaceful means. When the first elections were held 10 years ago, I recall the lines of people who waited for hours and hours in order to vote.

Let me say that South Africa has transformed from an apartheid state to a nonracial, peaceful and democratic form of government. The country successfully held democratic elections in 1994 to elect its first democratically elected president.

After being imprisoned for 27 years, Nelson Mandela became South Africa's first democratically elected president. As the first democratically elected president, Mr. Mandela laid the foundation for more reliable government and an economically viable country and is seen not only as a leader in Africa, but as we all know, as a world leader.

Before 1994, only 40 percent of the people in South Africa had electricity; now more than 70 percent of the households in South Africa have electricity. South Africa has made a significant advance in housing by constructing 1,600,000 houses for the poor in South Africa, a remarkable, remarkable feat.

From 1994 to 2004, secondary school enrollment in South Africa increased from 70 percent to 85 percent and students in South Africa now learn in a racially integrated school system. Also, during this time, 9 million people in South Africa have gained access to clean water. In addition, the Government of South Africa has established nutritional and educational programs to benefit the youngest and the poorest.

As the world's leading democracy, we should applaud the Government of South Africa for the reforms it has substituted to better serve its people. South Africa has served as an inspiration for other African nations striving for democracy and peaceful cooperation through their many ethnic groups in their individual countries and look to South Africa as the example.

The 1990s saw the spread of democracy across the continent of Africa, once dominated by military dictators and authoritarian leaders. Nigeria held its second multiparty election this month, and despite reported irregularities, the elections were largely peaceful. The world also witnessed the end of white minority rule and subsequent democratic elections in South Africa, as we talked about. And Mr. Mandela has taken his leadership to try to find prospects for peace in Burundi.

Now Mr. Thabo Mbeki is leading that cause. Mr. Mbeki has done an outstanding job as the president, following Mr. Mandela, and his leadership is second to none on the continent. So it is a pleasure for me to join with my colleagues to say that the example set by Mr. Nelson Mandela serving one term and stepping down, I think, is an example we are all proud of.

Mr. LANTOS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, like thousands of others across the world, I was involved actively in the efforts to free South Africa. I attended many rallies, participated in demonstrations, walked picket lines, raised money and was very pleased as a member of the Chicago City Council to introduce the anti-apartheid ordinance that we passed, which prohibited the city from doing business with the Government of South Africa until such time as their policies changed.

So I am pleased to rise in strong support of H. Con. Res. 436, celebrating 10 years of majority rule in the Republic of South Africa and recognizing the momentous social and economic achievements of South Africa since the institution of democracy in that country.

Ten years ago the people of South Africa were given hope for the redresses of injustices in the past. When they held their first nonracial democratic elections to parliament in 1994, many South Africans were poor, hungry, sick and homeless. But today the people of South Africa and the world can say that progress has been made to improve the lives of South Africans and the conditions of the country.

Before 1994, 22 million South Africans did not have access to adequate sanitation. Now approximately 63 percent of the households do. Also, more than 70 percent of households in South Africa now have electricity compared to 60 percent before 1994. Since 1994, 9 million people in South Africa have gained access to clean water, 1.6 million houses have been built for the poor people of South Africa, secondary school enrollment increased from 70 percent to 85 percent, and students now learn in a racially integrated school system.

Furthermore, to help the poor and to improve the educational system of the country, the Government of South Africa established nutritional and educational programs to benefit the youngest and poorest individuals in the country. And while we cannot say that all of the problems have been solved or all of the needs have been met, we can say with assurance that the quality of life for people in South Africa, for the masses of people, has indeed changed and that is a tribute to democracy. It is also a tribute to all of the struggles of the people who helped to make it happen.

I commend the gentleman from New Jersey (Mr. PAYNE) for his introduction of this resolution. I thank the gentleman from California (Mr. LANTOS) for yielding me time.

Mr. LANTOS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary. I want to pay tribute to the gentleman and his leadership on all these important issues.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) and the members of the committee. I am delighted to join with all of them in celebration of 10 years of rule in a democratic way in the Republic of South Africa.

I can remember the days in Congress when the question of sanctions consumed, as the gentleman from California (Mr. LANTOS) and the others here remember, a couple of years' worth of rather fierce debate as to whether they were appropriate or not. I think fondly of our former colleagues, Ron Dellums of California, Bill Gray of Pennsylvania, and those of us that are here with us now, including the gentleman from California (Mr. LANTOS) and many others.

The fact of the matter is that the turning point toward this 10 years of celebration of a democratic Republic of South Africa occurred because it was finally determined that the time had come that we would impose sanctions, that we would not approve of doing business or continuing relationships with a country whose government was so one-sided, so unfair, so oppressive to the majority of its citizens. And so it is in that remembrance and out of those memories of the struggle that I am so happy to join this evening in this decade celebration of how far they have come.

Obviously, all the problems are not solved. How could they be in 10 years after the long reign of oppression that occurred there? But this was the finest hour of this Congress and our country to have played this leading role in making it clear to all of the nations of the world that we can no longer sit by and silently suffer that kind of rule.

The same situation regrettably still may apply and leave us with the same responsibilities now as applied then. I think now of the Congo. I think of the Sudan. I think of Haiti, all countries who are desperately in need of the continued support of this country. And that makes our foreign policy and the decisions we make in the committee that control foreign policy legislation so incredibly important.

I congratulate the authors of this very important resolution.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my good friend and distinguished colleague for his thoughtful observations. Let me just say that occasionally, when we are downcast with respect to international developments, we must remember that there are lots of things we were justly proud of in recent decades, one clearly is the ending of racial discrimination, of apartheid in South Africa. And the second is the collapse of the Soviet system and its replacement in large part by democratic and free societies.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 436, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING IMPORTANCE IN HISTORY OF 150TH ANNIVERSARY OF ESTABLISHMENT OF DIPLOMATIC RELATIONS BETWEEN UNITED STATES AND JAPAN

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 418) recognizing the importance in history of the 150th anniversary of the establishment of diplomatic relations between the United States and Japan.

The Clerk read as follows:

H. CON. RES. 418

Whereas over the past 150 years, the United States and Japan have developed a strong, multifaceted relationship based on shared democratic values and mutual interest in Asian and global stability and development;

Whereas the bilateral relationship between the United States and Japan was opened by a visit by Commodore Matthew Perry to Japan in 1853, the goal of which was to convince Japan to establish commercial and diplomatic relations;

Whereas the first bilateral treaty between the 2 nations, the Treaty of Peace and Amity between Japan and the United States, was signed by Commodore Perry and Japanese representatives on March 31, 1854, in Yokohama, Japan;

Whereas the Treaty of Peace and Amity signaled the end of Japan's long isolation as a feudal society and set the stage for the Meiji Restoration and for Japan's transformation into a modern industrial nation;

Whereas with the direct assistance of President Theodore Roosevelt, the Portsmouth Peace Treaty was signed in 1905, ending the Russo-Japanese War and earning President Roosevelt the 1906 Nobel Peace Prize;

Whereas as a symbol of friendship, Japan presented the United States with 3,020 cherry trees in 1912, which continue to blossom each year on the National Mall in Washington, District of Columbia;

Whereas the people of the United States and Japan worked together after World War II to reconstruct Japan and to ensure the post war emergence of Japan as a beacon of democracy and economic liberalization in the Asia-Pacific region;

Whereas the allied security relationship between the United States and Japan was launched with the signing of the Security Treaty of 1951 and further solidified with the signing of the Treaty of Mutual Cooperation and Security in 1960;

Whereas the United States and Japan, despite ongoing bilateral trade disputes, have long sought to promote economic cooperation and an open global trading system, and both nations serve as important and powerful markets for each other with over $170,000,000,000 in bilateral trade in 2003;

Whereas the Government of Japan strongly condemned the terrorist attacks against the United States that occurred on September 11, 2001, provided logistical support to United States military operations against Al Qaeda and the Taliban in Afghanistan, and has been a leading donor for the relief and reconstruction of Afghanistan;

Whereas the Government of Japan enacted special legislation to allow the deployment to Iraq of Japanese Self Defense Force personnel to carry out humanitarian aid and reconstruction activities, and committed to providing $5,000,000,000 in assistance to Iraq;

Whereas increased tourism and educational and business exchanges between the people of Japan and the United States have dramatically increased mutual appreciation of Japanese and American culture;

Whereas Japanese-American relations are further cemented by the enormous contributions to American economic, political, and cultural life by nearly 1,000,000 Japanese-Americans;

Whereas Japanese Prime Minister Junichiro Koizumi stated at the ceremony commemorating the 150th anniversary of the Japan-United States relationship that the bilateral friendship "is as solid as it is because our countries share fundamental values like freedom, democracy, and free market economy . . . [w]e are a prime example to the world that people of different races and beliefs can share the same values and be true friends"; and

Whereas generations of American and Japanese leaders have steered the bilateral relationship between the two nations from the humble beginnings of the visit to Japan by Commodore Matthew Perry to the current status of Japan as the strongest ally of the United States in the Asia-Pacific region: Now, therefore be it—

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the importance in history of the 150th anniversary of diplomatic relations between the United States and Japan; and

(2) calls for expanded political, economic, strategic, and cultural ties between the Japanese and American people and their respective governments.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 418.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to express my strong support for this resolution which was originally introduced by our good friend, the gentleman from California (Mr. LANTOS), the distinguished ranking member of the committee.

As my colleagues may know, this year marks the 150th anniversary of the beginning of relations between Japan and the United States. Even at that time, the middle of the 19th century, the United States saw itself as an emerging Pacific power and recognized the need for relations with Japan as a nation of profound significance in Asia and beyond.

Despite a 250-year history of isolationist policy under the Tokokawa shogunate, Japan's leadership was also becoming aware of vast changes taking place across the world and that the need to adapt as a matter of national leadership as well as economic viability.

The Treaty of Peace and Amity between our nations, signed 150 years ago, symbolizes the deep and abiding bond between our two peoples.

☐ 1945

As Deputy Secretary of State Richard Armitage noted recently, "the Treaty of Peace and Amity was a document viewed in its time with both hope as well as apprehension; and indeed, over the years, this coming together of our countries, the collision of our cultures, it has changed us both, greatly enriched the lives of our peoples, and at times brought us turbulence and even tragedy."

The bonds between our two countries have stood the test of time, even surviving the crucible of war. They are bonds which are brought to the attention of Washingtonians every spring when those enduring symbols of Japanese-American friendship, the cherry blossoms, a gift from the people of Japan in 1912, bloom along the Tidal Basin. They are bonds that have been strengthened by our joint resolve during the Cold War, in our determination to foster peace and reconciliation on a nuclear-free Korean peninsula, and in the reconstruction of Iraq and Afghanistan.

Today, Japan and the United States enjoy a unique partnership of peace rooted not only in common interests but common democratic values. Our relations have never been stronger. These bilateral bonds are critical not only to the peace and security of northeast Asia but to the larger world community.

As former Senate majority leader Mike Mansfield noted upon assuming the position of U.S. Ambassador to Tokyo, the U.S.-Japanese relationship is "the most important bilateral relationship in the world, bar none." It is that relationship and the enduring bonds between our two great countries and our two peoples which we honor here today through this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume. I strongly support this resolution and urge all of my colleagues to do so.

This year, the United States and Japan are celebrating the 150th anniversary of the establishment of diplomatic relations between our two great Nations. My resolution commemorates this important event in our bilateral relationship, and it recognizes the significant political security and economic ties between the people of the United States and Japan.

Mr. Speaker, the first bilateral treaty between our two countries was signed by Commodore Matthew Perry and Japanese representatives in 1854 in the city of Yokohama, Japan. This treaty signaled the end of Japan's long isolation as a feudal society and set the stage for Japan's transformation into a modern industrial nation.

From the humble beginnings of the visit to Japan by Commodore Perry, the United States and Japan have developed a strong, multifaceted relationship based on shared democratic values and mutual interests in Asian and global stability and economic development.

After generations of close security and political ties between Japanese and American leaders, Japan has emerged as our strongest ally in Asia. Japan has been a leading donor to the relief and reconstruction efforts in Afghanistan. The Japanese government enacted special legislation to allow the deployment to Iraq of Japanese self-defense forces so they may carry out humanitarian and reconstruction activities.

Increased tourism and educational and business exchanges between the people of Japan and the United States have increased mutual and reciprocal appreciation of Japanese and American culture.

The bilateral relationship has been further cemented by the enormous contributions to American economic political and cultural life made by nearly 1 million Japanese-Americans, many of whom live in my home State of California.

Mr. Speaker, the United States and Japan have developed a strong, mutually beneficial relationship over the past century and a half, which is now anchored on democracy, security, and respect for human rights.

As my colleague mentioned, each spring thousands of cherry trees given to the United States by the people of Japan blossom here in Washington, D.C., to the delight of both residents and visitors to our capital. The connections between the United States and Japan will similarly continue to blossom and to grow, and we will certainly do so for many generations to come.

I strongly support passage of this resolution and urge all of my colleagues to do so as well.

Mr. CASE. Mr. Speaker, the signing 150 years ago of the U.S.-Japan Treaty of Peace and Amity, also known as the Treaty of Kanagawa, marked the beginning of a remarkable relationship between two great nations. It also represented a milestone in the history of each nation.

For Japan, which was emerging from two-and-a-half centuries of self-imposed isolation, the treaty marked the moment that it began its ascent to the ranks of the world's great powers. For the United States, which began as a small colony on the North Atlantic seaboard with deep roots in Europe, the treaty represented its emergence as a Pacific nation.

The Treaty of Kanagawa was signed in large part because the leadership of the United States recognized the importance of establishing a formal relationship with Japan, a nation that, in spite of its long period of isolation, was widely known to have a stable government as well as cultural and literary traditions that were highly evolved and refined.

While we all acknowledge that the U.S.-Japan relationship has had periods of difficulty, particularly the tragedy of the Second World War, it has, on the whole, been close, sturdy, vital, and mutually beneficial. The relationship continues to flourish today because both nations share a belief in democratic institutions, the rule of law, and economic prosperity. Both nations also believe strongly in building a foundation for both regional and global cooperation throughout Asia and the world.

We in Hawai'i have long had an especial relationship with Japan. Today, nearly 300,000 residents of our state (19 percent of our population) are descended from Japanese immigrants who first begin arriving in Hawai'i—then the Kingdom of Hawai'i—in 1868 to work as field laborers on our sugar plantations. Hawai'i's Japanese community has since played a central role in establishing modern Hawai'i's tradition of ethnic and social diversity.

Over the course of this commemorative year, I am hopeful that all Americans and Japanese will reacquaint themselves with the depth and value of the relationship that was established between our two great nations 150 years ago.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 418.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONDEMNING ATTACK ON AMIA JEWISH COMMUNITY CENTER IN BUENOS AIRES, ARGENTINA, IN JULY 1994

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 469) condemning the attack on the AMIA Jewish Community Center in Buenos Aires, Argentina, in July 1994 and expressing the concern of the United States regarding the continuing, decade-long delay in the resolution of this case.

The Clerk read as follows:

H. CON. RES. 469

Whereas on July 18, 1994, 85 innocent people were killed and 300 were wounded when the Argentine Jewish Mutual Association (AMIA) was bombed in Buenos Aires, Argentina;

Whereas that attack showed the same cowardice and utter disregard for human life as the attacks on the United States on September 11, 2001;

Whereas the United States welcomes Argentine President Nestor Kirchner's political will to pursue the investigation of the AMIA bombing, as demonstrated by his executive order opening the archives of Argentina's Secretariat for State Intelligence (SIDE), for raising the AMIA cause to national status, and for emphasizing that there is no statute of limitations on those responsible for this attack;

Whereas it is reported that considerable evidence links the attacks to the terrorist group Hizballah, which is based in Lebanon, supported by Syria, and sponsored by Iran;

Whereas the decade since the bombing has been marked by efforts to minimize the international connection to this terrorist attack;

Whereas in March 2003 an Argentine judge issued arrest warrants for four Iranian government officials who are believed to have been involved in planning or carrying out the attack against AMIA and requested that the International Criminal Police Organization (INTERPOL) apprehend them;

Whereas the four indicted Iranians are Ali Fallahian, a former minister of security and intelligence; Mohsen Rabbani, a former cultural attache at the Iranian Embassy in Buenos Aires; Ali Balesh-Abadi, an Iranian diplomat; and Ali Akbar Parvaresh, a former minister of education;

Whereas Hadi Soleimanpour, Iran's ambassador to Argentina in the 1990's, also has an international arrest warrant pending against him by Argentine authorities for his suspected primary role in the AMIA bombing;

Whereas it is reported that suicide bomber Ibrahim Hussein Berro, a Lebanese citizen, carried out the attack on AMIA;

Whereas it has been reported that contact was made by the Iranian embassy in Buenos Aires to Ibrahim Hussein Berro, who lived in a mosque in Canuelas, Argentina, in the days before the AMIA bombing;

Whereas Argentine officials have acknowledged that there was negligence in the initial phases of the investigation into the 1994 bombing, including the destruction or disappearance of material evidence;

Whereas the first major criminal trial regarding the bombing did not begin until September 2001, and those who are currently on trial are former policemen and civilians who are accused of playing roles only in the procurement and delivery of the vehicle which was used in the bombing attack;

Whereas the judge who had presided since 2001 over the investigation and trial related to the AMIA bombing was removed in December 2003 due to charges that he bribed a key witness in the AMIA case;

Whereas the new trial judge, Rodolfo Canicoba Corral, deals with many other important cases and has few supporting staff;

Whereas on March 17, 1992, terrorists bombed the Embassy of Israel in Buenos Aires, Argentina, killing 29 people and injuring over 200, and the perpetrators of the attack also remain at large;

Whereas the inability to extradite suspected Islamic militants and Iranian officials has debilitated the efforts of the Argentine government to prosecute masterminds and planners of the 1994 AMIA bombing;

Whereas evidence indicates that the Tri-Border area where the borders of Argentina, Paraguay, and Brazil meet is suspected of harboring organizations which support terrorism, engage in drug and arms smuggling and an assorted array of other illicit, revenue-raising activities;

Whereas the Government of Argentina supports—

(1) the 1996 Declaration of Lima to Prevent, Combat and Eliminate Terrorism, which refers to terrorism as a "serious form of organized and systematic violence that is intended to generate chaos and fear among the population, results in death and destruction, and is a reprehensible criminal activity"; and

(2) the 1998 Commitment of Mar del Plata which calls terrorist acts "serious common crimes that erode peaceful and civilized coexistence, affect the rule of law and the exercise of democracy, and endanger the stability of democratically elected constitutional governments and their socioeconomic development of our countries";

Whereas the Government of Argentina actively supports the development of the "Three Plus One" (3+1) Counterterrorism Dialogue with Brazil, Paraguay, and the United States;

Whereas the Government of Argentina was successful in enacting a law on cooperation from defendants in terrorist matters, a law that will be helpful in pursuing full prosecution in this and other terrorist cases; and

Whereas the Second Specialized Conference on Terrorism held in Mar del Plata, Argentina on November 23 and 24, 1998, concluded with the adoption of the Commitment of Mar del Plata, calling for the establishment within the Organization of American States (OAS) of an Inter-American Committee Against Terrorism (CICTE): Now, therefore, be it—

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) reiterates its strongest condemnation of the 1994 attack on the AMIA Jewish Community Center in Buenos Aires, Argentina, and honors the victims of this heinous act;

(2) expresses its sympathy to the relatives of the victims, who have waited ten years without justice for the loss of their loved ones, and may have to wait even longer for justice to be served;

(3) underscores the concern of the United States regarding the continuing, decade-long delay in the proper resolution of this case;

(4) strongly urges the Government of Argentina to continue to dedicate and provide the resources necessary for its judicial system and intelligence agencies to investigate all areas of the AMIA case, including by implementing Argentine President Nestor Kirchner's executive order mandating the opening of the archives of Argentina's Secretariat for State Intelligence (SIDE), and to prosecute with due haste those who are responsible for the bombing;

(5) calls upon the international community to cooperate fully with the investigation, including by making information, witnesses, and suspects available for review and questioning by the appropriate Argentine authorities;

(6) encourages the President to direct United States law enforcement agencies to provide support and cooperation to the Government of Argentina, if requested, for the purposes of deepening and expanding the investigation into this bombing and suspected activities in support of terrorism in the Tri-Border area where the borders of Argentina, Paraguay, and Brazil meet;

(7) encourages the President to direct the United States Representative to the Organization of American States (OAS) to—

(A) seek support from OAS member countries for the creation of a special task force of the Inter-American Committee Against Terrorism to assist, as requested by the Government of Argentina, in the investigation of all aspects of the 1994 AMIA terrorist attack; and

(B) urge OAS member countries to designate Hizballah as a terrorist organization if they have not already done so;

(8) stresses the need for international pressure on Iran and Syria to extradite for trial individuals and government officials who are accused of planning or perpetrating the AMIA attack, and to immediately, unconditionally, and permanently cease any and all assistance to terrorists; and

(9) desires a lasting, warm relationship between the United States and Argentina which is built, in part, on mutual abhorrence of terrorism and commitments to peace, stability, and democracy in the Western Hemisphere.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 469, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this past Sunday marked the 10th anniversary of the bombing of AMIA Jewish Community Center in Buenos Aires, Argentina, a terrorist act which killed 85 innocent victims and wounded 300.

Though a decade has passed, the investigation into this brutal attack has yet to yield one major conviction. It has failed to focus on the credible evidence linking this heinous attack to the international terrorist group Hezbollah, which is based in Lebanon, supported by Syria and sponsored by Iran. This lack of accountability should not be allowed to continue.

We must work together to ensure that all those responsible for this horrific act are brought to justice, so that terrorists everywhere understand they will be held accountable for their violence.

H. Con. Res. 469 is a bipartisan resolution which enjoys the support of over 50 cosponsors. It was introduced by the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS).

Among other provisions, this measure calls on the United States, the Argentine government, and international community to provide and utilize all necessary resources for a thorough, broad investigation of the AMIA bombing and other related activities in the Western Hemisphere.

It further asks the international community to assist in the prosecution of the perpetrators of the AMIA bombing, including by extraditing to Argentina those who are suspected of carrying out and participating in the attack, as well as by providing access to witnesses and other evidence related to this terrorist act.

H. Con. Res. 469, introduced by the Chair of the subcommittee and the gentleman from California (Mr. LANTOS), focuses on the international connection to the attack, placing special emphasis on the role of Islamic militants and Iranian officials as the masterminds and planners of the AMIA bombing.

It calls for the creation of a special task force of the Inter-American Committee Against Terrorism to assist in the AMIA investigation and encourages all OAS member nations to designate Hezbollah as a terrorist organization.

In addition, it seeks multilateral cooperation in applying international pressure on Iran and Syria to immediately and permanently cease their affiliation with, and assistance to, global terrorists.

For the sake of the victims and survivors of the AMIA attack, for the sake of hemispheric and global security, and for the sake of justice, it is important that Congress recall what happened 10 years ago in this hemisphere.

In this context, the staff of the committee has produced a chart. It is a chart of names, and we present this to the Congress for the sake of remembering that these are real people, with real histories and real lives; and if we think about philosophies, as well as terrorism, it is interesting to note that the first great philosophical tome on terrorism by a Harvard philosopher named Hannah Arendt pointed out that the great tragedy of the Holocaust was the effort by governments not only to take people's lives but to make them into numbers, to make people unknown in their own fates, to make them anonymous.

So it is important when people are subjected to terrorist kinds of circumstances that it be understood that these are real people with real histories, and this is a real tragedy.

It is always awkward in any sense of crime to think of statutes of limitations; but when it comes to terrorism, there should be no statute of limitation, and 10 years is a long time for no progress. It is the obligation of civilized people to remember the people and to remember that accountability is important.

It is for that reason that this resolution has been brought before the House, and I urge its unanimous adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

I want to commend my good friend from Iowa for his thoughtful and serious comments. I also want to thank my good friend, the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, and the gentlewoman from Florida (Ms. ROS-LEHTINEN), the chairman of the Subcommittee on the Middle East and Central Asia, for their invaluable work on behalf of this resolution. I rise in strong support of the resolution.

Mr. Speaker, on the morning of July 18, 1994, life in downtown Buenos Aires, Argentina, hummed along as it had on many previous mornings. Students headed off to school, and an electrician repaired faulty wiring on a building. Receptionists tapped at their typewriters, and then, suddenly, a suicide bomber slammed an explosives-laden vehicle into the Argentine Jewish Mutual Association building.

The explosion which followed mercilessly killed 85 innocent men, women, and children and wounded over 300 others.

Little Sebastian Barreiro's life ended that day. The 5-year-old had been holding his mother's hand as both of them had been walking in front of the building of the Jewish Community Center when the bomb ripped through that building.

In addition to the terrible loss of life, the 1994 terrorist attack totally destroyed the seven-story building of the Jewish community in Buenos Aires and heavily damaged surrounding buildings. With the obliteration of the brick-and-mortar community center, a repository of 100-year-old historical archives documenting the history of the Jews in Argentina, as well as the literary treasures of Argentinean Jewry and the community's cemetery records were all irreplaceably lost.

Mr. Speaker, much like the horrific attacks on our own country just 3 years ago, the brutal bombing in Argentina in 1994 was an international terrorist act. Among the 85 dead were six Bolivians, two Poles, and one Chilean.

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The perpetrators are suspected of having received financial and logistical support from terrorist individuals and groups operating in a nefarious triborder region between Argentina, Brazil and Paraguay. And the cowardly bomber himself was an accomplice of Hezbollah, a U.S.-designated foreign terrorist organization headquartered in Syria.

In fact, just days after this brutal and cruel bombing, a Hezbollah-based organization based in Lebanon claimed responsibility for this heinous crime. Despite this claim of responsibility 10 years ago, the families and friends of the victims and the entire Jewish community in Argentina were left to ask when justice will finally be served.

Mr. Speaker, the initial phases of the investigation into the bombing were botched by Argentinian authorities. A criminal trial of 20 alleged local accomplices, finally begun in September 2001, over 6 years after the commission of this horrific crime and the investigation, unbelievably, is still ongoing.

In March 2003, the presiding judge issued arrest warrants for former Iranian Government officials who are believed to have orchestrated the terrorist bombing of the Jewish community center in Buenos Aires, but these Iranian officials have yet to be arrested and sent to Argentina for trial.

Mr. Speaker, justice cannot wait any longer. The families of the victims and the larger Jewish community in Argentina deserve to know, after 10 agonizing years, who is responsible for this horrendous terrorist act.

Our resolution, which I sponsored with my good friend and colleague, the chairman of the Subcommittee on the Middle East and Asia, the gentlewoman from Florida (Ms. ROS-LEHTINEN), urges the administration, our administration, and the Government of Argentina, the Organization of American States, and all of our allies, to pursue the international culprits of this monstrous bombing, even if they are still hiding in Iran.

Mr. Speaker, we have known for many years that Iran, working through their Hezbollah stooges, commits wanton acts of violence against civilized society; and we strongly suspect that the Iranian Government was involved in this mass killing, just one of the many terrorist acts perpetrated by the ayatollahs in Tehran and their accomplices.

I thank all of my colleagues for their hard work on this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to thank Yleem Poblete for her work on the subcommittee on this resolution, and I want to reraise this plaque of names. We are obligated to remember the victims of the AMIA bombing. We are obligated to remember the men, the women and children whose names are listed here, whose lives were abruptly ended by a terrorist assault simply because of their beliefs. We have no choice except to demonstrate our commitment to help bring murderers to justice.

I urge unanimous support of this resolution of the gentleman from California (Mr. LANTOS) and the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Mr. LANTOS. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. PAYNE).

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I thank the gentlemen for yielding me this time.

I rise in support for H. Con. Res. 694 condemning the attack on the AMIA Jewish Community Center in Buenos Aires, Argentina, in July, 1994, and to express the concern of the United States regarding continuing, decade-long delay in the resolution of this case.

I think it is important to remember that whenever we see injustice anywhere, it is an attack on injustice everywhere. I think with the horrendous act in July of 1994, and with the lack of support or urgency of the Organization of American States, without the pushing of international organizations, that we leave a message that people can do what they feel like they want to do and get away with it. So I strongly urge that organizations responsible for seeing that justice is done worldwide would focus their attention on this.

It was 10 years ago that the genocide was going on in Rwanda. While we celebrated 10 years of independence for South Africa, we looked around with other terrible things happening.

Mr. Speaker, I commend the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) for this resolution. We must continue to be vigilant because injustice anywhere is an insult to justice everywhere.

Ms. ROS-LEHTINEN. Mr. Speaker, this past Sunday marked the tenth anniversary of the deplorable terrorist attack against the AMIA Jewish Community Center in Buenos Aires, Argentina. Eighty-five innocent human beings, including frail little girls and boys were killed, and 300 were wounded, by elements linked to the global terrorist network. Today, sorrow, despair and frustration still permeate the air, as justice remains an elusive, abstract concept for the victims and survivors of the AMIA bombing. This cannot and must not continue.

For this reason, the resolution I drafted with the Ranking Member of the International Relations Committee, Mr. LANTOS, renews and redirects international attention to the AMIA bombing, in order to ensure that justice is finally served—to ensure that the terrorists are held accountable, and that they are no longer allowed to roam freely, enjoying virtual impunity for this horrific act.

It was clear from the onset that the AMIA attack and the earlier one on the Israeli Embassy, were part of a campaign of violence targeted at the Jewish community in Argentina and throughout the world, by radical militant groups in the Middle East. Considerable evidence now supports this linkage, attributing the bombing to the terrorist group Hizballah, based in Lebanon, supported by Syria, and sponsored by Iran.

Argentine authorities shave issued various arrest warrants for Iranian government officials who are believed to have been involved in planning or carrying out the attack against AMIA. Among these are the former Iranian minister of security and intelligence; a former cultural attaché at the Iranian Embassy in Buenos Aries; an Iranian diplomat; a former minister of education; and the Iranian Ambassador to Argentina during the 1990s. It is further reported that one of the suicide bombers responsible for the murder and injuries of hundreds in the AMIA attack, had contact with the Iranian embassy in Buenos Aires in the days prior to the bombing.

Additional evidence indicates that the tri-border area, where Argentina, Paraguay and Brazil meet, was used to channel resources for the purpose of carrying out this terrorist attack. We now understand the importance of this critical piece of information, as the tri-border area is today widely reported to be a cesspool of Islamist terrorist activity. Yet, despite this growing evidentiary record, the decade since the AMIA bombing has been marred by negligence in the initial phases of the investigation, and by efforts to minimize the international connection to this second attack by the global terrorist network in our own Hemisphere.

The resolution we are considering today seeks to address this problem by, among other things: (1) Urging the Government of Argentina to dedicate the necessary resources for its judicial system and intelligence agencies to fully investigate and prosecute the AMIA case; (2) Calling upon the international community to cooperate fully with the investigation, including making all parties and information available to Argentine authorities, and, in particular, by honoring extradition requests for former Iranian officials who are now in third countries, such as Great Britain.

Notably, H. Con. Res. 469: (1) Encourages the President to direct U.S. law enforcement agencies to provide support and cooperation, if requested, to the Government of Argentina to ensure a resolution of the AMIA case; (2) Calls for the creation of a special task force of the Inter-American Committee Against Terrorism to assist Argentina in investigating all aspects of the AMIA attack, particularly the international connection; and (3) Urges OAS member nations to designate Hizballah as a terrorist organization if they have not already done so.

My colleagues, the wounds will not begin to heal until the investigation in to the AMIA bombing is pursued with vigor and determination, and until effective action is taken by all to ensure that justice is served. The scars will serve as a constant reminder of the need for vigilance in our Hemisphere, of the need for democratic countries to unite in condemning such horrid acts and work together to protect the right of every citizen, in every society, to live in peace and liberty free from the threat of terrorism.

This resolution is an important first step toward achieving that goal. It is a call to action. It sends an unequivocal message to all that the United States considers the resolution of this case to be a priority, that it is prepared to take the necessary steps to ensure this end, working both with regional neighbors, as well as with the Argentine government.

Ten years have already passed. We cannot wait any longer. It is time for the rule of law to be seen and to be heard in this important case. We cannot allow justice to be held captive by inaction.

I thank the over 50 co-sponsors of this resolution for their support, and would especially like to thank the House Leadership and Chairman HYDE, for allowing this measure to move expeditiously to the Floor, and ask my colleagues to render their overwhelming support by voting "yes" on H. Con. Res. 469.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 469.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DECLARING GENOCIDE IN DARFUR, SUDAN

Mr. TANCREDO. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 467) declaring genocide in Darfur, Sudan, as amended.

The Clerk read as follows:

H. CON. RES. 467

Whereas Article 1 of the Convention on the Prevention and Punishment of the Crime of Genocide (signed at Paris on December 9, 1948) states that "the Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish";

Whereas Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide declares that "in the present Convention, genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of the group to another group";

Whereas Article 3 of the Convention on the Prevention and Punishment of the Crime of Genocide affirms that "[the] following acts shall be punishable: (a) genocide; (b) conspiracy to commit genocide; (c) direct and public incitement to commit genocide; (d) attempt to committed genocide; and (e) complicit in genocide";

Whereas in Darfur, Sudan, an estimated 30,000 innocent civilians have been brutally murdered, more than 130,000 people have been forced from their homes and have fled to neighboring Chad, and more than 1,000,000 people have been internally displaced; and

Whereas in March 2004 the United Nations Resident Humanitarian Coordinator stated: "[T]he war in Darfur started off in a small way last year but it has progressively gotten worse. A predominant feature of this is that the brunt is being borne by civilians. This includes vulnerable women and children . . . The violence in Darfur appears to be particularly directed at a specific group based on their ethnic identity and appears to be systemized.": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) declares that the atrocities unfolding in Darfur, Sudan, are genocide;

(2) reminds the Contracting Parties to the Convention on the Prevention and Punishment of the Crime of Genocide (signed at Paris on December 9, 1948), particularly the Government of Sudan, of their legal obligations under the Convention;

(3) declares that the Government of Sudan, as a Contracting Party, has violated the Convention on the Prevention and Punishment of the Crime of Genocide;

(4) deplores the failure of the United Nations Human Rights Commission to take appropriate action with respect to the crisis in Darfur, Sudan, particularly the failure by the Commission to support United States–sponsored efforts to strongly condemn gross human rights violations committed in Darfur, and calls upon the United Nations and the United Nations Secretary General to assert leadership by calling the atrocities being committed in Darfur by their rightful name: "genocide";

(5) calls on the member states of the United Nations, particularly member states from the African Union, the Arab League,

and the Organization of the Islamic Conference, to undertake measures to prevent the genocide in Darfur, Sudan, from escalating further, including the imposition of targeted means against those responsible for the atrocities;

(6) urges the Administration to call the atrocities being committed in Darfur, Sudan, by their rightful name: "genocide";

(7) commends the Administration's leadership in seeking a peaceful resolution to the conflict in Darfur, Sudan, and in addressing the ensuing humanitarian crisis, including the visit of Secretary of State Colin Powell to Darfur in June 2004 to engage directly in efforts to end the genocide, and the provision of nearly $140,000,000 to date in bilateral humanitarian assistance through the United States Agency for International Development;

(8) commends the President for appointing former Senator John Danforth as Envoy for Peace in Sudan on September 6, 2001, and further commends the appointment of Senator Danforth as United States Ambassador to the United Nations;

(9) calls on the Administration to continue to lead an international effort to stop genocide in Darfur, Sudan;

(10) urges the Administration to seriously consider multilateral or even unilateral intervention to stop genocide in Darfur, Sudan, should the United Nations Security Council fail to act;

(11) calls on the Administration to impose targeted means, including visa bans and the freezing of assets, against officials and other individuals of the Government of Sudan, as well as Janjaweed militia commanders, who are responsible for war crimes and crimes against humanity in Darfur, Sudan; and

(12) calls on the United States Agency for International Development to establish a Darfur Resettlement, Rehabilitation, and Reconstruction Fund so that those individuals driven off their land may return and begin to rebuild their communities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. TANCREDO) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

GENERAL LEAVE

Mr. TANCREDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. TANCREDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand before Members tonight to urge their support for House Concurrent Resolution 467 which declares genocide in the Darfur region of western Sudan.

Unfortunately, there is no one among us who is unfamiliar with the word "genocide." Several of us have been personally affected by genocide. The mere mention of the word evokes the horrific images of the gas chambers of the Holocaust, the killing fields of Cambodia, the mass graves of Srebrenica, and the bloodied streets of Rwanda. The atrocities committed in these areas were heinous and must not be belittled by casual usage of the word "genocide," but I assure Members the decision to bring this resolution to the floor and to make such a declaration has been anything but casual.

Out of a preconflict population of 6.5 million in Darfur, an estimated 30,000 people have been killed, another 300,000 face certain death in the coming months. Up to 1 million have been internally displaced, and 130,000 others have been forced to flee to neighboring Chad. Remember that this is happening in a country that has undergone the most horrific civil war for over 25 years, where 2 million people have died and 4 million people have been displaced. Against that backdrop, we now have Darfur.

Reports by refugees, internally displaced persons, and the United Nations officials detail a systematic pattern of attacks against civilians by government-supported militias who employ scorched earth tactics, murder, rape and pillage with impunity. These attacks have been conducted in a deliberate, sequenced, and systematic fashion, and according to a recent report by the International Crisis Group, "have led to the depopulation of entire areas inhabited by the Fur, Zaghawa, Massaleit and other small groups of black African origin."

I believe, and this resolution affirms, that these atrocities meet the definition of genocide as defined in the Convention on the Prevention and Punishment of the Crime of Genocide, signed in Paris on December 9, 1948.

The manager's amendment before you does nothing to alter the purpose of the underlying resolution. The changes in the preamble are strictly technical and perfecting. The changes in the Resolved Clauses include clarifications in the new text which, one, make it clear that the Government of Sudan has violated the convention, and the prevention and punishment of the crime of genocide; two, call for specific actions by member states of the United Nations; and three, recognize the leadership of the administration in seeking a peaceful resolution to this crisis.

On April 7, 2004, the same day that world leaders were gathered in Kigali to commemorate the 10-year anniversary of the Rwandan genocide, United Nations Secretary-General Kofi Annan appeared before the U.N. Commission on Human Rights stating that reports of ethnic cleansing from Darfur had left him with a "deep sense of foreboding," and called for decisive action. We are still waiting to see what decisive action the United Nations will take.

I am particularly disappointed in the inaction of a few recalcitrant members of the African Union, the Arab League, and the Organization of Islamic Conference, who seem comfortable with sitting back while tens of thousands of their African and Muslim brothers die. To this end, the manager's amendment deplores the failure of the United Nations Human Rights Commission to condemn the gross violations of human rights which have taken place in Darfur, and calls on the United Nations and the U.N. Secretary-General to assert their leadership by calling the atrocities by their rightful name, genocide.

It also calls on members of the United Nations, particularly the member states from the African Union, the Arab League, and the Organization of the Islamic Conference, to undertake effective measures to stop the genocide in Darfur.

The manager's amendment also includes language which commends the robust response of the administration. This administration has taken the lead in attempting to resolve this crisis and deserves credit for their efforts. However, it is important to note that the protection of human rights and the prevention of genocide are not the responsibility of a few; they are the responsibility of us all. The United States cannot do this alone. The United Nations, the European Union, the African Union, the Arab League and others must step up now if we hope to prevent this genocide from escalating.

True to form, Josef Stalin once callously remarked, "One death is a tragedy. A million deaths is a statistic." Given his propensity for mass murder, this remark comes as no surprise. I submit, however, that those who have died, those who face death, and those who have lost their homes in Darfur are not mere statistics. To really know this tragedy is to think about the murder of the little boy and girl whose corpses lie in the sand, to imagine their last moments of stark terror, and to consider this brutal act repeated 30,000-fold.

Mr. Speaker, the resolution before you tonight is the product of a truly collaborative effort and enjoys bipartisan support. If we are going to attempt to solve this problem, we must first understand that which confronts us in its totality. The first step is to acknowledge that we are dealing with genocide. The next step is to take action to stop the atrocities. Let us not look back 10 years from now, wishing we had done more, saying what we have heard said oftentimes on this floor and in halls around the world about Rwanda, "I wish we would have done more. I wish we would have taken action."

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We do not want to be in that position again. This is the time. This is the opportunity we have to take those steps, to take that action. This is not a political issue as evidenced by the fact that there is broad bipartisan support. This is an issue of morality. It calls upon every single one of us in this room and on this planet to search our own hearts and souls and to think about what it is we can do individually to stop this tragedy. It is a calling. It is a moral calling on us all.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume and I rise in strong support of this resolution. First I would like to thank my good friend and distinguished colleague from New Jersey (Mr. PAYNE) for introducing this critically important resolution and for his leadership on issues affecting the entire African continent.

Mr. Speaker, Congress has the opportunity to take a historic step today, to send a message to the entire world that we will no longer deal with genocide in hindsight. Instead, we will denounce it when we see it, we will take effective steps to stop it, and we will hold those who commit genocide responsible for their monstrous actions. Today we face one of the most tragic situations on the planet, the crisis in Darfur, Western Sudan. The Sudanese government has planned, organized, and carried out unspeakable atrocities against native black African men, women, and children with the deliberate intent to engage in mass murder. Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide says: "Any act committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group is genocide."

Mr. Speaker, exactly what is the case for declaring the crime of genocide against the Khartoum government and its Arab surrogates? They have killed tens of thousands of individuals based solely on their African identity. They have caused serious bodily and mental harm to over 130,000 people, dislocated from Darfur into horrendous temporary camps in neighboring Chad. They have created over 1 million internally displaced persons, destroyed their homes and livelihood, and left them in uninhabitable and remote areas without food, medicine, and shelter.

These actions were taken specifically to bring about their physical destruction through starvation, exposure, and disease. Khartoum has deliberately and masterfully frustrated efforts to bring humanitarian relief by the international community while conducting a vicious campaign of terror against the men, women, and children of Darfur. Finally, Mr. Speaker, they have targeted men and boys for killing and used rape as a weapon of war against the women and girls of Darfur.

These actions have gone on far too long. But those of us who months ago were crying out for some sort of action by the international community have had reason in recent weeks to take some heart. Both our own government and the United Nations have started taking steps to intervene in this horrendous situation. I want to commend Secretary of State Colin Powell for his recent visit to Darfur and his efforts to stop Khartoum's genocidal efforts in their tracks. I also want to commend my friend U.N. Secretary-General Kofi Annan for his recent trip to Darfur where he too brought attention to the atrocities and demanded the Sudanese authorities stop the human destruction and protect the people of Darfur.

It is incumbent upon us to support an intervention protection force that will stop the killing and protect citizens, humanitarian relief workers and international monitors. We must work closely with the African Union and the United Nations to bring peacekeeping forces and diplomatic authority to change Khartoum's evil and monstrous policies. Africa and the international community cannot stand by while black Africans are deliberately killed because of who they are. This historic action today by our Congress will signal to the world that we will no longer deal with genocide in hindsight, but we will denounce it when we see it and hold those who commit genocide responsible for their evil actions.

Mr. Speaker, I urge all of my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. TANCREDO. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. I thank the gentleman from Colorado for yielding me this time.

Mr. Speaker, I stand tonight with these distinguished Members in support of House Concurrent Resolution 467, declaring genocide in Darfur, Sudan. To date an estimated 30,000 civilians have been murdered, more than 130,000 have been forced from their homes and have fled to neighboring Chad, and more than 1 million people have been internally displaced. If the international community fails to act, what awaits these people is a terrible season of prolonged suffering and painful death. Even now, mothers who have traveled miles fleeing their husbands' murderers are watching their children starve. They are helpless to end the violence. We are not. We must act. We cannot wait until thousands more have died.

Mr. Speaker, the good news is that we can prevent the loss of life. There is a way that our actions can matter. We have seen the faces of women holding their emaciated babies to their chest with tears streaming down their faces, and we have seen the photos of burned-out villages. What is reflected in the eyes of these women is at once utter relief at having found the camp and unimaginable grief in the tragic and needless losses they have endured. Some of them bear the physical scars of beatings and branding, but many more of them bear the emotional scars of brutal rape by the evil Janjaweed militias.

Mr. Speaker, even in the camps, the people are not safe from harm. The people in this crisis make an impossible decision every day. They have to decide whether to send the old men and boys for firewood fearing that they will be killed, or whether to send the women and girls for firewood fearing that they will be raped. Mr. Speaker, this horrifying choice is unacceptable. America and the world must demand that humanitarian aid workers have access to these suffering souls in order to bring them the food that they need, and further that credible peacekeepers enter Sudan in order to provide the critical and desperately needed security so that their lives, their future is not further marred by the horrible choices they were forced to make in order to survive.

Mr. Speaker, the people of Darfur should have a future. We must pass House Concurrent Resolution 467. Anything less would be a disgraceful failure before the eyes of God and humanity.

Mr. LANTOS. Mr. Speaker, before yielding, I would like to ask my colleague from Colorado if he would accommodate us by yielding some of his time to us because we have a number of distinguished colleagues who wish to speak on this issue.

Mr. TANCREDO. I would be happy to do so. I cannot do it right now because we have at least one other colleague who is on his way and I do not know how much; but whatever time we can yield, we will do so.

Mr. LANTOS. I appreciate the gentleman's accommodation.

Mr. Speaker, I am delighted to yield 4 minutes to my good friend from New Jersey (Mr. PAYNE), the author of this important resolution.

Mr. PAYNE. Mr. Speaker, let me commend our leaders in the Committee on International Relations, Chairman HYDE and Ranking Member LANTOS, for their tireless work in bringing this historic resolution declaring genocide in Darfur, Sudan to the floor. Many people have held back on using the word "genocide" out of fear that it is really a declaration that they try to step around, but I really am so proud that this House of Representatives is standing up and calling it like it is. As my colleague from Colorado said, it is genocide. Let me just say that this would have been impossible without the Tancredos and the Wolfs and the Royces on the other side and fighters on our side such as the gentlewoman from Illinois (Ms. SCHAKOWSKY) and all of the members of the Congressional Black Caucus and our dean, the gentleman from Michigan (Mr. CONYERS).

This is something that we did not do 10 years ago when genocide was happening in Rwanda. We looked the other way. But we are not going to look the other way in 2004. We must also impress upon the world community, the AU, the EU, the Islamic Front, all of the groups, that they must come together and that they must declare and work towards having civility return to Sudan.

But I want to remind the Congress that although we need to act now in Darfur, that once the crisis is under control, we cannot rest on our laurels and fool ourselves that this type of thing will not happen again. Let me just remind the Speaker that this same government gave sanctuary to Osama bin Laden from 1991 to 1996, allowing him to build his terror network worldwide. In fact, I would argue that al Qaeda was conceived and created in Sudan in the 1990s. Other terrorist acts are also linked to the current officials still sitting in Sudan that have not even been questioned.

It is important to recall that the government of Sudan's involvement in international terrorism goes back a decade. The Sudanese government was directly involved in the World Trade Center bombing in 1993. The mastermind of the 1993 bombing, Sheikh Abdel Rahman, who was sentenced to life in 1995, received his visa from the same Khartoum government. He was a guest of senior Sudanese government officials several weeks before that happened at that time. Of the 15 men indicted for this terror act, five were Sudanese nationalists. These Sudanese nationalists had strong ties with Sudanese diplomats stationed right here in New York at the Sudan Embassy at the United Nations.

In 1995, members of an Egyptian terrorist group tried to assassinate President Hosni Mubarak of Egypt when he was attending a meeting in Ethiopia at the OAU summit. The 11-man assassination team had been given safe haven in Sudan to prepare for the mission to kill the Egyptian president. The weapons used in the assassination attempt were reportedly flown into Ethiopia on Sudan Airways. The passports used by the assassins were also prepared in Khartoum, according to a United Nations report.

The point of listing all of this is to show a pattern. This is a regime that does not care about human lives and to think that they will stop at Darfur, we are fooling ourselves. We must begin to get serious about our dealings with the government of Sudan. No more coddling them because they have oil or because they have links to Islamic countries, no more allowing the African Union to give excuses, no more allowing the EU saying, What are we doing here?

We must act now. We must continue the pressure. I urge my colleagues to support H. Con. Res. 467, declaring genocide in Darfur.

Mr. LANTOS. I want to thank my friend for his powerful statement.

Mr. Speaker, I am very pleased to yield 2 minutes to my good friend, the gentleman from Oregon (Mr. BLUMENAUER), a distinguished member of the Committee on International Relations.

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Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in permitting me to speak on this resolution, and I appreciate the gentleman from New Jersey bringing it forward.

I think it is important that we are stepping forward to call what is happening in this troubled country by what it is, genocide. As has been referenced, we have already lost over 30,000 people. The best estimate is that we are looking at a third of a million people if everything goes right, and sadly, the path that we are on today is a million or more.

I hope that this will be an important first step for us to acknowledge, as the gentleman from New Jersey (Mr. PAYNE) put forth, that this is different than when we stood by 10 years ago in Rwanda or a dozen years ago in Bosnia; or sadly, the United States was not forthcoming a generation ago in Europe during World War II. But I think that experience has chastened us and, I hope, has sensitized us; and I hope the language that is put forward here is just the beginning. By all means, call it by what it is. By all means, move forward with the United Nations.

But I would hope that when we think of having spent $200 billion in round numbers in Iraq for actually a threat that has proven to be far less, that we can put forward the same sort of energy and interest in uniting the world community in making sure that we implement the extreme diplomacy that is necessary, that we use the power of this country from military to diplomacy to the moral suasion that we are capable of to make sure that we tip the balance and move it in the right direction.

I commend all my colleagues that are here this evening, late in the evening, for sharing their concerns and trying to craft a bipartisan approach. But I hope that this is but one of many steps of this nature to highlight, and that we will continue to spotlight and speak for as long as we are faced with this problem. We cannot ignore it, to let it slip away.

Mr. TANCREDO. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I rise in strong support of House Concurrent Resolution 467, declaring genocide in Darfur, Sudan.

I want to commend the gentleman from New Jersey (Mr. PAYNE) for introducing this important legislation. I want to personally thank the gentleman from Illinois (Chairman HYDE) and his staff and the gentleman from Colorado (Mr. TANCREDO) for ensuring that this resolution reached the floor in an expedited manner. I want to also thank the leadership for allowing this to come up so quickly.

I also want to thank the gentleman from California (Mr. LANTOS) and the gentleman from California (Mr. ROYCE) and the gentleman from Colorado (Mr. TANCREDO) and their staffs for their continued focus on Darfur. I am proud that this resolution has the support of so many Members standing side by side for the people of Darfur.

Mr. Speaker, I first stood on the floor of the House last March to highlight the situation in Darfur and to call the world's attention to the ongoing slaughter of innocent civilians. At that time, thousands were dead and predictions of more death were certain; and since then the world has finally awakened to what is occurring. Articles have been written, protesters arrested, newspapers have carried the story on the front pages. Now we all know, all the world now knows what is occurring in Darfur, and we must act to stop it. Failure to do so will cost more lives.

Unfortunately, the situation worsens on a daily basis. An estimate of 1,000 lives are now being lost every day. The situation has escalated to the point that I can now firmly say that I believe that genocide is taking place, and we all have a responsibility and a duty to the people of Darfur to try to stop it in its tracks.

I went to Darfur with Senator BROWNBACK. We met the people. We heard their stories. I listened to the women tell us who had been raped over and over. The people of Darfur are suffering.

Historically, in past cases, the world has been slow to act when faced with genocide, but today it is different. Today we stand here in the House, the people's body, staring genocide in the face. And today we know what is occurring and we are not afraid to call it what it is, genocide. The international community now has a moral and a legal obligation to stop what is occurring and bring those responsible to justice.

I want to commend the United States for taking the lead to help end the crisis. Secretary Powell, I want to thank him and Secretary-General Annan. They are to be commended for going to Darfur. I also want to commend the United States Agency for International Development and the team which has people on the ground.

The United States must continue to speak out, and I am proud tonight that for the first time when genocide is taking place, the people's House is speaking out. Every other time the resolutions took place after it was over and all the people were dead.

I want to thank the Members on this side and the gentleman from New Jersey (Mr. PAYNE) for all his efforts from way, way back, and all of them over there and the Members on this side. This is very important to speak out for the voiceless, those who have no voice.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE), my friend and neighbor.

Ms. LEE. Mr. Speaker, I rise today because, as we speak, genocide is occurring in Darfur in the western Sudan.

And let me just thank our ranking member, the gentleman from California (Mr. LANTOS), for his sense of outrage and morality on this issue, as well as the gentleman from Colorado (Mr. TANCREDO) for his consistent work to expose the atrocities as genocide.

Also, let me just recognize and thank the gentleman from New Jersey (Mr. PAYNE) for his efforts as our ranking member of the Subcommittee on Africa for always keeping African issues at the front of our congressional legislative agenda. For so many years he has been sounding the alarm, and finally tonight we are here. So I just want to thank him for his constant sounding of the alarm for this and for the people of the Sudan.

The murders, the rape, and the scorched-earth campaign in Darfur is genocide. We call it what it is by supporting this resolution.

As a member of the Subcommittee on Africa, there has been no evidence presented to indicate that this is not genocide. It is. It has been 10 years, Mr. Speaker, and the international community, particularly the United States, must learn from the Rwandan tragedy. Like Rwanda, the warning signs in Darfur were obvious. But we did nothing, and now the international community is watching once again as millions of Black Africans are wiped out of western Sudan.

The Bush administration has raised concerns and the United Nations has denounced the "ethnic cleansing" executed by militias supported by the Khartoum government, but this is beyond ethnic cleansing. This is systematic and calculated genocide. Hundreds of thousands are fleeing Darfur, fearing that they will become yet another statistic in a malicious plan to rape, torture, and ultimately wipe out all Blacks in the southwest region of Sudan.

As in other conflicts designed deliberately to humiliate and eliminate people because of their identity, we have seen women and girls targeted for rape in Darfur. How can we allow this travesty to continue and not be outraged?

The inaction of this administration I think is unconscionable, especially when we consider that one word, one word, "genocide," can make the difference between humanitarian assistance and international justice for Darfurians.

Let us pass this resolution.

Why would the Bush Administration argue over the definition of genocide, while murderers, rapists, the janjaweed, and the Khartoum government have the blood of the Darfur people on their hands?

The government of Sudan is not our partner in peace.

Our sense of morality requires us to do everything possible to stop this carnage. This bipartisan resolution will help save hundreds of thousands of lives.

Mr. LANTOS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI), our distinguished Democratic leader, an indefatigable champion of human rights across the globe.

Ms. PELOSI. Mr. Speaker, I thank our distinguished ranking member for yielding me this time and for his leadership on this very important issue.

In the very short time allotted to me, I want to commend my colleagues for being so vocal on this issue at this time and, frankly, for a very long time. I have said before when we had another resolution, an earlier resolution, on the floor that there is no Member of Congress that I hold in higher esteem than the gentleman from Virginia (Mr. WOLF) for his work on human rights throughout the world. And he has been a leader on this issue, visiting over the years, warning America, warning the world of the impending disaster that was there in one form or another over time.

And the gentleman from New Jersey (Mr. PAYNE) has taken the lead in the Committee on International Relations on this important issue, and it has not been because Members of Congress, especially the Congressional Black Caucus in the Congress, have not blown the whistle, have not sounded the alarm, have not called the public's attention to what is happening there.

And the gentleman from California (Mr. LANTOS), of course, as the cochair of the Human Rights Caucus, has been singing this song for a very long time. Why do people not listen?

When the tragedy occurred in Rwanda, everyone was embarrassed, sad, and contrite and said that it was not going to happen again. Never again could we ignore all of God's children being destroyed by each other and sit back and watch it happen to the tune of hundreds of thousands of people.

We have now been told that 30,000 people will die in the Sudan, and if we do not act, then hundreds of thousands more will die. How can we tolerate this? How can we call ourselves persons who care about every person living on the face of the Earth and not care about each and every one of these children and their parents and their families in the Sudan?

The issue today is one that we have discussed before. Is it ethnic cleansing or is it genocide? And if it is genocide, then it should provoke a reaction from all of the countries of the world who consider themselves civilized and respectful of human rights and, quite frankly, those of us and I know the motivation of the gentleman from Virginia (Mr. WOLF) and some of our other colleagues on both sides of the aisle in this regard springs from our belief that all of these people are God's children, worthy of respect.

The Bible tells us that to minister to the needs of God's creation is an act of worship; to ignore God's creation, which are these children, is to dishonor the God who made them. Right now, the world is dishonoring God. We are not committing acts of worship; we are committing acts of negligence.

It is genocide, and the perpetrators of this genocide sit with impunity in Khartoum and say they are engaged in all of this as a matter of self-defense. Is it self-defense to rape women five, six times over again so that they cannot even go home to their husbands in a society which finds that unforgiveable on the part of the woman? Is it self-defense to have children starve because food cannot get through?

Seeing the pictures of those children challenges the conscience of the world, and yet we are having a debate on semantics in the world. But not in this House. In this House we know it, we call it for what it is.

As the gentlewoman from California (Ms. LEE) said, a calculated, focused, intended elimination of these people; and that very clearly spells out what the definition of genocide is and how what is happening in the Sudan meets that standard and therefore should invoke certain actions by the rest of the world.

We all believe very strongly that something has to be done. But in light of what we said after Rwanda, we are considered hypocritical or inconsistent or just with very poor memory if we do not act upon this now. We must all answer for the genocide that is happening in the Sudan.

So I commend my colleagues for their tremendous leadership. The gentleman from New Jersey (Mr. PAYNE), the gentleman from California (Mr. LANTOS), the Black Caucus, the gentleman from Virginia (Mr. WOLF), and others have worked so hard on this for such a long time. The gentleman from Illinois (Mr. JACKSON) was just there last weekend and brings back personal stories of what he saw. So I thank them. Any one of us who wants something to happen there is deeply in their debt, as are the people of the Sudan. We must make a difference on this. I thank them for taking these steps to do so.

Mr. LANTOS. Mr. Speaker, I thank our distinguished Democratic leader for her passionate and powerful appeal.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS), distinguished ranking member of the Committee on the Judiciary of the House of Representatives.

Mr. CONYERS. Mr. Speaker, this is the proudest moment in the 108th Congress and maybe even going all the way back to the anti-apartheid resolution, the sanctions that were passed against South Africa.

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In the midst of the intense partisanship that has informed nearly every issue that has come to the Congress, somehow the Members on both sides of the aisle have come together in the most remarkable way. I cannot explain it. I am humbled by it.

But I rise to say only this, that this is only the first step, Mr. Speaker, because we have a long way to go now. Thank goodness that we got this resolution in, which is easy to predict that it will succeed. But we have the distinguished other body, we have to engage the administration of this country, we have to go to the United Nations and to the Security Council before anything begins to happen. So I know all of us will join and continue this struggle.

I lift up the name, in addition to all of us, of the Speaker of the House of Representatives, the gentleman from Illinois (Mr. HASTERT); the gentleman from Illinois (Chairman HYDE); and the gentleman from Wisconsin (Chairman SENSENBRENNER), who have made all of this possible tonight.

Just two weeks ago, my colleague from Virginia, Congressman FRANK WOLF, and I convened a bipartisan meeting of Members to develop an action plan to address the catastrophic loss of life that is occurring in Darfur, Sudan. We all agreed that the first critical step was to raise the voices of the U.S. Congress in a call to action by declaring unequivocally that what is happening in Sudan is genocide.

In my 39 years in the House of Representatives, I have never seen such incredible bipartisan, bicameral cooperation. And in an election year no less, with a highly polarized electorate. But the reason is simple. The tragedy in Sudan is not a Democrat or Republican issue; its not a Muslim or Christian issue; its not only an issue of race. Genocide is a human issue. When genocide occurs, we must all stand up and act with determination to end the systematic effort to exterminate a people. These are the lessons of the Holocaust, of Cambodia, and most recently, of Rwanda.

In Rwanda, we shrugged our shoulders and waited until eight hundred thousand (800,000) people were killed, before we identified that event as a genocide. In 1948, the United Nations put forth the Convention Against Genocide and the United States and many other nations signed on to that convention, agreeing to prevent genocide wherever and whenever it happens. Our nation has taken an important role in this crisis—negotiating a settlement to the war, providing the bulk of the humanitarian aid, increasing the pressure on the Sudanese government.

Now—before it is too late to save the one million lives at risk of death—now, we must rally our allies and the U.N. Security Council to take action. Now is the time to authorize multilateral troops. Now the world must send a clear message that genocide will no longer be tolerated, anywhere.

If we can come together in this Congress on such an urgent human issue, I believe that we can bring together our friends in Europe, Africa, Asia and Latin America to address this genocide in the Security Council. That effort is our moral imperative.

Passage of this historic resolution is the first time this body has declared a humanitarian or political crisis to be genocide. This would not have been possible without the efforts of my Republican colleagues—Speaker DENNIS HASTERT (R–IL), Chairman of the International Relations Committee, HENRY HYDE (R–IL), Chairman of the Subcommittee on Western Hemisphere, CASS BALLENGER (R–NC), Chairman of the Africa Subcommittee ED ROYCE (R–CA), Congressman FRANK WOLF (R–VA), and Congressman TOM TANCREDO (R–CO).

My fellow Democrats played a critical role in moving this resolution to the floor, including—Congressman TOM LANTOS, Ranking Member of the International Relations Committee, Congressman DONALD PAYNE, Ranking Member of the Africa Subcommittee (D–NJ) and the sponsor of this resolution, the many Members of the Congressional Black Caucus, under the leadership of Congresman ELIJAH CUMMINGS (D–MD).

And we must thank our friends in the Senate—Senator SAM BROWNBACK (R–KS) and Senator JON CORZINE (D–NJ) for their passionate, diligent work and cooperation on this issue.

While I congratulate you all, I hope that the real victory will go to the people of Sudan. This vote is an important step to saving lives. I look forward to working with my colleagues in the Hose and Senate, the Administration and the United Nations to continue this important effort to stop this genocide.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to my good friend and neighbor, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I am so proud of the gentleman from Illinois (Chairman HYDE); the ranking member, gentleman from California (Mr. LANTOS); the gentleman from New Jersey (Mr. PAYNE); the gentleman from Michigan (Mr. CONYERS); the gentleman from Colorado (Mr. TANCREDO); the gentleman from Virginia (Mr. WOLF); the gentlewoman from Illinois (Ms. SCHAKOWSKY); and all of those on both sides of the aisle who have been working so hard to bring this genocide to the attention of our own government and to the world. We have people who are working very hard to get something done.

My heart is heavy this evening because it has taken us much too long. I know that the gentleman from California (Mr. LANTOS) did give a word of thanks to Colin Powell and Kofi Annan for making the trip and for urging the Khartoum government to cooperate and stop the genocide. But I say to the gentleman from California (Mr. LANTOS), we have to ask Colin Powell and Kofi Annan and the President of the United States to get tougher. They have got to get tougher. We are watching genocide take place.

I am pleased about this resolution. Genocide has taken place in this world far too many times, genocide that could have been stopped if good people just took a little tougher action.

We have watched genocide time and time again, in most recent of times, Rwanda. This does not have to continue. Over 30,000 people have died; 1 million people stand to die as I stand here today.

So it is time to act and act now. We must first recognize that the Khartoum government is part of the problem. They keep making promises, but they lie. The minute they say they are going to cooperate, we turn our backs, they are supporting the Janjaweed. They are indeed a part of the problem. We must act, we must act now, and we must be tough. We can stop this genocide.

Tonight, we define it for what it is with this resolution. Thank you, I say to the gentleman from New Jersey (Mr. PAYNE). It is genocide. Let the word go forth, and it must be stopped.

Mr. TANCREDO. Mr. Speaker, I yield 5½ minutes to the gentleman from California (Mr. LANTOS) and ask unanimous consent that he be allowed to control said time.

The SPEAKER pro tempore (Mr. HENSARLING). Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that an additional 10 minutes to each side be devoted to discussing this all-important issue.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to my friend and colleague, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I too want to add my recognition, more than appreciation, but my recognition for the gentleman from Illinois (Chairman HYDE) and the ranking member, the gentleman from California (Mr. LANTOS), who never turn their back on the issues of human rights. The gentleman from New Jersey (Mr. PAYNE), who was right continuously as he, I would like to say, plugged ahead on being persistent in dealing with this question of Sudan and the direction that we should take in this Congress. The gentleman from Colorado (Mr. TANCREDO) and the gentleman from Wisconsin (Mr. SENSENBRENNER) and, of course, the gentleman from Michigan (Mr. CONYERS), who has had a series of meetings that we have been participating in over a number of weeks.

Let me suggest to you that this should be a night of action. The vote on this resolution is in fact a statement that is long overdue. I might refer you to the language of this resolution and its first resolve, and that is that we declare that the atrocities unfolding in Darfur, Sudan, are genocide.

Let me cite to you Amnesty International, which indicates the horror that is happening in West Darfur: "I was sleeping when the attack started. I was taken away by the attackers. They were all in uniforms. They took dozens of other girls. They made us walk for 3 hours. During the day, we were beaten and they were telling us, you the black woman, we will exterminate you. You will have no God. All night we were raped several times."

I do not want to bring back the horrors of life that we led as slaves in this country. I simply want to say many of us have had these experiences, and when I say that, historically.

It is important for this Nation now to stand up, and I would appreciate as this resolution is passed and passed in the Senate, that our government now will stand and join us and say that genocide is occurring in Sudan.

Yes, the government did offer a 10-point manifesto. I received it. They said they were willing to deal with the Janjaweed. They were willing to disarm them. They were willing to give humanitarian aid.

Well, let me tell my colleagues, I took that piece of paper, but they did nothing. There are human rights violations going on, there are rapes, there are abductions, there are destruction of villages and property.

I would simply say this resolution lays out the road map. We declare tonight that genocide is occurring in Sudan, and I would ask the President of the United States to so declare so that we can move forward and protect lives. Let not another Rwanda occur. We are in fact our brothers' and sisters' keepers.

Mr. Speaker. I rise in support of this resolution. I commend my colleague Mr. PAYNE for his foresight and courage to put forward his bold resolution, when many in the Congress were hesitant. I also commend the Chairman and Ranking Member, Congressmen HYDE and LANTOS for their leadership, in recognizing the crisis unfolding in Sudan and moving rapidly to bring this resolution to the floor before the recess.

As it moved so efficiently toward the Floor of the House, I know compromises were made on specific phrases and statements. Although I do not agree with every line, I firmly support the resolution. It is time that this Congress sends a strong message to Sudan and the world, that the United States is ready to move boldly to stop the death and destruction in Darfur.

It truly is time for an aggressive American and international response to the crisis in Darfur, Sudan. For the past year and a half, ethnic-African communities have been under strategic attack by the Arab-based Government of Sudan based in Khartoum and the Janjaweed militias. The most recent campaign, fueled by vicious ethnic rivalries and the Janjaweed's desire for territorial expansion, is having devastating results. 30,000 people have already been killed by systematic raids and deadly famine, and up to 1 million more are expected to suffer the same fate if the United States, the United Nations, and other international leaders continue to take the same dangerously passive role in addressing the Government of Sudan and the Janjaweed militia forces. We must move aggressively to stop the bloodshed and suffering.

Over the past weeks, my colleague from Michigan JOHN CONYERS, has been bringing together a growing bipartisan and bicameral group of Members of Congress committed to moving aggressively toward creating peace in Sudan. I was pleased to be a part of that group. As we discussed the situation and learned from Senator BROWNBACK and Congressman WOLF about their recent trip to Sudan, where they saw the ravages of the violence and the ongoing rape, intimidation and terrorization of the ethnic African people, it became obvious that indeed we were seeing genocide.

Formally labeling a situation as genocide, should trigger actions and commitments that will protect potential victims, and punish perpetrators of this war crime. We will need a strong collaborative effort between the legislative and executive branches, to put the force of the U.S. government to work to help the people of Darfur.

We must be committed to pushing through normal election-year political barriers, and working together to save lives. This will only be possible if the executive and legislative branches of our government work in concert, to increase humanitarian relief, to galvanize international support and coordination, and explore all possible options to end the bloodshed in Darfur. We have a small window of opportunity to help the men, women, and children in mortal peril in Sudan. Ongoing Janjaweed violence combined with the upcoming rainy season, may soon make relief impossible. If ever there were a case for swift action to liberate a suffering people, it is now in Darfur.

A group of thirty of us in the House, from both sides of the aisle, sent a letter yesterday to President Bush, asking him to meet with us, to discuss how we can work together, put politics aside, and move swiftly to rescue the people of Darfur. I hope the President will heed our call to meet, to push for a stronger U.N. resolution that acknowledges that this is genocide in Darfur, and to gather and lead a true multi-lateral coalition to help make peace and then keep peace in Darfur as necessary.

As we look toward forging that multi-lateral coalition, I must say that I am concerned that the tone of parts of this resolution may not be helpful in reaching out to the partners that we will ultimately need in Sudan. I think using the word "deplore" in referring to the failure of the Human Rights Commission to act appropriately in Darfur, is unnecessary. Just as we are putting aside politics to work together to save lives, I hope we can put aside our international grudges in order to better lead an international collaboration. I am not arguing whether each statement is true or false, just questioning whether it each is helpful in achieving the result we are hoping for in Sudan. We are still trying to undo the damage done by some of our rhetoric in the march to war in Iraq. I hope we do not repeat that error. We should reserve such language for our enemies, rather than casting it at our potential friends.

Regardless, the most important part of this resolution is acknowledging that this indeed is genocide in Sudan, and agreeing that it is time that the United States and the international community start dealing with Sudan and the Janjaweed as such. I am pleased that this action is being taken. I hope we can continue to work together so effectively as we shape the actions of this nation to save lives in Darfur in the days to come.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to my good friend and distinguished colleague, the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to commend all of those who have shown leadership on this issue.

I have been told that the only way that evil can triumph is that good people do nothing. I believe it was Dante who suggested that the hottest places in hell are reserved for those who declare neutrality and do nothing in times of great moral crisis.

We have all heard the atrocities that are continuously being heaped upon the people in the Sudan. It is time for us to act, and to act convincingly.

We have to ask ourselves the question, if not us, then who? If not now, then when?

I commend the gentleman from New Jersey (Mr. PAYNE) and all of those who have demonstrated great leadership on this issue.

We are here tonight to sound the alarm, once again, on genocide in Sudan. There is no room for neutrality in the face of the crimes being committed there each day.

Amnesty International has renewed its charge that the international community is not doing enough to protect women in the Darfur region and the refugee camps in Chad where mass rape is being used as a weapon.

Since 1983, more than two million Black civilians have died during the Civil War in the south of Sudan. That struggle was especially brutal for the civilian population: slave raids resulting in the enslavement of women and children, gang rape, ethnic cleansing, and the imposition of famine conditions for hundreds of thousands.

On October 21, 2002, the President signed the Sudan Peace Act which stated, in part:

"The acts of the Government of Sudan constitute genocide as defined by the [United Nations] Convention on the Prevention and Punishment of the Crime of Genocide (1948)."

That bill requires President Bush to certify, every six months, that the government in Khartoum is negotiating in good faith for an end to that Civil War. According to some sources, we may be close to a framework for peace in that region.

On May 12th The New York Times carried this report:

"A team of U.S. diplomats led by Assistant Secretary of State for Africa Charles Snyder is on its way to Kenya to help put the final touches on an agreement to end Sudan's 21-year civil war, State Department spokesman Richard Boucher said Wednesday."

However, at the same time, Khartoum has launched a massive ethnic cleansing of Black Africans in Darfur, in the western region of Sudan. The same article in the New York Times reported:

"He said Snyder also would discuss with Sudanese officials the situation in the western Darfur region where human rights groups charge the Khartoum government and allied Arab militia are carrying out a campaign of 'ethnic cleansing' against Black African tribes, forcing some 1 million people to flee their homes."

Human Rights Watch and investigators for the United Nations have documented widespread ethnic cleansing and have characterized the situation there as "crimes against humanity." More than 100,000 have fled the region and are now refugees in neighboring Chad.

As the seasonal rains begin to set in, it is becoming more and more difficult to move refugees to relative safety and to provide even minimal subsistence. Malnutrition is at acute levels in the camps especially among children.

So, while our diplomats expressed their "grave concern" to the UN Human Rights Commission response to the murder, rape and forced removals in western Sudan, the President gave his certification that Khartoum was negotiating in "good faith" to end the decades old struggle in the south.

If the President had chosen to withhold that certification, it would have instituted a program of significant economic sanction against Sudan.

How, one might ask, can the government of Sudan negotiate in "good faith" to end genocide in one region, and openly engage in genocide in another region?

And how, it is reasonable to ask, can our own government accept the notion of negotiating in "good faith" in one region of the Sudan, while conducting a ruthless genocide in another?

Mr. Speaker, only a short time ago we paused here to mark the tenth anniversary of the genocide in Rwanda. More than 800,000 died while the world watched, and did nothing. Once again genocide is unfolding before us. Those who have taken note have expressed their horror at what they have seen. But where is the public outcry? Where are the front page pictures? Where is the response of our government on behalf of the American people?

The ominous sign is that our government is willing to turn its eyes away from genocide in the West of the Sudan in favor of resuming oil production in the oil rich Southern region.

The genocide in the South was characterized by both racial and religious differences. The genocide in the Western region pits Muslim against Muslim but retains the racial character of the genocide in the South.

Mr. Speaker. In the name of fighting terrorism we have begun a campaign under the rubric of the Global Peace Operations. Even though President Bush has not formally announced the initiative, U.S. troops are now active from Djibouti on the Gulf of Aden to the Atlantic including Mali, Mauritania, Chad and Niger.

The question we now confront is this: is the slaughter of hundreds of thousands, even millions of Africans, terrorism? If our struggle against terrorism is truly global, can we be truly engaged in a global war on terrorism, and not engage genocide in Africa?

Mr. Speaker, funding for State Department programs in Africa such as the African Contingency Operations Training and Assistance program and the Enhanced International Peacekeeping Capacities have languished for years.

If we are to engage in a new anti-terrorism initiative in Africa, I would hope the President would consult with the Congress and with the Congressional Black Caucus as to how the struggle against terrorism will be shaped so as to protect the people of Africa as well as the peoples of the Americas, Europe, Asia and Australia.

Mr. Speaker, on June 24 the U.S. Holocaust Museum here in Washington took the dramatic step of closing access to its main exhibitions to call attention to the horror underway in Darfur.

Around that same time U.N. Secretary General Koffi Annan and U.S. Secretary of State Colin Powell paid a visit to the western Sudan. Secretary Powell expressed his deep concern over what he saw with his own eyes as an humanitarian crisis. But he failed to place the events in the Sudan in their proper historical context: the world is once again facing the onslaught of genocide.

When asked, Secretary Powell, speaking on behalf of this administration, was asked if this was genocide responded, "Let's not put a label on things."

Mr. Speaker, I would suggest that is exactly what we need to do. Our failure to acknowledge genocide in the Sudan led directly to the abdication of the G–8 leaders in their responsibilities to intervene to save the lives of tens of thousands of African men, women and children as called for by the International Genocide Convention.

Mr. Speaker, if America cannot remember the great lessons of history, cannot confront genocide, or if we do not count the deaths of tens of thousands of Africans as genocide then the days ahead are sure to be some of the saddest and most difficult we have ever confronted.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to my friend, the distinguished gentleman from Illinois (Mr. JACKSON).

Mr. JACKSON of Illinois. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, in 1994, the U.S., along with rest of the world, stood and watched as 800,000 men, women and children were slaughtered in Rwanda. In April of this year, the world community marked the 10th year of the modern-day genocide in Rwanda and said never again.

Today, we are in danger of failing to honor that commitment, and this resolution goes a long way to ensuring that the United States will play a profound role in stopping the genocide.

The Darfur region of western Sudan, the largest country in Africa, is engulfed in the worst humanitarian crisis in the world. Since 2003, the Sudanese government and their murderous Arab militias, known as the Janjaweed, have waged a deliberate and systematic campaign of rape, of torture, of starvation and murder of innocent Darfurian civilians.

If genocide is the deliberate and systematic destruction of a national, ethnic, racial or religious group, then the deliberate killings of tens of thousands of black Sudanese happening right now certainly qualifies. The U.S. Government must call it genocide. The term "genocide" not only captures the fundamental characteristics of the Khartoum government's intent and actions in western Sudan, but it also invokes clear international obligations, and that is why this resolution is so important.

Mr. Speaker, on the ground, we are trying our best to get aid to the Darfurians during the rainy season. U.S. Administrator Natsios from USAID said that even if we are successful, 300,000 Darfurians will lose their lives; and if we do not act immediately, 1 million Darfurians are sure to lose their lives or be at risk.

The answer, Mr. Speaker, beyond the declaration of genocide, is to ensure that the AU, that the various Arab governments in the region, along with the United States, provide immediate military relief so that aid can get to Darfurians immediately. The United States Government has 2,000 troops in Jabudi; 2,000 troops. They are the closest troops, the closest opportunity that we have, to ensure that the Janjaweed are disarmed, so that aid workers can get aid to the people in Darfur.

So beyond the declaration of genocide, we must move to provide the security for the Darfurians and keep the Janjaweed from continuing their murderous efforts in Darfur.

Mr. Speaker, as parties to the Genocide Convention, all permanent members of the UN Security Council and more than 130 countries worldwide, are bound to prevent, stop and punish the perpetrators of genocide—a unique crime against humanity in international law.

The international legal definition of the crime of genocide is found in Articles II and III of the 1948 Convention on the Prevention and Punishment of Genocide. Article II describes two elements of the crime of genocide. A crime must include both elements to be called "genocide":

1. the mental element, meaning the "intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such", and

2. the physical element, which includes: Killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group.

Since 1993, the Sudanese government and their militia have implemented a reign of terror in Darfur. An estimated 30,000, have been killed in the last year. More than one million black Sudanese have been forced from their homes. The attackers have raped civilians and destroyed their villages. They have destroyed the crops, livestock and farms upon which the region's people depend. They have poisoned their water supply. They have launched systematic and indiscriminate aerial bombardments and ground attacks on unarmed civilians. They have deliberately blocked humanitarian assistance to the region.

If the Sudanese government continues its brutality, or the international community fails to adequately intervene, as many as 1 million more Darfurians are at-risk of dying of starvation and disease.

In the words of one New York Times columnist, if the people of Sudan ". . . aren't victims of genocide, then the word has no meaning."

Mr. Speaker, there is a genocide taking place in Sudan and we must stop it. We call on the Administration to immediately lead an international effort to stop the death and destruction in Darfur.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Pennsylvania (Mr. HOEFFEL), a member of the Committee on International Relations.

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman for yielding me time and applaud his leadership on this issue.

I am honored to stand with my colleagues on both sides of the aisle tonight to declare that the ethnic cleansing occurring in the Sudan is in fact genocide, to demand that the world recognize that it is genocide, and to urge the United Nations Security Council to take the necessary action to stop the violence and to get humanitarian aid to Darfur Province immediately. There is not a moment to lose. We must act now.

I would also urge my colleagues to consider the additional step of joining the protest that has been under way at the Sudanese embassy for the past 3 or 4 weeks and to consider whether an act of civil disobedience in furtherance of the declaration of genocide and in furtherance of immediate humanitarian aid to Darfur Province would be appropriate to be taken and whether it would meet your standards. Because the world is watching what we do. We failed to act when tragedy struck Rwanda. We cannot fail to act again.

I would add to the excellent congressional resolution of the gentleman from New Jersey (Mr. PAYNE) and the fine work of all my colleagues the necessity to take individual acts of civil disobedience, to protest the unresponsive Sudanese government that is unleashing this terror, this genocide, on innocent civilians, failing to admit what they are doing, and not allowing humanitarian assistance to come to the aid of these innocent millions of people.

The time to act is now. There is not a moment to lose.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to my good friend and neighbor, the distinguished gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, we know the leaders of this effort. They have been mentioned with great gratitude, the chairman of the committee and ranking member, the gentleman from New Jersey (Mr. PAYNE) and others.

But I would like to talk about really the extraordinary experience I have had in the last several weeks with members not on the Committee on International Relations, but who came together to say we need to do something about this disaster in the Sudan.

We have a very partisan situation here in the House of Representatives, but participating in these meetings were the most conservative and the least conservative Members, and everybody in between. And although we do not agree on a lot, we agree on this: the world cannot stand by while genocide is committed in the Sudan.

□ 2100

We need to lead an international effort to stop the violence. We need to make sure that we participate in the humanitarian aid that is necessary. We worked together to make sure that this resolution could be supported, could be heard today, and that we take this first step. We agree we need to call it for what it is: genocide.

I am proud to be a Member of this House this evening and to be a part of the great American tradition of all Members of the House of Representatives working together for the good of the world and for what is good and just and right with our conscience.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Massachusetts (Mr. OLVER), our distinguished colleague and my good friend.

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to support H. Con. Res. 467. We have a moral and ethical responsibility to stand up today and declare the situation in Darfur genocide. At the very time that an historic peace was being brokered to settle the north-south civil war in the Sudan, the Sudanese Government was financing and arming a Muslim Arab militia, the Janjaweed, who used those funds and arms to terrorize the Muslim, but not Arab, population of Darfur. Recently, humanitarian groups have uncovered documents which showed the Sudanese Government supplied the militia with soldiers who were promised government impunity.

By aligning with the government, the Janjaweed has managed to avoid widespread condemnation. Whether by direct slaughter or starvation, the Janjaweed will have caused the death of 300,000 people by the end of this year without effective counteraction.

Sudanese leaders have restricted international media access to Darfur, thus allowing the Janjaweed to carry out their scorched earth tactics undeterred. While crops are destroyed and villages are razed, the non-Arab Muslim population has been forced to abandon the countryside which sustained them and gather in internment camps near the large towns to live in squalor, or flee to refugee camps in neighboring Chad, which is too poor to provide assistance.

Survivors of the Janjaweed's campaign paint a horrifying picture. Women and girls are systematically raped and left to die, and thousands are marched to their deaths, while the Sudanese Government denies the survivors humanitarian aid, shelter, drinking water, and food. The Sudanese Government is culpable in crimes against humanity in Darfur.

With this resolution, Congress declares genocide in Sudan and demands that the Sudanese Government, the United Nations, and all concerned stop the genocide in Darfur before the crisis there worsens and engulfs the entire region in conflict.

I urge Members to support the legislation.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to my good friend, the gentlewoman from Illinois (Ms. SCHAKOWSKY), our distinguished colleague.

Ms. SCHAKOWSKY. Mr. Speaker, my heartfelt gratitude to all of those who made it possible to bring this bipartisan resolution to the floor tonight, and particularly to my colleague, the gentleman from New Jersey (Mr. PAYNE), who has long toiled to make this evening happen and this resolution happen.

Some issues transcend the regular business of this House, the important business of policymaking, and transcend partisan politics, and move into the realm of moral imperative.

The genocide that is occurring at this moment in the Sudan, the murder and the rape of women and girls, even little girls at this moment, is one of those moral imperatives. And if we in this most powerful nation on Earth fail to act when our actions could prevent much, even if not all of the loss of life, then we share in the blame.

I stand here tonight not only as a Member of Congress, but as a Jew and as a grandmother. Each year in the Capitol Rotunda, there is a solemn and inspiring ceremony to mark the Holocaust, the slaughter of 6 million Jews by the Third Reich, and one of the themes of that event is never again. But it did happen again, and the gentleman from Colorado (Mr. TANCREDO) listed the scenes of genocide since World War II, and now in the Sudan. And this House and the other body and the administration have a choice to make: Do we or do we not act to stop it?

Every day that we delay, a minimum of 1,000 people die. We have to make a choice tonight. Before we leave this body for 6 weeks, we need to make a choice. And as a grandmother, I do not want to look into the eyes of my grandchildren who say to me, Grandma, you were here when thousands of people died. What did you do to stop it? I want to be able to say, I did help to stop it. We all need to make that choice.

This resolution is so important, but it is just a first step. The other body needs to act. This administration needs to act. We need to call it what it is and we need to proceed to stop it.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to my friend and colleague, the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, 57 years ago, nations stunned by the Nazi systematic acts of genocide declared, "Never again." Ten years ago, confronted with the death toll of the Rwandan genocide, leaders of the same nations again declared, "Never again." Today, tens of thousands of women, men, and children have been murdered and hundreds of thousands continue to suffer. Today, again, people are being targeted and killed because of their ethnic identity only 1,000 miles north of Rwanda in Darfur, Sudan.

Mr. Speaker, 800,000 innocent people lost their lives in Rwanda. We hesitated, and nearly a million people died for our hesitation. On the 10th anniversary of the Rwandan genocide this April, world leaders again expressed their determination to prevent future humanitarian catastrophes. Tragically, only a few short months later, we find ourselves standing by again, unwilling to take the necessary steps to end the crisis in Darfur. Ten years ago, we failed the people of Rwanda. We must not fail again.

I join my colleagues in calling upon the administration to apply sustained pressure on the government in Khartoum. I call upon the President to speak out against the atrocities in Darfur, to use both economic and political leverage. Every day we delay, every day we think, every day we consider the best course of action and the most appropriate definition for the crisis is another day innocent people are being killed, tortured, and watching their families lose their lives.

International cooperation and support of the United Nations is essential, but the most direct path to limiting the threat is increased pressure from the United States. Experience has shown that we must not delay in classifying the loss of life in Darfur as genocide. Otherwise, by the time we have prepared our definitions, it will be too late. The facts on the ground and in the ground will have removed all doubt, and we will be left to murmur, without confidence or conviction, "Never again."

Mr. Speaker, 57 years ago, nations stunned by the Nazi's systematic acts of genocide declared "Never Again". Ten years ago, confronted with the death toll of the Rwandan genocide, leaders of the same nations again declared "Never Again". Today, tens of thousands of women, men, and children have been murdered and hundreds of thousands continue to suffer. Today, again, people are being targeted and killed because of their ethnic identity, only 1,000 miles north of Rwanda in Darfur, Sudan.

Eight hundred thousand innocent people were murdered in Rwanda. We hesitated and nearly 1 million people died for our hesitation. On the 10-year anniversary of the Rwandan genocide this April, world leaders expressed their determination to prevent future humanitarian catastrophes. Tragically, only a few short months later, we find ourselves standing by again, unwilling to take the necessary steps to end the crisis in Darfur. Ten years ago, we failed the people of Rwanda. We must not fail again. Ten years ago we were preoccupied with our mission in Bosnia, Somalia was fresh in our minds, and we were wary of getting involved in Rwanda. Today we are preoccupied with the aftermath of the conflict in Iraq and, again, we are wary of committing American resources to end the bloodshed in Sudan.

As we have hesitated, some 30,000 people have already been murdered in Darfur and another million have been displaced from their villages and farms. Hundreds of thousands of individuals are caged in concentration camps where women are systematically raped and men are killed for scavenging food. Government-sponsored Arab militias continue to systematically terrorize the African Muslim inhabitants of the region—destroying villages, raping and murdering civilians, and poisoning precious wells with the bodies of the dead. Although the administration has taken some important first steps to confront the crimes being committed in Darfur, much remains to be done.

The administration has rightly called for humanitarian access to the region and for the deployment of international cease-fire monitors. The administration has denounced the atrocities in Darfur. Still, a catastrophe of these proportions requires a deeper commitment to action; we must treat the problems at the root of this crisis. The thousands of people who have been displaced from their homes and land must be given safe and voluntary passage to return. More cease-fire monitors must be deployed to the region. The government in Khartoum must be persuaded to stop blocking international humanitarian assistance to the 2.2 million people of Darfur in desperate need of food and medicine. President Al-Bashir must be required to control the Janjaweed militiamen who, even now, continue their campaign of terror against the innocent people of Darfur. It is intolerable that these militias have not yet been disarmed and demobilized.

I join my colleagues in calling upon the administration to apply sustained pressure on the government in Khartoum. I call upon the President to speak out against the atrocities in Darfur and to use both economic and political leverage to elicit cooperation from the Sudanese government. Every day that we delay, every day that we think, every day that we consider the best course of action and the appropriate definition for the crisis in Darfur is another day that innocent people are being killed, are being tortured, and are watching their families being killed and tortured before their very eyes.

International cooperation and support from the United Nations will be essential to the long-term resolution of the Sudanese situation. Yet the most direct path to eliminating the threat to African Muslims in Darfur is increased pressure from the United States. Experience has shown us that we must not delay in classifying the loss of life in Darfur as genocide—otherwise, by the time we have prepared our definitions, it will be too late—the facts on the ground, and in the ground, will have removed all doubt. And we will be left to murmur without confidence or conviction—never again.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 1 minute to my friend and colleague, the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I cannot forget the event in the Kigali Airport when I traveled with President Clinton to Rwanda and he spoke to Rwandans and apologized for our failure to act.

There was a woman sitting there who had lost all of her family in front of her eyes. There was a priest there who had his arm cut off. There were people sitting there that the President acknowledged as people that the United States did not act to save.

We have that same opportunity. We have it. It is in our hands. We have the capacity, and we must exercise our solemn duty to humanity for justice for everyone.

No one on this floor, no one in this building should ever want to sit in a meeting like that again and say, we are really sorry; we knew it was going on, but we did not do anything. We must act.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to my good friend and colleague, the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. Mr. Speaker, I am here this evening because of this resolution. I cannot think of another resolution, another matter before this body in the last few months or years that is more important than this resolution, the Payne resolution.

Mr. Speaker, we have at this time an opportunity to stand up for justice and to stand up for peace and to stand up for what is right. We have an opportunity at this time to stop the genocide that is occurring in the Sudan. And, Mr. Speaker, now is the time when we must take action as a body. It is on us. We have had the horrible experience of witnessing and apologizing indeed for the Rwandan holocaust, and now we are faced here 10 years later with something similar going on in the Sudan.

Mr. Speaker, we cannot afford to allow this genocide that is occurring in the Sudan to continue. We must rise up to the occasion. We must forget about those partisan things that divide us. We must come together as a body, as a Congress, indeed, as a nation; and we must show the world the way to eliminate the kind of racial and religious hatred that exists in this world. We must rise up and show the example.

The future of this nation, the future of this world is at stake, because if we allow genocide to occur in the Sudan, if we do not do anything about it, then, Mr. Speaker, genocide will occur in almost any place throughout this world.

We have an opportunity and we have an obligation. Let us not fail the people of the world.

Mr. LANTOS. Mr. Speaker, I yield the remaining time to the gentleman from Maryland (Mr. HOYER), the distinguished Democratic whip and indefatigable fighter for human rights across the globe.

The SPEAKER pro tempore (Mr. HENSARLING). The gentleman from Maryland (Mr. HOYER) is recognized for 30 seconds.

Mr. TANCREDO. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman from Colorado (Mr. TANCREDO), my friend, for yielding me this time, and I thank the ranking member for yielding me this time.

I thank the gentleman from New Jersey (Mr. PAYNE) for acting. We are acting too late, but it is never too late to do the right thing.

We live in a new world, a world in which it is impossible to say that we do not know, that we have not seen, that we have not heard. Because we live in such a world, to remain silent and inactive is an immoral act; it is an act of indifference and negligence that condemns us as human beings.

The Second World War and the Holocaust have been referenced, the Holocaust appropriately so, because that was an act of eliminating a people because of the fact that they existed. This is an act of trying to eliminate a people, not because they are aggressors, not because they are a danger, but because they exist.

It is incumbent upon not just the United States, but on all the world to act when it is confronted with genocide. It is an act of self-preservation for us to recognize what is being done and to act, for if we do not, we will not live in either a safe or a civilized international community.

□ 2115

Very frankly, we watched in the past decade a genocide occur in Bosnia and Kosovo, and we interviewed some blue helmets who were there on the ground and reported back that, yes, they had seen atrocities committed, but their assignment there was to report, not to act.

The gentleman from Illinois (Mr. DAVIS) mentioned Dante's reference to those who maintain their neutrality in the face of moral outrage.

This is an important act we take, but it is not enough, because words will not save those children. Words alone will not protect those women from assault and ravage. Words will not feed those people. Words will not prevent the death; but words hopefully will be the beginning of action, a call to morality, a call to civilization, a call to the international community to live out the promises that it included in the United Nations charter, with hope of a new and better and safer and more moral world. That is what this resolution is about.

I thank the gentleman from New Jersey (Mr. PAYNE). I thank him for his commitment, his leadership, and his steadfastness. I urge all of my colleagues, all of us, everyone, Republican, Democrat, liberal, conservative, north, east, south and west, to affirm this commitment, this definition, this call to action, this call to a moral world.

Mr. LANTOS. Mr. Speaker, will the gentleman yield?

Mr. TANCREDO. I yield to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Speaker, this is a noble moment for this body, but it is only a first step. There is a built-in mechanism ready to go to save the people of Darfur, and I call on NATO to use its capabilities to deploy the necessary troops to save the people of Darfur. There is no nobler goal for NATO, which was designed to protect human life, to do so now in west Sudan.

I want to thank all of my colleagues for their contribution. This is a noble moment for the House of Representatives. I urge all of my colleagues to vote for this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. TANCREDO. Mr. Speaker, I yield myself such time as I may consume.

I want to just simply thank a couple of people who have worked tirelessly on this, staff people. One is Joan Condon, the Committee on International Relations professional staff, for her tireless work on this important issue. And of course someone on my staff is Molly Miller, who has been dedicated to this issue and was recently in Sudan and has a heart for this issue. I want to thank all of my colleagues for their brilliant words this evening and their heartfelt commitment to this wonderful goal.

Ms. KILPATRICK. Mr. Speaker, I rise in support of H. Con. Res. 467 which declares that genocidal acts are occurring in Darfur, Sudan and are directed at the indigenous Muslim population by the Muslim government in Khartoum and in conjunction with the Janjaweed militia.

The situation in Sudan is dire. The statistics are alarming and depressing. The numbers of casualities, deaths, rapes, injuries and displaced refugees beg the question, how can the world, the U.N., the United States and other civilized nations witness the murder of 30,000 innocent civilians, the forced removal of 130,000 people from their homes to Chad, and the displacement of more than one million people and do nothing.

In Sudan, we are witnessing a crisis that can be stemmed by proactive international leadership, but that leadership must include decisive action. The action necessary include using every measure possible to get the government of Sudan to allow more African Union military advisors into the country to monitor events. The leadership necessary requires our government to do everything possible to isolate the current government in Khartoum as a pariah in the international community, including: implementing a travel ban on senior Sudanese officials, establishing an embargo on all arms, freezing all government assets and the assets of affiliated organizations for the Sudanese government until such time as it modifies its behavior, and begins to feed and protect the civilian Sudanese population. And finally, we must strive to ensure that food, medicine, clothing and peacekeepers are delivered to the Darfur region of Sudan before the rainy season descends upon the weak, defenseless and despairing masses in Sudan.

We must send the message to the Sudanese government and to the Sudanese people that the inhumane acts undertaken by Muslims against other ethnic African Muslims is deplorable and disgraceful. The religion of Islam which is predicated on values of peace and tolerance is being tainted and shamed by a minority segment of the government that sanctions genocide and denies it is occurring. I rise in strong support of this resolution and encourage my colleagues to stand up for the people of Darfur, Sudan and to challenge and shame the government of Sudan into taking appropriate action to rectify an ever expanding tragedy.

Mr. CAPUANO. Mr. Speaker, I rise today in support of H. Con. Res. 467, which calls the current situation in Sudan by its proper name: genocide.

Throughout years of civil war, the government in Khartoum and its militia sympathizers slaughtered tens of thousands of people in Southern Sudan and enslaved many others. Over the past two decades, it is estimated that more than two million people have died from war related causes and famine. Now violence has escalated in the Darfur region of the Western Sudan, where government-sponsored militias have been ruthlessly targeting various ethnic groups. More than 30,000 civilians have already been brutally murdered and approximately one million civilians have been forced to flee their homes and are now either internally dispatched or seeking refuge in neighboring Chad. These numbers cannot capture the horror of daily life in Sudan where violence, death and disease run rampant and young men cannot go outside the refugee camps for fear of being killed. Any woman or girl who dares to leave in search of food or water instantly becomes a target for rape or murder. With each passing day, more and more people are suffering and dying. The United States must act swiftly to end this genocide and punish those responsible for these heinous crimes against humanity.

By considering this resolution, we are taking the first step in what will be a long road to ending years of violence in Sudan. The President, the Secretary of State, the U.N. and the international community must all declare this genocide and offer all assistance possible to end the atrocities occurring in Sudan. It is my hope that the international community will come together and send a multi-national force to Sudan to provide security and to help with the delivery of humanitarian aid. If the world community is unwilling to do so or cannot do so in a timely manner then I believe the U.S. should send a force of its own to Sudan.

Although I was an ardent opponent of the war with Iraq, I do believe that in certain instances unilateral force is both necessary and justified. This is undoubtedly one of those times. Tens of thousands of people have already died and thousands more will perish if we stand by and do nothing. If the world remains silent in the face of genocide, then America alone must act. The America that I know and believe in is a moral leader in the world and taking the leading role in bringing an end to genocide in Sudan will save thousands of lives and move us closer to fulfilling our true destiny.

Mr. ROYCE. Mr. Speaker, I want to thank the sponsor of this resolution, Mr. PAYNE, as well as Chairman HYDE of the Committee on International Relations, and all of the members who have worked to bring H. Con. Res. 467 to the floor. I think it's very important that Congress act on this resolution before the August recess. Tonight the House of Representatives will go on record declaring the atrocities being committed in the Darfur region of Sudan to be "genocide." H. Con. Res. 467 is a statement for the world, and a stark warning to the Sudanese government.

We've heard about the atrocities government-backed militias are perpetrating in Darfur. This resolution cites an estimated 30,000 innocent civilians brutally murdered, more than 130,000 people fleeing to neighboring Chad, and more than one million people internally displaced. The Africa Subcommittee that I chair has held several hearings on Sudan. We've heard about the human suffering. We have also heard about how this killing is targeted and systematic. Villages are razed, crops are burned, and wells are poisoned. I fully support this resolution's determination that genocide is occurring in Sudan, as it played out in Rwanda ten years ago.

Those doing the killing need to understand that the world is changing. We have international courts to hold human rights criminals accountable. Information is being collected. The days of impunity are ending. That is a message that this resolution sends.

H. Con. Res. 467 deplores the failure of the United Nations Human Rights Commission to take appropriate action on Darfur. Earlier this year, the Commission failed to support a United States led effort to strongly condemn gross human rights violations in Darfur. Others just don't care. The administration has taken the lead in seeking an end to the slaughter in Darfur, and addressing the humanitarian crisis there. Why do we seem to care about Darfur more than African governments? We desperately need African engagement, and outrage, on Darfur. It is Africans who are being slaughtered.

Indeed, the administration deserves much credit for achieving a north-south peace accord in Sudan. It has played a very good hand with the cards it was dealt. Congress has been supportive of these negotiations, including with the Sudan Peace Act. But now we have a genocide in the west of Sudan—in Darfur.

Peace isn't divisible in Sudan. It's a cliché, but in Darfur, Khartoum is showing its true colors. Today, that government is hearing loud and clear that there will be no U.S. aid or improved relations, no support for the peace process, as long as the killing continues in Darfur. Maybe that matters to Khartoum; to be honest, maybe it doesn't, which is a possibility we need to prepare for. That is why H. Con. Res. 467 urges the administration to seriously consider multilateral or even unilateral intervention to stop the genocide should the United Nations Security Council fail to act. I don't think it needs this urging.

The suffering in Darfur is moving the American people. There's an awakening to the horror being afflicted there. Tonight, the House of Representatives is amplifying these concerns for the world.

Mr. TANCREDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HENSARLING). The question is on the motion offered by the gentleman from Colorado (Mr. TANCREDO) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 467, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4840 and H.R. 4841.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE ADMINISTRATION'S LACK OF PLAN TO COMBAT TERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, the 900th U.S. soldier died today in Iraq. A brave soldier whose name we do not know yet died in the line of duty. Four other soldiers died yesterday in Iraq. The fighting and dying goes on in Iraq, but the administration does not say much about it.

The President did not mark today's sober note. Instead, he hit the campaign trail and did not say anything about the 900th American dead or of the 899th or the 898th, or the other brave men and women who have died just yesterday, not to mention since the war was launched by the President.

Iraq is not popular with the American people, so it has fallen out of favor in the President's remarks. By the Republican convention, finding any comments about Iraq by the President will be akin to finding weapons of mass destruction in Iraq. Just not there.

They have moved on as quickly as possible, but remember meanwhile, 160,000 U.S. soldiers remain in harm's way in Iraq, fighting and dying because America sent them there, but the America they left behind, not the America they have come home to.

That is worth some discussion. We have an administration that talks tough on terror, but they completely overlook Iran. Ten years later the administration's best sound bite today is we will look into it. That is not a plan to combat terror at home or anywhere else.

The administration had 10 years to look into it. Instead, they looked to someone they knew on evidence that was flimsy at the start and proven false since; the President committed American soldiers to a war in Iraq. When they could not find weapons of mass destruction, the administration changed the reason for going to war. Then they changed it again. Is that the administration's plan to combat terror? Yes. There is terrorism in the world, but we need real leaders and a real plan to meet that threat.

There is terrorism in the world, and America is capable of meeting that threat, but not with bullets and bombs alone. And if you look at the record of this administration, you have to conclude that they do not have a plan on terror. They hold news conferences to tell everyone, presuming they include terrorists, that America should be vigilant, but afraid. America should go about its business, but be afraid. That is not a plan. That is rhetorical duct tape.

America needs to be strong, not afraid. We did not win World War II by being afraid. We won by being American. We won by being American by fighting for American values, by fighting for American freedoms, but today American freedoms are under attack, and it is happening right here by this administration. In the immediate aftermath of 9/11, the administration switched language in the middle of the night and America woke up to something called the PATRIOT Act. There is nothing patriotic about depriving Americans of their civil liberties. There was nothing patriotic a few days later when the House voted to restore some of the civil liberties taken by the PATRIOT Act.

Then Republicans deliberately left open the vote until they could force enough Republicans to change their vote. Yes, I said change their vote.

The White House had preordained the outcome of the vote, so Democrats and Republicans voted. Then the Republicans voted again. The process was rigged. Civil liberties never had a chance. That is what the administration calls its plan to combat terror. Monitor the books you checked out of the library or the movie tickets you are buying online. They can go to a secret court and gain access to your entire life.

George Orwell called it "1984," his legislative novel that we used to think could not happen in America. It is happening. We have law enforcement agencies, smart, dedicated public servants who know how to catch the bad guys. We have the financial resources to arm the agencies with the funding they need to support our people. We do not need 1984 in 2004. Every time the administration says, oh no, that is not what we are doing, another story surfaces about America under suspicion for doing something like taking pictures at a popular tourist site in Seattle, for example.

The administration does not have a plan to combat terror. It has a terror alert stuck on "be afraid, always." The American people deserve more than that. America is strong enough to fight the war on terror. It needs a leader strong enough to do it.

JOHN KERRY is a decorated combat veteran, a war hero who has seen the face and the horror of war firsthand. America can win the war on terror, but not by subverting American freedoms and civil liberties.

America can win the war on terror under the leadership of a sailor who led men in combat and who risked his own life to save others under fire. America can win the war on terror, but it needs a combat veteran to do it. JOHN KERRY is just such a man. We will have him in 104 days.

EXCHANGE OF SPECIAL ORDER TIME

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Texas (Mr. HENSARLING).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FREE SPEECH BY RELIGIOUS LEADERS BEING DENIED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I am on the floor again tonight, as I have been for the last 2 or 3 weeks, to talk about the fact that in America today with all of our brave men and women fighting for freedom for the Iraqis and in Afghanistan and certainly to protect the American people, that yet in this country today a minister, a priest or a rabbi or cleric cannot speak freely about the politics and the moral issues of the day in America. I think that is a sad commentary on this great Nation.

I want to briefly talk about the history of this issue. Prior to 1954, there was never any restriction of speech on our ministers in this country or our rabbis or our priests until 1954. The Lyndon Baines Johnson amendment in the Senate, never debated, no hearings were held; and yet the Senate unanimously accepted the amendment by Senator Johnson that basically said if you are a 501(c)(3), you may not have political speech, and that means endorsement or opposition to a candidate.

Well, I looked at the history of this, and I looked at the history of churches being qualified for a 501(c)(3). Never in any of the history that we looked upon was there any restriction of speech at all on the churches or synagogues or mosques in this country.

The reason I bring this to the floor again tonight is because I believe sincerely if morality in this great Nation is to survive based on the Judeo-Christian principles that this Nation was founded upon, then the ministers, the priests and the rabbis and the clerics should be able to speak freely about the moral and political issues of the today without any restriction.

The IRS is in charge of overseeing the speech of our churches, synagogues, and mosques. They testified 2 years ago they cannot even enforce the law. Yet, what we have today is a man named Barry Lynn with the Americans United that stands for the separation of church and State; and what he does is file a complaint, like he did in Colorado 4 weeks ago. Bishop Sheridan, a Catholic Bishop, the diocese of Colorado Springs, wrote a pastoral letter, three pages to the Catholics in Colorado Springs, and reminded them that the Catholic Church stands for protecting the unborn, it stands against stem cell research, it stands against euthanasia; and all they did in the pastoral letter was he did not mention Mr. KERRY or Mr. Bush. He did not mention Democrat or Republican, liberal or conservative, but what he did was mention the word "pro-life."

And I want my friends to know in the House that in the early 1990s that the Internal Revenue Service expanded, through an administrative process, the definition of what the Johnson amendment said. So in this documentation I am holding up tonight, Mr. Speaker, is a section called "code words." Well, this begins to sound like what I can imagine in the late 1930s in Germany, code words.

□ 2130

Code words are like prochoice, prolife, liberal, conservative, Democrat and Republican. So what the bishop did in his pastoral letter was he mentioned the word "prolife" and because of that, Barry Lynn filed a complaint against him to challenge the tax status of the diocese in Colorado Springs. This is just one small example of many things that are happening.

In Kansas, I spoke to a minister today and he knows that there is a group in Kansas that is watching what he is saying in his church. Well, let me say to my friends in the House, whether you be Democrat or Republican, this can happen to your church as well. What is happening in this country, there is an element that is trying to monitor the speech and the sermons in the churches and the synagogues and the mosques of this great Nation today.

Let me read very briefly and then I will close, Mr. Speaker. The Main Stream Coalition headed by Caroline McKnight in Kansas is sending letters to more than 400 churches in the area reminding them of the IRS rule that we are trying to change to return to freedom of speech that we had in this country prior to 1954, which forbids tax exempt groups, including religious organizations, from participating in political campaigns for or against a candidate.

Coalition volunteers will also visit churches and report any major violation to the IRS. This reminds me of what I thought might have happened in the late 1930s in Germany when the Jewish people went to their synagogue, where they had somebody watching who went in.

Mr. Speaker, this Congress, we are here to protect the first amendment rights of all the American people. That includes our preachers, our priests and our rabbis and the clerics in this country. I hope if we are going to honor those men and women who have given their lives for this country, who have died for freedom since the beginning of America through today and the days following today, then we must do our job to make sure that there is freedom of speech in our churches and synagogues and mosques in this country.

I close tonight, Mr. Speaker, by asking the good Lord to please bless our men and women in our uniform and their families. I close by asking the good Lord to bless America.

EXCHANGE OF SPECIAL ORDER TIME

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Ohio (Mr. BROWN).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY AND ASSAULT WEAPONS BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, during the 2000 Presidential campaign, George W. Bush pledged to renew the assault weapons ban that President Clinton signed into law in 1994. This is a courageous decision by a candidate who claimed he was not your typical conservative.

Four years have passed and Candidate Bush's pledge has gone unfulfilled by President Bush. It is amazing what the politics of a reelection campaign will do to one's former pledges.

The assault weapons ban will expire on September 13 unless President Bush renews the ban before that very point. First, Congress would need to approve this decision, however. With recess approaching, that leaves only 3 legislative days in September before military assault weapons designed to kill large numbers of people are once again available on America's streets.

Of course, President Bush and the White House are well aware of this deadline. So why are they not acting? Actually, the answer is simple. The answer is the National Rifle Association has conditioned its support for George W. Bush on his strong opposition to gun control measures. The NRA has issued a not-so-subtle threat to withhold its vast resources from the President's reelection campaign unless he agrees not to renew the assault weapons ban.

The problem, besides the fact that President Bush has once again failed to live up to one of his campaign promises, is that this is an issue of extreme importance to our national security.

Al Qaeda training manuals recovered in Afghanistan specifically urge terrorists to exploit America's "lax gun laws" to acquire and train with assault weapons. For many terrorists around the world, America is known as the great gun bazaar.

Mr. Speaker, I do not know about you, but I find this highly disturbing. If President Bush truly wanted to be smart about keeping America safe from terrorism, as he says he does, he would work to immediately renew the assault weapons ban. Renewing the ban is absolutely necessary to protect Americans from terrorism. Renewing the ban would keep deadly weaponry out of the hands of terrorists.

These guns serve only one purpose, to take lives. In fact, the 2003 National Hunting Survey by Field and Stream Magazine confirmed that most gun owners do not consider assault weapons suitable guns for hunting in the first place. The ban clearly works.

In 1995, the first year the assault weapons ban went into effect, the assault weapons represented nearly 4 percent of all guns recovered from crimes. By 2000, assault weapons represented a little more than 1 percent of weapons used in crimes.

Mr. Speaker, clearly the time has come for a national security strategy that protects Americans from assault weapons, not one that protects the President's favorite campaign donor from losing revenue.

That is why I have introduced H. Con. Res. 392, legislation to create a SMART security platform for the 21st century. SMART stands for sensible, multilateral, American response to terrorism.

In crafting this legislation, my staff and I received the support of the wonderful organizations, Physicians For Social Responsibility, the Friends Committee on National Legislation, and Women's Action for New Directions. Without these groups, the legislation would not have happened in the way it did.

SMART security is stronger on national security than President Bush claims to be. SMART security will stop the sale of weapons to oppressive regimes and regimes involved in human rights abuses.

SMART security will pursue enhanced inspection regimes and regional security arrangements to ensure that state sponsors of terrorism do not get a hold of more light weaponry or even deadlier chemical or biological weapons.

It is time America got smart about its national security. I urge all of my colleagues to cosponsor this vitally important resolution, H. Con. Res. 392 because SMART security is tough, is pragmatic, is patriotic, and it will keep America safe.

RECOGNIZING THE CONTRIBUTIONS OF THE CHIAPAS MISSION FOR SIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise before you this evening in recognition of the extraordinary work and tireless efforts of Dr. Tracey Lewis, Dr. Judith Simon and the Chiapas Mission for Sight.

Dr. Tracey Lewis, in particular, is a constituent in my district, a dear friend as well as an exemplary individual, and she has chosen to lend her expertise and talent towards a very noble cause. I urge my fellow colleagues to take a moment to acknowledge the invaluable service that the Chiapas Mission for Sight has offered to countless individuals in one particular developing region of the world.

The Chiapas Mission for Sight aims to provide primary eye care and surgery to the native Indian living in Ocotepec, Chiapas, Mexico. Thus far, they have completed three successful missions, and as a direct result, hundreds of individuals in dire need of eye care and treatment have received proper medical attention. Originally a branch of the Chiapas Project of Newton, New Jersey, and funded in part by the Rotary Club of Newton, this year the ophthalmology group has grown and formed its own mission dedicated solely to vision care.

The group's focus is providing medical service to the population of

Ocotepec and the surrounding villages, which exceeds 1 million people. Of this population, many suffer from blinding cataracts, which is a problem inherent to Ocotepec and its surrounding villages, because of the exposure to significant sunlight and very poor nutrition. The nearest town, Tuxtla, Gutierrez, is a 4-hour drive, and sadly, the natives of the village earn less in 1 year than what it would cost to travel to Tuxtla to undergo cataract surgery.

Oftentimes short-staffed, with donated medical and surgical supplies, the volunteers work around the clock to provide the natives the medical attention they so desperately need. Lack of funding has not deterred Tracey Lewis or the organization what it can to accomplish its goals. In fact, every doctor and most of the volunteers cover their own expenses, making their mission all the more charitable. On the last mission, the group examined over 400 patients with significant eye disease, and due to limitations in staffing, surgery was triaged and performed only on those fully blind in both eyes.

Currently, the Chiapas Mission is seeking volunteers who will be trained to perform vision screening and assist in the operating room. These volunteers will travel with the group and serve as assistants to the doctors.

In this remote region, plagued by poor hygiene and lack of proper medical and dental care, Tracey Lewis has quickly realized that a little does go a very long way. Inspired to take on this cause by her 9-year-old son, Tracey has demonstrated a remarkable ability to not only take on such a Herculean challenge, but to enthuse so many volunteers to do the same.

Today, as we discuss health disparities within the United States, it is imperative that we are also aware of the stark disparities between our country and regions around the world. In this age of scientific discovery and medical advancements, it is unfortunate that those in developing countries are not able to reap the benefits of modern medicine.

As we in Congress hear about these numerous volunteers that travel to remote villages and devote themselves to the restoration of vision to the blind people living there, let us rededicate ourselves to ensuring that every man, woman and child all around the world, including the United States, not go another day without proper primary care and adequate medical assistance.

Mr. Speaker, once again, I commend the Chiapas Mission for Sight as it provides a shining example of the impact individuals can make through self-sacrifice and goodwill. Assisting those living in poor conditions with critical medical treatment truly demonstrates what can be done through benevolence and hard work.

WORLD AIDS CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, last week I had the opportunity to attend the 15th International AIDS conference in Bangkok, Thailand, my third conference since I have been in this body. As the only Member of Congress to attend this incredibly important event, I want to take a few minutes this evening to brief my colleagues and the American public about my experience.

Each time I have returned from one of these conferences, I am quite frankly filled with great hope but also a very profound realization of just how much it is that we have left to do.

Having spent a few days last week among the international leaders on the global pandemic, I can tell you that the international community is very, very disappointed by the rate of progress, to put it mildly, about the United States' failure to deliver on projected funding and programs. In fact, that point was unfortunately reinforced by Secretary Tommy Thompson's decision to allow a delegation of only about 50 people from his Department of Health and Human Services to attend the World AIDS Conference this year, down from about 236, 2 years ago, when we held the conference in Barcelona, Spain.

It is shameful that they have prevented many of our very best and brightest scientists at the Centers for Disease Control and the National Institutes of Health from gaining new insights from their colleagues in the international community. It is also tragic that this administration's unilateralist and ideological tendencies have now spread to the fight against HIV/AIDS. It is morally wrong to allow right-wing ideology to trump science when it comes to the administration's HIV/AIDS prevention policies.

Their policies set aside 33 percent of all funding for abstinence-only programs which deny access to lifesaving education and technology, including condoms. Simply put, this is irresponsible. It is unethical and it is inhumane.

I believe it is unethical because their AIDS treatment policies are really focused more on protecting patents and big pharmaceutical companies rather than the urgent need to get fixed-dose combinations into the hands of those who need them, 98 percent, 98 percent of whom lack access to treatment. The emphasis should be on saving lives.

It is disingenuous that the administration has proposed cutting our support for the Global Fund by over 60 percent this coming fiscal year, proposing a measly contribution of $200 million rather than the $1.2 billion that is needed. We need to encourage the sharing of information by our scientists and researchers.

We need to do a lot better with coordinating our bilateral programs with national governments, the NGO community, and our field missions.

□ 2145

We need to simplify our antiretroviral treatment programs by purchasing fixed dose combinations, drugs that are already available; and we must standardize our treatment programs according to the wishes of each individual country.

We have to fund the fund.

Although I applaud the gentleman from Arizona (Chairman KOLBE) and the gentlewoman from New York's (Ranking Member LOWEY) efforts in doubling the administration's request for funding for the Global Fund by providing $400 million, I was disappointed last week when a point of order was raised with regard to an amendment which I offered which actually killed an amendment that would have raised our contributions to $1.2 billion this year, which is what we need to get started.

The fund is the very best way to get the money out into the hands of the NGO community immediately. It takes a multilateral approach, and it has the potential to leverage vast new resources. We are the wealthiest country in the world. We should be leading the charge. The Global Fund is the best vehicle to show that type of cooperation and provide for the quick release of this money.

Perhaps most importantly, we must stress and implement a balanced, comprehensive HIV prevention policy that includes abstinence, being faithful, and condoms.

Mr. Speaker, we must also go further. As United Nations Secretary General Kofi Annan said so eloquently in his remarks during the opening ceremonies on Sunday, we must place, he said, a special emphasis on reducing the cultural, social, economic, and political factors that increase the vulnerability of women and girls to HIV.

On July 9, just before leaving for Bangkok, I introduced H.R. 4792, The New United States Global HIV Prevention Strategy to Address the Needs of Women and Girls Act of 2004, with 54 original cosponsors. This bill would do just that. We need a focused effort on women and children. Women and children need the assistance of this country and a comprehensive strategy to address this pandemic.

INDIVIDUALS SHOULD HAVE A SECOND CHANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I come to the floor this evening because earlier today I failed to pass an amendment in a Committee on Education and the Workforce markup. My amendment was a very simple amendment, very modest amendment. It was an amendment that would have allowed States to move utilization of their leadership funds for vocational education from 1 percent to 3 percent.

Now, I think my amendment failed not because it lacked merit. I do not think it failed because it was too ambitious, but I think it failed basically because of a lack of understanding and sensitivity to what I think is emerging as one of the biggest problems facing urban America today, and that is, the problem of individuals coming home from prison with no skill, little education, no training and virtually no ability to get a job, which sends them right back to the penitentiaries from which they have come.

We have become, Mr. Speaker, the most incarcerated Nation on the face of the Earth, the United States of America. It is hard to believe, but we have more people in prison per capita than any other country on the face of the Earth. Right now, as I speak, there are more than 2 million people in this country who are incarcerated, in jails and prisons. More than 640,000 of them come home each and every year.

Now, I will not even bother to go into why there are so many people in prison: mandatory minimums, antiquated sentencing laws, get tough on drugs, punishment that does not fit the crime; of course, lack of prevention, lack of education, poverty; all of the things that characterize individuals who are in prison and, of course, in many instances, race and ethnic backgrounds.

The realities are, if we do not do something to stem the tide, then this problem keeps recurring over and over and over again.

Last year, I introduced a bill, the Public Safety Ex-Offender Self-Sufficiency Act of 2003, along with the gentleman from Indiana (Mr. SOUDER). That bill calls for the building of 100,000 units of SRO-type housing for ex-offenders, people as they come out of prison because all of the studies suggest that one of the biggest problems that people have when they return home from prison is having a stable environment in which to live.

About 3 weeks ago, the gentleman from Ohio (Mr. PORTMAN) and I and the gentlewoman from Ohio (Mrs. JONES) and the gentleman from Indiana (Mr. SOUDER) introduced the Second Chance Ex-Offender Act which is, in reality, a scaled-down version of our first bill. What we are really trying to do is to assist people to reenter back into normal life. It has nothing to do with getting soft on crime or being soft on crime, but it has everything to do with promoting public safety, with reducing recidivism, with improving the quality of life, not only for those individuals who return but for all of those with whom they come into contact.

So, Mr. Speaker, I hope that as we continue to move progressively in our country that we would take a different look at how we treat punishment and how individuals who have gone afoul of the law should have and must have a second chance.

THE BURDEN WE ARE PASSING ON TO OUR KIDS AND GRANDKIDS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of New Jersey. Mr. Speaker, I recently received this in the mail, and I do not know if the cameras can really pick it up. It is a front page that is sort of startling.

It says the budget, bloated with pork. The national debt, soaring past $7 trillion. Is it not time to fight back, is the main headline. Interest rates rising. Entitlement program, $73 trillion in unfunded liabilities.

Sort of makes one realize the tremendous burden that we are passing on to our kids and our grandkids. It speaks of $7 trillion dollar national debt, and of course, you have to pay interest on that national debt because you are borrowing the money.

Interest on that national debt now represents about 14 percent of the total budget. This pie chart represents how we are spending the $2.4 trillion of expenditures this year. Interest at 14 percent, that represents $800 billion that we are paying in interest, and interest rates now are relatively low. So that means, as interest rates go up, the portion of the total income coming into the Federal Government is going to be used up paying interest.

So two things: interest rates are going up, and the debt is going up faster than it ever has. We are now increasing the debt by over $500 billion a year, and that is because we have a propensity to spend. Politicians have found out that they are more likely to be reelected if they bring home the pork barrel projects. They get on the paper cutting of the ribbon of the new facilities, of the jogging trails or the libraries or whatever, and that overspending, because of efforts to try or politicians to try to be liked by the people back home and to get elected is part of what is driving up our debt.

Over $500 billion a year of deficit spending. Deficit spending means how much in 1 year we are overspending, over and above the revenues coming into government. That $500 billion of increased debt a year, how do you put it in perspective?

Well, we are a country about 228 years old. It took the first 200 years of this country to amass a debt of $500 billion. Now, we are going deeper in debt $500 billion every year.

What does that do to our kids? I am a farmer from Michigan; and the way I was raised, what a farmer did for his kids was try to pay down the mortgage, hopefully make their life a little better than mom and dad's life was. But in this Congress, in this city of Washington, we are driving up that mortgage for our kids and our grandkids to pay off.

So two areas: one is the increased debt that we are laying on our kids and our grandkids, and the other is the increased promises of unfunded liabilities. Unfunded liabilities are the green-shade, the economists' words, for how much we are promising in benefits for programs such as Medicare, Medicaid, Social Security, how much we are promising in benefits over and above what revenues we have to pay for those benefits. This is $73 trillion and putting $73 trillion sort of in some kind of a measurable fashion, and I am not sure any of us can do that. Our current spending every year is just a little over $2 trillion, and here is $73 trillion that is needed to go into a savings account today that is going to have a return of at least interest rates that will accommodate inflation to pay for what we have promised in programs over and above what is coming in in revenues from the payroll tax.

Let me go around this pie chart, and then we will talk a little bit more about the unfunded liabilities.

You can see the biggest piece of pie is Social Security, using up 21 percent of total government spending; and so many people say, well, Congressman SMITH, you should not have that as part of the pie. Social Security is separate.

I would just point out that the Supreme Court now on two decisions has said that there is no entitlement to Social Security benefits just because you have paid in Social Security all your life. The Social Security payroll tax is simply a tax. The benefits that you might get are a separate, different program that Congress and the President has signed into law saying here are some benefits that you get at age 65; and of course, if you look back at history, we know that over the years we have changed those benefits dramatically. When we run out of money, we increase the tax and reduce benefits usually.

Going around the pie quickly, Medicare is at 12 percent. Now, with a prescription drug program, it is estimated that Medicare is going to overtake Social Security as a percentage of total spending within the next 20 years.

Medicaid is growing very rapidly at 6 percent. The reason Medicaid is going to be growing is more people who thought they were saving enough for retirement now are living much longer than they anticipated. They are using up their savings; and once they are broke, they go on Medicaid.

□ 2200

Of course if you go to a nursing home, you end up paying $40,000, $50,000, $60,000 a year to go into that nursing home facility, and if you are living very long, that means a lot of your savings are used up, and you go on Medicaid and then taxes pay for the Medicaid program.

Other entitlements represent 10 percent. Defense, I am going to skip over here to defense at 20 percent. Before Afghanistan and Iraq, defense was a little under 19 percent. Now we are going up to 20 percent, not a huge increase in terms of percentage of total budget, but here is the domestic discretionary spending that uses up 16 percent of the total Federal budget. On those 12 appropriations bills, it is what we spend most of the year, at least half to three-quarters of the year arguing about how we are going to spend that 16 percent of the budget.

My point is, unless we look at these other expenditures, the indebtedness and interest on the debt, Social Security programs that are going broke, Medicare programs that are going broke, Medicaid programs that are going broke, the so-called entitlement programs, which means that you are entitled to receive these benefits from other taxpayers if you are at a certain level of poverty, if you are at a certain level of poverty and have children, if you reach a certain age, if you are a veteran that is retiring, if you are a farmer that is in the farm programs.

So the entitlements are sort of like on automatic pilot. Unless we deal with some of those problems, the overpromising of those entitlement programs, we are going to leave our kids, grandkids and the future generations not only this massive debt that is now $7 trillion, but the problem of trying to raise enough money to pay for the promises, and I would say the "overpromising" that this Congress has done.

I asked Art Laffer, an economist that I respect, the originator of the so-called Laffer Curve, I said "Art, what is worse, increasing taxes or increasing the debt?"

He said, "Well, in the long run they are about the same because increasing indebtedness is the promise of future taxes," and it is. To accommodate that 14 percent that we are now paying in the total Federal spending pie for interest, and that 14 percent is going up very quickly as interest rates go up and as we increase the debt, it is going to mean that we have to come up with money in some fashion to pay for it. So that brings us back to the propensity of politicians to spend more and promise more.

How do we get control of the overzealousness to try to solve more and more problems of the country? If we look back at the Framers of our Constitution that were brave enough to declare independence from Great Britain, that wrote a Constitution that designed an economic incentive that those that work hard, that try, that save, that invest, that go to school and use that education are better off than those that do not, that is what has helped us be the strongest, most successful Nation on earth. It is not that we are smarter than anybody else in the world; it is that we have had that kind of motivation and incentive to do our very best, to come up with ideas and work hard.

Now, over the years we have sort of said, well, if you work hard and get a second job, and you wanted that second shift so you could have more money for your family, we are not only going to tax you more, we are going to tax you at a higher rate. So dividing that wealth of those that are successful, and so if you work hard and are successful, we are going to tax you more and more, and give it to the people over here. So it is sort of pay in according to your ability to pay in, and take out according to your need.

Mr. Speaker, we have to be careful that we do not lose that kind of incentive that has made this country great in our overzealousness to divide the wealth, number one, and to pass on to future generations the overspending that we are doing today. It is really somewhat egotistical, I think probably a better word might be "unconscionable," to think that our problems today are so great that it justifies spending the money our kids have not even earned yet.

Next chart, unfunded liabilities. What are they and what are the promises?

The three largest categories of unfunded liabilities are Medicare, Medicaid and Social Security. The Social Security and Medicare trustees have calculated that these programs have over $73 trillion in unfunded liabilities. So $73.5 trillion are going to have to be invested today to have a return that is going to accommodate inflation to pay what is needed to make up the difference between the revenues coming in in the payroll tax and what is needed to accommodate the current promises.

Breaking them down, Medicare Part A, mostly hospitals, $21.8 trillion unfunded liability; Medicare Part B, $2.2 trillion unfunded liability; Medicare Part D, the new prescription drug program, $16.6 trillion unfunded liability; and Social Security with our promises, about $12 trillion unfunded liability.

Those are huge problems. How are we ever going to solve those kinds of promises in relation to what this country is worth, what we can produce in our gross domestic product every year? We are now spending approximately 20 percent of the GDP in our funding at $2.4 trillion. So that means 12, 13, some good years, maybe $14 trillion is the total product, the total gross domestic product that we produce in this whole country in 1 year, and yet we are talking six times that amount that we need right now if we are going to accommodate the future promises, the cost of the future promises we have made over and above what is coming in in revenues. Just huge problems.

So what do we do about it? We do not do anything. The longer we put the solutions to these problems off, the more drastic the solution is going to have to be. I have been working on Social Security, and I am going to talk a little bit about Social Security tonight.

It was estimated back in 1987 that we were going to run out of money for Social Security. Actually, I was in Michigan, and I was chairman of the Senate finance committee, the Senate taxation committee, if you will. That is where I wrote my first Social Security bill. When I looked at the fact that with people living longer and the birthrate going down, Social Security was going to go broke. It was going to run out of money.

So I came into Congress. I was elected in 1992, and every session since I have introduced a Social Security bill. I have had my Social Security bills scored by the Social Security actuaries. They say that my bills would keep Social Security solvent essentially forever, even though they do it for the next 75 years. The way I structured my bills, it would keep Social Security solvent forever.

Nobody really wants to deal with Social Security, and let me tell you why. Because most of the seniors on Social Security depend on Social Security for 80 percent or more of their total retirement income.

So if you are dependent on that Social Security check, you can understand that it is very easy to scare a senior by saying, well, the gentleman from Michigan (Mr. SMITH) wants to ruin your Social Security and take your Social Security away from you.

It was tough in my first few elections. I have probably given between 270 and 300 speeches on Social Security in my district. I suspect that my Seventh Congressional District of Michigan is more aware of the problem of Social Security and that it is going broke than maybe any other part of the country. It is a huge problem.

I was made chairman of the Bipartisan Social Security Task Force, and we spent a year having expert witnesses come in to explain to the Republicans and Democrats on that task force the problems of Social Security, the fact that it was going broke, the fact that the longer we put off a solution, the more drastic that solution is going to have to be. So when we finished, we had a bipartisan agreement that there has got to be a better way to invest some of the money coming in to get a better return than we have in Social Security. We had an agreement, the longer you put off not dealing with this huge problem, the worse it is going to be, so it was important we all agreed to deal with it as quickly as possible.

So we wrote and introduced Social Security legislation. I have had Social Security legislation introduced for the last 8 years which has had bipartisan sponsors of that legislation because those individuals on both sides of the aisle that are aware of the magnitude of this problem agree that we have got to move ahead with a solution to Social Security. We have to do the same thing with Medicare and Medicaid. We cannot go on pretending that it is okay to continue to increase spending because it seems to be popular at home.

Why is it popular at home? Here is my two bits worth as a farmer from southern Michigan. We now have approximately 50 percent of the adult population in the United States that only pays 1 percent of the income tax. So you can see that there will be some people in this country that say to Washington, to the President and Members of Congress, to the Senators, well, spend some more tax dollars helping me with my problem because it ends up that they are getting much more out of government than they are paying in in taxes.

That is another talk on where we go with this complicated Tax Code and the unfairness of the Tax Code. I think we need the kind of Tax Code that everybody pays at least something in to run the Federal Government so they have a stake in the overzealousness of politicians to spend tax dollars and increase taxes.

Now, in an election year and approaching this Presidential election, we have a lot of concerns from the Democrat side of the aisle that we are shortchanging spending on needed programs, such as this needed program and this needed program, so let us increase taxes to make sure that we are doing the right thing to spend money for this program.

This evening we heard a lot of comments that we have to go into Sudan and the atrocities which have been occurring in Darfur is partially our responsibility. I think it is, but it is not just singly the responsibility of the United States, it is the responsibility of all the countries of the world.

Maybe we sent the wrong signal when we went into Iraq. Maybe other countries sort of heard the message that if they did not do anything, the United States would do it anyway. There were 17 U.N. resolutions condemning Iraq. We knew that there were problems of tyrant dictators, accommodations for terrorists, and developing more and more weapons in several countries, Syria, Libya, Iran, Iraq, North Korea. After the terrorist attack of 9/11, it was appropriate that we go to the source of that problem and go into Afghanistan.

□ 2215

But here are countries developing more and more weapons, with tyrant dictators, accommodating terrorists, and so what should the choice be? Our first choice was go to the United Nations to try to get more countries to join with us in going after all of these countries to send a strong signal that we are not going to allow the proliferation of weapons of mass destruction.

I bring this up because other countries said, well, why don't you go ahead and do it alone? We sort of did. Thank goodness for Great Britain that has joined us in that venture. But now we are challenged with some of these other countries. Maybe we are moving ahead with North Korea now in their development of nuclear weapons with the help of China because North Korea does not want to offend China and the other five countries that are putting pressure on them to stop their weapons of mass destruction, but my guess is we will do something like President Clinton did and that is essentially paying off the blackmail to get them to stop developing and selling weapons of mass destruction.

The decision was made because of the many U.N. resolutions, because of the fact that Saddam had used weapons of mass destruction on his own people, because of the fact that maybe if we could get Iraq to make a transition to a democracy and have an increased standard of living, it would make a huge difference in the countries surrounding them. I think that is true. If we are successful in Iraq, I think the people of Iran will not stand for not moving ahead with more liberty and more freedom in their particular country.

I recently visited Libya and met with Colonel Qaddafi. I think it was partially because he did not want to end up like Saddam Hussein did, is sort of my guess. As I talked to Colonel Qaddafi, it was like him coming to confession that he was a terrorist but he saw no reason to continue having those weapons of mass destruction. It is a good start and Colonel Qaddafi and Libya now are more a part of the World Trade Organization. It is going to end up being better for their country. But now we need to encourage the rest of the world to encourage these other countries to move in and be part of the world community, in trade, because in the long run it is going to be good for those countries.

It is going to be a huge challenge in stopping terrorism in this world. I am just so convinced that we cannot turn tail and run, that we have got to stick to it, we have got to be dedicated and whether it is Iraq or whether it is a continued fight to do away with terrorists in this world, we have got to work together to do it.

Mr. Speaker, next I am going to briefly go through a couple of these charts. This is the general revenue transfer. To make up the difference between what we promised in Medicare, Medicaid and Social Security and what is coming in from the payroll tax, this is in a few years what is going to have to come out of the general fund if we simply do nothing and let it go.

By 2020, that means that we are going to have to take 28 percent out of the general fund to make up the difference between what is coming in in the payroll tax and what we promised in benefits for these programs. If we just go to 2030, another 26 years away, it is going to take over 52 percent of the general fund revenues to accommodate those programs.

So why do we not deal with it? Partially maybe because it is a tough question and it is a tough solution. There are only a couple of ways to fix the programs. You either increase taxes and have more revenue coming in, or you reduce benefits. Of course, that is what we have done over the years. Every time we have had problems with Social Security, we have either increased revenues or reduced benefits or a combination. That is what I think we need to guard against, simply because most adults in the United States today pay more in the payroll tax than they do in the income tax.

Here is a quick visual snapshot of the problems with Social Security. After the Greenspan Commission in 1983, we have surplus revenues coming in because we had a dramatic increase in the payroll tax, increased revenues coming in over and above what Social Security is paying out; and then by 2017 the red portion of the chart begins, and that is the time when we have to come up with money from more borrowing or more taxes to pay promised benefits.

Here is how Social Security works. Just very briefly, the payout is very progressive. The taxes being paid in are not progressive. Benefits are progressive, and they are based on earnings at retirement. All of a worker's wages up to the tax ceiling, which is now $89,000 a year, are indexed to present value using wage inflation. Present value means if you had a certain job 20 years ago and wages double every 10 years, then for calculating your Social Security benefits, they up the wages to what that job would be paying on the day you retire. The best 35 years of earnings are averaged, the annual benefits for those retiring in 2004, and here is the progressive part: if you are very low income, you get back in a monthly check 90 percent of what you were getting when you were working. So 90 percent of the earnings up to $7,300 are what you get in your Social Security check. Thirty-two percent of the earnings between the $7,300 and the $44,000. Then everything over that, you get 15 percent of your earnings above $44,000.

If you are very rich, you get maybe 16 percent of your average wage back in Social Security benefits. If you are very low income, then you get 90 percent of what you are earning weekly or monthly or biweekly back in a Social Security check. Early retirees receive adjusted benefits, and I added a column on this one. When we started Social Security in 1934, it was interesting going through the archives. Franklin Roosevelt said that there should be a private sector savings account owned by the individual, and actually the Senate passed a Social Security bill that had a savings account owned by the individuals but with the provision that you could not use any of the money until you retired at age 65. Actually, it worked very well then because the average age of death was 62 and so most people died before they became eligible for benefits and this pay-as-you-go program worked very well.

Pay-as-you-go, let me just explain that a second. When you have the deduction of the 12.4 percent for Social Security, a total of 15.2 percent payroll tax, your employer sends in that money. By the end of the week, that money is sent out to existing retirees. So there is no savings account with anybody's name on it. It is a pay-as-you-go program. So the taxes come in, and they are immediately sent out to existing beneficiaries, sort of like the chain letter.

I remember a cartoon I once saw with the elderly person saying, well, I am going to retire, how does Social Security work? And here is Uncle Sam saying, well, see this long list. You put your name at the bottom of the list, and then you send your money to the person on the top of the list.

And so it is sort of like a chain letter and you hope there is going to be some money left when your name at the bottom of the list gets closer to the top of the list.

Social Security was supposed to be one leg of a three-legged stool. I would encourage every person under 55 years old to make an aggressive effort to start putting aside savings for your retirement. The challenges for this country in the next 10 years when we start running out of money for Social Security and Medicare and Medicaid, between 10 and 20 years, there is going to be a dramatic pressure to increase taxes and reduce benefits.

My argument to try to get business and industry on board in terms of the need to have a Social Security solution and a Medicare and Medicaid solution is the consequences of doing nothing and that is what we see happening in many countries around the world.

Mr. Speaker, I would ask everybody to just make a guess of what the payroll tax is, for example, in France to accommodate their senior citizens. It is now over 50 percent of the payroll. So you can see that that makes that country much less competitive. They have either got to pay their workers less wages, and that is why there are a lot of strikes over in France, or they have got to increase the price of their product that makes them less competitive. In Germany, the payroll tax in Germany just went over 40 percent. Japan is hard-pressed in terms of their taxes that are needed to accommodate their senior population.

So for goodness sake, let us not keep putting off these problems for the next Congress because we do not know exactly how to deal with it, so we end up with that kind of taxes and that kind of pressure on our businesses that are going to put our businesses at a greater competitive disadvantage as they try to compete in world trade.

Social Security is a system stretched to its limits. There are 78 million baby boomers that begin retiring in just 3½ years; 78 million baby boomers begin retiring in 2008. Social Security spending exceeds tax revenues in 2017, and the trust funds go broke. Insolvency is certain. It does not take a guess. We know how many people there are, and we know when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they will take out. The actuaries' estimate right now is payroll taxes will not cover benefits starting in 2017, and the shortfalls will add up to $120 trillion between 2017 and 2075, $120 trillion that we are going to need. The $120 trillion is what we need in all those future years one year after the other. That is what would be accommodated if we put $12 trillion into a savings account now that would have a return of at least inflation and the time value of money.

Here is sort of a chart that shows what has gotten us into this predicament. That is the demographics. Our pay-as-you-go retirement system will not meet the challenge of demographic change. Back in 1940, we had 28 workers working and paying in their Social Security tax to accommodate every one retiree. So here are 28 people sharing the cost of every one retiree. By the year 2000, it got down to three workers paying in their taxes, and the three of them sharing the cost and benefits for Social Security of every retiree. The estimate by the actuaries is by 2025, we are only going to have two workers trying to pay enough tax to accommodate one retiree. That is what is happening, and that is why our taxes continue to go up; and if we do nothing, it means increasing the tax.

I have read by some, some on this side of the aisle, that, look, all we need is a strong economy, so if we can have a strong economy and better jobs and better wages and more profit, it will do it. But here is the problem. Because benefits are directly related to the wages you get in and as there are more jobs and more people working and more wages, that means that temporarily it fixes the problem because you have a little more money coming in; but because benefits are directly tied to the wages that you make, it means the payout in future years is going to be greater. So in the long run it does not fix the program. Growth makes the numbers look better now, but leaves a larger hole to fill later. In my talks around the country and around Michigan, people say, well, if Congress would just keep its cotton-picking hands off the Social Security trust fund.

□ 2230

We should do that. What we should be doing with the trust fund is getting a real return on it. But what Congress has been doing, and the President, for the last 20 years is, every time there is a little extra money coming in from Social Security, we spend it on other government programs. Right now, government owes the trust fund, because that is what we do, we write out an IOU. Government owes the Social Security trust fund $1.4 trillion, but the shortfall, what we are going to need, is $12.2 trillion. So just the trust fund by itself is not going to accommodate or solve the problem.

Social Security has a total unfunded liability of $12 trillion. The Social Security trust fund contains nothing but IOUs, and to keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent.

In this chart I have tried to show that Social Security is not a good investment. The average retiree only gets back a 1.7 percent return over inflation for the money they and their employers send into Social Security. Actually, if one happens to be a minority whose average age is 63½ right now, they actually end up with a negative return because they die before they hit 65 and start collecting benefits. The average is 1.7 percent return.

But the market, in this case I did a graph showing the Wilshire 5000, the average of 5,000 stocks for the last 10 years. Even with the poor returns that we have had for over the past 3½, 4 years, even with those poor returns, the Wilshire 5000 has returned 11.8 percent over and above inflation.

So how about that? How about having some of this money coming in from Social Security, invested in accounts? And I think there has got to be a limitation on accounts, so what I do in my bills is, I do it sort of like the Thrift Savings Account, index stocks, index bonds, index mutual funds, the option of foreign stock funds. Once one has accumulated a certain $2,500 in their retirement account, and they cannot use it, government is going to control it, once they get to that level, then there could be more flexibility as determined by the Secretary of Treasury in terms of additional alternative investments that one might use.

This is how many years one has got to live after they retire to break even on the money they and their employer put into Social Security or, if one is self-employed, the money they put in. If people retired in 1960, it was a pretty good deal. They only had to live 2 years after retirement. But now, in 2005, people are going to have to live 23 years after they retire to break even on the money they sent in for Social Security. By 2015 it goes up to 26 years that people are going to have to live after retirement. And, look, that might be possible. The age of life has continued to increase.

Here is the chart I want to finish with. And that is the danger of doing nothing. What we have done in the past is increase taxes or reduce benefits every time we have had a problem with enough money to pay out promised benefits. And over the years we have increased benefits, too, for Social Security. In fact, in 1965 we amended the Social Security bill to start the Medicare program. So that was a huge new challenge and huge new promises that are going to put our kids and our grandkids even deeper in debt.

Just going up from the 1½ percent in 1940, we raised it to 2 percent of the first 3,000. In 1960, running short of money again for the increased benefits, we tripled the rate, a 300 percent increase in the rate going up to 6 percent, and we increased the base, too, to 4,800.

By 1980, we raised the tax rate to 10.16 percent of the first 25,900. By 2000, again we raised the rate up to 12.4 percent of the first 76,200; in 2004, 12.4 percent of the first 87,900, but now it is 12.4 percent of the first 89,000. So we have continued to increase the tax.

And I just plead, Mr. Speaker, with everybody that might be listening that they, as workers in America, or their kids that are going to be working if they retire, should not be asked to pay a higher and higher tax to accommodate the existing retirees. Probably the people that are retiring this year, and I have not seen the statistics, but I would guess they are probably one of the most wealthy generations that ever has retired in America.

Six principles of saving Social Security, and here is what I sent out to all the Members of the House and all the Members of the Senate: Protect current and future beneficiaries; allow freedom of choice, and in my legislation, we can guarantee that they are going to have as much return by having their own investment as they would if they stayed in the current system, so we guarantee that the return on their private savings account that they own, that government is going to control it, that they cannot take it out until they are 65 or until they have an annuity that is going to prove that they are never going to fall back on other taxpayers. That, in a sense, says that one can be an average worker and retire as a very wealthy person if they start saving this money.

And some of these counties have had the option of not using the Social Security because that is the way the legislation was written. A municipality or a State can have the option of investing their own money or going into Social Security. Some of these counties are giving to their retirees that invested their own money over the last 60 years up to nine and ten times as much as Social Security pays similar wage-earning retirees.

Mr. Speaker, I am going to close with the plea that we work together to make this kind of a bipartisan effort. It may be our chance next year after this Presidential election. I would guess that if we cannot do it in the first 4 years of a President's term, then it is going to be difficult to make the tough decisions that are required to solve these kinds of problems in Social Security and solve the kinds of problems that we need to be looking at in Medicare and Medicaid and some of the other entitlement programs. It is just unfair, unconscionable, to pretend that our problems are so great today that we have to take the money and the savings of our kids and our grandkids because they are going to have their own problems and their own concerns.

THE COMPLEXITY OF OUR TAX CODE

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. HOYER) is recognized for 60 minutes as the designee of the minority leader.

Mr. HOYER. Mr. Speaker, I want to say to the gentleman from Michigan that I was very interested in his remarks, and I agreed with a lot of his remarks. Where we would disagree is our responsibility is if we are going to buy things to pay for them. And I would say, with all due respect to my friend, for the last 40 months we have not been doing that.

We continue to buy and we are not paying. And that is why that half-a-trillion-dollar debt to which he referred has been accumulated, and this year it may be a little less or a little more, but I agree with his general proposition that we need to come together, and if we are going to buy, pay for it and not pass it along to future generations, because as the gentleman so correctly pointed out, if we incur debt today, it is inevitably taxes tomorrow.

It is, I think, appropriate that we transit from a discussion about the deficit that confronts us, the obligations confront us, and talk about the way we pay for what government is asked to provide.

Mr. Speaker, I am pleased to be leading this Democratic special order tonight on an issue that confronts millions of Americans every single year, the unbelievable complexity of our tax laws.

All of us, of course, bear some responsibility for the complexity of our Tax Code. Democrats and Republicans and every American, every American who believes that the tax preferences that he or she utilizes are worthwhile. Considered individually, the tax preferences that are part of the code, of course, can be rationalized: the charitable deduction, a very worthwhile effort; the mortgage interest deduction, which has provided for America being now one of the largest home-owning countries in the world, a good provision.

Collectively, however, they are a jumble of confusion that causes unfair results and has a corrosive effect on our democracy. As Paul O'Neill, the former Secretary of the Treasury, who is no longer with us, perhaps because of candor, said, "One of the unseen consequences of our Tax Code's complexity is the sense it leaves with taxpayers that the system is unfair and that others pay less tax because of special advantages."

A few facts, Mr. Speaker, illustrate the scope of the problem. In 1913, the Tax Code was a mere 500 pages. Today, the code and regulations total more than 60,000 pages. Four common forms: Form 1040 and Schedules A, B, and D take an estimated 28 hours and 30 minutes to prepare.

There is a lot of talk about simplification, but we have not moved towards simplification, and Americans are rightly frustrated. Americans are rightly angry about this annual challenge that they have to pay correctly the taxes toward supporting their government.

When the IRS started tracking this information in 1988, that is how long it took to fill out forms, the average paperwork burden was 17 hours, 7 minutes. Even the simplest form in the IRS inventory, the 1040EZ, now requires 3 hours and 43 minutes to prepare, up from 1 hour and 34 minutes in 1988. It is called EZ. There are a whole lot of Americans who do not believe it is easy.

Complexity costs more than $100 billion a year in accounting fees and the value of taxpayers' time to complete their returns. This is roughly equivalent, Mr. Speaker, to what we spend to run the Departments of Education, Homeland Security, and State. Think of that. The dollars that we spend to fill out our forms are equal to what it costs us to run the State Department, the Department of Homeland Security, and the Department of Education.

Not surprisingly, more Americans than ever rely on tax professionals, 56 percent, in fact, compared to 48 percent just 14 years ago, in 1990. But even tax professionals cannot guarantee accuracy. The General Accounting Office recently found that 2 million taxpayers who used a preparer took the standard deduction when they would have been better off itemizing. That says something about our system and perhaps something about preparers.

If the administrative burden does not convince people that the form is crucial, the crisis in noncompliance surely should. The IRS has estimated that there is a $311 billion annual tax gap due to underreporting, underpayment, and nonfiling, $311 billion owed but not collected. What does that mean? That means that somebody has to pick up that slack. Frankly, today nobody is picking it up because we have a deficit larger than that $311 billion, which means, as the gentleman from Michigan said earlier, that future generations are going to pick up that gap. They are going to pay that bill. And, in fact, all of us pay higher rates because too many pay not their fair share of that $311 billion.

□ 2245

In March, Nancy Killefer, the chairwoman of the IRS Oversight Board, told the House Committee on Ways and Means, "The IRS does not have the resources needed to accomplish its mission."

Let me repeat that. "The IRS does not have the resources necessary to accomplish its mission." What is its mission? To collect the revenues from each of us to pay for the government that we ask for.

John Kennedy said that taxes were the price of freedom. That is correct. We have established an agency to collect those revenues. Nancy Killefer says it does not have the resources to do so. She went on to say, "It continues to be out gunned and outmanned." By whom? By those who want to avoid paying their fair share.

That same month, Deputy Treasure Secretary Sam Bodman informed Congress that the IRS intended to walk away from more than 2 million delinquents tax accounts last year that total nearly $16.5 billion dollars.

What message does noncompliance and lack of enforcement send? What does it result in? For too many the answer is clear, that it may pay to cheat. In fact, an IRS survey found last year that 17 percent of taxpayers, nearly one in five, believe it is acceptable to cheat, up from 11 percent just 4 years earlier.

Now, just like the people who go into a store and they take something off the shelf, put it in their pocket and walk out and do not pay for it, guess who pays for that item? All of us who come behind and buy that product, because we build in the price of cheating.

Well, there is no difference here. While more people believe that cheating is acceptable, fewer and fewer face audits. In 2003, individuals were audited at a rate of 6.5 per 1,000 returns, and 75 percent of those were computer-generated, non-personal audits. Compare that to the audit rate of 12.8 percent in 1997, or even 9.9 percent in 1998, the year Congress passed tax reform legislation. Audits for business also are down, from three per 1,000 returns to two in 1,000 in 2003.

Mr. Speaker, if they caught only two speeders out of every 1,000 speeders, what kind of enforcement would that be? What kind of constraint would there be to stay within the law?

Leaders in the Republican Party have repeatedly proclaimed their commitment to tax reform and simplification. For example, the gentleman from Texas (Mr. DELAY), the House majority leader, stated in April 2001, "We are pushing forward with our campaign to reform the Tax Code. We are making it fairer, flatter, simpler and less burdensome to the American people." That is what the gentleman from Texas (Mr. DELAY) said in 2001.

But the facts, Mr. Speaker, clearly demonstrate otherwise. Since 2001, Republicans have made 227 changes to the Tax Code and added more than 10,000 pages to the code in regulations.

Mr. Speaker, I want the camera to go right to the end of my finger here. This is 10,000 pages. In 40 months, this is just 1/20th of those 10,000 pages, 500 pages. That is the number of pages the Republican Party has added to the Tax Code and regulations in just the last 40 months.

Today on the floor, of course, we spent about an hour on tax simplification. Wonderful. By the way, in passing that tax simplification, we added more pages to its complexity.

We need to do better. We Democrats believe that we can do better, and we intend to do better.

Additionally, the Republicans propose another 109 provisions in the FSC ETI bill, the bill that tries to fix the problem found in unfair competition in the WTO, the trade scenario. So we passed a bill to solve a $4 billion problem that cost us $150 billion, which we did not pay $35 billion of. That is the party that wants to make our code more simple, less complex, fairer. It was a grab-bag of special interest provisions, just as most of these pages are as well.

Just today, our Republican friends considered two bills as part of their tax reform and simplification week. But let us be honest. As I said, they spent 40 months complicating the code. They devoted 40 minutes to making it simpler.

Today, there is an increasing momentum among taxpayers for real reform. Mr. Speaker, Democrats will take the lead on this issue when we regain the House majority in November. We are going to make it simpler. We need to defuse the middle-class time bomb. We talk about it, but we have not acted on it, the Alternative Minimum Tax, which is no longer serving its purpose, at least not as intended. We need to take a hard look at looking toward a return-free income tax system, simplify tax rules for small businesses, stop individuals and corporations from gaming the system and reform international tax laws that encourage American companies to move jobs overseas.

The American people, Mr. Speaker, are acutely aware of the unnecessary complexity and dire need for real tax reform in America today. We Democrats have been talking about that. When we are in charge, we are going to do it, not talk about it, as our friends in the Republican Party have done.

The American people need, the American people deserve, a tax system that is simpler, fairer and more efficient.

I want to look at some of these quotes.

Newt Gingrich, 1997: "So we want to move towards a simpler Tax Code that takes less time to fill out, that is easier for the American people." 10,000 pages since that time, and, indeed, more, added to the Tax Code.

President Bush, March 17, 2001: "Americans want our Tax Code to be reasonable and simple and fair. These are the goals that unite our country, and these are the goals that have shaped my plan."

My plan? My plan? What plan? There has been no plan submitted to the Congress of the United States. There is no plan in front of the Committee on Ways and Means to which the President referred. There has been no simplification. There has just been these 10,000 pages of additional special interest provisions added to the code. No plan, Mr. President. But, then again, you only said that 40 months ago.

The gentleman from Texas (Mr. DELAY), a month after the President said his simplification plan was on its way: "Because of the Tax Code's mind-numbing complexity, millions of hard-working men and women waste countless hours every April. We are pushing forward with our campaign to reform the Tax Code. We are making it fairer, flatter, simpler and less burdensome to the American people."

10,000 pages have been added to the Tax Code since the gentleman from Texas (Mr. DELAY) said he was bringing us a fairer, simpler Tax Code.

John Snow, the Secretary of the Treasury, this year: "The administration has made tax simplification a priority, and we look forward to working with Congress to achieve it. A simpler code is something we owe honest taxpayers, and the worst thing of all for the tax cheat."

Amen, Mr. Secretary. Where is the plan? Nobody here has seen it. Is it in the Treasury Department? Is it in the White House? Or perhaps it is on its way down Pennsylvania Avenue. Where is the plan?

Lastly, Scott McClellan, the President's Press Secretary: "The President is committed to making the Tax Code more simple and fair." February 2004.

No plan, no fairness, no simple plan. 10,000 additional pages.

I now would like to yield to some of my colleagues to speak on particular aspects of how we can make this fairer, simpler and a better code.

I yield to my friend the gentleman from Georgia (Mr. SCOTT), a new Member of Congress, but a veteran of 20 years in the Georgia Senate and one of our most able legislators.

Mr. SCOTT of Georgia. Mr. Speaker, I rise today to discuss what in my opinion is the absolute heaviest burden on the American people and the American family today, and that is this costly, confusing, complex and complicated Tax Code.

I want to start my comments by commending our distinguished House Democratic Whip, the gentleman from Maryland (Mr. HOYER), for his steadfast leadership on this issue of the need for tax reform. I thank the gentleman for leading on this issue. He has not just started leading on this issue. He has been leading on this issue for a number of years.

Mr. Speaker, I believe that Americans are double-taxed, and that the time and expense that it takes to file their taxes creates an additional cost to our taxpayers.

The current Tax Code is riddled with confusion, complexities, ambiguities and unfairness of staggering magnitude. We need to make drastic changes now. Our current Tax Code is beyond reason and basic common sense.

For instance, the Federal income tax code has grown from 45,662 pages in 2001 to 60,044 pages today. Mr. Speaker, at that rate, at that number of pages, it would take over a year just to read the current Tax Code, and that is only if you were reading an average of over 1,215 pages every week and doing it at least 8 hours every day. That is absolutely incredible.

Our four common tax forms, 1040 and Schedules A, B and D, take an estimated 28 hours and 30 minutes to prepare. As our distinguished leader pointed out, in 1988, when the IRS began tracking this information, the average paperwork burden was 17 hours and 17 minutes. That is an increase of over 10 hours in just 6 years. Unbelievable.

Mr. Speaker, Alexander Hamilton, one of our great founders of this country, perhaps the primary architect of our taxing system and our first Secretary of the Treasury, said, "In order for our Nation to succeed, our taxing system must be simple, literate and fair. and I tremble for the future of my country if we fail in this endeavor." And I tremble indeed for the future of our country also, as Mr. Hamilton did 200 years ago, if we fail to reform our Tax Code.

Indeed, I predict a serious taxpayers' revolt in the very near future because of complexity, because of expense, because of unfairness, if we do not move with haste now to reform the Tax Code.

It now costs taxpayers $100 billion each year just in fees for our taxpayers just to complete their tax returns. Individuals, businesses, tax exempt, public-private entities, spend 6 billion hours each year just complying with the Tax Code. It is a loss to our economy and it is a loss to our productivity, and it is staggering.

Mr. Speaker, as you know, as an entrepreneur that has started a successful business, as I have, as a small business owner, I believe that tax reform proposals that simplify the Tax Code merit serious consideration, and to that end I am a cosponsor of H.R. 1783, the Freedom Flat Tax Act.

Let me just tell you for a minute what this flat tax will do. It will take the complexity out of our Tax Code. It will ensure fairness by closing creative loopholes that allow some unscrupulous persons to avoid paying their fair share of taxes.

□ 2300

This measure would phase in a flat tax over a 3-year period with a 19 percent rate for the first 2 years and a 17 percent rate in subsequent years, and it will allow for no deduction loopholes, but will allow for personal exemptions, including a $5,300 exemption for each dependent.

I do not believe that the flat tax is perfect, but at least it is a starting point to do 2 essential things: give our taxpayers back their time and give them back some of their money. That is what the American citizens are asking for.

This current Tax Code is mesmerizing in its confusion and unfairness. For example, there are 5 different tax breaks for families with children: dependency exemption, head of household filing status, the child tax credit, the child independent care tax credit, the EITC, and all 5 of these define a qualifying child differently. How confusing.

Taxpayers overpay their taxes by an estimated $1 billion a year because they fail to claim itemized deductions, opting for the standard deduction instead, according to the General Accounting Office, because they say the Tax Code is too hard to understand.

About one-quarter of taxpayers who are eligible for the earned income tax credit, which is designed to help the working poor, fail to claim it because they say it is too complicated. Our Tax Code is terrible.

Mr. Speaker, we cannot wait any longer. The time for tax reform is right now. We must not tinker around the edges of the Tax Code, but go right to the heart of the problem. The American people are depending upon us, and we Democrats must provide the way and the leadership on this critical issue of tax reform. The American people need and deserve a tax system that is simpler, fairer, and more efficient, just as the gentleman from Maryland (Mr. HOYER) stated, and we must give it to them now.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments and for the passion that he brings to the effort to make this a simpler, fairer Tax Code for the welfare of our people, for small business, and all of those who must comply with a system that has become extraordinarily complicated.

Mr. Speaker, I yield to the gentleman from Washington (Mr. MCDERMOTT), a senior member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman from Maryland. This is an auspicious night tonight. The President had a dinner downtown and raised $25 million from some of his closest friends. In the recent motion picture, in talking to them, he said, some people say you are the elite, but I say you are my base.

Well, we ought to talk about this man's base.

Mr. HOYER. Mr. Speaker, if the gentleman will yield, is that the movie in which the gentleman from Washington (Mr. MCDERMOTT) starred?

Mr. MCDERMOTT. Mr. Speaker, since 1994, when the Republicans created a Contract With America and said that they would pull the Tax Code up by the roots and simplify it, this TOM DELAY Congress and its tax-writing committee have added another 10,000 pages, which the minority whip has already pointed out, and lowered taxes on the most affluent among us. Over the past 3 years, the Congress has watched 1 million jobs disappear, and what has it done? Well, first the Congress passed out lavish tax breaks to the millionaires so that they could send more money to Wall Street. Second, the House of Representatives sent the chairman of the Committee on Ways and Means to Europe. While he was there, the Europeans said, because of the WTO's ruling, you Americans need to change your tax structure to make it easier for European products to compete with American ones. How did the chairman of the Committee on Ways and Means respond? He told the Europeans he would like to help them out, but that they should impose tariffs on the American products first to get our attention. He thought that if they hit us, he could get something through the House.

Today, Mr. Speaker, the Europeans are imposing a 9 percent tariff on American products exported to Europe, our largest trading partner. These tariffs apply to some of our most sensitive products like agricultural goods that come from all across America, from Florida and from the Midwest. The Europeans are imposing tariffs on paper and wood products that come from the Pacific Northwest and from the American south. Just last month, to appease the Europeans, the House and Senate passed a bill to hike up taxes on U.S. companies who export American-made products to foreign markets. At the same time the House and Senate lowered taxes for U.S. companies that operate offshore.

And what do other Republican leaders have to say about this? Well, the chairman of the Committee on Rules came out here a few weeks ago and said he was happy that European tariffs were imposed, he was happy that this Congress was raising taxes on U.S. firms that operate in America, and he was happy that we were lowering taxes for U.S. firms that operate offshore. Check the CONGRESSIONAL RECORD, Mr. Speaker. My colleagues will find I am right. This is not hyperbole. I am not making this up. This man stood right over there and said it. This is the official RECORD as recorded by the House Clerk.

Mr. Speaker, our tax structure is one of the most competitive in the developed world. Our effective corporate tax rate is among the lowest in the developed world. Let me say that again. Our effective corporate tax rate is among the lowest in the developed world. Only 2 nations have lower effective tax rates than ours.

Furthermore, Mr. Speaker, despite the fact that we currently tax U.S. firms who operate overseas at a lower tax rate than those who operate on our own shore, the Republican Party has pushed through legislation in the House and Senate to again lower the tax rate that U.S. firms operating offshore will pay.

This country has lost 1 million jobs, and many of those were lost because they simply moved offshore. It is cheaper to operate over there. That is why they went, and the tax structure is set up so that it is cheaper for companies to move offshore and leave the American worker behind without a job.

The Republican Party's response to an increasingly connected global economy has been to make our Tax Code more complex and to lower taxes for U.S. companies that decide to move their operations offshore.

When is the Republican Congress going to do something right and something fair for the American people, Mr. Speaker? When is the Congress going to reform the Tax Code so U.S.-based firms are not put at a competitive disadvantage, compared to U.S. firms that move overseas?

Since the Republicans took control of the congressional tax-writing committee on which I sit, U.S. firms have moved overseas, Americans have lost their jobs, and we spend more time than ever trying to figure out our taxes, because of the 10,000 pages they have added.

Since the Republicans took control over the Department of the Treasury, the Federal Government finds itself in annual an $500 billion deficit. Now, that is real fiscal responsibility. We borrow nearly $500 billion every year from foreigners, from the Chinese, from the Saudis, from the Swiss. We are in hock to half the world.

Does the Republican Party expect to control the Congress based on this record over the last decade, Mr. Speaker? If they do not make some changes pretty quick, and those 2 silly bills they brought out here today did absolutely nothing to simplify; all they were was a piece of paper that said "tax simplification" across the top and the body of the text did nothing, nothing. There is not a single person in this country that will have an easier time on the 15th of next time because of the silly bills they passed out of here today.

Luckily, we only have 105 more days to suffer under these people. We are going to have a change when the Democrats take over this place.

Mr. Speaker, I commend the gentleman from Maryland for bringing this issue up and bringing it out here. It is late at night, but it is an issue that affects every single American, and the American people ought to know that we are thinking about it and want to change it.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Washington State, a member of the Committee on Ways and Means, for his remarks. And then that, of course, as the gentleman points out, is the purpose. The tax simplification purpose of ours is not going to be just tonight, it was not just 3 days ago when I gave a statement to the press and to others; it is a commitment that we have for all Americans to make this a fairer, simpler system for them and their families, and for every small businessperson in America so that they can feel that we are not placing an extraordinary burden on them.

Paying is burden enough. Complicating the system and causing them hours and hours and costs to comply is too much for them to expect, and we need to change it, and we Democrats are going to change it. I thank the gentleman from Washington for his remarks.

I now am pleased to yield to the gentleman from Illinois (Mr. EMANUAL), who has been very involved in our efforts to focus on tax simplification and who is a leader in this effort.

□ 2310

Mr. EMANUEL. Mr. Speaker, I would like to thank the leader for doing this, although again it is late at night; but many times when families have to fill out the 1040, these are the hours they are working at their kitchen table trying to figure out what those stacks of paper mean, and so it behooves all of us to be here at this hour because it is very similar to what middle-class families across America have to do when it comes to the Tax Code, and it requires countless hours; and I think if I am not mistaken in the last 10 years we have added about 7½ hours to the average family's hours that they are dedicating just to filling out the tax forms around April 15.

Now, I have put together a proposal that would affect about 60 percent of the tax filers and get the form down to 12 simple questions and eliminate 200 pages of the code, about 2,000 addendum pages, and it is called the simplified family credit. It takes the earned income tax credit, which is for working people making the moderate income level, the per child tax credit, the dependent care and collapses them into a single family credit, eliminates 200 some-odd pages of code, 12 questions. Also wacks the marriage penalty and deals with the AMT, which is a regressive tax for families.

And in my sense, that puts not the onus so much but the benefits of the Tax Code behind families at work who are trying to do right for their children, and it would simplify the code but also reward those families who choose work over dependency.

You make $50,000. You have two children, this would be an additional $1,500 cut to that family versus what President Bush has put in place, and it would do it by eliminating well over 200 pages of the code.

This code has become so complicated, the complexity has led to tremendous inequity in the code.

Today we have about $311 billion, this is the lowest according to the IRS, of underreported or nonreported income, mainly by the extremely well-off corporations and individuals, who through lawyers and accountants do not report income, and they use the code to disguise income.

Well, nobody should pay more than they are supposed to pay, but the code is written now for those who can afford lawyers and accountants to shelter and hide and disguise income. When the burdens of the rest of the funding of the government services, the burdens of paying their fair share are shifted more and more upon those who work for a living. $311 billion goes underreported or not reported or collected.

That would wipe away well over half the deficit this year. We are going to have $450 billion. $311 billion would wipe it away. You could fund close to half the Americans who are seeking college assistance, aid for middle-class families to pay for college can still pay about $100 billion or $200 billion of the deficit. What simplifying the code would do is ensure that when you paid your taxes, you knew that people down the street, you knew that people on the other side of the tracks were paying their fair share, because today nobody believes that the others are paying their fair share, and we have a system that is corrosive. It is stacking the deck against ordinary American taxpayers, and while the special interests win shelters and loopholes, middle-class families who play by the rules are now carrying the burden for those who do not report and do not pay their fair share.

Others have mentioned this, but I do think it is worth noting, in the last 3½ years, this administration has had three tax cuts, and in that time they have added 10,000 pages to the code—326 separate changes. They have added phase-ins and phase-outs and other gimmicks, sunsets to the code. All the while they have increased the burden of the Tax Code on those who work for a living and shifted the burden of those who earn money from capital investment, while if you work for a living, you are now paying more and getting less from this Tax Code. And it is high time we put the Tax Code not on the backs of the middle-class family but fighting for middle-class families, understands the obligations they have of meeting the needs of their children, and I think that the Bush Tax Code is a treasure chest full of loopholes and tax shelters for the special interests, and it has become a nightmare for middle-class families.

As I mentioned earlier, 7½ hours of additional time to fill out the tax returns. The child tax credit now has five separate breaks. I think the last time, when you compare the earned income tax credit per child and the dependent care, it is close to 10 separate definitions of children. Well, I have got three. They are all the same definition. They are sniveling and they bother you all the time. You do not need 12 definitions of what a child is. You know what it is, and the code does not understand it; and it is clearly making it more complicated.

Again, it has increased costs for filling out the form. We can do this. There is no reason for the Tax Code to be this way, but it was designed this way. That is the point that people need to understand. The code as it exists today was designed for the special interests, was designed for those who can hire lawyers and accountants to figure their way out of paying income, hiding income, sheltering income, moving jobs overseas, moving corporations overseas, holding capital in a separate subsidiary overseas.

Do you know a family in America that has set up a subsidiary of their family in Bermuda to not pay taxes? If a family could figure out how to do that, they would figure out how to pay for college. They are struggling how to pay for college, yet corporations are setting up subsidiaries in Bermuda not to pay their fair share of tax and the burden shifts on the middle-class families.

We need to take this Tax Code and ensure that the middle-class families, that it is fair to them, it is simple, you do not have to have a family dispute to fill out the tax form, and deal with that that is on that table. It is not fair. It is not right. We can do better. And so I applaud the efforts today, as Democrats put together the ideas of simplifying the code and making sure it reflects the values and the interests of our middle class.

I offer my idea of a simplified family credit that would affect 60 percent of the taxpayers and reduce the tax form down to 12 easy questions, and it would be right for them. It would be right for their children. And, again, it would ensure the most important thing, that everybody have a sense that everybody is paying their fair share. And today we do not have that sense, and we end up with $311 billion of people who are cheating the system and cheating the country of their obligation, and therefore shifting the burden to the rest of us who pay our fair share. That is wrong, and we can do better.

And, again, I applaud you for holding this and again reminding people that Democrats have an idea of massive tax reform, a big idea that would change the way we do things and it would be good for the economy, not only be fair to middle-class families. It would lead to a more productive economy, and it would make sure also the entrepreneurs and small businesses were treated correctly in our code.

Mr. HOYER. Reclaiming my time, I want to thank the gentleman from Illinois (Mr. EMANUEL) for his contribution tonight, but more importantly, for his contribution to spurring the effort of tax simplification and tax fairness for middle-class Americans, but I would suggest to him that those families, of course, cannot site an offshore post office box and therefore avoid taxes. But to some degree, we ourselves have created 10,000 pages in which Americans normally look to how do I reduce my obligation in taxes. That is a normal thing for people to do, and the fact that we have made it so complicated allows some people to take advantage of loopholes that perhaps were not contemplated but exist; and the unfairness then is not only to our working-class, middle-class families but also to those competitors of theirs who do not take advantage of those loopholes, who keep jobs in America, who are paying their fair share of taxes here in America.

So tax fairness is not only tax fairness in terms of middle-class taxpayers but, frankly, all taxpayers so they can have the confidence that their liability based upon the income that they make will be proportionately the same as their competitor, as their fellow citizen.

Mr. Speaker, I now yield to another member of the Committee on Ways and Means, extraordinarily able member of our caucus, who does an extraordinary job in focusing on fairness to working families, the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I first off want to thank the distinguished minority whip for his leadership of the entire United States Congress on the issue of tax simplification and fairness, an issue that affects every working family in America.

□ 2320

Just last week our whip said, "Taken individually, of course, nearly all of the tax preferences that clutter the code can be rationalized. Collectively, however, they are a jumble of confusion that leads to unfairness."

That is certainly being kind. So we appreciate all that the whip is doing to lead not just our caucus but the entire Congress in this issue that affects us all.

For more than 10 years, my friends on the other side of the aisle have made tax reform and simplification a cornerstone of the economic program. However, for all of their expertise, or maybe all of their obsession, they seem to have fallen far short.

In Texas we would say that the record strongly suggests that on tax issues the Republican majority is "all hat and no cattle." The Republican majority talks a lot about giving the American people their money back. We all agree on that. We all agree that the American people are better stewards of their own money than is the government. However, the Republican tax themes and schemes have the perverse effect of taking from Peter to pay Paul, and in virtually every instance, the middle-class Peter is paying the millionaire Paul.

Middle-class families are feeling a serious pinch from the economy. Ten years ago they had no problem making their house and car payments, putting food on the table or sending their kids to college. Ten years ago, more likely than not, they had a stable and secure job in America, not China, not India, and they had benefits like health insurance and a pension that they took for granted. Faded memories, how they linger.

Ten years later and 10 years into the Republican contract on America, those same families are getting the squeeze. Foreclosures and personal bankruptcy are at record levels in this country. Consumer debt has a stranglehold on the average American family. Tuition is skyrocketing while student aid is being cut year in and year out. Secure employment with health insurance and a pension has been replaced with reduced pay and no benefits.

Just ask yourselves, are things getting better or worse? Do you have more money for your family or do you have less? The middle class is hurting, but where is Congress?

While the Republican majority is cutting student aid while talking about the importance of education in the 21st century marketplace, the middle class is getting squeezed out. The Republican majority refuses to fully fund the centerpiece of President Bush's education policy, No Child Left Behind, while handing out annual $100,000 tax cuts to individuals making $1 million or more per year in income.

We have passed permanent extensions of the child tax credits and marriage penalty relief, but to no avail. And why is that? What the Republican majority knows, but apparently does not want to talk about, is how its failure to enact meaningful reform of the alternative minimum tax has the perverse effect of eliminating, that is eliminating any benefit middle-class families would realize from the enhanced child tax credit and marriage penalty relief.

My friend and colleague, the gentleman from Massachusetts (Mr. NEAL) has devoted untold hours to devising a reasonable solution to the AMT problem, but the Republican majority absolutely refuses to fix this serious and enormous problem which Nina Olson, the IRS' National Taxpayer Advocate, labeled the most serious problem faced by American taxpayers.

The alternative minimum tax was enacted in the late 1960s and was designed to affect only the wealthiest Americans as it was explained earlier tonight by the minority whip, and in the interest of time, I am not going into that. However, the reality is far from that ideal.

For most of its existence, the AMT has affected few taxpayers, less than 1 percent in any year before 2000, but its impact is expected to grow rapidly in the next few years and affect more than 20 percent of the taxpayers by the year 2010, many of them middle-class taxpayers. Call it what you will. It is a Republican tax increase, that is what it is.

So I ask you, where is the solution? The gentleman from Massachusetts (Mr. NEAL) offered one, maybe there are others, but the Republican majority prefers the status quo just as it is today.

What does the status quo foretell for America? Twenty percent of all taxpayers and 40 percent of married couples will owe AMT in 2010. This again is a Republican income tax increase on the American public. And where is the fairness? While only about 30 percent of taxpayers with an adjusted gross income over $500,000 will pay the AMT in 2010, in comparison, two-thirds of American taxpayers with an adjusted gross income between $50,000 and $100,000 will have AMT liability in 2010, two-thirds, again, a Republican tax increase on the middle class.

Taxpayers with an AGI between $100,000 and $250,000 will be hit the hardest by the AMT. In 2010, over 90 percent of those individuals will have AMT liability. So despite the symbolism of passing marriage penalty relief and other relief, the Republican majority's refusal to meaningfully reform the AMT eliminates most of the benefits for middle-class families, totally eliminating them. And not only does it eliminate the benefits, it passes on increased tax liabilities to American working families.

You can call it Ray or you can call it Jay, but whatever you call it, it is a Republican income tax increase on the working class in America.

I thank the whip again for his fine work on this issue, and we appreciate his leadership.

Mr. HOYER. I thank the gentleman from Texas (Mr. SANDLIN) for his comments and very important observations.

Clearly he is correct. We need to not talk about simplification; we need to do simplification. We need to do fairness so that the American public is better served by their system and better able to support themselves and their families.

Mr. Speaker, I yield to the gentleman from Texas (Mr. GONZALEZ), a member of the very important Committee on Energy and Commerce.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman. It is a pleasure joining the gentleman on such an important topic. It may be late at night, as someone observed, but I think most American families, they are used to staying up late right before April 15. And as a matter of fact, people get extensions, so I think there will be other late nights because no one is going to go through 10,000 pages looking for the answer unless they have a lawyer or an accountant.

The Democrats do not have a monopoly on this particular issue. What I do believe we have is a sincere interest in doing something about it. A very distinguished colleague of ours who happens to have a seat on the other side of the aisle recently stated, "We have been here long enough. We had better deliver a simplified Tax Code. I think this should be a centerpiece of reform for congressional Republican candidates. Instead of tax cuts, we should be talking tax simplification."

Now, those are words. They were in the majority. They could make it happen. But it is not happening. So wherein lies the problem? It is all talk.

Let me read something to you which I have always found interesting. I cut this article out 2 years ago because I thought it was so incredibly demonstrative of plain words lacking real intention and action. We were looking at that time, or the administration was looking for a commissioner to head the Internal Revenue Service. They hired a firm, a head-hunting firm to proceed with the search. This was the ad.

"Our firm has been awarded the assignment by the Department of Treasury through Secretary O'Neill and a Presidential oversight board to identify possible candidates to become the Commissioner of Internal Revenue Service. From this list the Secretary will recommend to the President individuals for his nomination to the United States Senate for confirmation."

This is the part that I enjoy. "The individual does not need to have any in-depth exposure to the tax system or code." They need not understand the problem. They need not understand the code. But what was the most important thing the administration was looking for? Here it is. "As an appointee of the President, he or she is expected to fully support the President's position and his administration's position."

You are going to get your marching orders from the administration, which means you are not going to simplify anything. I think someone said earlier tonight that the President may be viewing as his base those individuals that find aid and comfort in 10,000 pages of complex legislation, that does not inure to the benefit of the average American.

☐ 2330

Speakers before me pointed out I think a real basic tenet in our democracy. Everybody will do their own fair share, including the payment of taxes.

According to the Treasury Department, actual corporate income tax revenues fell 36 percent from fiscal year 2000 to 2003, 3 years, 36 percent drop.

From 1996 to 2000, 95 percent of corporations paid than less 5 percent of their income in taxes. From 1996 to 2000, 60 percent of U.S.-based corporations paid no corporate tax at all. Among large corporations, those with sales of more than $50 million or assets of at least $250 million, 33 to 45 percent paid no taxes. Do you know why? Therein, somewhere in those 10,000 pages, we allowed this to exist today.

Warren Buffet declared, "If class warfare is being waged in America, my class is clearly winning."

This is not an anti-business message. The Democratic Party and the policies and agenda and philosophy is pro-business. All we can ask is that everyone carry an equal burden and make their equal contribution. That is not so unfair. That is as American as anything that exists in any political philosophy.

The leader touched on what is happening within the IRS and how his hands are tied because of obviously fiscal constraints and policy. The IRS says that its number of corporate audits has declined because of the explosive growth in tax shelters which allow companies to take advantage of complex tax code provisions. In other words, the increasingly complex tax code has made it more difficult for the

IRS to go after corporate tax evaders. In the meantime, middle class families remain open and increasing targets for the audits.

To quote David Keating, of the conservative National Taxpayers Union, "If we had simpler tax laws, it would be simpler for taxpayers to follow and simpler for the IRS to enforce and administer."

I recognize we are running out of time, but to give my colleague a clear example of what we have contained in those 10,000 pages, unknown to most of the average taxpayers is section 179. What is section 179? I am going to read you from an article that appeared in the Washington Post on September 26, 2003.

This is a sales representative for Hummer of Alaska. You know what Hummer is, the huge car. Allow me to introduce you to a fabulous opportunity, he writes in a prominent letter, a tax loophole so big you can drive a Hummer H2 through it. Imagine being able to purchase the number one large, luxury SUV in America today and receive a deduction for the entire purchase amount from your taxes this year. How is this possible, the salesman asks? Thanks to the Bush administration's recent economic stimulus package, small businesses and the self-employed are eligible to deduct the entire purchase cost of new equipment up to $100,000 the year of the purchase.

Now, we need to remind our colleagues, these provisions are supposed to help farmers and small business owners buy equipment to transport merchandise and haul equipment. No matter.

The letter continues: The Hummer H2 qualifies for this IRS section 179 deduction by its gross vehicle weight of over 6,000 pounds. Cars and medium-sized SUVs do not qualify for this deduction. If you are seriously considering acquisition of a new vehicle, step up to the vehicle that can take you where you want to be, financially and otherwise.

It does not stop there, because I will tell my colleague, you can go out and buy a Porsche SUV for about $90,000, and it will qualify for section 179 in those 10,000 pages that some taxpayer gets to write off in that 1 year to drive that luxury vehicle.

I do want to remind my colleagues that someone on the Democratic side has introduced legislation to correct that. It will never see the light of day because we are not in the majority. That is what we are talking about. We have already talked about the different tax breaks for families that they could figure out.

Taxpayers overpay their taxes by an estimated $1 billion a year because they fail to claim itemized deductions. How many taxpayers actually go through the trouble of figuring the code out so they can itemize? About one-third of taxpayers who are eligible for the earned income tax credit which is designed to help the working poor fail to claim it because it is too complicated. It is so complicated that tax preparers are responsible for nearly 70 percent of the errors and overclaims on returns. The people that are supposed to know the business cannot figure it out.

I will leave you with one thought. Time is money. Simplification does translate into savings and responsibility and sharing the tax burden equally. Time is money, and I say this to the American taxpayer. It is your time and it is your money, and you deserve a heck of a lot better treatment.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments and his very important contribution to this discussion.

In closing, let me say that we are committed to working, not only on our side of the aisle but working with our Republican colleagues as well, towards simplifying this code, making it fairer, reducing these 10,000 pages so that the anomalies of which the gentleman from Texas just spoke in terms of the deduction for the Hummer and for the Porsche will not make our tax code unfair so that the average working American who goes to work every day, and as Bill Clinton said, plays by the rules, will not have an undue tax burden placed upon them because so many others take advantage of one of the loopholes included in these 10,000 pages and do not pay their fair share.

That is not fair. That is not good tax policy. That is not good for America. So we are pledged as Democrats, as Americans, as Members of this House sent up by our neighbors here to represent them, to work unceasingly and tirelessly on making this code simpler, making it fairer, making it more efficient, making for a better code, a better America.

RECESS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 38 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0742

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 7 o'clock and 42 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4842, UNITED STATES-MOROCCO FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. LINCOLN DIAZ-BALART of Florida from the Committee on Rules, submitted a privileged report (Rept. No. 108–628) on the resolution (H. Res. 738) providing for consideration of the bill (H.R. 4842) to implement the United States-Morocco Free Trade Agreement, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–629) on the resolution (H. Res. 739) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. LINCOLN DIAZ-BALART of Florida from the Committee on Rules, submitted a privileged report (Rept. No. 108–630) on the resolution (H. Res. 740) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KING of New York (at the request of Mr. DELAY) for today until 3:00 p.m. on account of attending a funeral for a slain police officer in his district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. ANDREWS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mrs. JOHNSON of Connecticut, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, July 22.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker.

H.R. 1303. An act to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.

H.R. 4363. An act to facilitate self-help housing homeownership opportunities.

H.R. 4759. An act to implement the United States-Australia Free Trade Agreement.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 741. An act to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 2264. An act to require a report on the conflict in Uganda, and foı other purposes.

S.J. Res. 38. A joint resolution providing for the appointment of Eli Broad as a citizen regent of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 44 minutes a.m.), the House adjourned until today, Thursday, July 22, 2004, at 10 a.m.

OATH OF OFFICE—MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 108th Congress, pursuant to the provisions of 2 U.S.C. 25:

G.K. BUTTERFIELD, North Carolina 1st.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9267. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Taiwan pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

9268. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Hungary, The Netherlands, Mexico, China, The United Arab Emirates and various other countries pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

9269. A letter from the Chairman, National Credit Union Administration, transmitting the 2003 Annual Report of the National Credit Union Administration, pursuant to 12 U.S.C. 1752a(d); to the Committee on Financial Services.

9270. A letter from the Executive Secretariat, Federal Energy Regulatory Commission, transmitting the 2003 Annual Report of the Federal Energy Regulatory Commission, pursuant to 16 U.S.C. 797(d); to the Committee on Energy and Commerce.

9271. A letter from the General Counsel, Consumer Product Safety Commission, transmitting the Commission's final rule — Safety Standards for Cigarette Lighters; Adjusted Customs Value for Cigarette Lighters — received July 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9272. A letter from the Attorney, NHTSA, Department of Transportation, transmitting the Department's final rule — Defect and Noncompliance Responsibility and Reports Defect on Noncompliance Notification [Docket No. NHTSA-2004-18341] (RIN: 2127-AG27) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9273. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Arlington, The Dalles, Moro, Fossil, Astoria, Gladstone, Portland, Tillamook, Coos Bay, Springfield-Eugene, Manzanita and Hermiston, Oregon, and Covington, Trout Lake, Shoreline, Bellingham, Forks, Hoquiam, Aberdeen, Walla Walla, Kent, College Place. Long Beach and Ilwaco, Washington) [MB Docket No. 02-136; RM-10458; RM-10663; RM-10667; RM-10668] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9274. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Jackson, Mississippi) [MM Docket No. 01-43; RM-10041] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9275. A letter from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Amboy, Baker, and Desert Center, California; Kingman, Mohave Valley, Parker, and Seligman, Arizona; and Boulder City, Caliente, Henderson, and Pahrump, Nevada) [MB Docket No. 02-124; RM-10446] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9276. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Ponce, Puerto Rico) [MB Docket No. 04-78; RM-10866] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9277. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Roswell, New Mexico) [MB Docket No. 04-16; RM-10840] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9278. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Anniston, Alabama) [MB Docket No. 03-229; RM-10795] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9279. A letter from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting the Commission's final rule — Mitigation of Orbital Debris [IB Docket No. 02-54] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9280. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Newcastle, Pine Haven, Warren AFB, Centennial, Casper, Wright, Douglas, and Kaycee, Wyoming, Rapid City, South Dakota, and Gehring and Scottsbluff, Nebraska) [MB Docket No. 03-258; RM-10833; RM-10864] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9281. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Boradcast Stations. (Tullahoma, Tennessee, and New Market, Alabama) [MB Docket No. 03-244; RM-10825] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9282. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Sierra Vista and Corona de Tuscon, Arizona) [MB Docket No. 03-141; RM-10703] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9283. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Dinosaur and Rangley, Colorado, Franklin and Preston, Idaho, Beaver, COalville, Elsinore, Manila, Monroe, Nelphi, Richfield, Smithfield and Tremonton, Utah, and Fort Bridger, Green River, Lyman, Rock Springs, Saratoga and Wamsutter, Wyoming) [MB Docket No. 02-290; RM-10527; RM-10772; RM-10773] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9284. A letter from the Associate Buerau Chief, Enforcement Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 1.80(b) of the Commission's Rules; Adjustment of Forfeiture Maxima to Reflect Inflation — received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9285. A letter from the AMD — Performance Eval. & Records Mgmt., Federal Communications Commission, transmitting the Commission's final rule — Assessment and Collection of Regulatory Fees for Fiscal Year 2004 [MD Docket No. 04-73] received July 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9286. A letter from the Secretary of the Commission, Federal Trade Commission, transmitting the Commission's final rule — Free Annual File Disclosures (RIN: 3084-AA94) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9287. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 04-19), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9288. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Canada and Australia (Transmittal No. DDTC 048-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9289. A letter from the Paralegal, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform.

9290. A letter from the Federal Co-Chair, Appalachian Regional Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2003, through March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

9291. A letter from the Chair, CPB Board of Directors, Corporation of Public Broadcasting, transmitting the semiannual report of the Office of the Inspector General for the period ending March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

9292. A letter from the Personnel Management Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9293. A letter from the Acting Assistant to the Secretary for Policy, Planning, and Preparedness, Department of Veterans Affairs, transmitting in accordance with Pub. L. 105-270, the Federal Activities Inventory Reform Act of 1998 (FAIR Act), the Department's inventory of commerical activities for calendar year 2003; to the Committee on Government Reform.

9294. A letter from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9295. A letter from the Director, Office of Personnel Management, transmitting the Office's report entitled, "Federal Student Loan Repayment Program FY 2003," pursuant to 5 U.S.C. 5379(a)(1)(B) Public Law 106–398, section 1122; to the Committee on Government Reform.

9296. A letter from the Director, Office of Personnel Management, transmitting the Office's report on law enforcement classification, pay, and benefits, pursuant to Public Law 108–196, section 2(b); to the Committee on Government Reform.

9297. A letter from the Architect of the Capitol, transmitting a report discussing the AOC's activities to improve worker safety during the first and second quarters of FY04, pursuant to the directives issued in the 107th Congress First Session, House of Representatives Report Number 107-169; to the Committee on House Administration.

9298. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft bill "To modify the boundary of the Barataria Unit of Jean Lafitte National Historical Park and Preserve, and for other purposes"; to the Committee on Resources.

9299. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report entitled "U.S. Government Efforts to Combat Trafficking in Persons in Fiscal Year 2003," pursuant to Public Law 108–193, section 6(a); to the Committee on the Judiciary.

9300. A letter from the Attorney, National Council on Radiation Protection and Measurements, transmitting the 2003 Annual Report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, a federally chartered corporation, pursuant to 36 U.S.C. 4514; to the Committee on the Judiciary.

9301. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule — Exceptions to Definition of Date of Receipt Based on Natural or Man-made Disruption of Normal Business Practices (RIN: 2900-AL12) received July 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9302. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Administrative Simplification of Section 481(a) Adjustment Periods in Various Regulations [TD 9131] (RIN: 1545-BB47) received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9303. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Changes in Use under Section 168(i)(5) [TD 9132] (RIN: 1545-BB05) received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9304. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Coordinated Issue: Credit for Increasing Research Activities — Qualified Research Expenses — received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9305. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2004-66) received June 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9306. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Return of information as to payments of $600 or more (Rev. Proc. 2004-43) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9307. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Rules applicable with respect to distributions of money and other property (Rev. Rul. 2004-79) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9308. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Exchange of Stock and Securities in Certain Reorganizations (Rev. Rul. 2004-78) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9309. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Income Affected By Treaty (Rev. Rul. 2004-76) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9310. A letter from the Chief, Publications & Regulations, Internal Revenue Service, transmitting the Service's final rule — Authority to Make Credits or Refunds (Rev. Rul. 2004-71) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9311. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft bill "To authorize the transfer of administrative jurisdiction of land between the Secretary of the Interior and the Secretary of Transportation at the George Washington Memorial Parkway in McLean, Virginia, and for other purposes"; jointly to the Committees on Resources and Transportation and Infrastructure.

9312. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft bill "To implement the Agreement on Conservation and Management of the Alaska-Chukotka Polar Bear Population"; jointly to the Committees on Resources, Ways and Means, International Relations, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. MYRICK: Committee on Rules. House Resolution 734. Resolution providing for consideration of the bill (H.R. 3313) to amend title 28, United States Code, to limit Federal court jurisdiction over questions under the Defense of Marriage Act (Rept. 108–623). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 735. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4613) making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–624). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 112. A bill to amend title 28, United States Code, to provide for an additional place of holding court in the District of Colorado (Rept. 108–625). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4646. A bill to amend title 28, United States Code, to provide for the holding of Federal district court in Plattsburgh, New York, and for other purposes; with amendments (Rept. 108–626). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. H.R. 4842. A bill to implement the United States-Morocco Free Trade Agreement (Rept. 108–627). Referred to the Committee of the Whole House on the State of the Union.

[Filed on July 22 (legislative day July 21), 2004]

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 738. Resolution providing for consideration of the bill (H.R. 4842) to implement the United States-Morocco Free Trade Agreement (Rept. 108–628). Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 739. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–629). Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 740. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported to the Committee on Rules (Rept. 108–630). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. NUSSLE:

H.R. 4879. A bill to increase the military housing private investment cap; considered and passed.

By Mr. KENNEDY of Rhode Island:

H.R. 4880. A bill to improve the quality, efficiency, standards, and technology of health care, and for other purpose; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CULBERSON (for himself, Mr. GREEN of Texas, Mr. SCHIFF, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ADERHOLT, Mr. AKIN, Mr. ALLEN, Mr. ANDREWS, Mr. BACHUS, Mr. BAKER, Ms. BALDWIN, Mr. BALLENGER, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BASS, Mr. BEAUPREZ, Mr. BECERRA, Mr. BEREUTER, Ms. BERKLEY, Mr. BERRY, Mrs. BIGGERT, Mr. BILIRAKIS, Mr. BISHOP of Georgia, Mrs. BLACKBURN, Mr. BLUNT, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONILLA, Mr. BONNER, Mrs. BONO, Mr. BOOZMAN, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Ms. GINNY BROWN-WAITE of Florida, Mr. BOSWELL, Mr. BOYD, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Mr. BURGESS, Mr. BURNS, Mr. BURR, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALVERT, Mr. CAMP, Mr. CANNON, Mr. CANTOR, Mrs. CAPITO, Mrs. CAPPS, Mr. CARTER, Mr. CASTLE, Mr. CHABOT, Mr. CHOCOLA, Mr. CLAY, Mr. CLYBURN, Mr. COBLE, Mr. COLE, Mr. COOPER, Mr. COX, Mr. CRAMER, Mr. CRANE, Mr. CRENSHAW, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DAVIS of Florida, Mrs. JO ANN DAVIS of Virginia, Mr. DAVIS of Tennessee, Mrs. DAVIS of California, Mr. TOM DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DeFAZIO, Mr. DeLAY, Mr. DeMINT, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. DINGELL, Mr. DOGGETT, Mr. DOOLEY of California, Mr. DOOLITTLE, Mr. DREIER, Mr. DUNCAN, Ms. DUNN, Mr. EHLERS, Mrs. EMERSON, Mr. ENGEL, Mr. ENGLISH, Ms. ESHOO, Mr. ETHERIDGE, Mr. EVERETT, Mr. FARR, Mr. FATTAH, Mr. FERGUSON, Mr. FLAKE, Mr. FOLEY, Mr. FORBES, Mr. FORD, Mr. FOSSELLA, Mr. FRANK of Massachusetts, Mr. FRANKS of Arizona, Mr. FEENEY, Mr. FRELINGHUYSEN, Mr. FROST, Mr. GALLEGLY, Mr. GERLACH, Mr. GIBBONS, Mr. GILCHREST, Mr. GILLMOR, Mr. GINGREY, Mr. GONZALEZ, Mr. GOODE, Mr. GOODLATTE, Mr. GOSS, Ms. GRANGER, Mr. GRAVES, Mr. GREENWOOD, Mr. GUTKNECHT, Mr. BLUMENAUER, Ms. HARMAN, Ms. HARRIS, Ms. HART, Mr. HASTINGS of Florida, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HENSARLING, Mr. HERGER, Mr. HILL, Mr. HINOJOSA, Mr. HOBSON, Mr. HOEFFEL, Mr. HOEKSTRA, Mr. HOLDEN, Mr. HOSTETTLER, Mr. HOUGHTON, Mr. HOYER, Mr. HULSHOF, Mr. HUNTER, Mr. HYDE, Mr. ISAKSON, Mr. ISRAEL, Mr. ISSA, Ms. JACKSON-LEE of Texas, Mr. JENKINS, Mr. JOHN, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of Illinois, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KANJORSKI, Mr. KELLER, Mrs. KELLY, Mr. KENNEDY of Minnesota, Mr. KING of New York, Mr. KING of Iowa, Mr. KINGSTON, Mr. KIRK, Mr. KLINE, Mr. KNOLLENBERG, Mr. KOLBE, Mr. KUCINICH, Mr. LaHOOD, Mr. LAMPSON, Mr. LANGEVIN, Mr. LARSON of Connecticut, Mr. LATHAM, Mr. LaTOURETTE, Mr. LEACH, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LoBIONDO, Mr. LUCAS of Oklahoma, Mr. LUCAS of Kentucky, Mrs. McCARTHY of New York, Ms. McCARTHY of Missouri, Ms. McCOLLUM, Mr. McCOTTER, Mr. McCRERY, Mr. McDERMOTT, Mr. McHUGH, Mr. McINNIS, Mr. McKEON, Mr. MANZULLO, Mr. MATHESON, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MICA, Mrs. MILLER of Michigan, Mr. GARY G. MILLER of California, Mr. MILLER of Florida, Mr. MOLLOHAN, Mr. MOORE, Mr. MORAN of Kansas, Mr. MORAN of Virginia, Mr. MURPHY, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NADLER, Mr. NETHERCUTT, Mr. NEUGEBAUER, Mr. NEY, Mrs. NORTHUP, Mr. NORWOOD, Mr. OBERSTAR, Mr. OLVER, Mr. ORTIZ, Mr. OSBORNE, Mr. OSE, Mr. OTTER, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PEARCE, Ms. PELOSI, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PETRI, Mr. PICKERING, Mr. PITTS, Mr. PLATTS, Mr. POMBO, Mr. POMEROY, Mr. PORTER, Mr. PORTMAN, Mr. PRICE of North Carolina, Mr. PUTNAM, Mr. QUINN, Mr. RADANOVICH, Mr. RAHALL, Mr. RAMSTAD, Mr. REGULA, Mr. REHBERG, Mr. RENZI, Mr. REYES, Mr. REYNOLDS, Mr. RODRIGUEZ, Mr. ROGERS of Kentucky, Mr. ROGERS of Alabama, Mr. ROGERS of Michigan, Mr. ROHRABACHER, Ms. ROS-LEHTINEN, Mr. ROSS, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. RYAN of Ohio, Mr. RYUN of Kansas, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SANDLIN, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SCHROCK, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SHAW, Mr. SHAYS, Mr. SHERMAN, Mr. SHERWOOD, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMMONS, Mr. SIMPSON, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. SNYDER, Mr. SOUDER, Mr. SPRATT, Mr. STEARNS, Mr. STENHOLM, Mr. STRICKLAND, Mr. SULLIVAN, Mr. SWEENEY, Mr. TANCREDO, Mrs. TAUSCHER, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TERRY, Mr. THOMPSON of California, Mr. THOMPSON of Mississippi, Mr. THORNBERRY, Mr. TIAHRT, Mr. TIBERI, Mr. TOOMEY, Mr. TOWNS, Mr. TURNER of Ohio, Mr. UPTON, Mr. VAN HOLLEN, Mr. VITTER, Mr. WALDEN of Oregon, Mr. WALSH, Mr. WAMP, Mr. WATT, Mr. WAXMAN, Mr. WEINER, Mr. WELDON of Pennsylvania, Mr. WELDON of Florida, Mr. WEXLER, Mr. BACA, Mrs. WILSON of New Mexico, Mr. WILSON of South Carolina, Mr. WOLF, Ms. WOOLSEY, Mr. WU, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. BAIRD, Mr. BELL, Mr. BERMAN, Ms. CORRINE BROWN of Florida, Ms. DeGETTE, Ms. DeLAURO, Mr. EMANUEL, Mr. EVANS, Mr. HINCHEY, Ms. HOOLEY of Oregon, Mr. INSLEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr.

Kind, Mr. Larsen of Washington, Mr. McNulty, Mr. Menendez, Mr. Michaud, Mr. George Miller of California, Mr. Owens, Mr. Rangel, Mr. Taylor of Mississippi, Mr. Turner of Texas, Mr. Visclosky, Mr. Hall, Mr. Wicker, Mr. Green of Wisconsin, Mr. Nunes, Ms. Herseth, Mr. Chandler, Mr. Holt, and Mrs. Lowey):

H.R. 4881. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory; to the Committee on Financial Services.

By Mr. PITTS (for himself, Mr. Brown of Ohio, Mr. Greenwood, Ms. Eshoo, Mr. Deal of Georgia, Mr. Gerlach, Mr. Weldon of Pennsylvania, Mr. Cannon, Mr. Matheson, Mr. Houghton, Mr. Bishop of Utah, and Mr. Cunningham):

H.R. 4882. A bill to amend the Controlled Substances Import and Export Act to provide authority to the Attorney General to authorize narcotic drugs in schedule I, II, III, or IV and nonnarcotic controlled substances in schedule I or II to be exported from the United States to a country for subsequent export from that country to another country, if certain conditions are met; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAVES:

H.R. 4883. A bill to amend title 18, United States Code, with respect to terrorism against animal-use entities, and for other purposes; to the Committee on the Judiciary.

By Mr. GRIJALVA:

H.R. 4884. A bill to adjust the boundary of the Yuma Crossing National Heritage Area; to the Committee on Resources.

By Ms. JACKSON-LEE of Texas (for herself, Mr. Conyers, Ms. Lee, Mr. Clay, Mr. Rush, Mr. Towns, Mr. Meek of Florida, Mr. Payne, Ms. Corrine Brown of Florida, Mr. Owens, Mrs. Christensen, Mr. Hastings of Florida, Ms. Norton, Ms. Waters, Ms. Kilpatrick, Mr. Lewis of Georgia, Mr. Fattah, Mr. Meeks of New York, Mr. Cummings, Ms. Millender-McDonald, Ms. Schakowsky, Mr. Jackson of Illinois, Mr. Davis of Alabama, Mr. Ortiz, Mr. Hinojosa, Mr. Grijalva, Mr. Reyes, Mr. Becerra, Ms. Linda T. Sánchez of California, and Mr. Filner):

H.R. 4885. A bill to amend the Immigration and Nationality Act to reunify families, permit earned access to permanent resident status, provide protection against unfair immigration-related employment practices, reform the diversity visa program, provide adjustment of status for Haitians and Liberian nationals, and for other purposes; to the Committee on the Judiciary.

By Mr. HAYWORTH (for himself, Mr. Peterson of Minnesota, and Mr. Lewis of Kentucky):

H.R. 4886. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for health insurance costs; to the Committee on Ways and Means.

By Mr. KINGSTON (for himself, Mr. Scott of Georgia, and Mr. Bass):

H.R. 4887. A bill to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, and for other purposes; to the Committee on Resources.

By Ms. ROYBAL-ALLARD (for herself, Mr. Wolf, Mr. Osborne, Ms. DeLauro, and Mr. Wamp):

H.R. 4888. A bill to provide for programs and activities with respect to the prevention of underage drinking; to the Committee on Energy and Commerce.

By Mr. SHAW (for himself, Mr. Portman, Mr. Foley, Ms. Harris, Mr. Goss, Ms. Ros-Lehtinen, Mr. Meek of Florida, Mr. Lincoln Diaz-Balart of Florida, and Mr. Oberstar):

H.R. 4889. A bill to expand certain preferential trade treatment for Haiti; to the Committee on Ways and Means.

By Mr. THOMPSON of Mississippi (for himself, Mrs. Christensen, Mr. Lewis of Georgia, Mr. Towns, Mr. Frost, Mr. Ford, Mr. Wynn, Mr. Jackson of Illinois, Mr. Clay, Mr. Fattah, Mr. Owens, Mr. Payne, Ms. Norton, Mr. Cummings, Mr. Meeks of New York, Ms. Carson of Indiana, and Mr. Bishop of Georgia):

H. Con. Res. 476. Concurrent resolution recognizing the 40th anniversary of the founding of the Mississippi Freedom Democratic Party and encouraging the people of the United States to recognize the accomplishments of the Mississippi Freedom Democratic Party by committing themselves to the fundamental principles of freedom, equality, and democracy; to the Committee on Government Reform.

By Mr. UDALL of Colorado (for himself and Mr. Beauprez):

H. Res. 736. A resolution recognizing the importance of honoring the Nation's children and expressing the sense of the House of Representatives that National Children's Day should be established; to the Committee on Education and the Workforce.

By Ms. BORDALLO:

H. Res. 737. A resolution recognizing the 60th anniversary of the Liberation of Guam during World War II; to the Committee on Resources.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

410. The SPEAKER presented a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 195 supporting the Employee Free Choice Act (S. 1925 and H.R. 3619) and memorializing the United States Congress to pass this measure; to the Committee on Education and the Workforce.

411. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 47 memorializing the Congress of the United States to pass federal legislation to provide access to safe, affordable prescription drugs by allowing purchase of prescription drugs from Canada and other countries that meet federal safety requirements and memorializing the Secretary of Health and Human Services to support and implement reimportation; to the Committee on Energy and Commerce.

412. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resoultion No. 250 memorializing the President and Congress of the United States to support H.R. 677 extending veterans' benefits to Filipino veterans; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DAVIS of Illinois:

H.R. 4890. A bill for the relief of Roger Paul Robert Kozik; to the Committee on the Judiciary.

By Mr. LANTOS:

H.R. 4891. A bill for the relief of Maria Cristina Degrassi; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 163: Mr. Jackson of Illinois.

H.R. 290: Mr. Goss.

H.R. 299: Mr. McNulty.

H.R. 325: Mr. Gibbons.

H.R. 504: Mr. Peterson of Minnesota.

H.R. 527: Mr. Porter.

H.R. 784: Ms. Millender-McDonald and Mr. Lewis of Georgia.

H.R. 814: Mr. Gutierrez and Mr. Green of Texas.

H.R. 890: Mr. McCotter.

H.R. 976: Mr. Matheson.

H.R. 1348: Mr. Bishop of New York.

H.R. 1433: Mr. McDermott.

H.R. 1532: Mr. Vitter.

H.R. 1647: Mr. Wu and Mr. Sanders.

H.R. 1755: Mr. Shuster.

H.R. 1863: Mrs. Christensen and Mrs. Davis of California.

H.R. 2079: Mr. Baird.

H.R. 2176: Mr. McCotter, Mr. Porter, Mr. Weldon of Pennsylvania, Ms. Herseth, Mr. Stenholm, Mr. Cummings, and Mr. Gerlach.

H.R. 2194: Ms. Herseth.

H.R. 2233: Mrs. Maloney.

H.R. 2239: Mr. Rahall.

H.R. 2242: Mr. Michaud.

H.R. 2490: Ms. Baldwin.

H.R. 2513: Ms. Herseth.

H.R. 2585: Mrs. Maloney.

H.R. 2621: Mr. Olver.

H.R. 2732: Mr. Neugebauer.

H.R. 2895: Mr. Gillmor.

H.R. 2967: Mr. Ferguson.

H.R. 3193: Mr. Hoekstra and Mr. Oxley.

H.R. 3352: Mr. Burgess.

H.R. 3369: Mr. Chabot.

H.R. 3558: Mr. McDermott.

H.R. 3579: Mr. Meeks of New York.

H.R. 3692: Mr. Gonzalez and Mr. McNulty.

H.R. 3716: Mr. McCotter, Mr. Hoekstra, and Mr. Pickering.

H.R. 3767: Mr. Strickland, Ms. Pelosi, Mr. Hoeffel, Mr. Van Hollen, and Mr. Kildee.

H.R. 3831: Mr. Bell and Ms. Carson of Indiana.

H.R. 3845: Mr. Case and Mr. Delahunt.

H.R. 3881: Mr. Andrews.

H.R. 3953: Mr. Franks of Arizona.

H.R. 3965: Mr. Doggett.

H.R. 4093: Mr. Sanders.

H.R. 4101: Mrs. Christensen and Mr. Lantos.

H.R. 4110: Mr. Rothman, Mr. Filner, Mr. McGovern, and Ms. DeLauro.

H.R. 4264: Mr. Blumenauer.

H.R. 4284: Mr. Sensenbrenner, Mr. Smith of New Jersey, and Mr. Boozman.

H.R. 4306: Mr. Blunt and Mr. Chabot.

H.R. 4334: Mr. Frank of Massachusetts.

H.R. 4341: Mr. Lincoln Diaz-Balart of Florida.

H.R. 4354: Mrs. LOWEY, Mr. PAYNE, and Mrs. CAPPS.

H.R. 4358: Mr. MILLER of Florida.

H.R. 4367: Mr. PALLONE, Mr. BELL, Mr. LAMPSON, Mr. ACEVEDO-VILÁ, Mr. RODRIGUEZ, Mr. STENHOLM, Mr. KENNEDY of Rhode Island, and Mr. MCDERMOTT.

H.R. 4375: Mr. SNYDER, Mr. MILLER of Florida, Mr. SPRATT, and Mr. FOSSELLA.

H.R. 4383: Mr. KINGSTON.

H.R. 4433: Mr. VAN HOLLEN.

H.R. 4468: Mr. TIERNEY.

H.R. 4477: Mr. STRICKLAND.

H.R. 4530: Mr. MILLER of Florida.

H.R. 4595: Mr. BOOZMAN, Mr. ROSS, Mr. EMANUEL, and Mr. ABERCROMBIE.

H.R. 4622: Ms. DELAURO, Mr. MCHUGH, and Mr. STENHOLM.

H.R. 4627: Mr. OWENS.

H.R. 4633: Ms. KAPTUR and Mr. EMANUEL.

H.R. 4634: Mr. CRANE and Mr. FOLEY.

H.R. 4659: Mr. STRICKLAND and Mr. EVANS.

H.R. 4660: Mr. KING of New York.

H.R. 4682: Mr. NEAL of Massachusetts, Mr. MEEHAN, Mrs. NAPOLITANO, Mr. INSLEE, Mr. LANTOS, Mr. SNYDER, Mr. GEORGE MILLER of California, Mr. PALLONE, Mr. RANGEL, Mr. ACEVEDO-VILÁ, Mr. THOMPSON of Mississippi, Mr. GUTIERREZ, Mr. JEFFERSON, Mr. SABO, Mr. ROTHMAN, Mr. SPRATT, Mr. KIND, Mr. FOLEY, Mr. PAYNE, Mr. PRICE of North Carolina, and Mr. HOEFFEL.

H.R. 4711: Mr. EMANUEL, Mr. ACEVEDO-VILÁ, Ms. WATERS, Mr. BISHOP of Georgia, Mrs. LOWEY, Mr. BERMAN, Mr. DOGGETT, Mr. MILLER of Florida, and Ms. HERSETH.

H.R. 4730: Mr. LEVIN and Mr. MOLLOHAN.

H.R. 4802: Mr. GRIJALVA, Mr. BROWN of Ohio, Mr. FROST, and Mr. HOLT.

H.R. 4807: Mr. CALVERT and Mr. WAXMAN.

H.R. 4836: Mr. UDALL of New Mexico.

H.R. 4839: Mr. SHAW.

H.R. 4840: Mr. VITTER.

H.R. 4853: Mr. GILCHREST, Mr. KIND, Ms. DELAURO, Mr. KENNEDY of Rhode Island, Mr. SIMMONS, Mr. CUMMINGS, Mr. ABERCROMBIE, Mr. PASTOR, Mr. MCDERMOTT, and Mr. CRANE.

H.R. 4863: Ms. LOFGREN, Mr. CROWLEY, Mr. LINCOLN DIAZ-BALART of Florida, Ms. LINDA T. SÁNCHEZ of California, Mr. FILNER, Mr. HONDA, and Mr. SHIMKUS.

H. Con. Res. 74: Mr. BRADY of Pennsylvania, Ms. KAPTUR, and Mr. OWENS.

H. Con. Res. 284: Mr. BARTLETT of Maryland.

H. Con. Res. 298: Mr. GREEN of Texas.

H. Con. Res. 457: Mr. FROST and Mr. BRADY of Pennsylvania.

H. Con. Res. 467: Mr. BERMAN, Mr. NEAL of Massachusetts, Mr. TIERNEY, Mr. HASTINGS of Florida, Mr. POMEROY, Mr. UDALL of New Mexico, Ms. LINDA T. SÁNCHEZ of California, and Mrs. LOWEY.

H. Con. Res. 470: Mr. SHIMKUS, Mr. LIPINSKI, and Mr. BURTON of Indiana.

H. Res. 289: Mr. PORTMAN.

H. Res. 485: Mr. MILLER of Florida.

H. Res. 556: Mr. HONDA, Mr. WAMP, and Mr. SPRATT.

H. Res. 567: Mr. BAIRD.

H. Res. 596: Ms. LEE and Mr. GREEN of Wisconsin.

H. Res. 629: Ms. LEE.

H. Res. 647: Mr. UPTON.

H. Res. 690: Mr. LEVIN, Ms. LORETTA SANCHEZ of California, Ms. NORTON, Mr. PAYNE, Mr. MEEKS of New York, Mrs. DAVIS of California, Mr. MATSUI, Mr. GUTIERREZ, Mrs. CHRISTENSEN, Mr. TOWNS, and Mr. WEXLER.

H. Res. 717: Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. MCGOVERN, Mr. ENGEL, Mr. STRICKLAND, Mr. FRANK of Massachusetts, Mr. VAN HOLLEN, Ms. WOOLSEY, Mr. RANGEL, Mr. GONZALEZ, Mr. PAYNE, Mr. ROSS, and Mr. SNYDER.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

98. The SPEAKER presented a petition of the Legislature of Rockland County, New York, relative to Resolution No. 235 of 2004 stating that Rockland County hereby joins "The Coaltion Opposing the Re-Licensing of the Indian Point 2 and Indian Point 3" in order to oppose re-licensing when the current licenses expire in 2013 and 2015 repectively, to seek alternative means of energy in order to allow nuclear plants to be decommissioned at that time, if not sooner, and to promptly protect the plants from terrorist attack; to the Committee on Energy and Commerce.

99. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 234 of 2004 petitioning the Department of Homeland Security to address the safe and proper storage of spent fuel rods at the Indian Point Nuclear Power Plant including requiring implementation of a hardened on-site storage ("HOSS") system; to the Committee on Energy and Commerce.

EXTENSIONS OF REMARKS

INTRODUCTION OF H.R. 4855

HON. LEONARD L. BOSWELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. BOSWELL. Mr. Speaker, I am pleased to join Mr. CRAMER in introducing H.R. 4855, a bill to create an Independent National Security Classification Board.

As a Member of the House Permanent Select Committee on Intelligence, I have been privy to many of our nation's most precious secrets. Much of the information and reports provided to the Committee has been properly classified by the Executive Branch. I and many of my Intelligence Committee colleagues, however, have been concerned that some decisions to keep certain information classified are not based on the need to protect national security. Instead, they may have been motivated by a desire to shield officials from accountability and otherwise keep information away from those who have a right to know—concerned citizens. Such action serves only to stifle public debate and undermine the integrity of the system. It is unacceptable.

The proper test is one that balances national security requirements with the public's interest in receiving information. Unfortunately, this has not been done in the recent past. While serving on the House and Senate Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, I witnessed first-hand the struggle related to declassification of information of great import to the families who lost their loved ones on 9–11 and the general public. The 9–11 Commission, which will release its report later this week, faced similar struggles.

The time has come to establish an independent panel of experts to review classification policies and decisions and requests for declassification of information. Such a panel is needed in order to restore integrity and accountability to the classification and declassification process.

H.R. 4855 would establish an Independent National Security Classification Board. The Board would be comprised of three national security classification experts, appointed by the President with the advice and consent of the Senate.

The Independent Board would be charged with reviewing and making recommendations to reform standards and procedures related to the classification of national security information. The Board would submit proposed new standards and processes to both Congress and the Executive Branch for comment and revision, and then implement the new standards and process once they have had the opportunity to comment. The Board would then begin to implement the new system, reviewing and making recommendations on current and new national security classifications, subject to Executive Branch veto that must be accompanied by a public, written explanation.

The balance in this proposal would help ensure that the public and Congress have access to an Independent Board for national security classification matters while leaving undisturbed the constitutional prerogative of the President, our Commander-in-Chief, to appoint the Board and to veto the Board's classification decisions.

This same measure was introduced by a bipartisan group of Senators. I hope H.R. 4855 will attract similar bi-partisan support in the House. Because of the critical need to address the issues associated with the classification of national security information, Mr. CRAMER and I, both Members of the Intelligence Committee, believed it imperative not to delay introduction of this bill. I urge Members to support it.

DR. MARVIN LEWIS SHELTON: A SURGEON'S SURGEON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. RANGEL. Mr. Speaker, I rise to recognize the loss and to pay tribute to one of America's outstanding surgeons who pioneered advanced operative techniques and implants for the treatment of ankle fractures, Dr. Marvin Lewis Shelton. His genius as a researcher and inventor in his field earned him the moniker, "the George Washington Carver of Orthopedic Surgery."

Dr. Shelton died at his home in Riverdale, New York, on July 7, 2004. He was 72.

What a man he was and what a family he left behind. With all of his professional and academic successes, Dr. Shelton's first loves were his family and his beautiful and devoted wife of 48 years, Arden Shelton, a great talent and songstress in her own right. They were blessed with four accomplished children: Dr. Yvonne Shelton of Northboro, Mass.; Le Ann Shelton, AIA, Esq., of New York; Marla L. Shelton, Ph.D., of New York; and Marvin Lloyd Shelton of New York. To Arden and the entire Shelton family, I offer my deepest condolences.

A surgeon's surgeon, Dr. Shelton was an innovator of techniques adapted in his field for 30 years. A social trailblazer at some of New York City's greatest medical institutions, he was the first African American board-certified orthopedic attending surgeon at Columbia University Medical Center, and the first of his race to gain admitting privileges to an Ivy League-affiliated hospital.

As Director of Residency Training Program and Director of Orthopedic Surgery at Harlem Hospital, where he worked for twenty-five years, Dr. Shelton formalized the rotation of Columbia/New York Presbyterian residents at the Harlem institution. He also established an independent training program that facilitated the medical licenses for many minority and foreign-trained physicians to practice in New York and other cities.

Born in Pittsburgh in 1931, Dr. Shelton was raised in Wilmington, North Carolina, and educated at Howard University, where he graduated with honors in earning his B.A., M.A. and medical degrees. After completing his internship, he completed his residency in Honolulu, then served as Chief of the Orthopedic Section at Fort Jackson, South Carolina.

A doctor, teacher and family man, Dr. Shelton was also an avid sportsman who was actively involved in golf and skiing. He shared his wife's interest in the arts, and for a time owned the Shelton Gallery on E. 62nd Street in Manhattan.

I will remember his love for Harlem, for Harlem Hospital, and his willingness to forego so many opportunities so that he could remain there to train and inspire many young doctors.

Dr. Shelton published widely and presented numerous papers at national meetings. He was a Diplomat of the American Board of Orthopedic Surgery since 1964 and was a member of the American Orthopedic Association, Alpha Omega Alpha Medical Honor Society, Academy of Orthopedic Surgeons, American College of Surgeons, American Association for the Surgery of Trauma, American Trauma Society, New York Academy of Medicine, National Medical Association, Orthopedic Trauma Association and Orthopedic Association, among others.

His discoveries and advances made Dr. Shelton a highly sought-after speaker who delivered more than two dozen lectures around the world. He also held visiting professorships at Yale University, University of Minnesota and the University of Oregon.

A part of Marvin will always be with me. I was his patient in 1971 when, applying one of his inventions, he restored and healed my badly fractured ankle. I haven't taken a bad step since.

PAYING TRIBUTE TO GUNNISON WATER COMMISSION

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, I rise to pay tribute to the Gunnison Water Commission in Gunnison, Colorado. The water commissioners aid citizens and friends to efficiently and effectively use the precious resource of water. I am honored to recognize their contributions to their community before this body of Congress and this nation today.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

This year the Gunnison Water Commission will celebrate one hundred and twenty-five years of serving the Western slope of Colorado. The water commissioners bring both a wealth of knowledge and experience to their field and a true sense of dedication to helping the public understand how the water system works throughout the state.

The water commissioners work partial year contracts mostly in the summer when water is in high use for irrigation and the snow has melted. They collect data on how much water flows through streams or ditches; inspect headgates, flumes and springs, and during particularly dry times, undertake the difficult task of enforcing water rights. These hard working commissioners have improved their efficiency field by adding global positioning system technology and many other modern capabilities to facilitate better tracking and locating procedures for water in their districts.

Mr. Speaker, the Gunnison water commissioners work hard and take pride in the stewardship of a precious resource, and I am confident that the Gunnison community is grateful for their dedication. It is a privilege to bring the contributions of these fine water commissioners to light before this body of Congress. I thank them for their service and I wish them all the best in their future endeavors.

CONGRATULATIONS TO ST. CROIX HOSPITAL AND STAFF

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mrs. CHRISTENSEN. Mr. Speaker, it is with pride that I rise today to congratulate the St. Croix—Governor Juan F. Luis—Hospital administration and staff.

On June 30, 2004, the Juan Luis Hospital received accreditation from the Joint Commission on Accreditation of Healthcare Organizations. This achievement has brought us a step closer to our goal of providing first-class health care services for the people of the Virgin Islands.

The St. Croix Hospital has faced many challenges over the years, but the past one was particularly difficult. When they were without a Chief Executive Officer, two physicians, Dr. Lloyd Henry and Dr. Michael Potts stepped up and stepped in, to lead. The Board provided continuity and gave them their full support. The staff put differences, and any personal concerns aside and pulled together. When a leader was finally selected, in the person of Mr. Gregory Calliste, they all became one team on a mission.

There are still challenges to be faced and overcome. But with this achievement, they have proven their mettle to the community, and what working together with a common vision can produce, to themselves.

The St. Croix community as well as the entire Virgin Island community—for all of us will benefit—are grateful for the hard work and dedication that went into this successful effort. It is an undeniable testimony to their commitment to providing quality health care to us.

Mr. Speaker, on behalf of my family, staff, and all Virgin Islanders I once again congratulate the entire Juan Luis Hospital family for their shining accomplishment. Our community looks forward to their continuing superior service and further crowning accomplishments.

INTRODUCTION OF THE MEDICARE HOSPITAL ACCREDITATION ACT OF 2004

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. STARK. Mr. Speaker, I rise today to introduce the Medicare Hospital Accreditation Act of 2004. Forty years ago, the Congress abdicated the federal government's regulatory responsibilities to ensure that hospitals meet Medicare requirements. Congress empowered the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) with a unique authority to deem hospitals as eligible for Medicare payments with minimal government interference. That was clearly a mistake. In the decades that JCAHO has had this unsupervised authority, serious inadequacies in hospitals have gone unchecked. Our current process is not working and it's time for the federal government to reassert its authority. This bill would do just that.

This bill today responds to a report by the Government Accountability Office (GAO–04–850) raising serious concerns about the effectiveness of the current system used to accredit and oversee hospitals that serve Medicare beneficiaries. The investigation, based on a retrospective survey of 500 hospitals, indicates that JCAHO failed to detect a large number of serious deficiencies subsequently found later by a team of government inspectors. These deficiencies are not superfluous. They are important, basic minimum standards needed to ensure both a safe environment and quality health care. For example, JCAHO accredited hospitals with inadequate procedures for preventing the spread of infections, inadequate safeguards to assure competent performance of physicians and nurses, and hospitals that outright failed to protect patients and staff from fire-related disasters. While this survey cannot be generalized to the entire hospital community, it implies a troubling lack of compliance with important safety standards and is a signal for change.

This is not the first time that problems in the Medicare hospital accreditation and oversight process have come to light. In 1990, we held a hearing on this issue in the Ways and Means Committee. Gail Wilensky, the Medicare Administrator for President George H.W. Bush, expressed concern that JCAHO-accredited hospitals displayed serious deficiencies when subsequently surveyed by government surveyors. In 1999, an investigation by the Health and Human Services Office of the Inspector General (OIG) concluded that JCAHO accreditation surveys were not likely to identify patterns of deficient care. Finally, for the past three consecutive years, CMS has found that JCAHO failed to meet the CMS performance standard for the hospital survey process. This is one more indication of JCAHO's need to improve its performance, and, more importantly, the need to increase CMS' authority to oversee JCAHO.

Despite this body of evidence, until now, the federal government has done little to address the problem. This stems in part from the original Medicare law passed by Congress in 1965. In that Act, JCAHO was granted the authority to "deem" hospitals as meeting the Medicare conditions of participation and qualify for Medicare payments. As a result, the federal agency administering the Medicare program was not granted adequate oversight authority. The agency had no authority to regularly review JCAHO's surveying processes, to mandate or approve changes to the procedures, or to sanction JCAHO for inadequate performance. No other accrediting organization is immune from government oversight.

Thus, Congress delegated oversight to a private entity that is essentially under the control of the very industry it attempts to regulate. In fact, the American Hospital Association and key physician groups appoint approximately 70 percent of the JCAHO Board of Directors! This special status is even more alarming when JCAHO's role in the market is taken into consideration. In addition to its Medicare activities, JCAHO accreditation partially or fully substitutes for state regulators in 49 states, it certifies VA facilities, and is often used by private insurers and plan sponsors as a requirement for plan participation and payments.

The hospital oversight process is comprised of a three-legged stool—the private Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Centers for Medicare and Medicaid Services (CMS) and their delegates at the state level, and the Congress. This report shows that each party needs to act to improve patient safety and assure that taxpayer dollars are spent in facilities that meet Medicare's minimum requirements.

Along with Senator CHARLES GRASSLEY, who is introducing companion legislation in the Senate, the bill I'm introducing today is the first step toward addressing this problem. This legislation would provide CMS with the same oversight authority over JCAHO that it has for all other national organizations with deeming authority. We may need to do more, but this is an important start.

In addition, the Administration has also agreed to make significant improvements under its current, limited authority. Administrator McClelland has worked closely with us on this issue and is committed to make the needed changes. Establishing a clear chain of command will improve accountability, and that is our goal.

As far as I am concerned, the GAO report indicates that all three legs of the hospital oversight process need to be revamped. JCAHO needs to improve its ability to assess the extent a hospital is meeting the Medicare quality conditions of participation. CMS needs to make better use of the limited authority over JCAHO it currently has and be prepared to assume increased authority with the passage of this legislation. Finally, Congress needs to correct a decision made nearly 40 years ago to allow the federal government to abdicate its regulatory responsibilities to ensure that hospitals meet Medicare requirements.

I am are here today to announce our bipartisan, bicameral commitment to work with each other, our colleagues, the Administration and the community to do just that. I encourage my colleagues in the House and Senate to support this legislation. It will provide CMS with the tools it needs to ensure that Medicare beneficiaries receive quality hospital care in a safe environment. The time to act is now. It is a matter of life and death.

RECOGNIZING CLINT FLATT FOR HIS OUTSTANDING SERVICE TO SCOUTING

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. HENSARLING. Mr. Speaker, I would like to recognize fellow Eagle Scout Clint Flatt, of Mexia, Texas, for recently being honored with the Silver Beaver Award from the Boy Scouts of America. This award was presented to Clint for his "noteworthy service of exceptional character to boyhood."

Clint is a third generation Boy Scout, who started his Scouting experience as a Cub Scout at eight years of age. Since then, he has earned numerous honors including the Arrow of Light Award in 1980, the God and Country Award in 1986, the Eagle Scout badge and a Palm in 1987 and his Wood Badge beads in 1993.

Throughout his life, Clint has remained committed to promoting the principles of Scouting. He has provided his leadership skills to the Boy Scouts of America in many posts and capacities, from Assistant Scoutmaster in several troops to Den Leader and Cubmaster for his son Tyler's Pack 698.

Since 2001, Clint has served on the Twin Arrows Junior Leader Training Staff and is the Scoutmaster of the new National Youth Leader Training Pilot course at Camp Tahuaya. He is a Vigil member of the Order of the Arrow and has served on the Eagle Board of Review for the Comanche Trails District since 1995. Currently, Clint is serving as District Chairman and member of the Council Executive Board.

Clint is not only a third generation Boy Scout, he is also the third recipient of the Silver Beaver Award in his family. His grandfather Leon, his mother Linda, and his father Dick have also earned the Silver Beaver Award for their distinguished service to Scouting.

I would like to congratulate my friend Clint Flatt on this outstanding accomplishment. I would also like to thank him for his continued service to the Boy Scouts of America. Clint's example of leadership, citizenship and community service is a shining example to the young men he leads. Through his life-long commitment to Scouting, Clint is helping build the character of our country's next generation of leaders and helping shape a better America.

PAYING TRIBUTE TO RUDY ARGUELLO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. McINNIS. Mr. Speaker, it is my privilege to rise and pay tribute to Rodolfo "Rudy" Arguello of San Pedro, Colorado. Rudy has shown tremendous dedication and commitment to the citizens of our country. I commend his service in our military, and I would like to join my colleagues in congratulating him on his recent appointment to the Colorado Board of Veterans Affairs.

A native of San Acacio, Colorado, Rudy began his military service when he joined the Air Force in 1956. His military career included working as a linguist, a teacher, and an intelligence officer. He served our country in Vietnam, and retired from active service in 1979 as a captain.

However, his retirement from the Air Force did not mark the end of his career in the military. Wishing to continue to serve this nation, he joined the Veterans Affairs and went on to work as an administrator at the Fort Lyon veteran's hospital, a deputy director for the Department of Defense, and a manager of a modernization project at Fort Carson. Throughout his military career, he took time to further his education, receiving a bachelor's, master's and doctoral degree. With his extensive experience, Rudy is a perfect candidate for the Colorado Board of Veterans Affairs.

Mr. Speaker, it is my privilege to thank Rudy for his service to this nation and to congratulate him on his appointment to the Colorado Board of Veterans Affairs. Rudy stands out for his efforts in answering the call to serve his nation. He is a very loyal citizen and a solid family man and is a true pillar of his community. I thank him for his service and wish him and his wife Casey all the best in their future endeavors.

TRIBUTE TO AMBASSADOR C.J. CHEN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. LANTOS. Mr. Speaker, I rise today to honor a good friend to Washington and to the U.S., Ambassador C.J. Chen of the Taipei Economic and Cultural Representative office. While I know many of my colleagues will agree that Ambassador Chen's return to Taiwan is quite a loss to Washington, I know that his legacy here will be the continued positive relations between our two countries.

Ambassador Chen holds the unique diplomatic experience of not only having more than 30 years experience in Washington, but also gracefully guiding the relationship of his home country through its most pivotal years with the United States. After U.S.-Taiwan relations were severed in early 1979, a young C.J. Chen was part of the embassy team that worked closely with Congress to establish the Taiwan Relations Act (TRA). Since its passage, the TRA has been the strong and enduring statutory framework under which the U.S. and Taiwan have quickly expanded and improved cultural, commercial, and diplomatic relations.

While the TRA has been the guiding force behind our improved relations, I must say that my friend C.J. Chen has been the human force. His depth of knowledge, incredible insight, and unrivaled experience has earned him the respect needed to carry the U.S.-Taiwan relationship forward. It has been a great honor and pleasure to work with Ambassador Chen on a wide array of important issues—including but certainly not limited to Taiwan's participation in the WHO, security in the Taiwan Strait, and improved human rights conditions.

Mr. Speaker, I wish Ambassador C.J. Chen and his wife Yolanda all the best as they return to Taiwan. They leave behind many friends, a great deal of goodwill, and a legacy of service.

30TH ANNIVERSARY OF TURKEY'S INVASION OF CYPRUS

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. MEEHAN. Mr. Speaker, I rise today to commemorate the 30th anniversary of Turkey's illegal and immoral invasion of Cyprus. On July 25, 1974, Turkish troops stormed the shores of Cyprus, killing 6,000 Cypriots and forcing more than 200,000 to flee from their homes. Within weeks of a ceasefire and the commencement of negotiations toward a settlement, Turkey defied a United Nations Security Council resolution and launched a second, more aggressive attack. The assault captured more than one third of the island and marked the beginning of three decades of illegal occupation by Turkish troops.

Today, the Green Line that divides Cyprus symbolizes the wounds of a war-torn people. Hundreds of thousands of Greek-Cypriots remain refugees in their own country, denied basic property entitlements and the right of return. The Turkish Cypriot government continues to deprive them of their basic human rights and the freedom to worship freely. Churches have been desecrated, archaeological sites plundered, and towns vacated.

Since the Turkish invasion, the Cypriot government has vigorously pursued efforts to reunify the island through an equitable and viable settlement. While the Turkish Cypriot government under the leadership of Rauf Denktash has repeatedly stonewalled negotiations, the commitment of Greek-Cypriots to a unified Cyprus has been unwavering.

I am disappointed that recent efforts to renew settlement talks have been stalled once more by Mr. Denktash's intransigence. The Annan plan, which was originally drafted by United Nations Secretary General Kofi Annan in November of 2002, underwent five major revisions to accommodate the demands of Mr. Denktash before a vote could be taken. In the end, the proposal sacrificed too many of the

Greek Cypriots' needs in return for Mr. Denktash's acquiescence. The plan would have authorized the indefinite occupation of Turkish troops and settlers in northern Cyprus, imposed tough restrictions on the right of displaced Greek-Cypriots to return to their homes, and failed to adequately compensate displaced Greek-Cypriots for the loss of their property. Greek-Cypriots wisely mobilized to vote it down.

I represent a large and active Greek-American community, and I have been proud to support U.S. participation in negotiations over Cyprus and the fight for freedom and human rights for all Cypriots. As we remember the anniversary of this tragic invasion, we must renew our commitment to achieving a fair and comprehensive settlement. I urge both sides to once again come back to the negotiating table. A settlement to the Cyprus problem is critical—not only to ensuring the basic rights of Greek and Turkish Cypriots alike—but to promoting stability in the Eastern Mediterranean and United States national security interests as well.

REMEMBERING HUGH GALLAGHER

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I rise in tribute to Hugh Gregory Gallagher, initiator of the Architectural Barriers Act of 1968, insightful biographer of Franklin D. Roosevelt, and my mentor and friend. Hugh died on July 13 in Washington.

Hugh, along with Bill Foster, first introduced me to the ways of Capitol Hill in 1963 in the office of Senator E. L. "Bob" Bartlett of Alaska. I was an eager but less-than-knowledgable divinity student at the time, but their lessons took, and I ended up returning to the office as a legislative aide every summer through 1967, eventually writing a doctoral dissertation in political science based on what I observed there. Hugh was my mentor and colleague through this entire period, imparting extensive knowledge of the workings and the history of the Senate as well as remarkable political savvy and the best instruction in writing clear prose that I ever received from anyone save my English-teacher mother. My wife and I have maintained our friendship with Hugh since those years, and we are greatly saddened by his passing.

Hugh was stricken with polio during his college years and was rehabilitated at the Georgia Warm Springs Foundation, which stimulated a lifelong interest in Franklin D. Roosevelt. He received a Marshall Scholarship to Oxford University and earned his degree amid considerable physical hardship, for Oxford was hardly outfitted for students in wheelchairs in those days. After a short stint with Senator John Carroll (D–CO), Hugh became Senator Bartlett's chief legislative aide. Statehood was less than a decade old, and adjusting national policy to Alaska's altered status and many needs was a complicated challenge. But Hugh's proudest achievement by far was national legislation which he largely conceived, wrote, and steered to passage: the Bartlett Architectural Barriers Act of 1968, which required that federal facilities and buildings constructed with federal dollars be accessible to the disabled. This bill was the first national disability rights legislation, precursor to the 1990 Americans with Disabilities Act.

After Senator Bartlett's death, Hugh worked as a consultant to British Petroleum and other firms. But he turned increasingly to writing, producing an historical account of the Senate's foreign policy role (Advise and Obstruct, 1969), an account of Eskimo activism on behalf of federal land claims (Etok: A Story of Eskimo Power, 1974), a biography of Roosevelt focusing on how he dealt with his disability (FDR's Splendid Deception, 1985), an account of Nazi Germany's treatment of the disabled (By Trust Betrayed, 1990), and an autobiography probing the psychological costs of "trying to compensate [for] or obfuscate your disability" (Black Bird Fly Away, 1998).

In his foreword to the latter volume, Geoffrey Ward summed up Hugh's contribution: "It is impossible for anyone not to admire Hugh Gallagher's gallantry—a word I'm sure he'll hate having applied to him—or his extraordinary achievements in and out of the corridors of power in Washington, or his hard-won triumph over the depression that threatened to cripple him as polio never could. Disabled people will draw sustenance from this book but I also can't imagine a more useful volume for any able-bodied person—parent or child, spouse or companion, friend or relation—who wants to understand what the disabled really feel about the challenges brought by each new day."

Hugh maintained an abiding love for Alaska. One of my fondest memories is of a trip with him down the Kenai Peninsula, all the way to Homer and Kachemak Bay, in the summer of 1966. Hugh kept up with many Alaska friends and traveled there often, including a recent trip to give the Bartlett Lecture at the University of Alaska.

Hugh Gallagher lived a rich and inspiring life—a life containing adversity beyond what most of us will ever experience and exemplifying courage, tenacity, and hard-earned wisdom. Hugh had a great deal to say to the world, he said it powerfully and eloquently, and thousands are in his debt. Hugh also had a remarkable gift for friendship, and his many friends mourn his passing and treasure our memory of him.

Mr. Speaker, I ask that the account of Hugh Gallagher's life from the Washington Post of July 16, 2004, be reprinted at this point in RECORD.

[From the Washington Post, July 16, 2004]

HUGH GALLAGHER DIES; CRUSADED FOR DISABLED

(By Adam Bernstein)

Hugh G. Gallagher, 71, who died of cancer July 13 at Sibley Memorial Hospital, wrote an early civil rights law affecting the disabled and a praised biography of former president Franklin D. Roosevelt's struggle with polio.

Mr. Gallagher, stricken with polio at age 19, played a major role in the 2001 decision to add a statue of Roosevelt in a wheelchair to the Franklin Delano Roosevelt Memorial in Washington. For years he told reporters, "Don't let them steal our hero!"

Mr. Gallagher underwent rigorous and at times horrifying treatment for his disease, which he contracted during its last widespread sweep in America before the invention of a vaccine. He was paralyzed below the chest and later suffered from clinical depression.

He went on to address his concerns for the disabled through a career in politics and prose. Although many worked to change the image of the disabled—from the pitiable, leg-braced waif in old March of Dimes promotions—Mr. Gallagher was far more concerned about practical questions, the personal and financial costs of living with a disability.

While working as an aide on Capitol Hill, he developed and drafted the language of what became the Architectural Barriers Act of 1968, a lauded precursor to the sweeping Americans With Disabilities Act of 1990. His legislation mandated that buildings funded with federal dollars had to be accessible to the disabled, which many opposed because of expense and aesthetic appeal.

"Hugh's most outstanding contribution to the quality of life of people with disabilities was to successfully place disability rights on Congress' agenda for the first time," former Senate majority leader Robert J. Dole (R–Kan.) wrote for an event honoring Mr. Gallagher in 1995.

Mr. Gallagher was never a one-issue man, and his social concerns ranged from gay rights to dignified end-of-life care. He also was a prolific writer of newspaper opinion pieces.

His earliest nonfiction books concerned a range of subjects, from congressional logjams ("Advise and Obstruct: The Role of the United States Senate in Foreign Policy Decisions," 1969) to the efforts of the indigenous people of Alaska to win large land claims from the U.S. government in 1971 ("Etok: A Story of Eskimo Power," 1974).

By far his best-known book was " FDR's Splendid Deception" (1985), about the president's ability to radiate hope and confidence while living in great physical stress. Many critics hailed the book's unsentimental approach to a long-overlooked aspect of Roosevelt's life.

In her review for The Washington Post, Marina Newmyer wrote that Mr. Gallagher "has put together a solid, suspenseful and fast-paced account of the medical tragedy suffered by Roosevelt."

Mr. Gallagher found that among the 35,000 photographs of Roosevelt at his presidential library, only two featured him in his wheelchair. Media of the day all but ignored the polio, an omission that served the president's political purposes and showed his threshold for withstanding pain, he wrote.

He said he understood Roosevelt's stoicism, which Mr. Gallagher took to indicate a near-disavowal of the disability. "For years, I tried to work harder than any able-bodied person would," he told an interviewer. "My drive to become a superhero exacted a terrible price. I paid no attention to my emotions. I became an automaton."

Hugh Gregory Gallagher was born in Palo Alto, Calif, where his father taught political science at Stanford University. He grew up in Chicago, New York and Washington.

He was at Haverford College in spring 1952 when he suddenly developed polio during parents' weekend. He left school, spent three months in an iron lung and was operated on several times. "I never realized such pain existed," he told a reporter at the time.

Once, his iron lung stopped, and Mr. Gallagher had to instruct the unnerved nurses how to pump the device by hand.

Much of his rehabilitation took place in Warm Springs, Ga., where Roosevelt also had recuperated. That triggered his fascination with the president.

In 1956, he graduated from what is now Claremont McKenna College in California and then went on a Marshall scholarship to Oxford University, where he received the equivalent of a master's degree in political science, philosophy and economics.

At Oxford, he had difficulty maneuvering a wheelchair on the cobblestone streets. The only bathroom he could use was a block and a half from his room.

Such indignities led to his legislative work on Capitol Hill. He spent most of the 1960s as an administrative assistant to Sen. E.L. "Bob" Bartlett (D-Alaska). He also worked for President Lyndon B. Johnson as his legislative signing and veto message writer in 1967 and 1968.

He then was the Washington representative for British Petroleum and spent about 25 years as a policy and politics consultant for large oil concerns in Europe. His work took him to Alaska and other oil-drilling areas, where he was often hoisted onto oil rigs in his wheelchair.

Over the years, he lobbied to make airports, performance halls and libraries accessible to those in wheelchairs.

He wrote from his home in Cabin John, including the books "By Trust Betrayed" (1990), about Nazi Germany's treatment of the disabled, and "Black Bird Fly Away" (1998), which looked at his own depression about his disability.

In 1995, Mr. Gallagher received the $50,000 Henry B. Betts Award for his lifetime work for the disabled.

At the time, he reflected on the "revolution" in attitudes toward the disabled but added that there were some limits in what was doable or even desirable.

"Making the New York City subway system accessible to wheelchairs is not the best way to spend public money," he said. "Besides, I'm not going down there to get mugged."

Survivors include his father, Hubert R. Gallagher of Bethesda; and a sister.

DISTINGUISHED SERVICE AWARD TO THE HONORABLE WILLIAM L. OSTEEN, SR.

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. COBLE. Mr. Speaker, recently, the Honorable William L. Osteen, Sr., U.S. District Court Judge for the Middle District of North Carolina, received the Greensboro Bar Association Distinguished Service Award. I have known Bill Osteen for many years. Bill is an outstanding jurist, and I know of no more deserving recipient for this prestigious award.

As an aside, I had the honor of serving as Bill's Assistant United States Attorney, while he served as the United States Attorney for the Middle District of North Carolina in the late 60s and early 70s.

Mr. Stephen Millikin, from the law firm Smith Moore LLP, delivered a wonderful speech at the presentation of the Greensboro Bar Association Distinguished Service Award. The Sixth District is proud of Bill Osteen, and I urge my colleagues to review the remarks made by my good friend, Steve Millikin.

I have referred to Steve as the "Bob Dole of the Sixth District of North Carolina" because, not unlike the great Senator from Kansas, Steve is an outstanding advocate for America's veterans. I hope you will enjoy Steve's remarks.

REMARKS BY STEPHEN P. MILLIKIN AT THE PRESENTATION OF THE GREENSBORO BAR ASSOCIATION DISTINGUISHED SERVICE AWARD TO THE HONORABLE WILLIAM L. OSTEEN, SR., APRIL 15, 2004

The Greensboro Bar Association is pleased to present its Distinguished Service Award for the year 2004 to a person whose accomplishments in this community and throughout the state are well known, and whose strength of character and devotion to duty are universally admired. This person has conducted himself among us in such a manner as to be a splendid example for all to follow.

The Honorable William L. Osteen, Sr., hereinafter "Bill" or "Bill Osteen", was born in Greensboro, North Carolina on July 15, 1930. He is the son of John Luke Osteen and Ruth Tatum Osteen. His father was the well known and highly respected first U.S. Probation Officer and the first Chief U.S. Probation Officer for the Middle District of North Carolina. He was a most jovial and friendly man by nature. Bill's mother was a gentle giant of a lady though small of physical stature. She died at an early age, but not before she had a very strong influence upon Bill who promised his mother that he would never take a drink of alcohol. Bill has remained loyal to that promise throughout his life. Bill has one brother, John Osteen, who is a graduate of West Point. John made a career of the Army and retired as a major general. He now resides in Brevard.

Bill married Joanne Bennett Snow on May 16, 1959. Joanne is the daughter of John and Dorothy Snow. John Snow was an attorney. Joanne attended Duke University where she graduated with honors in Economics. Bill and Joanne have three children: William L. Osteen, Jr., born in 1960, who is a practicing attorney in Greensboro; John Osteen, born in 1962, who now lives in Long Beach, California; and Robert Osteen, born in 1966, who now lives near Charleston, South Carolina. Bill Osteen has a family of which any man would be proud.

Bill Osteen graduated from Guilford High School in 1948, from Guilford College in 1953, and from the University of North Carolina School of Law in 1956. Throughout, Bill was an outstanding student. After obtaining his law degree and license to practice law, he was associated from 1956 to 1958 with W.H. McElwee, Jr., a prominent attorney in North Wilkesboro. From 1958 to 1959, he practiced law as a sole practitioner in Greensboro. From 1959 to 1969, Bill was a partner in the law firm of Booth and Osteen in Greensboro. From 1969 to 1974 he served by appointment of the President of the United States as the U.S. Attorney for the Middle District of North Carolina. From 1974 to 1991 he was senior partner in the successive Greensboro law firms of Osteen & Adams; Osteen, Adams & Tilley; Osteen, Adams, Tilley & Wall; and Osteen, Adams & Osteen. He was appointed U.S. District Judge for the Middle District of North Carolina by President George Bush on June 18, 1991. He has served and continues to serve in that high office with great distinction.

Bill has been active with the North Carolina Bar Association, the North Carolina State Bar, and the Greensboro Bar Association. With the North Carolina Bar Association he was a member of and subsequently chairman of the North Carolina Sentencing Commission, created by the North Carolina legislature to write a suitable sentencing structure for North Carolina. For the North Carolina State Bar, he was a member of the State Bar Council from the 18th Judicial District; a member of the Grievance Committee; a member of the Professionalism Committee; a member of the Legal Aid to Indigents Committee; and a member of the Special Committee to Re-Write the Disciplinary Procedures Manual for Lawyers. He was president of the Greensboro Bar Association in 1989–1990 and he served for a long period of time as a member of its Executive Committee. Bill also served as president of the 18th Judicial District Bar in 1985. He is a permanent member of the Federal Judicial Conference for the Fourth Circuit; a past member of the Federal Bar Association; and a Fellow of the American College of Trial Lawyers. He is a member of the University of North Carolina Law Alumni Association and a member of the Guilford College Alumni Association. He has been a member of the Board of Visitors for the University of North Carolina and a member of the Board of Visitors of Wake Forest University School of Law. Bill is admitted to practice in the North Carolina Supreme Court; the North Carolina Court of Appeals; the United States District Courts for the Middle, Western and Eastern Districts of North Carolina; the United States Court of Appeals for the 4th Circuit; and the United States Tax Court.

Bill was elected to the North Carolina Legislature in 1960 and again in 1962. He served as Minority Leader in both sessions. He was appointed Chairman of the Guilford County Economic Opportunity Council by the county commissioners in 1963. He was appointed by the Greensboro City Council as a member of the City Zoning Commission from 1964 to 1966. He was appointed by the Greensboro City Council as a member of and Chairman of the City Human Relations Committee from 1966 to 1968. He was an unsuccessful candidate for the United States Congress from the 6th District of North Carolina in 1968.

While serving as United States District Judge, Bill has served as Chairman of the Committee on Codes of Conduct of the Judicial Conferences of the United States, and he has served on the Advisory Committee to the Chairman of the United States Sentencing Commission. He also has heard cases on appeal sitting as a member of the United States Court of Appeals for the 4th Circuit.

Bill has also served in the military. He was in the United States Army Reserve from 1948 to 1951, and was on active duty from October 10, 1950 until December 12, 1951. He entered the service as a private and was a Staff Sergeant at time of discharge.

Bill has enjoyed participating in many athletic activities. He has excelled in all sports that he has undertaken. He has been a competitive golf player. He was number one on the Guilford College golf team. His prowess on the tennis court is legendary. While in law school, he reportedly could out-punt the starting punter for the University of North Carolina football team. To illustrate his ability and agility, reportedly he earlier has been able to grab his left leg with his right hand and then jump through that circle with his other foot and leg, a trick few people are willing to attempt.

Bill has been highly successful in all that he has undertaken. As an excellent practicing attorney, U.S. Attorney and U.S. District Court Judge, Bill has enjoyed a reputation for honesty, professionalism, ethical conduct, and a dedication to exerting a best effort and obtaining a best result. Bill has an innate and keen sense of right and wrong. He has always acted with diligence and competence. He has been fair and judicious in his approach to all questions and eloquent in his expression of thought. As U.S. District Judge he has been appropriately firm and authoritative but also compassionate.

Bill was commissioned a Judge of the U.S. District Court in a ceremony in the Federal Courthouse in Greensboro on September 27, 1991. He has proven to be true beyond any reasonable doubt the things that were said about him and that were predicted for him at that time. In many ways and instances he has exceeded all expectations then expressed.

At the commissioning ceremony, Bill Davis on behalf of the State Bar stated: "I think that this is an absolutely perfect appointment."

George Mast on behalf of the N.C. Bar Association said: "Bill stands tall in the forest of the legal community. What he has been speaks with more eloquence than anything I can say. His appointment tells us that our system is working; that someone of (his) . . . quality and caliber and distinction, honesty and integrity can be appointed as a District Judge."

Ralph Stockton for the ABA said: "I tell you, it's hard for me to imagine anyone more qualified to assume the role of United States District Judge in the Middle District than Bill Osteen."

"Our investigation . . . specifically in Bill's case, has to do with professional qualifications . . . in the area of professional competence encompassing the qualities of intellectual ability and capacity, judgment, writing and analytical ability, knowledge of the law, and breadth and depth of legal experience. Integrity, our number one hallmark, includes the candidate's character and honesty in legal and personal relations. Judicial temperament speaks for itself and includes the candidate's open-mindedness, decisiveness, freedom from bias, and commitment to equal justice. In the course of our comprehensive investigation of Bill Osteen . . . I am pleased to report . . . that the ABA Committee reported to the Attorney General of the United States and subsequently to the Senate Judiciary Committee it's unanimous opinion that Bill Osteen is well-qualified for this appointment. This is the highest rating the Committee gives."

Bill Osteen, Jr., justifiably proud of his father and law partner, but being completely honest and candid, stated: "There was only comfort through my father's presence, his love and his support. And he's been there for each member of this family every time it was needed . . . But his magnificence as a father is probably only equaled by his great ability and competence as a lawyer . . . Each time he has taken a client—and I've practiced with him for four years now, but I'm confident that this was true for his entire 30 years. Each time he's taken a client, he has brought to the representation honor, integrity, diligence and confidence that are not to be found very often. There have been a lot of big cases, a lot of outstanding cases, and there have been a lot of small cases. But regardless of whether a case was big or small, or whether it was important to society or whether it was important only to an individual, he has brought the same honor and integrity to each case; and I'm proud to have practiced with him for the time that we have."

The Honorable Eugene Gordon commented: "Bill . . . brings to this court a vast experience gained from years of private practice and an illustrious career in this district as United States Attorney . . . Also, his legislative service and his community service can't be overlooked. Those services are very valuable for one who is called on to assume responsibilities as a member of the judiciary is . . . The efficiency and goals of the offices which he has served were never in jeopardy; it was always done well. He has reflected well upon himself, and he has served this area with distinction . . . Bill is a good person, with a passion for decency. He possesses no hatred, no jealousy, no envy or ill will that I have ever discerned. The truth is simply this. He is just a hard person to dislike."

"It is our good fortune that one of Bill Osteen's vision, ability and character has come forward for active service on the bench . . ."

The Honorable Richard Erwin stated: "Judge Osteen comes to the federal bench as well prepared for the tasks awaiting him as any judge I know. He has served as United States Attorney for this district; in private practice he has represented defendants charged with criminal offenses; and also represented both plaintiffs and defendants in civil actions before the federal courts . . . Judge Osteen also possesses an even-handed disposition that we call judicial temperament."

The Honorable Frank Bullock commented: "I don't believe that President Bush has made a better judicial appointment during his term in office . . . Bill Osteen should be a judge of this court. He has dedicated his life to service, to his family, to his church, to his state and to his nation. He has served in the legislature and as United States Attorney and as an officer of the state bar. I am confident that there is no better trial lawyer in this district and in this state and probably in this circuit or in this nation."

The Honorable Woody Tilley said this: "But not only is Bill Osteen the best trial lawyer I've ever seen . . . he also is one of the best people that i have ever known."

These were not empty accolades or over statements. If they missed the mark in any respect, it is because they understate the exemplary qualities with which Bill Osteen has been endowed and the principles which he has invariably followed.

The oath taken by Judge Osteen at his commissioning in part is this: "I, William Lindsay Osteen, Sr., do solemnly swear that I will administer justice without respect to persons and do equal justice to the poor and to the rich; and that I will faithfully and impartially discharge and perform all duties incumbent upon me as United States District Judge under the Constitution and laws of the United States . . ."

Bill Osteen has been as faithful to this oath as he has been to the promise he made to his mother years earlier.

Judge Osteen, the Greensboro Bar Association takes pride and pleasure in presenting to you the highest honor it can bestow, its Distinguished Service Award. This award is in recognition of and is in deep appreciation for your having demonstrated in many ways your deep devotion and constant commitment to the honorable practice of law and to the better administration of justice; for your having made enduring contributions to the administration of justice and to the public good through unselfish service to the community and to the legal profession; for your adherence at all times to the highest ethical standards of professionalism; and for your thereby setting by example a standard of conduct and service to which the members of the Greensboro Bar Association might well aspire.

RECOGNITION OF THE 2004 OUTSTANDING FARM FAMILY

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. MILLER of Florida. Mr. Speaker, it is a great honor for me to rise today to extend congratulations to the Wendell Thomas Family for being selected the 2004 Outstanding Farm Family. The Thomas family has run an extremely successful farm in Northwest Florida for nearly 60 years.

Wendell's parents started the Thomas farm in 1945, and to this day his mother, Lizzie Kate, is still an active partner in the family business. Wendell began working at an early age, and after graduating high school in 1970 he became a full time employee in the family's operation. A year after that, he married Dwynette Lewis, and together they raised three daughters who have all contributed to the farm.

In 1981, Wendell purchased an aircraft and shortly afterward received his certification to apply protective chemicals and fertilizers to the family's crops. In 1982, Wendell began running the farm full-time due to the decline in his father's health. Over these nearly 60 years, the Thomas family farm has expanded from one hundred to one thousand acres of cotton, peanuts, pasture, and woodland.

Mr. Speaker, on behalf of the United States Congress, I would like to offer my sincere commendation to a family that could serve as a role model to us all. A deep sense of work ethic and values has been instilled through all the generations of the Wendell Thomas Family. It is my hope that this family tradition continues for many generations to come.

NORTHERN UGANDA CRISIS RESPONSE ACT

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to discuss current legislation S. 2264. I support this bill which would order the Secretary of State to issue a report on the situation in northern and eastern Uganda. This bill, if passed, would also place much needed pressure on the Ugandan Government to provide increased protection to innocent civilians, pressure the Lord's Resistance Army, under the leadership of Joseph Kony, to lay down its arms, and force the Government of Sudan to come clean about its relationship with the LRA.

The people of Uganda have had enough. The fighting between the northern rebel group known as the Lord's Resistance Army and the Government of Uganda has gone on for more than 18 years. Their mission to overthrow the government is costing many people their lives and their livelihoods. As a result of the civil conflict, more than 1.4 million people are displaced within Uganda. Furthermore, women and young girls are being brutally raped and humiliated, young boys are being abducted and forced to serve in the ranks of the rebel insurgency. Bodies have been maimed and many have died mercilessly.

The most shameful piece of this story is that there are suspicions that the Government of Sudan, to the immediate north of Uganda, has and continues to aid LRA rebel forces with supplies and safety from Government of Uganda military forces. Such accusations, if true, demand the attention of the United States and the international community especially given the current crisis in Darfur.

Before we can properly offer assistance to the Government of Uganda and the people of Uganda, we must have concrete information that accurately details the extent of the human devastation in Uganda. This bill, if passed, would place that information in our hands. Without a thorough knowledge of the situation in Uganda, we will be unable to provide humanitarian relief and assistance to millions of men, women, and children suffering under the hands of oppressive rebel tyrants.

A report by the Secretary of State would be highly beneficial to human rights monitors, international humanitarian agencies, and lawmakers in the United States and around the world. It would explain the state of communications and infrastructure. It would explain the degree to which the rebels have permeated northern and eastern Uganda. It would explain the state of security and the degree to which civilians and outsiders are protected from vigilant rebels. Such information is crucial if we are to help lift the people of Uganda out of their current crisis and bring down the Lord's Resistance Army.

Bringing an end to this campaign will keep Uganda on its current track toward stability, especially regarding the AIDS crisis. This nation has seen more than 800,000 of its people die from HIV/AIDS and has seen more than 1.5 million of its children orphaned by this deadly virus. On the bright side, though, this country has worked vigorously to curb those numbers by implementing pro-active anti-HIV campaigns. As a result, its infection rate has been reduced from 30 percent in 1990 to 5 percent in 2003.

This is a country that is making real strides toward peace. If we remain passive while the Lord's Resistance Army marches on, we can be sure that the public health, education, technology, and agriculture infrastructures will deteriorate.

Mr. Speaker, we must take this all-important step to learn as much as we can about what is happening in Uganda if we are to respond appropriately in the future. For the reasons stated above, I support S. 2264.

THE TURKISH INVASION OF CYPRUS, AND DEMILITARIZATION OF THE ISLAND

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. ANDREWS. Mr. Speaker, yesterday, July 20, 2004, marked the 30-year anniversary of Turkey's invasion and occupation of Cyprus. Since 1974, United States policy on the Cyprus problem has been unsuccessful in its efforts to influence an agreeable resolution to this division. On May 1, 2004, Cyprus became a member of the European Union of families as a divided and occupied nation, its northern part being under illegal Turkish military occupation. The potential reunification of Cyprus is at a critical juncture. The Greek Cypriot "no" vote of 76 percent and the Turkish Cypriot "yes" vote of 65 percent is strong evidence of the unfair and unbalanced nature of the current version of the Annan Plan. If the yes and no votes had been close to the 50–50 mark, it might be argued that the plan is fair and balanced. At this point, however, no reasonable person can make such an argument. Accordingly, the United States and the United Nations must re-examine the key provisions of the Annan Plan in an effort to remedy the deficiencies that now plague the plan and obstruct the potential reunification of Cyprus.

One deficiency of the Annan Plan is its failure to demilitarize Cyprus. There is no need for Turkish or Greek soldiers to remain in Cyprus. The United States should insist on full demilitarization now. The final Annan Plan actually provides for the permanent presence of 650 Turkish troops on Cyprus with the right of "intervention" by Turkey, a guarantor power under the 1959–1960 London Zurich agreements. With Cyprus now a full member of the EU, there is no need for Britain, Turkey or Greece to remain as guarantor powers.

Quite inexplicably, the Annan Plan does not provide for the immediate demilitarization of Cyprus. It provides for the gradual withdrawal of Turkey's 35,000/40,000 troops over 14 years with 650 remaining permanently. Earlier versions of the Plan did not authorize any Turkish troops to remain.

There is no security problem for the Turkish Cypriots. The opening of the Green Line for crossings in Nicosia since April 2003 has allowed Greek and Turkish Cypriots to interact on a regular basis, and this period has passed without major incident.

As long ago as July 25, 1978, former Republican Senator Bob Dole proposed demilitarization on the Senate floor during the Senate debate on the amendment, which passed, to remove the remaining arms embargo on Turkey. Dole voted against lifting the embargo and noted that "[n]egotiations between the two communities have remained stalemated over the presence of the Turkish occupation force." He stated:

> The great need for demilitarization of Cyprus, involving withdrawal of both Greek and Turkish forces, must be stressed. . . . Once demilitarization of Cyprus is achieved, then the intercommunal talks between the Greek and Turkish Cypriot communities over the territorial and political settlement will proceed much more smoothly. This must be the goal of all parties: to achieve demilitarization of Cyprus as soon as possible.

It is beyond dispute that this aspect of the Annan Plan would actually serve to decrease stability and security on the island because it fails to fully demilitarize Cyprus at the same time that it also affirms intervention rights for Turkey. These provisions of the Annan Plan must be changed if the plan is to be accepted by both parties, and carried out to successfully achieve a peaceful, unified Cyprus.

RECOGNIZING THE SCHOOL FOR INTERNATIONAL STUDIES AT ST. MICHAEL'S COLLEGE

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. SANDERS. Mr. Speaker, every day the media bombards us with stories about how dangerous the world is. War and terrorism are, tragically, a part of our modern condition. Yet this picture of international antagonism is so incomplete as to give us a false picture of the globe we inhabit. Fortunately, there are continual efforts, heroic efforts, to bring people together.

In fact, though often unrecognized by the mass media, international cooperation and efforts at mutual understanding take place every day. It is important that we recognize those who do the essential and heroic work of building the bridges that unite the international community.

Today I want to recognize the fine work of the School for International Studies at St. Michael's College, a private liberal-arts college in Colchester, VT, as the school celebrates its 50th anniversary. During the past five decades, over 15,000 international students have studied English at the St. Michael's campus in Colchester.

Founded in 1954 with a small program that taught four students from Puerto Rico, Quebec and Colombia, the program quickly grew to include students from 20 countries.

In 1957 the program welcomed 100 Hungarian refugees, known as Freedom Fighters for their 1956 uprising against Soviet troops, to the campus to learn English. The program was so successful that in 1962 a master's degree in Teaching English as a Second Language (MATESL) was established. Today, the School for International Studies has a worldwide reputation as a leader in language teaching pedagogy.

By the 1970s the program was teaching language students from over 40 countries around the world.

Nor has the growth and scope of the program slackened in current years. Recently the program has welcomed its first students from Vietnam and Egypt, and has developed partnerships with institutions in Poland, Thailand, Greece, and Colombia. Students from more than 65 countries have studied in the Saint Michael's School of International Studies.

This week Saint Michael's College President Marc vanderHeyden presided over a celebration of this 50th anniversary, joined by speakers from some of Saint Michael's partner schools, Kanazawa Technical College of Japan, the Hellenic-American Union of Athens, both the International Christian University and Surugadai University of Tokyo, and the Gimnasio Vermont of Bogota.

To St. Michael's College, and to its School for International Studies in particular, a proud state and proud Nation say: Congratulations on working for half a century to bring people together and to build better communication between nations. We wish you well for the next half-century as you continue this vital work.

INTRODUCTION OF THE QUALITY, EFFICIENCY, SAFETY, AND TECHNOLOGY FOR HEALTHCARE TRANSFORMATION ACT

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today for Josie King. Josie was a vibrant eighteen-month-old who suffered a terrible accident and, thanks to the incredible advances in medicine, was saved and preparing to go home from the hospital.

Before she could, though, the same health system that saved her then took her life. That sweet little girl was lost to a series of entirely preventable mistakes in one of the finest hospitals in the nation, if not the world.

Politicians like to say that the United States has the best healthcare system in the world. But we don't. What we have is the best medical talent in the world, the best medical technology in the world, the best facilities in the world.

But the system itself is a mess.

The best healthcare system in the world would not allow nearly 100,000 people like Josie King to die in hospitals of preventable medical errors.

The best system in the world would not leave the United States ranked 28th in the world for infant mortality, in the company of Cuba, Hungary, and Slovakia.

The best system would not leave almost 75 million people—nearly one in three people under 65—without health insurance at some point over a 2 year period, especially when the National Academy of Sciences has documented that people without insurance have worse health and die sooner.

The best system wouldn't waste 30 cents on the dollar, or 1,400 dollars per employee per year, on care that does nothing to improve clinical outcomes. That's a 2 billion dollar tax on employers and taxpayers in my home state of Rhode Island in 2004, and an estimated 77.44 trillion dollars for the nation over the next decade.

And, one thing I know for certain, Mr. Speaker, the best healthcare system would not give patients barely a coin-flip's chance whether they receive evidence-based, scientifically accepted care in appropriate situations.

Mr. Speaker, I rise today to introduce legislation because our health care system is not the best in the world. Our health care system produces great medicine but it produces great medicine unevenly and with massive inefficiencies and frequent mistakes. We can do better.

There's a saying: "Every system is perfectly designed to produce the results it gets." We need to redesign the health care system to produce better outcomes at a better value. We need nothing short of a transformation so that delivering the highest quality health care becomes not only the overriding goal of the professionals within the system, but of the system itself.

How do we get there? Today, I am introducing a bill called the Josie King Act to put in place three pillars of a transformed system: A fully electronic, integrated, paperless healthcare system; a new emphasis on improving the science of better care, from the evidence base underlying medical treatments to the creation of a new cadre of health quality experts; and new methods of measuring the quality of care and new payment practices so that providers are compensated for the quality of care they provide, not just the quantity.

We're in the information age, and nowhere is information more important than in health care. Yet we ask doctors to practice medicine in the dark.

Our healthcare system is made up of thousands upon thousands of independent providers, each with its own records and no way to communicate with each other. Patients see multiple doctors, very rarely with anybody other than the patient as the traffic cop.

Since the right hand doesn't know what the left hand is doing, it's no wonder that 54 percent of serious chronic disease patients say they have been sent for duplicate tests or procedures within the last year.

In fact, it is estimated that 20 percent of labs and x-rays are ordered because the previous results can't be found. One in seven hospitalizations occurs as a precaution because patient information is unavailable.

Handwriting errors and other human mistakes cause deaths and injuries. The chances of being administered the wrong drug or the wrong dose in the hospital is around seven percent. Adherence to evidence-based medicine is shockingly low—barely 50 percent.

Why? It's not because the doctors and nurses and other health care personnel aren't skilled or committed or careful. It's because we practice 21st century medicine on a 20th century platform. Right now, less than five percent of doctors' offices use electronic medical records there's no way for even those doctors to easily share information.

The information revolution has transformed financial services, manufacturing, retail. Even hide-bound politicians are adapting campaigns and elections to the new tools. We need I.T. to transform medicine as well.

Making our health care system fully electronic, with networks to share all information that patients choose to share, will create new tools for doctors and nurses to let them use their skills more effectively.

Each provider would have a complete record for the patient, so there would be no more duplication of tests and procedures.

Computerized decision support systems would catch possible errors and help remind health professionals of new advances in evidence-based practice guidelines.

Patients would have access to important health information in a way that can allow them to be active participants in their own care.

A national health information infrastructure will also be a critical public health tool, helping the CDC and other public health agencies quickly pick up on and respond to outbreaks and acts of bioterrorism.

As we build these health information networks, security and privacy must be paramount. In fact, we can and should make a new information infrastructure safer than the status quo, with paper records that can be read by anybody and are easily accessible.

Not only could creation of this health information infrastructure dramatically improve patient care, it could save us billions of dollars—dollars our health care system can scarcely afford to waste. The independent Center for Information Technology Leadership prepared a report for the Department of Health and Human Services estimating the savings at $87 billion per year as we eliminate duplicate tests, unnecessary hospitalizations, and the many errors that plague our system today.

If electronic health systems are so terrific, you would think we'd have them by now. But here's the trouble. Most providers, especially physicians in small practices, have little financial incentive or wherewithal to make substantial I.T. investments.

In order to fix that, we need to recognize that putting in the information technology we need is a community-wide, infrastructure challenge. The benefits of achieving a widespread health information network for the community as a whole are tremendous, easily providing enough return on investment for all to gain.

But to get there, all of the health care stakeholders will have to work together to figure out how they're going to divide up the costs and the savings of putting electronic systems in every provider's office and of establishing the network. It needs to be a community-wide approach.

The model is being built in Rhode Island. Work is underway to pilot the development of a comprehensive health information network, and when it is in place, Rhode Island will be showing the future to the rest of the nation.

Building on this model, the Josie King Act lays out a phased process that will provide seed money and leadership to get the process rolling across the country and help every state and region build its infrastructure. With this proposal, we can get virtually the entire healthcare system networked in a decade.

When we have an electronic health information system, all kinds of other possibilities for transformation become possible. The Josie King Act not only would put I.T. in place, but would help establish new systems to take advantage of it.

Information systems create new opportunities for developing and using the evidence base. The Josie King Act would promote research into the comparative effectiveness and value of drugs, treatments, and technologies so doctors will have more and better information.

But as we expand our understanding about what constitutes good medicine in a given situation, we need to improve how that knowledge is used. How would we react, Mr. Speaker, if the airline lost half of our bags? Or if every other computer in our offices had to be returned to the manufacturer due to defects?

Well that's what we have in medicine—a defect rate approaching 50 percent in many cases, according to research from the RAND Corporation. We need to challenge the culture and systems that we have, because they are simply not good enough.

Information technologies can be powerful tools to drive out errors and improve efficiencies, as we have seen throughout our economy. But they are the tools, the means not the end. We also need leaders committed to redesigning health care delivery. The Josie King Act would begin training this new cadre of health care leaders with scholarships for graduate study in health care quality and efficiency.

To improve quality and efficiency, we also must be able to accurately measure quality and efficiency. The Josie King Act will help standardize performance measurement and use the new electronic clinical data so that, for the first time, consumers and payers can have a single source for an apples-to-apples comparison of all providers' quality, efficiency, and patient satisfaction.

Over time, these performance measurements can help us redesign payment practices so that doctors and hospitals are rewarded, not penalized, for improving patient outcomes.

The status quo is just not a sustainable option. We deserve a health care system that is as good as the quality of the medicine it can provide. That means thinking critically and creatively about what kind of health care system we want and how we build it.

Mr. Speaker, I would be remiss if I did not take a moment to acknowledge the great leadership and commitment on this issue of the former Speaker of this House, Newt Gingrich. There is nobody thinking more critically and more creatively about health care delivery than he is. Speaker Gingrich has been a terrific teacher and partner tome in this effort, and it is the great fortune of this nation that he has turned his prodigious talents to fixing what ails our health care system.

We can transform the health care system. It's an ambitious goal, but our reimbursement rates are too low, our premiums are too high, and our health outcomes are too uneven for us not to meet this challenge. We owe it to Josie King and her family to make sure that our health care system follows the Hippocratic Oath: first do no harm.

I look forward to working with my colleagues on both sides of the aisle on the Josie King Act, and I hope that we can do the hard work to build a health care system that's every bit as good as the extraordinary medicine it can produce.

STOCK OPTION ACCOUNTING REFORM ACT

SPEECH OF

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3574) to require the mandatory expensing of stock options granted to executive officers, and for other purposes:

Mr. KOLBE. Mr. Chairman, I rise in opposition to H.R. 3574, the Stock Option Accounting Reform Act. This is a highly complex issue with compelling arguments on each side. But after carefully weighing these views, I oppose H.R. 3574 because it is not good public policy nor is it good for investors.

H.R. 3574 interferes with the independence of the Financial Accounting Standards Board (FASB) and the financial accounting standard-setting process. Just 2 years ago this body overwhelmingly passed and the President signed into law the Sarbanes-Oxley Act of 2002, which recognized the importance of an independent standard-setting process free of political pressures. H.R. 3574 risks damaging the investor confidence in and the credibility of our capital markets that the Sarbanes-Oxley Act sought to restore. FASB—not Congress—has the expertise to set accounting standards through an independent deliberative process. In the wake of recent corporate scandals we have not interfered with FASB rulemaking; it is not prudent to begin doing it now.

FASB's rule will provide greater protections to investors and shareholders. Supporters of H.R. 3574 state that expensing stock options will hurt the economy; I believe the opposite is true. Allowing FASB to promulgate its rule to expense stock options will improve investor confidence and increase investment. It will institute a standardized approach that will help all investors evaluate the effects of stock options upon company earnings on a uniform basis. Even the shareholders of Intel Corporation, one of the companies leading the fight against stock options expensing, passed a resolution calling for employee stock options to be treated as an expense.

Apart from the issue of FASB independence, another key question is whether stock options should be accounted for as an expense or as dilution to equity. In the final analysis, I agree with Warren Buffett: since both employer and employee place a value on options granted in lieu of other compensation, they should be treated as an expense.

The FASB rule does not prevent companies from using broad-based stock option plans. A company can, and should, as good corporate policy, continue to grant ownership to its employees with stock options. Healthy companies that previously disclosed the intrinsic value of compensatory options in the footnotes of financial statements as currently required should not suffer from a fall in stock price solely as a result of FASB's new rule. Several studies have indicated that, provided there is full disclosure, company stock prices will not be affected by expensing compensatory stock options.

Absent from the Sarbanes-Oxley bill was any provision regarding the accounting treatment of stock options. Recognizing the need to address this issue, I was a cosponsor in the 107th Congress of H.R. 5147, the Stock Options Accountability Reform Act, to develop standards of financial accounting and reporting related to the treatment of stock options. The FASB rule accomplishes this objective, and I cannot support Congressional efforts to interfere.

VIETNAM HUMAN RIGHTS ACT OF 2004

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to discuss current legislation H.R. 1587. I support this bill which would hold the government of Viet Nam responsible for any past and present abuses of human rights. This valuable piece of legislation, if passed, would prohibit non-humanitarian assistance to the government of Viet Nam unless the government in that country certified to the President of the United States that the government of Viet Nam has made significant advances toward freedom of political, religious, social, and cultural expression.

This bill would also mandate that the Secretary of State report annually on the state of affairs in Viet Nam and that the United States provide assistance through the appropriate nongovernmental organizations for the promotion of human rights and non-violent change in Viet Nam.

Such actions would help restore a level of peace that has long been absent from the country of Viet Nam. Right now Vietnamese citizens are living under a repressive regime. They are not afforded the basic human rights to worship however they choose, speak whatever they feel, write whatever they desire, and associate with whomever they wish. Many are being unfairly arrested and tried, and are being forced to serve lengthy prison sentences.

There is evidence of under-aged youths serving in the armed forces. There is also evidence that there is widespread torture, excommunication, and murder of those who choose to worship in non-state-approved religious organizations. Opposing political views also merit the same consequences. Mr. Chairman, Viet Nam is acting shamefully.

Father Thadeus Nguyen Van Ly knows the horror of the repressive Vietnamese government. On May 17, 2001, this 55-year-old priest was arrested at church for his non-violent political and religious views. Prior arrests, for similar reasons, date back to 1977 and attest to the government of Viet Nam's longstanding history as a violator of basic human rights. Having spent more than a decade imprisoned for standing up for his beliefs, Father Van Ly was named a prisoner of conscience by Amnesty International.

International attention is essential but not sufficient for restoring the people of Viet Nam their basic rights and liberties. There needs to be more humanitarian monitoring. To accomplish this there must be increased security in mainland and inland areas to allow for the safe journey of human aid and humanitarian workers. There is also a need for improved relations between Viet Nam and its neighbors. Requiring the Secretary of State to write an annual report would provide the United States and the international community with a greater understanding of the state of affairs in Viet Nam. Most importantly, Viet Nam must provide its citizens with basic human rights.

Mr. Speaker, for the reasons stated above I strongly support this bill and its potential to drastically improve the life expectations of those living in Viet Nam. The lives of many like Father Van Ly hinge on the passage of the bill. Prohibiting the provision of non-humanitarian assistance to the government of Viet Nam will apply the right amount of pressure to the Government of Viet Nam and send a loud and clear message that the repression and abuse of human dignity must carry on no longer.

CONCERNING NEGOTIATIONS WITH LIBYA

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. ANDREWS. Mr. Speaker, as the Administration continues to negotiate with the government of Libya regarding the U.S. sanctions that still remain in place, it is vitally important that the interests of the Pan Am 103 victims' families be kept in mind.

As all of my colleagues surely recall, Pan Am Flight 103 exploded over Lockerbie, Scotland on December 21, 1988, devastating numerous families throughout the country. For over 15 years, the families of the 270 victims, including 189 Americans, have waited for justice. Given that the Libyan government has admitted responsibility for this horrific attack, the sought-after justice must include a substantial penalty to be paid by this government. To this end, an agreement was reached whereby the Libyan government is to pay each family a substantial sum, in stages, as certain criteria are met.

In order for the next stage of compensatory damages to be released to the families, the United States must lift two executive orders, one which has frozen Libyan assets in the U.S., and another which prohibits Libyan airflights to and from the U.S. A deadline has been set at the end of this month, and if these executive orders are not lifted by that date (and there is no extension of this deadline), then the families will not receive this portion of the compensation, and it will be returned to the Libyan Government.

Let me be clear, the families are not concerned with the money. Rather, they want to ensure that the Libyan government is fully punished for the attack that claimed the lives of their loved ones. I wish to also state that the families are not necessarily advocating for all of these sanctions to be removed. If the U.S. decides as a matter of policy that they want these sanctions to remain in place permanently, they will support this decision. What the families do not want to see happen, however, is for the deadline to pass, thereby denying the families their just compensation, only to have the sanctions lifted a short period later. The Pan Am 103 families have waited far too long to be left standing in the cold, and they should not be made to watch justice slip away.

The State Department and the Administration are to be commended for their efforts in these negotiations thus far, and I urge them to keep the Pan Am 103 victims and families in mind as they proceed towards further resolution.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Friday, July 9, 2004, the House had a vote on an amendment to H.R. 3578, that would have established a Manufacturing & Technology Administration within the Commerce Department. On House rollcall vote No. 357, I was unavoidably detained. Had I been present, I would have voted "no."

HONORING SANDRA FELDMAN ON HER RETIREMENT FROM THE PRESIDENCY OF THE AMERICAN FEDERATION OF TEACHERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. RANGEL. Mr. Speaker, I rise today to salute the life, career and passion of Sandra Feldman, who history will record as being one of the greatest leaders of public education in the United States. Ms. Feldman is herself a testament of the public education system. She culminated a career in education by being elected to lead the largest teacher's union in the country, the American Federation of Teachers. Today this Congress recognizes Sandra Feldman for her tireless efforts to improve public education for all of our children.

Ms. Feldman, began her life in Brooklyn, New York as a student in the New York City public school system. She recognized early that education was a way out of the poverty she grew up in. Ms. Feldman lived in a duplex building with four families—her family consisting of five members alone. She lived in the toughest imaginable situation, but she persevered.

After graduating from James Madison High School she excelled at Brooklyn College and continued with her academic career at New York University. She definitely proved herself to be quite the student, and then challenged herself to meet the challenge of educating and shaping young lives through becoming a teacher. She taught at Public School 34 in Manhattan. In her early days as a young teacher, did she dream that she would one day achieve the presidency of the largest teacher's union in the nation?

As Sandra began her lifelong career as an advocate for disadvantaged youth in education, she participated in the great civil rights movement of the 1960's, by partaking in the freedom rides and being arrested. As a teacher she became active in the union and tirelessly worked for the children of New York. She gained notice because she was clearly the best advocate for disadvantaged students.

In 1966 she became involved as a field representative for the United Federation of Teachers (UFT). She was repeatedly promoted to become the Executive Director of the UFT. As executive director she oversaw all of the union's activities.

She was elected president of the UFT in 1986. She served honorably as president for over a decade until she was elected as president of the American Federation of Teachers in 1997.

Sandra Feldman now steps down from that post. She served as the 15th president of the union and the first woman since 1930. Her career as president was marked with innumerable successes. She is regarded as the preeminent authority on urban education and disadvantaged youth. Ms. Feldman has served on a plethora of committees and on the board of countless organizations. She has been recognized by magazines as one of the "most influential women," in the country. She is certainly the most influential educator in the Nation.

I regret Sandra's departure from the presidency of the American Federation of Teachers, although she deserves a rest from her endless labors. She has certainly left an indelible mark on public education in this Nation during her superb service to our youth.

In addition to noting her successful career as a teacher, and unprecedented leadership of the American Federation of Teachers union I would like to extend my support and well wishes to this remarkable woman as she battles her illness. I wish her a speedy recovery.

There are no words adequate to express the gratitude I have for Sandra Feldman for her service and my regard for the contributions she has made.

I rise today and call on my colleagues to support House Resolution 714, to recognize Sandra Feldman for her tireless dedication to improving education for our children.

IN HONOR OF CORPORAL CHRISTOPHER M. SHEA

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. CASTLE. Mr. Speaker, I rise today to honor and pay tribute to the life of a brave young Delaware State Police officer, Corporal Christopher M. Shea. Corporal Shea was a proud and talented state trooper who died early Sunday morning after his patrol car was struck head-on by another vehicle.

A Marine Corps veteran and an extremely dedicated state trooper, Shea was Delaware's 33rd officer to die in the line of duty. At just 31 years of age, Shea had already distinguished himself as an intelligent and courageous public servant, with a true love of police work. As a four-year veteran of the State Police, assigned to patrol out of Troop 7 in Lewes, Shea served our State honorably. The fact that Shea was promoted to Corporal, only days before his death, is evidence of this bright young man's unlimited potential.

In addition to being a tremendous officer, Shea was also a thoughtful son, devoted husband and loving father. Born the second of eight children, Shea grew up in New Jersey where he attended Farleigh Dickinson College. After meeting his wife, Susan, the Sheas eventually moved to Delaware, where they had two wonderful children, Christopher Jr., 3½, and Elizabeth, 11 months.

While remembering their fallen comrade, Shea's fellow officers reflected on the trooper's ability to balance his commitment to police work with his unwavering devotion to family. Described as a talented and compassionate individual, Corporal Shea was a tremendous asset to our law enforcement community and he will be truly missed by his family, friends, and fellow officers.

Mr. Speaker, it is my sincere privilege to honor the life of a proud state trooper and heroic representative of the State of Delaware. Corporal Christopher M. Shea was an honorable defender of justice, and he deserves our deepest gratitude and respect.

APPLAUD THE CHENANGO RIVER WORKCAMP

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. BOEHLERT. Mr. Speaker, I would like to take this opportunity to applaud the efforts of the Chenango River Workcamp in Greene, NY. The Chenango River Workcamp is comprised of young students from across the Nation. This faith-based group of youngsters has dedicated a good portion of their summer to help the Chenango Housing Council rebuild and rehabilitate 61 homes for senior citizens and low-income families who might otherwise not benefit from these repairs.

This group of 450 young students has selflessly put the needs of others first and I am proud of their commitment to community and those in need. This leadership sets an excellent example to other youngsters and provides a shining ray of hope for our future. On behalf of my constituents in Upstate New York and all of the areas of the Nation these exceptional students are from, thank you.

INTRODUCTION FOR MS. THOMAS' RESEARCH ANALYSIS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. TOWNS. Mr. Speaker, I rise today to draw your attention to the recently announced approval by the Federal Government for a California biotechnology firm to license three experimental drugs from Cuba. This decision is especially interesting in the light of the fact that the administration also recently unveiled new measures to further tighten Cuban embargo restrictions. The contradictory actions of this administration, combined with a continued focus on maintaining an embargo that has done nothing to change the status of the Castro regime, reveal a profound lack of interest in truly improving the lives of average Cuban citizens. What is really at stake is President Bush's electoral votes in Florida this November, rather than an ethical and constructive approach to U.S.-Cuba relations. These new embargo restrictions deserve to be reexamined in terms of whether they are necessary to United States-Cuban policy and whether they may, in fact, worsen already unnecessarily tense relations with Cuba, as well as lead to counter productive reactions on the island.

I urge my colleagues to read the following research analysis on the increasingly unproductive United States policy toward Cuba that was recently authored by Lindsay Thomas, a research associate at the Washington-based Council on Hemispheric Affairs:

The mammoth street demonstration witnessed in Havana on June 21 was a glaring example of yet another counter-productive, anti-Castro initiative fathered by Washington policymakers. The latter may be long on raw ideology, but demonstrably, are short on reality. On that day, tens of thousands of Cubans gathered in front of the U.S. Interests Section (the official U.S. presence in Havana) to warn Washington against resorting to any preemptive military action against the island.

The Bush administration, following the practice of all of its predecessors, has maintained a cordon sanitaire around Cuba, but ended up having to waive the penalties against the international business community mandated by the ill-reputed Helms-Burton legislation. Nor is the U.S. winning many backers with its patently self-serving Florida electoral strategy masked as a foreign policy. The Bush administration has been so obsessed with wooing Miami, that it has fallen victim to its own immoderacy, recently cutting remittances and limiting packages and visits from exiles to their Cuban relatives. By its cut offs, the White House has displayed the same venomous lack of humanity and blind fury that was seen with the Elian Gonzalez affair. Now, even many of those being wooed—Cuban expatriates—are lashing back at Bush for daring to curb family ties in a craven hunt for votes.

By a series of malevolent initiatives specifically aimed at worsening U.S.-Cuban relations, Secretary of State Colin Powell invoked the latest phase of a foreign policy drive whose anointed mission was to place Florida into President Bush's win column in November, even though such a demarche could mortally wound his already fading reputation on regime issues. The motivation for such a sterile approach was prompted not so much by any genuine threat posed by Cuba to any conceivable U.S. regional security interests, but almost entirely by domestic political factors. The predictable Castro response: defiance in the form of the June 21 demonstration, which provided yet another opportunity for the Cuban leader to return to his popular base to seek reaffirmation in a spectacular show of political thunder. But the question remains, when will Washington realize that attempting to isolate Cuba internationally and pressuring it internally at best will only fail or induce more Cubans to attempt immigrating to the U.S.—something that U.S. officials aren't particularly anxious to encourage.

Despite its specious claim of "hastening democracy on the island," arguably, the Bush administration's latest policies do the opposite—purposely escalating U.S.-Cuban tensions while further legitimizing Castro in the eyes of many islanders. President Bush's mean and nasty acts serve to undermine his professedly lofty intentions, as they confirm Cuba's role as a David daring to stand up to Goliath's benighted outrages. For almost half a century the U.S. has attempted to isolate Castro's Cuba, even though predictably, these initiatives have always backfired. In reality, it is Washington's Cuba policy that has ended in the dock, not Cuba, with only dependent states like Chile and Costa Rica cheering Washington onward.

Meanwhile, for 12 years the U.N. has voted overwhelmingly to end the U.S. embargo that is almost solely honored by this country. With decades of converting "democracy" rhetoric into self-serving demagoguery aimed at asphyxiating the Cuban economy and immiserating its population, Washington's relations with Havana remain non-negotiable, beyond the purview of the constructive engagement now routinely employed toward Libya, North Korea, Vietnam and China.

Nor would Castro's death instantly transform Washington's embargo strategy into a success story. In fact, it might only underline that the U.S. fomented the deterioration of Cuban society while it bided its time for the right moment to initiate yet another intrusion into the internal affairs of a hemispheric nation. Clearly, neither Castro nor any other likely successor has indicated any intention to fall on their sword to guarantee another Bush term. Meanwhile Washington's thinking by now is so petrified that it is incapable of moving past its Cold War strategy of continually escalating threats and bringing distress upon an innocent population, to encourage what it disingenuously calls "democratic change."

CONCERNING THE IMPORTANCE OF THE DISTRIBUTION OF FOOD IN SCHOOLS TO HUNGRY OR MALNOURISHED CHILDREN AROUND THE WORLD

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 2004

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be here today to discuss an issue that is one of my top legislative priorities, the importance of food distribution in schools to hungry or malnourished children around the world. This bill passed the Senate June 3, 2004, and I hope that we in the House of Representatives can expedite its passage today as well.

As chair of the Congressional Children's Caucus, it continues to trouble me that there are more than 300,000,000 chronically hungry and malnourished children in the world. More than half of these children go to school on an empty stomach, and almost as many do not attend school at all, but might if food were available.

Distributing food in schools is one of the simplest and most effective strategies to fight hunger and malnourishment among children. When school meals are offered to hungry or malnourished children, attendance rates increase significantly, particularly for girls.

Improving the quality and access to education for girls is one of the most important factors in reducing child malnutrition in developing countries. Girls who attend schools tend to marry later in life and have fewer children, thereby helping them escape a life of poverty.

At a time when we are trying to encourage many countries to adopt educational infrastructure to lay the groundwork for teaching democratic ideals, we must be more attuned to the barriers preventing children from attending school. Distributing food in schools has been correlated to better school attendance.

We must continue to work to improve the literacy rates and increase job opportunities. Education addresses several of the root causes of terrorism, and we can do something to impact it right now. The distribution of food in schools increases attendance of children who might otherwise be susceptible to recruitment by groups that offer them food in return for their attendance at extremist schools or participation in terrorist training camps.

It is my hope that our President will work with the United Nations and its member states to expand international contributions for the distribution of food in schools around the world.

HONORING CITY OF NOVI POLICE DEPARTMENT ON 50TH ANNIVERSARY

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor the City of Novi Police Department as we celebrate the department's 50th Anniversary.

The men and women who protect the Novi community have a long and distinguished record.

In 1954, the Oakland County Sheriff's Department had been patrolling the small farming community of Novi, and protecting its approximately 5,000 residents. As the community grew, the Board of Trustees worked to establish their own force.

The Department's first chief, Lee BeGole, a member of the Wayne County Sheriff's Department and World War II U.S. Army veteran, organized the fledgling organization. BeGole served alone initially, adding three or four officers later on. He was a dedicated law enforcement officer who served the City of Novi for 32 years.

During its early years, the Novi Police Department served the community by making the most of its meager means. With a pair of police cars and no police radios, the operation of the Department was very basic. Police equipment was very basic, too. The officers furnished their own firearms and paid for their uniforms. The patrol cars did not have overhead emergency lights, but rather were equipped with red or blue spotlights and a "coaster siren" under the hood.

The size and scope of the department has increased greatly over the past half century. In 1991 Chief BeGole retired and Douglas F. Shaeffer became the second Chief of Police in Novi's history. The Department moved into the 21st Century—the 1968 Rambler with the single red/blue roof light and coaster siren has been replaced by a large fleet of the latest police package Ford Crown Victorias, equipped with multifunction electronic emergency lights and siren. The old faithful police revolvers have been replaced by the newest in semiautomatic Glock pistols. Laptop computers are installed in each patrol unit, and a new inhouse data system at the station has taken over most of the hand-written reports and forms used daily.

Today, the City of Novi Police Department is truly a world-class law enforcement organization led by outstanding men and women who are committed to providing the community with the highest caliber service and protection.

Mr. Speaker, today I ask you and my esteemed colleagues to please join me in congratulating Chief Doug Shaeffer, the men and women of the Novi Police Department, and the elected officials and citizens of Novi for their support of 50 years of excellence in law enforcement.

IN HONOR OF GINA BULLOCK'S SELECTION AS A 2005 PRESIDING OFFICER FOR THE YMCA YOUTH CONFERENCE ON NATIONAL AFFAIRS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. SESSIONS. Mr. Speaker, earlier this month the 2004 YMCA Youth Conference on National Affairs was held in Black Mountain, North Carolina. This annual conference brings together the best and brightest of the Youth and Government programs from across the country. Over 500 high school student leaders meet and discuss issues of national importance, and at the conclusion of the conference six graduating seniors are selected to serve as presiding officers for the next conference. This is considered one of the highest honors that one can receive in the YMCA Youth and Government program.

I join my colleagues in honoring Gina Bullock for being selected as one of the six presiding officers to serve for the 2005 YMCA Youth Conference on National Affairs. Gina becomes the first Texan to serve as a presiding officer at this conference since 1997, and she will be a great representative for the Lone Star State.

I wish her continued success and thank her for outstanding leadership for Texas.

A BIRTHDAY GREETING FOR A HERO

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. DELAY. Mr. Speaker, yesterday in Pinar del Rio, Cuba, somewhere in the dungeon bowels of Prison Kilo Ocho, Dr. Oscar Elias Biscet—prisoner of conscience—turned 43 years old.

Dr. Biscet is a hero of the kind that men and nations yearn for their entire lives.

He is a human rights activist, a man of peace and justice, and therefore a sworn enemy of Fidel Castro and his terrorist regime in Havana.

A student of Mahatma Ghandi and Martin Luther King, Dr. Biscet has led nonviolent opposition to Castro and his murderous, kleptomaniac government for years, whether on the streets of Havana or in the foul cages that pass for prison cells in Castro's Cuba.

Despite years-long separation from his wife and family, untreated illnesses, and ongoing abuse by prison guards, Dr. Biscet remains in high spirits today.

He is an inspiration to all who suffer for the cause of freedom, a threat to all who seek to undermine that cause, and a stinging indictment against free men the world over who would ignore the cries of injustice ringing out from an imprisoned island.

But this House and this Nation will not ignore, or forget, or bend in our determination to see human rights and human freedom restored to Cuba.

Mr. Speaker, these brief remarks may be little noted by journalists today and historians tomorrow, but they merit the saying just the same.

That somewhere in Cuba today, an honest man suffers so his countrymen—so that all men—might be free is a heroic thing, one the world owes it to him, itself, and our Creator to notice.

I recognize Oscar Biscet today not because he needs us, but because we need him.

And I honor Oscar Biscet today, as we all should, Mr. Speaker, because by the life of service he has chosen, he honors all of mankind.

I wish him and his family health and strength for his 43rd birthday and send my hopes that this will be his last separated from his loved ones and suffering under the bootheel of evil.

BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 2004

Mr. EMANUEL. Madam Speaker, as a proud member of the Illinois delegation in which Bob Michel served with honor and distinction for nearly 4 decades, I rise as an original cosponsor and in strong support of naming the "Bob Michel Department of Veterans Affairs Outpatient Clinic."

I didn't have the privilege of serving with Bob Michel in this chamber, but when I worked at the other end of Pennsylvania Avenue, I found that the Republican Minority Leader worked tirelessly across party lines to serve the best interests of his district, our State, and our Nation.

The distinguished gentleman from Peoria exemplifies the best values of Middle America. Indeed, the values that define Bob Michel as a man and a leader—values like hard work, honesty, integrity and loyalty—are the values that make the State of Illinois a great place in which to live and represent in this chamber. I am proud to share that common bond with him.

Naming the veterans clinic in Peoria is a fitting tribute to an Army hero and veteran of the Battle of the Bulge during World War II—who 10 years after his retirement from Congress remains one of my State's most respected and revered leaders.

Madam Speaker, I am honored to support this measure in recognition of Bob Michel's strength and leadership throughout 38 years of distinguished public service.

ASSOCIATION OF AMERICAN BOYERS, INC. 100TH ANNIVERSARY CELEBRATION

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. HOLDEN. Mr. Speaker, I rise today to honor the Association of American Boyers on the occasion of its 100th year anniversary.

In 1905, the Association of American Boyers held its first reunion in Dryville, Pennsylvania. The original attendees of that grand day have now grown to over 4,000 members. During the first reunion a mission statement was adopted which read "The object of this Association is educational, to hold reunions, and to foster, encourage, and develop the family spirit of the Boyer people."

A two-day celebration to commemorate 100 years of existence for the "Association of American Boyers, Inc." will be held Saturday and Sunday, July 24–25, 2004, on the grounds of the Central Pennsylvania College. On these dates Boyers from around the United States and various overseas points of destination will gather to celebrate their heritage, history, and family accomplishments.

The legacy of the Boyer name can be traced to the fourth and second centuries before Christ. Carrying the name of Boiare early settlers moved into Germany, France and England. Many variations of the Boyer name such as Bayer, Baier, Beyer, Beier, Byer and Bowyer arose in the years to follow.

Segments of these first "Boyers" came to the United States in the 1600's. Transition of some family members brought a Boyer presence to Pennsylvania in the early 1700's. Approximately forty Boyers had settled in Eastern Pennsylvania by 1775 and many served as soldiers under George Washington. Boyers have since spread throughout all of Pennsylvania, maintain large populations in Ohio, Illinois, Iowa, Indiana, New York, California, and Maryland and are present in some number in all fifty states.

Mr. Speaker, I invite my colleagues to join me in acknowledging the long standing history of Boyers and their impact since coming to the United States and thank them for the many contributions they have made to the growth of our great nation.

RECOGNIZING RICHARD "RIP" HAMILTON

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. GERLACH. Mr. Speaker, I rise today to honor Richard "Rip" Hamilton for his distinguished career in professional basketball and for the contributions he made to the 2004 NBA Championship team, the Detroit Pistons.

Rip Hamilton first made his mark in basketball when he was a high school student at the Coatesville Area High School in Chester County, Pennsylvania. During his senior year, he was voted to the First Team All-State Basketball team and participated in the McDonalds All-American game before his graduation in 1996.

Upon graduation from Coatesville Area High School, Rip continued to pursue his passion for basketball at University of Connecticut. At UCONN, Rip finished 2nd in career scoring and was the only Connecticut player to score at least 700 points per season twice in his career, and 500 points in his first three seasons. Rip spent three years at UCONN perfecting his game and, in 1999 after scoring 27 points in the Huskies' 77–74 championship win over Duke, Rip was voted the most valuable player of the Final Four. That same year, Rip was also voted 1st Team All-American by the AP and he was also awarded the Big East Conference and ECAC Player of the Year.

After three years playing basketball for UCONN, Rip was the 7th overall draft pick for the NBA. Rip then began his professional basketball career with the Washington Wizards. He spent three years with the Wizards and made his NBA debut scoring ten points against the Atlanta Hawks on November 2, 1999. On April 13, 2000, he registered a career-high 26 points against the Chicago Bulls. He set or tied career highs in every major statistical category except blocks in the 2000–2001 season. Then in 2001, he was acquired by the Detroit Pistons where he became one of their star players as the shooting guard. Rip has been with the Pistons for two years now and helped lead his new team to the 2004 NBA Championship with a 100–87 win over the Los Angeles Lakers in game five of the NBA Finals.

Not only is Rip Hamilton an outstanding basketball player, he is also known for giving back to his community. Each year, Rip sponsors the "Rip City Day" in Coatesville, Pennsylvania. It is a citywide celebration with food and entertainment for everyone. Rip also annually sponsors basketball camps throughout Chester County, Pennsylvania to give high school students the same opportunities he was given during his childhood.

Mr. Speaker, I ask that my colleagues join me today in recognizing an outstanding citizen and athlete who exemplifies the dedication and hard work it takes to reach the pinnacle of his sport.

TRIBUTE TO WALTER JOHNSON ON HIS RETIREMENT AS SECRETARY-TREASURER OF THE SAN FRANCISCO LABOR COUNCIL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. LANTOS. Mr. Speaker, it is with great pleasure that I invite my colleagues to join me in paying tribute to Mr. Walter L. Johnson, a dedicated union leader and a dear friend of mine. Walter recently announced his retirement as Secretary-Treasurer of the San Francisco Labor Council and is being honored on his tremendous career and his lifelong commitment to the labor movement at a banquet on August 6th, 2004.

Born and raised in North Dakota, Walter immediately enlisted in the army to serve his country during World War II. Serving as a Combat Engineer, he saw military action in Germany and Austria. At the end of the war, Walter returned to America where he moved to San Francisco and began work as a salesman at Sears Roebuck. He joined the Department Store Employees Union Local 1100 and immediately became an active member.

Walter's passion for the union's ideals led to a meteoric rise in the union as he became a business agent for Local 1100 in 1957 and was elected as its President one year later. By 1960, Walter had been elected to the union's top position, Secretary-Treasurer, where he would remain for the next twenty-five years. Winning reelection an astonishing eleven times, Walter's continual success was the result of his continuous commitment to end discrimination in the workplace.

After twenty-five years of tireless dedication most people would be content to retire and rest on their laurels. Not my good friend Walter, who was elected to his current position as Executive Secretary-Treasurer at the San Francisco Labor Council in 1985. As with everything he does, Walter tackled this project head on and the San Francisco Labor Council, which had just been chartered only two years prior to Walter's arrival, quickly grew in statute and importance. In fact, many of the Labor Council's great successes on behalf of San Francisco's working people can be attributed to him.

Mr. Speaker, as leader of the San Francisco Labor Council, Walter represents over 140 San Francisco unions and over 80,000 members. He has guided San Francisco's labor movement to great heights, championing a living wage for San Francisco workers, better benefits for city employees and safer working conditions. Under his leadership the Council continues to strive to broaden the city's employment opportunities and to expand the diversity throughout the Bay Area's workforce. His accomplishments include fighting for better working conditions for home care workers, efforts to bring more diversity to the San Francisco City College faculty and advocacy for more affordable housing in the city.

Walter's commitment to his community can also be illustrated through his involvement in the countless boards and committees to which he is associated. To name a few, Walter has served on the United Food & Commercial Workers International Union Advisory Board, UFCW International Foreign Affairs Committee, the Board of San Francisco Bay Area Girl Scout Council, the President's Advisory Board of San Francisco State University and is a member of Our Redeemer Lutheran Church in South San Francisco.

Although Walter will be leaving the Labor Council, I know that his presence in the community and the foundation he has created in the San Francisco labor movement will continue. On top of his heavy workload, Walter is a dedicated family man and I am sure his wife, Jane and his children and grandchildren are looking forward to seeing more of Walter in his retirement.

Mr. Speaker, I urge all of my colleagues to join me in commending Walter L. Johnson for his forty years of dedication to the labor movement, his strong advocacy on behalf of the working men and women of this nation and his commitment to the betterment of his community. Walter's service and compassion toward helping his fellow working men and women is truly an example to all of us and his contribution to working America will be evident for generations to come.

PAYING TRIBUTE TO MARLENE DEMAIO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McINNIS. Mr. Speaker, it is my privilege to pay tribute to Dr. Marlene DeMaio of Edgewater, Maryland and congratulate her on receiving the Frank Brown Berry Prize in Federal Health Care for her exceptional contributions to medicine. Dr. DeMaio, who is the first female to be recognized with this high honor, has shown an outstanding commitment to our nation's armed forces while serving in the United States Navy as a surgeon and medical researcher in body armor technology. It is with great satisfaction that I recognize Dr. DeMaio for her well-deserved award and acknowledge her many accomplishments before this body of Congress and this nation today. Her service to the Navy and to the nation has been exemplary.

While researching at the Armed Forces Institute of Pathology, Dr. DeMaio worked tirelessly to improve body armor for our soldiers. She realized there was an important need for improving body armor when she learned from some of her Navy SEALS patients that they would remove their body armor because they found it burdensome and noisy. Her breakthroughs in body armor technology came through using more realistic models that more accurately measured the impact of various weaponry on body armor. This method of testing is responsible for the improvements in the Interceptor Body Armor in use today, which has saved countless lives and resulted in fewer chest and abdominal injuries to our nation's troops serving in Afghanistan and Iraq.

A captain in the United States Navy, Dr. DeMaio is currently serving at the U.S. Naval Academy Clinic in Annapolis, Maryland. She has received an appointment to the Bethesda National Naval Medical Center and serves as Chair of Orthopedic Surgery, Sports Medicine and Podiatry at the United States Naval Academy. In the past, she has worked as an assistant professor of surgery in the Uniformed Services University of the Health Sciences. In addition, she has served on various medical boards and has authored significant academic papers.

Mr. Speaker, Dr. Marlene DeMaio has shown a tremendous dedication to our military and diligence in the field of research medicine. Her contributions have done much for the safety and well-being of our troops, and are worthy of recognition before this body of Congress and this nation today. It is my privilege to extend to Dr. DeMaio my sincere congratulations on receiving the 2004 Frank Brown Berry Prize in Federal Healthcare, and to wish her all the best in her future endeavors.

RANCHO VALMORA: 100 YEARS OF SERVICE

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize the upcoming 100th anniversary of Rancho Valmora, nestled on the eastern side of the Sangre de Cristo Mountains at the juncture of the Mora River and Wolf Creek.

Rancho Valmora was originally established as a revolutionary health center for tuberculosis patients and bears a National Historic Marker for this heritage. Valmora Ranch Company was founded in 1904 by healer and visionary, Dr. William T. Brown. This tuberculosis sanatorium became nationally renowned and a bright star in the medical world as thousands of patients sought out "the cure" at Valmora. It was believed the aged canyon walls, the warm sun, the ongoing medical research and the northern New Mexico ambience provided the ingrediants to heal.

Dr. Carl H. Gellenthien came as a "lunger" in 1927, and he headed the next generation of healers and researchers at Valmora Industrial Sanatorium. Brown and Gellenthien were dreamers, ahead of their time during an exciting era of modern medicine. The program was closed in the 1960s.

The old and crumbling site was rediscovered in 1992 by a group of New Mexicans and Texans—board members of The High Frontier of Fort Davis, Texas. Their vision was to use this site as a residential treatment center for troubled boys and girls.

Today Rancho Valmora serves as a nonprofit residential school aiming to assist adolescents that are in need of treatment. Over the years I have met counselors who have worked at Rancho Valmora, who have shared heartfelt stories of these young people. These youth are looking for a positive role model, a place to fit in and a peer group that accepts who they are. They are trying to make sense of their particular situations, themselves, their relationships and their lives. No young person wakes up one day and says, "I want to be rejected, devalued, or alone." Yet this is the message that many of them received early in their lives. Many of the youth have had bad experiences that no one would wish upon a person they care about: abandonment, violence, physical and sexual abuse, drugs and alcohol to name a few. They have not known who to turn to, who to follow and who to look up to.

At Rancho Valmora, the youth learn that they are of value, that others care for and about them, and they learn that they can care for and about others. They find they have something to offer, they fit in for helping, not hurting others. A positive interaction with others becomes fashionable and with that comes a sense of well-being and a sense of self worth through Positive Peer Culture.

Within this structured learning environment, Rancho Valmora provides a complete educational program and recreational activities which will develop the mind, physical fitness and confidence of each student. For recreation the youth engage in social and physical activities through basketball, mush ball, volleyball, dances and through working and attending an old fashioned soda fountain named the Little Dipper. They also engage in horsemanship, horticulture and art to enhance their knowledge base and accumulate experiences outside the classroom setting.

The central position is that young people can develop self-worth, significance, dignity, and responsibility only as they become committed to the positive values of helping and caring for others. As an ancient Hindu proverb advises, "Help thy brother's boat across, and lo, thine own has reached the shore."

Rancho Valmora will mark their centennial of service on August 7, 2004. A day of fun, food, and entertainment will commence with the dedication of a new 39,000 square foot school gymnasium as the students, staff and friends usher in the next 100 years. It is sure to be a wonderful time.

Mr. Speaker, for the past century Rancho Valmora has served thousands of people. From the tuberculosis patients in the early 20th century to the troubled youth of the 21st century, Rancho Valmora has mended hundreds of sick bodies and souls. This special place of learning and healing has managed to take what is old and make it new again. Rancho Valmora has been, is now and will hopefully remain a place of hope and miracles. I ask that my colleagues join with me in congratulating Rancho Valmora.

EXTENDING AUTHORIZATION FOR CERTAIN NATIONAL HERITAGE AREAS

SPEECH OF

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. HOBSON. Mr. Speaker, I rise today in strong support of H.R. 4492, which contains the authorization of the National Aviation Heritage Area Act. I would first like to thank Chairman POMBO, the Members of the Resources Committee and their staff, for their leadership and cooperation in advancing this idea.

I introduced legislation to create the National Aviation Heritage Area, which has been supported by Representative's RALPH REGULA, MIKE TURNER, JOHN BOEHNER, and all of the Ohio Delegation, to enhance significant historical resources of interest to all Americans and to further national awareness of Ohio's key role in the history of aviation. I can think of no better way to preserve and carry on the years of hard work and preparation leading up to last year's 100th anniversary of the first powered flight, than to establish this heritage area.

Few technological advances have transformed the world or our Nation's economy, society, culture, and national character as the development of powered flight. Ohioans such as the Wright Brothers, John Glenn, and Neil Armstrong have been at the forefront of every major development associated with flight. But just as important are the inventors, scientists and engineers that have made it possible in less than 100 years to not only fly between continents, but also to fly to the moon and maintain a presence in space.

My provision is fully in the spirit of President Bush's recent "Preserve America" executive order that declared, "It is the policy of the Federal Government to provide leadership in preserving America's heritage . . . by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties."

The Members of Congress from Ohio have a long record of promoting the preservation of aviation sites in Central Ohio. We have previously worked together to secure funding for the U.S. Air Force Museum, the Dayton Aviation Heritage National Historical Park, and the National Aviation Hall of Fame. We also worked closely with the community to make sure that last year's Centennial of Flight celebration was a huge success.

For these reasons, it is vitally important that we move forward with this legislation, and I urge a "yes" vote on H.R. 4492.

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes:

Mr. REYES. Mr. Chairman, I would like to thank Chairman KOLBE and Ranking Member LOWEY of the Foreign Operations Appropriations Subcommittee, as well as others on the Committee, for their support of funding for Latin America. On average, funding for programs in Latin and Central America was slashed by 11 percent from fiscal year 2004 levels in the President's fiscal year 2005 budget. As the Chair of the International Relations Task Force of the Congressional Hispanic Caucus, I was outraged to see that the President's budget cut development assistance to the region by almost 10 percent and child survival and health programs by almost 12 percent from fiscal year 2004 funding levels. While decreasing assistance funding in Latin America, the Administration has planned to increase foreign aid in other parts of the world. My colleagues on the Committee have committed to undo this injustice to Latin America and have directed funding for the region at at least fiscal year 2004 levels.

It is critical that we extend assistance to Latin America. In this region, extreme poverty, hunger, and economic disenfranchisement are resulting in instability—preventing democracy from taking root and growing. We should reach out to our neighbors and allies, working together to make the future brighter for thousands of children living in poverty and hunger throughout Latin America.

For this reason, I am pleased that the Committee has included language that is strongly supportive of the Cooperative Association of States for Scholarships (CASS) Program funded by the U.S. Agency for International Development under this legislation. As the Committee report indicates, this program has been highly effective in fostering economic growth and development in a number of countries in Central America and the Caribbean. I am also pleased to say that CASS students who have studied over the years at El Paso Community College have added greatly to the vitality of that campus. Furthermore, those students have, as part of their program, extended themselves through valuable community service in the El Paso area.

I took special note of the reference to the long history CASS has had in Haiti. Indeed, I have had the chance to learn about CASS participants from Haiti and how they have returned to their home country to make real contributions to strengthening the economy of that nation which desperately needs their help and that of the international community. They have gone into fields such as computer technology, management of micro-enterprise development, drug abuse prevention and development of sustainable agriculture. Their life stories since participating in CASS make clear that this program is effectively achieving its mission.

In light of the fact that the bill also provides an additional $50 million for Haiti through the Economic Support Fund, I hope that the Committee will join me in encouraging USAID to commit a portion of those additional funds specifically to expanding the CASS program in Haiti. The success of the program there and its strength in training individuals in fields which can truly make a difference in Haiti's future: infrastructure repair, environmental management, sustainable agriculture, among others, offer an opportunity to see that these additional funds are put to work quickly through a program that will, no doubt, bring quick returns in terms of enhanced economic and social well being for the people of Haiti.

Again, I appreciate the Committee's attention to this particular program, and I hope that through CASS and other programs, we will seize the opportunity to assist our neighbors through the promotion of economic and social development in Latin America. I appreciate the Committee leadership's commitment to work on further increasing funding for the Latin America region during conference and I lend my support to that effort.

PAYING TRIBUTE TO MONTEREY ROWE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. MCINNIS. Mr. Speaker, it is my privilege to pay tribute to Monterey Rowe and thank her for her work as the Acting Director of the U.S. Citizenship and Immigration Services (USCIS) office of Congressional Relations. Her years of commitment and dedication as a public servant is certainly commendable and worthy of recognition before this body of Congress and this nation today. I, along with my fellow Americans, am grateful for all that she has accomplished during her years of service.

Monterey began her service in the Immigration and Naturalization Service as a Data Transcriber in the Record Services Division in 1980. Her efficient and productive work led to three promotions as Staff Assistant to the Assistant Commissioner, Secretary to the Director of the Information Services Division, and Immigration Information Officer. At the Director's request she was assigned to the Legalization Project that helped implement the Immigration Reform and Control Act of 1986. Monterey's diligence earned her an additional detail on the Examination Branch that handles special requests from the public, the White House, Congressional, and State and Local government agencies regarding immigration benefits. As result of that experience, Monterey went on to become the Senior Immigration Officer for the Congressional Relations office and was assigned to the USCIS department in 2004.

Mr. Speaker, it is clear that Monterey Rowe has been an invaluable resource to the U.S. Citizenship and Immigration Services Congressional Relations Department and it is my honor to recognize her service and dedication before this body of Congress and this nation. I am grateful for the opportunity to work with devoted public servants like Monterey. On behalf of the citizens that have benefited from the hard work and commitment she has given to the U.S. Citizenship and Immigration Services and the constituents it serves, I extend my appreciation for her years of enthusiastic service.

HONORING JOSE M. HERNANDEZ

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. CARDOZA. Mr. Speaker, I rise today to honor NASA engineer Jose M. Hernandez. Mr. Hernandez is an exceptional individual who worked hard all of his life in accomplishing his ultimate goal of becoming an Astronaut. On May 6, 2004 NASA announced the "Next

Generation of Explorers," and all of us in the 18th Congressional district of California were very proud to hear Jose Hernandez as one of the 11 named in the new class of astronauts.

Mr. Hernandez was born in French Camp, CA and as the son of farm workers, he grew up in the fields of the Central Valley. Mr. Hernandez dreamed of becoming an astronaut, and knew that in pursuing his dream he would face many challenges. However he also knew that life as a farm worker was not for him. He worked hard and obtained his education from the University of the Pacific and then a Masters from UC Santa Barbara.

Mr. Hernandez worked as an engineer for Lawrence Livermore Lab and then moved on to become an engineer for NASA. He applied to become an Astronaut three times never giving up hope that one day his goal would be fulfilled. On May 6 his dream came true.

Mr. Speaker, I ask that my colleagues join me in honoring Jose Hernandez for his accomplishments. I am delighted to recognize all of his achievements, and thank him for being a role model in his service to our community, and our country.

PERSONAL EXPLANATION

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. COLLINS. Mr. Speaker, I was not present for debate on the Stock Options Accounting Reform Act (H.R. 3574) rollcall vote 394, an amendment by SHERMAN; rollcall vote 395, an amendment by MALONEY; rollcall vote 396, an amendment by KANJORSKI; rollcall vote 397, final passage of H.R. 3574.

I was not present for debate on Appropriations for the District of Columbia for Fiscal Year 2005 (H.R. 4850), rollcall vote 398, an amendment by HEFLEY; and rollcall vote 399, final passage of H.R. 4850.

Had I been present, I would have voted "yea" for rollcall votes 397, 398, and 399.

I would have voted "nay" for rollcall votes 394, 395, and 396.

PAYING TRIBUTE TO TAGE PEDERSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to a dedicated sports-medicine pioneer and U.S. Ski-team trainer from Aspen, Colorado. Tage Pederson has helped to train athletes and promote the sport of skiing in Colorado for years, and I am privileged to stand here today before this body of Congress and this nation to recognize his accomplishments.

Tage initially immigrated to Aspen from Denmark in 1956 where he became the assistant director, and then director of the Aspen Institute Health and Fitness Center until 1983. While at the Institute, Tage's Danish schooling in physical education to develop ski training and physical therapy regimens caught the attention of several Olympic racers. He believed that motion was a requirement for a speedy recovery from injury and is actually responsible for many of the early rehabilitation programs that existed before orthopedics and medicine.

In 1968 Tage was invited to become the official U.S. Ski Team trainer and worked with the U.S. Alpine team until 1980 and the Nordic Team until 1985. He accompanied the teams to four Olympic games and four World Championships as an unpaid volunteer. One of the biggest moments of his career as a sportstrainer was aiding Billy Kidd to overcome back problems in the 1970 Amateur World Championships to win the gold medal in the combined event that contained the longest slalom in the history of the sport. Tage was recently inducted into the Colorado Ski and Snowboard Hall of Fame for his service to the sport of skiing for over four decades.

Mr. Speaker Tage Pederson has committed decades of his life to rehabilitating hundreds of Roaring Fork Valley skiers and getting them back on the slopes. He is a caring and humble individual who I am honored to recognize before this body of Congress and this nation. Congratulations on your induction, Tage, and I wish you all the best in your future endeavors.

125TH ANNIVERSARY OF THE LAS VEGAS DAILY OPTIC

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to congratulate the Las Vegas Daily Optic, a newspaper in San Miguel County, New Mexico, on its 125th anniversary. On August 21, 2004, citizens throughout the area will celebrate this remarkable achievement.

The Optic, owned by Russell A. Kistler, was founded shortly after the railroad arrived in Las Vegas in July of 1879. Mr. Kistler, who had been publishing a newspaper in Otero, New Mexico, felt that Las Vegas would be a more lucrative location. So he packed his bags, moved there and set up the Optic's first office and a printing press at the building on the corner of Grand and Douglas.

At the time, Las Vegas—or rather what is now known as Las Vegas—was thriving. Indeed, in 1890 the population of Las Vegas far exceeded that of Albuquerque; Las Vegas had 5,273 people compared to Albuquerque's 3,785. It wasn't until 1910 that Albuquerque's population surpassed that of Las Vegas.

The Optic began as a weekly—its first issue published July 31, 1879. But just four months later—on Nov. 4—it began publishing daily.

From the beginning, the Optic earned a reputation for getting out local news and for providing vivid accounts of noteworthy events. Mr. Kistler and his assistant wrote firsthand articles and editorials about political rallies, school programs, church services, sports, theatre performances and many other social events. Another popular staple in the Optic's news coverage was crime—from shootings and hangings to robberies.

The stories featured in the pages of the Optic over the past 125 years capture the colorful history of Las Vegas, a history that is the stuff of legends.

There were stories of gunfights, public hangings and notorious outlaws from the "Wild West" days. Also detailed in those early issues of the Optic were the births of some of the area's most beloved and critical institutions, among them what is now known as New Mexico Highlands University, Montezuma Castle and the Las Vegas Medical Center.

And then there are the chronicles of the struggles, among them the 91-year struggle to consolidate old town and new town into municipality and the political struggle for dominance between the local Republican and Democratic Parties.

The Optic also published the comings and goings of legends such as Wyatt Earp, Doc Holliday and Jesse James. In December of 1879, it noted that Jesse James had been a guest at the hot springs the previous summer.

The Optic has changed significantly over the 125 years it has been published. Ownership of the paper has changed hands nine times since its founding, but it has remained in the Beck family for 35 years.

When brothers Robert and Stuart Beck purchased the Optic in 1967, it had a circulation of 1,200. Today, its circulation is 6,000.

The Optic reached another milestone in April of 1998, when after the death of beloved Optic Publisher Stuart Beck, his widow was appointed publisher. Until Delia Romero Beck became publisher, no woman had served in that capacity.

Each publisher, editor and writer at the paper has left his or her mark on the Optic. Through the years, its pages have narrowed, the manner in which it is printed has eased, and the typewriters that once dominated its newsroom have disappeared in favor of computers. The Optic has undergone countless format changes, and the editorial style found in the paper's early editions bears little resemblance to today's.

But one thing has remained constant: The Optic's commitment to its readers and to the people and institutions it covers and its commitment to being fair and accurate in its reporting.

In the years since the Optic began publication, other newspapers have come and gone. But for more than a century, the Optic has survived and triumphed, each day capturing in its pages the stories of Las Vegas and its people.

Mr. Speaker, I urge my colleagues to rise and recognize the Las Vegas Daily Optic and the citizens of San Miguel County on this truly momentous occasion. Their commitment to community spirit represents the finest qualities of New Mexico.

HONORING TOM McKIBBAN, CRNA, MS, PRESIDENT OF THE AMERICAN ASSOCIATION OF NURSE ANESTHETISTS

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. TIAHRT. Mr. Speaker, today I pay tribute to an outstanding Kansan, Tom McKibban, CRNA, MS. Mr. McKibban will soon complete his year as national president of the American Association of Nurse Anesthetists (AANA). I am very pleased that this son of Kansas was tapped as the 2003–2004 president of this prestigious national organization.

Founded in 1931, the AANA represents more than 30,000 practicing Certified Registered Nurse Anesthetists (CRNAs). As you may know, CRNAs administer approximately 65 percent of all anesthetics given to patients each year in the United States. They work in every setting in which anesthesia is delivered including hospital surgical suites and obstetrical delivery rooms, ambulatory surgical centers, and the offices of dentists, podiatrists, and the plastic surgeons.

More importantly, CRNAs are the sole anesthesia providers in approximately two thirds of all rural hospitals, affording these medical facilities obstetrical, surgical and trauma stabilization services. In some states, such as Kansas, CRNAs are the sole providers in nearly 100% of the rural hospitals.

Tom earned his master's of science degree in nurse anesthesia from the University of Kansas in Lawrence, Kansas, and his bachelor's degree in healthcare administration from Ottawa University, Ottawa, Kansas. He is currently a practicing nurse anesthetist and partner of the Butler County Anesthesia Services, LLC, which provides anesthesia services for Susan B. Allen Memorial Hospital in El Dorado, Kansas.

Tom has held various leadership positions in the AANA as president-elect, treasurer, and regional director before becoming the national president of the AANA in 2003. In addition, Tom has served terms as president, president-elect, treasurer, and secretary for the Kansas Association of Nurse Anesthetists.

During his AANA Presidency, Mr. McKibban has testified before committees of Congress on healthcare topics including nurse anesthesia education and the importance of nurse anesthetists to the U.S. Armed Forces and the Department of Veterans Affairs.

Under McKibban's leadership, the AANA opened an important, new line of communication with the American Society of Anesthesiologists (ASA). These organizations of anesthesia professionals have not always seen eye-to-eye. The recent joint efforts of the two professional organizations would not have been possible without the initiative of Tom McKibban and his ASA counterpart.

Even with his demanding schedule as a practicing nurse anesthetist, Tom has found time over the years to volunteer in his community. He has served as president and vice president of the Board of Education for Unified School District 490, and has been an active member of the board of education since 1999. He has also served as a member of the Endowment Board of Butler County Community College and board member for the American Red Cross Bluestem Chapter too.

Mr. Speaker, I ask my colleagues to join me today in recognizing Mr. Tom McKibban, CRNA, MS, for his notable career and outstanding achievements.

INTRODUCTION OF CONTROLLED SUBSTANCES EXPORT REFORM ACT

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. PITTS. Mr. Speaker, today I am introducing The Controlled Substances Export Reform Act, legislation to create and maintain U.S. jobs by reforming our Nation's outdated pharmaceutical export control laws.

Current law allows U.S. companies to export most controlled substances only to the immediate country where the products will be consumed. Shipment to central sites for further distribution across national boundaries is prohibited.

Mr. Speaker, foreign competitors labor under no such restrictions and can readily move approved medical products between international drug control treaty countries without limit or restriction. The exclusive prohibitions imposed by U.S. law on American manufacturers place them at significant disadvantage in international markets, creating powerful incentives for domestic companies to move production overseas, damaging local economies and costing U.S. jobs.

The legislation I have introduced today, along with a bipartisan group of my colleagues, authorizes the Attorney General to permit carefully regulated pharmaceutical exports to our international drug convention partner countries.

The bill retains full Drug Enforcement Administration (DEA) authority over all shipments of controlled substances and establishes strict procedures to ensure these products are used solely for legitimate medical purposes. While the DEA's authority over exports is undiminished, by creating new parity for U.S. companies with their international competitors, the legislation encourages domestic production and job growth.

The Controlled Substances Export Reform Act supports American jobs and protects U.S. interests. I look forward to working with my colleagues to enact this important legislation.

MAINTAINING THE PROPER PERSPECTIVE ON CYPRUS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. BURTON of Indiana. Mr. Speaker, today on the tiny Mediterranean island of Cyprus, Turkish and Greek Cypriots mark the anniversary of momentous events that have shaped the last 30 years of the island's history. The events of July 1974 have been the subject of much debate, controversy, and unfortunately, distortion. The United States has worked long and hard to help bring peace to Cyprus, and as both sides of this divided island struggle to achieve a stable and prosperous future for all Cypriots, it is important for this House to put history in its proper perspective, to separate fact from propaganda, and to create a fair and balanced understanding of the issues that divide the island's two constituent peoples (the Turkish Cypriots and the Greek Cypriots.

It is easy to assume that the history of the Cyprus conflict starts in 1974, but this is far from the truth. The origins of the Cyprus conflict can be traced back to the Greek Cypriot drive for Union with Greece (enosis), a movement with roots that can be traced as far back as the later days of the Ottoman Empire. The modern history of the conflict, however, stems from the 1950s and 1960s.

From 1878 to 1960, Cyprus was ruled by the British. When the island achieved independence from the United Kingdom in 1960, it was with constitutional guarantees for power sharing on the basis of political equality. The constitution foresaw (and still foresees) a bicommunal structure, and the peaceful co-existence of Greek and Turkish communities side by side. The president was to be Greek, and the vice-president to be from the Turkish community, each with the power of veto.

Unfortunately, differences in language, culture, religion, and national traditions, ended this vision by late 1963 when a political crisis and inter-communal violence broke out. In November 1963, Makarios, the first president of Cyprus—a Greek Cypriot—submitted a plan aimed at amending the constitution. However, the changes proposed removed most of the checks and balances which had been built into the constitution to ensure the safety and equal status of the Turkish community.

Matters came to a head on in December of that year, when armed Greeks attacked a suburb in Nicosia, killing or capturing those Turkish Cypriots who were unable to escape. Armed conflict spread, with the Turkish Cypriots withdrawing into enclaves to defend themselves. A buffer zone was set up and manned by British troops in a largely unsuccessful attempt to stop the fighting. These were later replaced by United Nations troops in March 1964, troops which are still there to this day. For the next ten years, the enosis campaign of the Greek Cypriots cost the Turkish Cypriots many lives and untold suffering, as well as their partnership position in the Cyprus government.

Former United States Undersecretary of State, George Ball, who, among others, as actively dealing with the crisis at the time, remarked in his memoirs entitled The Past Has Another Pattern, that Makarios has turned: "This beautiful little island into his private abattoir" (P. 341). Ball went on further to say that: "Makarios" central interest was to block off Turkish intervention so that he and his Greek Cypriots could go on happily massacring the Turkish Cypriots" (p. 345).

For example, in March 1964, well armed Greek forces attempted to crush the Turks at Erenkoy on the north coast, in order to interrupt the alleged flow of munitions from the

Turkish mainland: they would undoubtedly have succeeded had not the Turkish air force intervened. This act added a new dimension to the conflict. Fear of Turkish intervention sobered the Greek Cypriots somewhat, and they settled down to a systematic economic blockade of the Turkish enclaves. Further armed conflict in 1967 provoked Turkey to threaten military intervention, but with the takeover of Greece by a Military Junta, and an economic boom occurring on Cyprus, enosis seemed less attractive and the violence subsided

However, intervention finally came in 1974. During the presidential elections of 1974,

Makarios clearly announced the cause of enosis, and was re-elected. He subsequently ordered the withdrawal of mainland Greek officers from the Island, whereupon the National Guard, which was under the command of those same mainland Greek officers loyal to the Junta, stormed the presidential palace in Nicosia, although President Makarios escaped. In the face of this bloody coup, which brought the island to the brink of political extinction and a humanitarian tragedy, Turkey, which was treaty-bound to act as a Guarantor State, was forced to undertake action. As a result of this legitimate and timely action, Turkish Cypriots were saved from imminent destruction, bloodshed among the Greek Cypriots was ended and the independence of Cyprus was protected.

U.N.-led direct talks between the two sides to reach a comprehensive settlement to the division of the island began in early 2002, and reached a culmination when simultaneous referenda were held on each side on April 24, 2004.

Mr. Speaker, it is remarkable that, after all they have gone through, the Turkish Cypriots have continued to demonstrate a genuine desire to settle their differences with their Greek neighbors in a peaceful and amicable way through negotiations. In the referendum of April 24th, the Turkish Cypriots voted 65 percent to approve the U.N. plan for reunification of the island. In contrast, the Greek Cypriots gave the plan a resounding no by a 3 to 1 margin, effectively leaving all settlement efforts in limbo. Yet, in an ironic twist of events, it was the Greek Cypriots who were allowed to enter the European Union in May while the Turkish Cypriots, like their counterparts in Turkey, continue to be left out in the cold.

Under the circumstances, I agree with U.N. Secretary-General Annan when he cited in his latest report on the situation in Cyprus, that there is no justification for keeping the Turkish Cypriots in isolation from the rest of the international community. The restrictions that have been imposed on their economic, political and cultural activity internationally should be lifted. Turkish Cypriots must be allowed to enjoy the benefits—benefits they were guaranteed under the 1960 independence agreement, which any peaceful, democratic society deserves.

Fair and equal treatment of the Turkish Cypriots can only benefit the island as a whole and further facilitate the achievement of a negotiated settlement.

PAYING TRIBUTE TO KARL KRAMER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to an expert firefighter investigator from Monte Vista, Colorado. Karl Kramer risks his life on the job every day to help people in need in his community and I would like to join my colleagues here today in recognizing his tremendous sacrifices before this body of Congress and this nation.

Karl has served the Monte Vista Volunteer Fire Department for more than two decades and currently serves as the president of the Colorado State Firefighters Association. Recently Karl turned his fire investigating role into a full-time career, when he opened his own Fire investigation business called Southern Peaks Investigation. Many different organizations depend upon his sound judgment and risk to his health in determining the cause of a fire. Karl maintains that he began working as a fire investigator because he really wanted to do something for his community.

Mr. Speaker, it is a privilege to honor Karl Karmer for his many years of dedicated service to the Monte Vista community. Karl's risk to his own safety and health have taken him away from his friends and family on many occasions, and I am grateful for the selflessness he has demonstrated to aid others. I am proud to recognize his efforts before this body of Congress and this nation, and I wish him all the best in his future endeavors.

HONORING TECRO REPRESENTATIVE C.J. CHEN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. ACKERMAN. Mr. Speaker, during the past 4 years, relations between the United States and the 23 million people on the Island of Taiwan have remained strong. One of the reasons our ties with the Republic of China on Taiwan have endured has been due to the excellent diplomatic skills of C.J. Chen, Taiwan's Representative at the Taipei Economic and Cultural Representative Office ("TECRO") in the United States. TECRO is Taiwan's unofficial embassy here and Representative Chen—or C.J. as he is known to his many friends on Capitol Hill—is Taiwan's unofficial ambassador.

C.J. has been a member of Taiwan's foreign service for the past 37 years. More than two-thirds of his long career has been spent focused on Taiwan's relationship with the United States, Taiwan's most important trading partner and strategic ally C.J. started working in Washington in 1971 in a junior position at the Republic of China's Embassy. He was present at the time of derecognition and was a participant in the dialogue which led to the enactment of the Taiwan Relations Act in 1979. During the next 25 years, C.J. was appointed to a series of increasingly important positions in the Taiwant government involving relations between Washington and Taipei, culminating in his appointment first as Deputy Foreign Minister and then Foreign Minister.

During these years, C.J. developed strong friendships with Members of Congress on both sides of the aisle in both Houses of Congress. His credibility has been high with every Administration with which he has interacted. Therefore, Taiwanese President Chen chose C.J. to serve as TECRO Representative at the beginning of his Presidency, knowing that C.J. would provide him and his government the best counsel, the most accurate advice and the best information on critical aspects of the relationship between Washington and Taipei.

Mr. Speaker, I have had the privilege to travel to Taiwan on many occasions, including a most recent visit earlier this year. My knowledge of Taiwan has been greatly enhanced by the friendship I have developed with C.J. over the past 22 years. I will miss having him in Washington as TECRO Representative. But I am heartened to know he and his lovely wife Yolanda will be returning to Taipei where he will continue to make important contributions on matters between the United States and the people of Taiwan. As C.J. concludes his Tour as Taiwan's unofficial ambassador, I am certain all of my colleagues wish him well and congratulate him on a job well done. I look forward to seeing him again in Taipei or whenever he returns to Washington in the future.

WCCO RADIO HAS BEEN A "GOOD NEIGHBOR" TO MINNESOTANS FOR 80 YEARS

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to a legendary Minnesota institution, WCCO Radio, which is celebrating its 80th Anniversary.

WCCO officially went on the air on October 2, 1924, broadcasting from a tower in Coon Rapids, Minnesota, now in the Third Congressional District. WCCO was the largest radio station west of the Mississippi. Named for the Washburn Crosby Company, WCCO was the second radio station (and first for-profit commercial broadcaster) in the Nation.

Mr. Speaker, WCCO has been a "Good Neighbor" to all Minnesotans and the entire Upper Midwest, and this historic milestone is truly deserving of special recognition.

For eight decades, Minnesotans have tuned to 830 on the dial to keep up on the news, sports, school closings, blizzards, heat waves, tornadoes, floods, election results, community celebrations, farm prices, health tips, market updates and world events.

WCCO gives us what we need, when we need it.

WCCO has always nurtured our better instincts, raising money and volunteers to help countless charities, veterans groups, churches, synagogues, civic efforts, storm cleanups and people in need. WCCO has always embodied public service of the highest order!

Mr. Speaker, WCCO has been Minnesota's bulletin board for generations. Our grandparents and parents and children have counted on WCCO to deliver us what we need to know. And the family of WCCO employees who have provided this tremendous public service need to know how much we appreciate their hard work through the years.

The voices heard on WCCO Radio over the years are legendary to all Minnesotans, good neighbors to us all. They have been like members of the family: Cedric Adams, Halsey Hall, Bob De Haven, Joyce Lamont, Howard Viken, Dick Chapman, Jim Bormann, Ron Handberg, Clayton Kaufman, Ray Christensen, Steve Cannon, Charley Boone, Roger Erickson, Jergen Nash, Sid Hartman, Randy Merriman, Paul Giel, Maynard Speece, Chuck Lilligren, Roger Strom, Dave Lee, Eric Eskola, Mike Lynch, Sue Zelickson, Ruth Koscielak, Bruce Hagevik, Rich Holter, Telly Mamayek, Jeff McKinney, Steve Enck, Adam Carter, Angela Babb, Rita Maloney, Russ Knuth, Steve Murphy, Susie Jones, Tim Russell, Denny Long, Bill Diehl, Pat Miles, Dave Mona, Dark Star, Don Shelby, John Gordon, Patty Peterson, Mike Max, Al Malmberg, Kim Jeffries, Dan Gladden, Dan Terhaar and so many others.

What friends they have been to all Minnesotans, as we have truly been blessed with their enduring talents and commitment to excellence in broadcasting.

WCCO's tradition of excellence and service to the community have been truly remarkable. From recognizing public service with its "Good Neighbor Award" to offering accurate, comprehensive news and information, WCCO Radio has achieved an unparalleled level of trust with its loyal listening audience. WCCO truly connects with its listeners in a special, personal way.

Mr. Speaker, the trust that exists between WCCO and its listeners is all the more outstanding because of the large geographical area WCCO serves. As one of the 12 original "clear channel" stations, WCCO is the only operator allowed on the 830AM setting. With its powerful transmitters, WCCO Radio can be heard not only in Minnesota, but in Wisconsin, Iowa, the Dakotas and far beyond.

Mr. Speaker, the people of WCCO Radio have been the consummate "Good Neighbors" for 80 years, and we salute them for their legendary public service.

Happy 80th birthday, WCCO Radio!

TRIBUTE TO COLONEL EDWARD A. OWSLEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of Colonel Edward Owsley of Fort Leonard Wood, MO.

Colonel Owsley was born on March 13, 1913, in Marshall, MO. He joined the Missouri National Guard in 1931 and was called to active duty in 1940 at Camp Robinson, AR. He was commissioned as a Second Lieutenant of Infantry during World War II and served in the Far East Campaigns. He continued to serve after the war and retired in 1966 with the rank of Colonel.

Since 1966, Colonel Owsley devoted his life to public service. He served 20 years as the executive vice president of the Rolla Area Chamber of Commerce and later as the group's ambassador. He was a former state president of the Association of the United States Army, on the board of the Community Development Corp., adviser to Lambda Chi fraternity and an Honorary Knight of St. Patrick.

Mr. Speaker, I know my colleagues will join me in offering our deepest condolences to his two daughters, Linda Clift and Pat Jordan of Rolla, MO. Let us offer our gratitude for his many years of service to the United States of America.

PAYING TRIBUTE TO BETTY JARAMILLO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McINNIS. Mr. Speaker, I am privileged today to rise and pay tribute to Betty Jaramillo of Manzanola, Colorado, for her many years of dedication to the education of our youth at Manzanola Elementary School. As she celebrates her retirement, I would like to take this opportunity to recognize her career before this body of Congress and this nation.

Betty has lived all her life in Manzanola. Her career at Manzanola Elementary School started when she attended the school there as a young child and student. Later, she returned to the school as an employee working as a migrant aide. It did not take long before she was promoted to work as the school secretary, a position in which she would spend the large majority of her tenure. For thirty-six years, she has been a staple in the school and the community by forming strong relationships with the students and other teachers. After spending well over three decades at the elementary school, she has chosen to spend more time with her family and hopes to travel with her husband.

Mr. Speaker, I am honored to recognize Betty Jaramillo before this body of Congress and this nation. She has dedicated her life toward the betterment of others and I wish her all the best in her future endeavors.

LEWIS AND CLARK NATIONAL HISTORICAL PARK DESIGNATION ACT

SPEECH OF

HON. BRIAN BAIRD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 2004

Mr. BAIRD. Mr. Speaker, I would also like to extend my gratitude to Congressman MARK SOUDER and former Superintendent of Ft. Clatsop Memorial, Don Striker.

TRIBUTE TO MR. GARY GRASMICK FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. NEY. Mr. Speaker, on the occasion of his retirement on August 2, 2004, we rise to thank Mr. Gary Grasmick for outstanding service to the U.S. House of Representatives. For the past 29 years Gary has served this great institution as a valuable employee at House Information Resources, HIR, within the Office of the Chief Administrative Officer.

Throughout his career with HIR, Gary has held many positions of increasing responsibility. He began his career at the House on June 16, 1975 as a Production Control Specialist in the HIR data center. For many years Gary's technical, analytical, communication, and financial skills served him well in his efficient management of information technology budgets and contracts. He performed extensive amounts of research and analysis of vendors' hardware and software offerings to acquire the most cost effective and functional products for the House. Gary has also been responsible for configuration management of data center hardware and software and served on several HIR task forces. Since 1998, Gary has been a member of HIR's Immediate Office as the Resources Manager where all his years of experience have been invaluable in serving senior management. As Resources Manager, Gary also oversaw the HIR financial management and procurement processes to ensure compliance with House guidelines and the responsible execution of appropriated funds. Gary was also the recipient of the HIR Quality Award, an in-house award given to outstanding employees for service beyond their assigned duties. His peers and co-workers will miss Gary's professionalism and friendly manner.

On behalf of the entire House community, we extend congratulations to Gary for his many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish Gary many wonderful years in fulfilling his retirement dreams.

IN MEMORIAM—SPECIALIST CRAIG STUART FRANK

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Ms. KILPATRICK. Mr. Speaker, it is with great sorrow that I take this floor to pay tribute to one of Michigan's fallen sons, Army Specialist Craig Stuart Frank. Spc. Frank was a military police officer assigned to the 1775th Military Police Company out of Taylor, Michigan and deployed in Iraq.

Spc. Frank was on assignment guarding a truck convoy mission from Kuwait to a location north of Baghdad when he and his comrades came under a rocket propelled grenade attack. It was on this mission that he gave his last full measure of devotion.

Long before his deployment to Iraq, Spc. Frank was a hero to his family, Timothy and Linda Frank, and his friends of Lincoln Park, Michigan. He joined the military to first serve his country, but also to take advantage of the benefits to pay off his school loans. His father said that, "he didn't want to burden us with the payments." Craig was studying education at Eastern Michigan University and his goal was to become a history teacher. He also showed an interest in becoming a firefighter.

Craig was apparently an avid reader. He brought with him to Iraq 15 books when he was shipped out. His bookishness was a cause for much teasing from his fellow guardsmen of the 1775th.

Spc. Frank's service in the Michigan National Guard and the way he conducted himself in uniform and in battle teaches us a lot about courage. Serving his country was a great source of pride to Craig, and he died on duty in the field of battle.

My thoughts, prayers and tears are with the Frank family and the lady of Craig's affection, Ms. Connie Walker. Craig answered the call to duty and served his country and the State of Michigan with valor. The Army has a tradition of "No man left behind." In that tradition, the story and memory of Spc. Frank will not be left behind. They continue to live on in the thoughts and stories of families and friends.

To the Frank family, I wish to borrow from Abraham Lincoln's letter to Mrs. Bixby: "I pray that our heavenly Father may assuage the anguish of your bereavement, and leave you on the cherished memory of the loved, lost and solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom."

On behalf of a grateful nation, please accept our gratitude and deepest sorrow for your sacrifice.

PAYING TRIBUTE TO BREANN BLACKMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to a smart, happy, and beautiful seven-year old, Breann Blackman, who brightens the lives of her family and her Grand Junction, Colorado community. Despite the many challenges she has faced she maintains a healthy and happy attitude towards life. I am proud to join my colleagues here today before this body of Congress and this nation in recognizing her tremendous caring and fun-loving nature in the face of great adversity.

When Breann was three-months old she was diagnosed with infantile scoliosis. The disease produces a severe twisting of the spine, which causes her to spend twenty-three hours of the day in a brace that encases her torso from the hips up to her armpits and has an attachment for neck and head support. The brace comes off for half an hour stretching exercises at recess and half an hour to take a bath. She attends swim therapy at St. Mary's Life Center and does breathing exercises four times a day with a Bi-pap breathing machine. In addition to these daily aspects of her life, she and her brother Jordan experienced the loss of both their mother and father to tragic circumstances and now live under the custody of their grandparents Lilian and Gene.

Mr. Speaker, Breann Blackman has surpassed many obstacles in her life, and I am honored to recognize her strength and vitality before this body and this nation today. Thank you, Breann, for improving the lives of the people around you, and I wish you all the best in your future endeavors.

TRIBUTE TO JUANITA PHILLIPS

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to the late Juanita R. Phillips, a retired St. Louis Public School educator and the aunt of my colleague and dear friend, Congresswoman DIANE WATSON. Ms. Phillips died of natural causes on July 1, 2004, less than three months shy of celebrating her 100th birthday. Born in Chicago, Illinois, on September 26, 1904, she experienced many highs and lows of this great country's history, witnessing historic events from both World Wars and the Great Depression to landing astronauts on the Moon. She attended the Clinton, Iowa Public Schools, graduated from the University of California-Los Angeles in 1927 and earned a master's degree in English from Ohio State University. She was a pioneer and a model for women of her day and today.

Ms. Phillips pursued a rewarding career teaching English at historically black institutions such as Florida A&M College in Tallahassee, Florida and the Hampton Institute in Hampton, Virginia, before moving to St. Louis, Missouri in 1943 with her husband, Dr. A.C. Phillips. Ms. Phillips followed her love for teaching English to Soldan High School in the St. Louis Public School system, from which she retired in 1972, and subsequently served as a tutor.

In her years as an educator Ms. Phillips touched many lives. One of those lives is that of her niece, my dear friend and colleague, Congresswoman DIANE WATSON. DIANE has followed in the footsteps of her Aunt Juanita by devoting her life to community service, first as a teacher and school board member, and then as a California State Senator and later as U.S. Ambassador to the Federated States of Micronesia. DIANE has been a role model to other women just as Aunt Juanita was for her.

Juanita Phillips was truly an exemplary American. She overcame obstacles of racism and hatred to ensure a better life for her family and future generations. The challenges she faced as an African American educator through the years of segregation in our country were difficult to overcome, but Juanita didn't give up. She was undaunted by her commitment to making her world a better place, and she succeeded in doing so for all of us.

Mr. Speaker, please join me in celebrating the life of a woman who dedicated her life to education and to making sure future generations could realize their dreams. There are lessons to be learned from someone who gave so much to so many. Let us all join in giving gratitude for this philanthropic, civic minded and loving individual, Juanita Rabouin Phillips, and to her niece, Representative DIANE WATSON, who carries on the legacy by her service in the Congress.

TRIBUTE TO JUDGE MICHAEL M. MIHM

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. LAHOOD. Mr. Speaker, I rise today to congratulate Judge Michael M. Mihm on receiving the USAID Outstanding Citizen Achievement Award. The award recognizes volunteerism in overseas development context. In January 1994, Judge Mihm was appointed the first chairperson of the Committee on International Judicial Relations by Chief Justice William Rehnquist. In 2000, he was approached by the Librarian of Congress, Dr. James Billington, to help design an expanded rule of law component for the Library of Congress' Open World Leadership Center. Judge Mihm has hosted three Open World delegations at his home. He continues to serve as the Russian liaison for the Committee on International Judicial Relations to the Open World Partnership. Judge Mihm also provides voluntary counsel to Open World and USAID's Russian American Judicial Partnership.

Judge Mihm has dedicated several years of his time to the Committee on International Judicial Relations and the Open World program. I am happy to recognize him for his work and dedication to these programs.

HONORING STUDENTS AROUND NEW YORK CITY WHO PARTICIPATED IN THE CONSTITUTION EDUCATION AND ENGAGEMENT PROJECT

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. WEINER. Mr. Speaker, I rise to pay tribute to the over 100 students from around New York City who participated this year in the Constitution Education Engagement Project. The CEEP program, of which Carl Bonomo is the founder and Dorothy McCloskey is the director, takes secondary school students from around New York City and asks them to have hearings, discussions and debates and arrive at a piece of legislation for this Congress to consider.

This year, the winner was from Wadleigh Secondary School. Karen Watts, Wadleigh's principal, led a group of students that represents the City's best and brightest: Vanessa Reyes, Aaron Gardner, Evelin Valladared, and Victoria Bunn. In addition, I want to mention individuals who deserve special commendation at two other schools that participated in

CEEP: principal Joseph Zaza at the Leon M. Goldstein School and Susan Getting and Maureen Longeran at the Townsend Harris School.

The legislation that the Wadleigh team has come up with addresses problems that affect over 41 States in the United States, and that is the inequity between funding among different school districts. In New York State alone, $17,000 is spent per student in one district compared to $6,000 per student in others.

Since 1973, 45 different States have had to address the inequities in school funding. The students at the Wadleigh Secondary School deserve our thanks for their efforts to address the problems we have in our country through the legislative process.

I hope this House joins in paying tribute to their successes.

EQUAL EDUCATIONAL OPPORTUNITY ACT (EEOA)

To provide equal access to quality education to all United States Citizens and Residents

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

(a) This Act may be cited as EEOA of 2004

(b) Table of Contents. The table of contents for this act is as follows:

Sec. 1. Short Title and table of contents

Sec. 2. Abstract

Sec. 3. The EEOA

Title 1. Quality Education—Requirement to provide quality education to all citizens and residents.

Sec. 101. Definition of Quality Education

Sec. 102. Establishing a Uniform Standard

Title II. Funding—Establish permanent funding source that will allow goals of act to be met.

Sec. 201. Establishing special fund for act

Sec. 202. Increasing education expenditures on an adjusted per student basis

SECTION 2. ABSTRACT

We live in a time when only the educated are free. As we become more technologically advanced and information plays more of a critical role, only those individuals who have had a sound education will be able to compete and succeed in the global marketplace. This need for a quality education is most critical for those people who are on the lowest social and economic levels of our society. Now more than ever all must have access to a good education in order to have a fair chance in life. Sadly, those who are most in need of quality education have the least amount of access to it.

The 14th Amendment to the United States Constitution provides that every citizen will have equal protection of the law, but a Supreme Court decision in the case of Plessy v. Ferguson (1896) almost erased the protections provided by this amendment. The Plessy decision created the system of separate but equal and allowed for the legal separation of people based upon nothing but the color of their skin. This ruling allowed for the establishment of separate school facilities for white people and people of color. These facilities were anything but equal. Schools that served students of color were inferior in many important aspects. The physical conditions of the schools were poor, books and other materials were in poor condition, outdated or not available at all. The teachers were paid less than their white counterparts. The landmark ruling in the Supreme Court case of Brown v. the Board of Education (1954) ended the practice of legal segregation in public schools and struck down the Jim Crow laws that forced second-class citizenship on people of color. Despite this, American society in many ways remains as segregated as it was before 1954. Nowhere is this segregation more evident than in our public schools. Even though great people such as Charles Hamilton Houston the architect of the argument for the Brown case, Supreme Court Justice Thurgood Marshall, and Dr. Martin Luther King Jr., dedicated their lives to ensure that there would be equal educational opportunities for all Americans, we have yet to see this become a reality.

Recent studies show that the country's largest inner city school districts remain dramatically divided along lines of race and economic class. These studies find that the poorest school districts have a population that consists mostly of minority students while white students make up the majority of wealthy districts. The difference in the funding received by school districts is also very surprising. In New York State alone, $17,000 is spent per student in the wealthiest districts while only $6000 per student is spent in the poorest districts. This stark difference led to the creation of the Campaign for fiscal Equity (CFE), a group of parents, businessmen and politicians who sued the state of New York to get more funding for the poorer school districts. After a long battle that lasted for several years, the New York State Courts ruled that the state must provide equal funding to those poor school districts. But New York is not the only state where we see this type of inequality—41 out of 50 states in the country have a similar situation.

Unequal funding has had a direct impact on the academic achievement of under funded schools and students. Students who attend schools located in districts that receive less funding also have lower scores on standardized tests and are more likely to be below grade level in reading and math. Students from these under-funded schools are also more likely to drop out of school and fewer students from these attend and graduate from college.

Recently, the federal government has tried to address the problem by the passing the No Child Left Behind Act (NCLB). NCLB requires all school districts to achieve minimum academic standards as measured by standardized tests. Those states whose school districts do not meet these standards would lose some of their federal funds. The NCLB Act has been criticized because it does not provide the funding that schools would need to meet the standards set by the law. In fact, those school districts whose students are the most in need of additional funding would likely be the first ones to lose funding if their students, who also have the greatest academic deficits, do not achieve satisfactory scores. Many parts are NCLB are good and should be expanded, but a couple of the things that the law does not do is provide funding that is substantial enough to achieve it's goals, and it does not require that states provide equal funding. It is the goal of the EEOA to address the problems that NCLB does not.

SECTION 3. THE EQUAL EDUCATIONAL OPPORTUNITY ACT

Title I.—Quality Education For All Citizens and Residents. The federal government will be required to ensure that every child within the boarders of the United States is provided with the opportunity to receive a "quality educational experience."

Sec. 101. Definition of "Quality Education"—For the purposes of this Act, a "quality education" will be defined as: (1) An education that provides each student the opportunity to develop the skills that are necessary to become a productive member of their local, national and global communities. (2) Developing the skills and knowledge necessary to effectively participate in the global marketplace. (3) Adequate physical facilities to meet the demands of the uniform distribution of funds. (4) Well-trained certified teachers who are paid at a competitive rate. (5) Providing a variety of learning experiences that include opportunities for extracurricular interests and social development.

Sec. 102. Establishing a Uniform Standard—To ensure that each child receives a quality education this act shall establish a framework for the equitable distribution of funding to create the programs and curriculum necessary to meet the goals of a quality education as defined in Sec. 101 and to provide states and local school boards with the resources to address each school's unique challenges in meeting the requirement for a quality education through a flexible and equitable distribution of dollars so each school has an equal opportunity to shore up its curricular weaknesses as they define it in their local communities once the basic national, state and local requirements and standards have been met, a standard by which individual state education programs will be measured.

Title II.—Funding. A special fund will be established to fully implement all aspects of the EEOA. Additionally a special committee will be created to develop a formula for per student expenditures that will result in equal spending for all students.

Sec. 201. Establishing a Special Fund to Fully Support the EEOA—A fund will be created that will be used solely for the purpose of providing support of the EEOA. The fund is to be developed and established by appropriate legislation.

Sec. 202. Increase in Per Student Expenditures—A commission will be created to determine per student expenditure required to support the provisions included in Title I of this act. Several factors will be taken into consideration when making this determination, including: 1) economic and social conditions that exist in a student's school district 2) the academic and social circumstances of the student 3) the ability of the student's school and community to raise funds independently. Taking these factors into consideration will insure that the schools and students who have the greatest need will receive the greatest amount of funding and support. School districts that have adequate spending for each student will not be required to reduce their expenditures. When developing the per student spending formula, the commission shall also consider external factors such as the cost of living in each school district, property values in the district and additional community resources. This will allow the amount distributed to each school district to be prorated according to these factors. (Building a school in Georgia does not cost as much as building a similar facility in New York City, therefore the actual dollar amount spent on a student in Georgia may be less, but the value received from the expenditure is equivalent).

PAYING TRIBUTE TO DONNA FERGANCHICK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Donna Ferganchick for her tireless service to her Delta, Colorado community. Donna is a dedicated volunteer for numerous community organizations and it is my privilege to recognize her efforts before this body of Congress and this nation.

Donna is a western Colorado native. Her family moved to Delta in 1956, and then to Cedaredge where she graduated from high school. Soon after Donna met and married her husband Les in 1959. She purchased the family ranch on the Gunnison River near Delta where she and her family have lived for the last thirty-two years, raising three children.

After receiving her real estate license and attending some classes at Mesa State, she was persuaded to run for Delta County Assessor. Donna faithfully served her county for two terms and was urged to run for county commissioner. Months later she was elected and became Delta County's first woman county commissioner, again serving her community for two terms.

In 2001, Donna retired from civil service so that she and her husband could travel. In September, Les became ill and tragically passed away. When Donna was at the hospital she was overcome by how friendly the staff was to her, so she decided to return the favor by being an emergency room volunteer and also serves on the hospital foundation board. She also helped with the Delta County 4-H foundation, sits on the hospice advisory board, and is a part time executive director for Grand Mesa Scenic Byways.

Mr. Speaker, it is clear that Donna Ferganchick has been an invaluable resource to Delta County and the city of Delta. Her hard work and humble service to her community is extraordinary and worthy of acknowledgment before this body of Congress and this nation. Thanks, Donna, for all your hard work, and I wish you all the best in your future endeavors.

SUPPORTING THE UMWA ON COAL MINE MEMORIAL

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. COSTELLO. Mr. Speaker, I rise today in support of the United Mineworkers of America (UMWA) who over the last two days have been participating in a coal mine memorial.

The UMWA has called for a nationwide two-day memorial, shutting down all the union mines in the U.S. to symbolize the importance of a federal court decision expected sometime this week. This decision has the potential to impact the fate of health care benefits for 250 working miners at the Zeigler 11 mine near Coulterville, Illinois and hundreds of retired coal miners in my congressional district.

These people have worked hard to earn benefits and a pension to sustain them and their families through retirement. Yet, the way our laws are structured, we allow companies to get out of their responsibilities to these hardworking Americans and their families. This is unfortunately happening more and more across our country and it needs to stop.

Health care has gone from a matter of concern to a crisis of major proportion. Seniors are splitting their pills to make their medications last. People will not go to a doctor because they cannot afford it. We have more than 40 million people who are uninsured. Health care has become a crisis in America.

There is a historical commitment to providing health care for retired coal miners and we must continue that commitment. Mr. Speaker, the people that are in jeopardy of losing their health care spent their careers producing the energy which powers this nation. We must not turn our backs on them now. We must not allow them to be robbed of the health care they so desperately deserve and need.

INTRODUCTION OF A RESOLUTION TO HONOR THE CHILDREN OF AMERICA

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. UDALL of Colorado. Mr. Speaker, today my fellow colleague from Colorado, Representative BEAUPREZ, and I are introducing a resolution to honor this nation's children and express the desire to mark the first Wednesday in March as National Children's Day.

The resolution expresses the sense of the House of Representatives urging the President to proclaim that the first Wednesday of March each year should be named National Children's Day in honor of the future generations of our country.

The Great Sioux Nation can be used as a role model to lawmakers in America as we debate any bill here on the floor of the House of Representatives. They place a high value on the children of the tribe, as they represent the future of the tribe. When important decisions are being made, the Sioux always discussed what the impact of the decision would be, not on the current generation, or the next generation, but the seventh generation out.

The Sioux Nation placed a priority on the future of the tribe, through its children. I believe that it is important that we, as lawmakers, keep the importance of our future in mind as we make decisions everyday here in Congress.

In that spirit, I believe this legislation is fitting as it honors the importance of our nation's children and the role that we as adults have in the upbringing of a child. Through special attention from the adults in a child's life, that child is more likely to experience success throughout their life. This resolution urges American adults to set aside time throughout the day to support a child in their life or community.

I urge my colleagues to support this resolution, and spend some time with a child in their lives.

PAYING TRIBUTE TO RONALD PETTIGREW

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Ronald Pettigrew and thank him for the remarkable civic contributions he has made to his Durango community and the State of Colorado. Ron is an active and well respected leader in his community, and I believe it appropriate to acknowledge his many accomplishments to the Durango community before this body of congress and nation.

A second generation native to Southwest Colorado, Ron graduated from Fort Lewis College in western Colorado, and has been a business owner in Durango ever since. Due to his many civic and business contributions, he was recognized by the Durango Area Chamber Resort Association as their Citizen of the Year in 1992.

Throughout the years, Ron has given his time to numerous state and local organizations and his community is indebted to him for his exemplary service. He served on the Colorado Highway Legislative Review Committee, the local school board, the Board of Directors for both Mercy Medical Center, and the Animas La Plata water Conservation District. Ron's diverse interests are reflected in additional service with the Colorado Association of Commerce and Industry, the Southern Ute Indian Tribe Enterprises organization, Excel Charter School, and the Foundation for Education Excellence.

Mr. Speaker, it is clear that Ron Pettigrew is a man of great commitment to his community and the State of Colorado. Ron's willingness to provide his time and excellence to his fellow citizens serves as an example to us all of the civic mindedness that brings together our towns and communities. Thanks for all your hard work, Ron, and I wish you all the best in your future endeavors.

MAKING THE CASE FOR THE EXONERATION OF MARCUS GARVEY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. RANGEL. Mr. Speaker, I rise today to ask again for the exoneration of one of our greatest civil rights leaders, Marcus Garvey. I have felt inspired by Marcus Garvey since I was a young boy. I grew up and still live in Harlem where Garvey founded the first branches of his Universal Negro Improvement Association. When I was born in 1930, the traces Garvey left in Harlem were still very fresh. I remember meeting Garveyists, ardent supporters of Marcus Garvey's ideas, in Harlem as a young man. They encouraged me to do my own reading and research on this great Jamaican hero and the more I read and heard, the more I became convinced of Garvey's innocence and the need to restore his reputation. The injustice done to him reminded me every day of the injustice done to all Black people, including myself, during that time.

In the 1970s, I met Jamaica's energetic Prime Minister Michael Manley and became very close to him, professionally but also personally. He taught me more about Marcus Garvey and about his status as a hero in Jamaica. In 1987, the centenary of Marcus Garvey's birth, I introduced legislation asking for the exoneration of Marcus Garvey for the first time and have reintroduced the same bill into every following Congress since.

The passage of this bill is long overdue. It is well-proven today that Marcus Garvey was innocent of all the charges brought forward against him. J. Edgar Hoover, who is today notoriously famous for his racism, his corruption and his misuse of powers, perceived Garvey as a threat to white supremacy. After years of harassing the black leader, he infiltrated the Garvey organization and had an agent fabricate evidence of mail fraud with which he charged Garvey in 1922. Garvey's trial was a mockery and he was imprisoned and deported back to Jamaica in 1927.

But with Garvey's deportation, Hoover could only delay but not stop the civil rights movement. Garvey's teachings about the equality of all men and women remained firm and lively in the heads of the following generations. Garvey stood as a shining example on the horizon of those people who were longing for a better future. He inspired many of the leaders that were to come. Our American hero, Martin Luther King, called Garvey "the first man, on a mass scale to give millions of Negroes a sense of dignity and destiny" and Malcom X wrote that "each time you see another independent nation on the African continent you know Marcus Garvey is alive." Garvey taught Black men and women to take pride in their race and to rely on themselves—economically, politically and religiously.

But he did not only speak out for the rights of Black men and women all around the world, but for all those who were poor and disadvantaged. He is not only the hero of Black people, but of everybody who believes in equality and social justice.

I commend the members of The International Foundation for the Exoneration of Marcus Garvey on their tireless efforts to achieve that the injustice done to Marcus Garvey is redeemed. I also congratulate the city councils of Hartford in Connecticut and Lauderhill in Florida on the recent passage of their resolutions supporting the exoneration of our great Jamaican hero.

I will continue to work hard to ensure that my resolution, reaffirming Marcus Garvey's innocence and asking the President of the United States to exonerate him, will pass the United States Congress. It is high time that our country joins the many other nations that have already recognized Marcus Garvey as an extraordinary leader and thinker in the global struggle for human rights and as a person who gave hope and inspiration to millions of oppressed men and women all around the world.

But it is in the hands of the President of the United States to finally clear Marcus Garvey's name. I hope that President Bush will consider taking this step. The Justice Department in the past advised Presidents not to exonerate posthumously. But President Clinton, in 1999, granted the first posthumous Presidential pardon in our nation's history to Lt. Henry Ossian Flipper, the first Black graduate of West Point. He had been dismissed from service in 1882 for racial and unjust reasons. President Clinton set a strong and positive precedent and I hope that President Bush will perceive the Garvey conviction as an equally compelling case for justice to be done at this time.

The exoneration would be another step towards healing the race divisions that are still existent in our country. It is high time that our country recognizes Marcus Garvey for his great leadership and bravery.

30TH ANNIVERSARY OF THE TURKISH INVASION OF CYPRUS—THE ANNAN PLAN: THE TRUE CAUSE OF THE ECONOMIC ISOLATION OF TURKISH CYPRIOTS

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. SHERMAN. Mr. Speaker, I rise tonight in memory of a sad event. July 20, 2004 marks the 30-year anniversary of Turkey's invasion and occupation of Cyprus. I would like to join my colleagues in observing this terrible anniversary, and offer some observations on recent events on Cyprus.

On May 1, 2004, Cyprus became a member of the European Union as a divided and occupied nation, its northern part being under illegal Turkish military occupation. The potential reunification of Cyprus is at a critical juncture. Accordingly, the United States and the U.N. must re-examine the key provisions of the Annan Plan in an effort to remedy the deficiencies that now plague the plan and obstruct the potential reunification of Cyprus.

The economic isolation of the Turkish Cypriots is not the fault of Greek Cypriots, as the Annan Plan wrongly assumes. Indeed, one of the most egregious aspects of the Annan Plan Report is the inclusion of terms such as "pressure" and "isolation" in reference to the Turkish Cypriots as if this were the fault of the Greek Cypriots. Nothing could be further from the truth.

The Report fails to state the truth: The isolation of the Turkish Cypriots is caused by the presence of 35,000–40,000 Turkish troops and the establishment of the Green Line barbed wire fence across the face of Cyprus. Remove the Turkish troops now and the Green Line will disappear, and economic conditions in the north will improve dramatically.

There is no embargo. There is the rule of law. The European Court held that trade goods from the occupied area could not be exported directly but had to go through the legitimate government of Cyprus and its Customs Service. Also, the relatively poor economic conditions in the occupied area have been caused in substantial part by the Turkish bureaucrats who were sent to the occupied area to run the economy.

There is no justification for maintaining the Green Line's barbed wire fence and the artificial division of the island of Cyprus. When authorities opened parts of the Green Line in Nicosia, more than one million people crossed to visit the their former neighbors and countrymen. They have demonstrated beyond a doubt that the Greek and Turkish Cypriots can live and work together and that there is no security problem for Turkish Cypriots. There is a security problem for the Greek Cypriots: the 35,000–40,000 Turkish occupation troops. Those same troops, of course, are responsible for the economic isolation of the Turkish Cypriots, and thus all of these troops should be removed from the island.

I hope that next year, when July 20 is upon us, there will be no reason to rise and decry a divided Cyprus. All parties should go back and rework the Annan Plan.

TRIBUTE TO THE LEGACY OF REV. DR. THEODORE R. GOYINS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. PAYNE. Mr. Speaker, I rise today to honor the memory and legacy of the Reverend Dr. Theodore R. Goyins, Pastor Emeritus of Heard A.M.E. Church, Roselle, New Jersey.

When Dr. Goyins passed away on June 24, 2004, he left behind a lifetime of achievements to church, family and community. During his pastorate, Dr. Goyins demonstrated a vision that will have a lasting impact on all those who knew him. As a result of his caring and dedication to serving the will of God, Dr. Goyins was the recipient of many awards, honorariums, and resolutions.

As Dr. Goyins is remembered during a Memorial Service on July 21, 2004, many will recall his sense of humor and his desire to create a synergy between the church and the community. His efforts to assist in creating affordable housing in Roselle stand out as one of his many accomplishments. Dr. Goyins was also a strong advocate of education, having organized HOPE, Help Our Public Education. He established the Heard A.M.E. Federal Credit Union which was chartered in 1980.

Dr. Goyins also organized the Heard Food Store and started the Heard HIV/AIDS Commission, which was the recipient of a federal grant. Dr. Goyins served as the impetus behind many other projects and initiatives, and countless people will be forever grateful to him for all of his good deeds.

Mr. Speaker, I know my colleagues join me in assuring Dr. Goyins' family, friends and congregation that his memory will always be honored and cherished.

MIKE ANSELMO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. McINNIS. Mr. Speaker, it is my pleasure to rise today to honor the accomplishments of Mike Anselmo of Pueblo, Colorado who recently celebrated fifty years of dedicated service to the United States Postal Service.

Throughout his years of service, Mike has become a friendly and familiar face in many of Pueblo's neighborhoods, and I would like to join my colleagues in recognizing Mike's years of service before this body of Congress and this nation.

Fifty years ago, Mike began carrying first class mail stamped with three cents of postage. Faithfully throughout his career, he has battled the natural elements of weather and the physical elements of prostate cancer and knee problems, but neither prevented him from delivering over ten million pieces of mail.

During his career, he has driven over a million miles on the job, putting him among the rare company at the postal service called the "Million-Mile Club." In addition to his commitment to the United States Postal Service, he is a family man who enjoys spending time in the outdoors doing yard work and riding his bike.

Mr. Speaker, Mike Anselmo has shown tremendous loyalty to his Pueblo, Colorado community. His fellow citizens have come to rely on him to deliver their mail and to provide a familiar face. I thank Mike for his hard work and wish him all the best in his future endeavors.

TRIBUTE TO DR. ARTHUR NAPARSTEK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Ms. KAPTUR. Mr. Speaker, I rise tonight in special tribute to a beloved citizen of Ohio, Dr. Arthur Naparstek, a brilliant scholar, humanitarian, and community-builder. Dr. Naparstek dedicated his life to raising a beautiful family, teaching the leaders of this new generation, strengthening the communities in which he lived along with communities across our country and world, and giving voice to the most needy people in neighborhoods across our nation. To his beloved wife Belleruth, an amazing woman, to his precious children—Keila, Aaron, and Abe—our state and people express very deepest sympathy. We owe Art a lasting debt of gratitude for the exceptional manner in which he lived his life.

I first met Art and Belleruth during the 1970's when Dr. Naparstek worked with Msgr. Geno Baroni as the top policy analyst for the National Center for Urban Ethnic Affairs in Washington, D.C. This organization provided hope as well as technical assistance and analysis across urban America in some of the most forgotten, ethnically and racially diverse places in our nation. Through the Center, Dr. Naparstek embraced the nation during the tumultuous modern Civil Rights era and helped move her forward. Dr. Naparstek began his professional career in Gary, Indiana working as an advisor to Mayor Richard Hatcher, the first African American mayor of that city. Art was always looking for ways to understand the dynamic of urban America, and to build bridges between people of varying heritage. During the Civil Rights era, I think it is fair to say, Dr. Naparstek became one of the leading intellects that probed the nature of urban unrest, what to do about it, and how to rebuild America's cities, neighborhood by neighborhood. During the Administration of President Jimmy Carter, it was Dr. Naparstek who wrote the authorizing legislation for the National Commission on Neighborhoods, creating a national effort to document, understand, and share what was being accomplished across our nation to build interracial and interethnic understanding and to revitalize the back streets of our nation. Dr. Naparstek looked at poverty head on. He never flinched. His probing mind and gregarious nature lent an optimistic tone to every encounter. His pathbreaking work helped spearhead national legislation that followed in so many critical areas of American life—addressing the redlining of poor communities through passage of the Community Reinvestment Act, the Home Mortgage Disclosure Act, the National Commission on Neighborhoods, and even welfare reform and culturally sensitive treatment for the mentally ill and the forgotten. His scope was amazing.

As professor and later Dean of the Case Western Reserve University School of Applied Social Sciences, he took his national legacy from works such as People, Building Neighborhoods and put it to work teaching a diverse student body. During the last quarter of his life, his efforts were applied to the improvement of Cleveland's needy communities, as he had done in so many other locations. During the 1990's, he served as director for the Cleveland Foundation's Commission on Poverty. He always applied knowledge to better the human condition. His rare dedication to the underprivileged became a lifelong mission. Born in New York City, the son of Polish immigrants, his career spanned the nation. He graduated with a master's degree in social work from New York University and a doctorate from Brandeis University Florence Heller School of Advanced Studies in social Welfare Administration.

One of the recent conversations I held with Art involved how to begin to build toward peace in the war ravaged Israeli-Palestinian situation. He was already deeply engaged in community development planning in that part of the world. I truly regret that we will not have his firm hand guiding us as we carry on his great vision for a better life for all people. He truly appreciated the valued variants of a common humanity. May his family find peace in the knowledge we are all better for his generous life, for his probing mind, and for his good heart. May he rest in peace. I might add, though, he would not expect us to rest at all. So, let us carry his good works forward. Shalom.

H.R. 4864—SURFACE TRANSPORTATION EXTENSION ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 2004

Mr. PETRI. Mr. Speaker, we are here once again to extend funding for our nation's highway, transit and safety programs. This bill will complete funding for the fiscal year and ensure that state transportation programs continue to receive the necessary federal funds to maintain and build our nation's critical infrastructure.

We are here today because we still are unable to reach an agreement on a level of spending that will meet the various demands that have been placed on us: provide growth in funding for all states; improve the rate of return for donor states; ensure that donee states do not take too much of a hit; provide significant funding to build new corridors to meet emerging trade traffic; provide help to states that are overwhelmed by massive but critical projects that each can reach up to $1 billion in costs; and produce a conference report that will be signed by the President who publicly supports a bill that is $20 billion below the lowest of the two bills passed by this House and the Senate.

This seems to be an impossible situation, but I believe House and Senate conferees have been making a good faith effort to resolve this impasse—but we are not there yet.

I know that there is strong support in the Congress for a good, robust transportation program.

We know that transportation spending from the Highway Trust Fund is a good investment that is necessary in order to maintain and build a first-class transportation network. This is investment that leads to economic growth and prosperity, that provides needed jobs, that assists in the development of transit projects that moves millions of people each day, and that improves unsafe conditions on our highways—thereby saving thousands of lives.

So I urge passage of this bill so that States will continue to receive funds as we here in Washington press on in our efforts to ensure that we have a long-term program that meets our nation's transportation needs.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 22, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

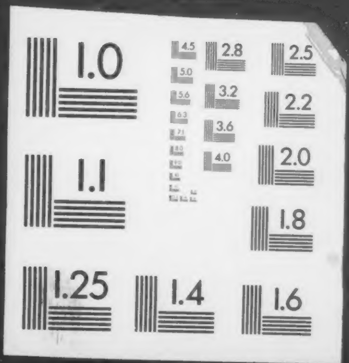
SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

345 CHOB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